



IMBIBING FUNDAMENTAL DUTIES AMONG INDIAN CITIZENS

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Abstract

The importance of fundamental duties could be felt in the tremors of the violent CAA protests in Delhi. As evident from the use of brute force and blatant violence in Delhi, there is a need to imbibe fundamental duties among Indian citizens. Rights and duties are considered to be two sides of the same coin. They are said to perform a balancing act in a democracy. However, the courts and Constitution of our country ascribe much importance to fundamental rights, but often do not do the same for fundamental duties. People also show a general tendency to forget duties and to remember their rights, this has resulted in an imbalance between rights and duties. In order to maintain a balance between rights and duties of citizens and contribute towards progress of the nation, one must remember their duties alongside their rights. There is a need to remind and imbibe among citizens their fundamental duties. Considering the importance of fundamental duties and the lack thereof, this article traces the means available to us to imbibe Fundamental Duties among citizens.

Incorporation of fundamental duties in our Constitution

¹ Chapter III, Constitution of Japan

² M.N. Morje, *The Fundamental Duties*, Yojna, Vol. 21, No. 3, 1977, p.25 (1977).

³ *Evolution of fundamental duties and their incorporation* (March 4, 2020) https://shodhganga.inflibnet.ac.in/bitstream/10603/45387/7/07_chapter%201.pdf.

More than 50 countries in the world have a chapter on both Fundamental Duties and Fundamental Rights. These countries include Japan¹, Yugoslavia and Mongolia among others. For most of these countries, the idea behind having a chapter on both rights and duties was to safeguard against arbitrariness, exploitation and misuse of rights. They recognised that unbridled freedom can be a danger to the very freedom itself, they recognized their basic obligations and incorporated them as their duties into the Constitution.

Initially, the Indian Constitution did not have a chapter on fundamental duties. To our Constituent Assembly, the concept of duty or dharma was so deeply enshrined in the Indian society that they did not feel the need to incorporate a chapter on fundamental duties.² Gandhi considered rights to be nothing but a well performed duty. Freedom fighters used to think their participation in the freedom struggle as a sacred duty towards the nation.³ Further, they felt that Fundamental Duties were spelt out by the Preamble to the Constitution which contains the ideals and aspirations of the people of India and the dedication of Constitution for fulfilling such ideals and aspirations.⁴ Lastly, since the true source of rights is duty, the Constituent Assembly considered that the rights enshrined in Part III on Fundamental Rights have inbuilt obligations therein.⁵

⁴ National Commission To Review The Working Of The Constitution, Effectuation Of Fundamental Duties Of Citizens, GOVERNMENT OF INDIA (6th July,2001), [.http://legalaffairs.gov.in/sites/default/files/%28V%29Effectuation%20of%20Fundamental%20Duties%20of%20Citizens.pdf](http://legalaffairs.gov.in/sites/default/files/%28V%29Effectuation%20of%20Fundamental%20Duties%20of%20Citizens.pdf).

⁵ *Supra* 4.



But, in 1970s certain developments led the legislature to introduce a chapter on fundamental duties. In 1970, the Supreme Court recognised that citizens need to have duty in order to build a welfare state.⁶ The decade of 1970 saw India bloodened by protests. The protesters were taking advantage of fundamental rights enshrined in our Constitution existing in isolation from duties, crumbling the spirit of the nation in the process. This led H.R. Gokhale, the then Union Law Minister to comment that people were over-emphasising the Fundamental Rights available to them with “a zeal much more than that shown for fulfilling their fundamental obligations of respecting the established legal order.”⁷

Around this time, people all over the world started recognising environmental degradation and global warming as a serious issue. In 1972, Indira Gandhi attended the United Nations Conference on Human Environment and Development at Stockholm. In that conference the following two resolutions were passed which are known as the Magna Carta of our environmental law⁸:

- (a) Man has the fundamental right to freedom, equality and adequate conditions of life in an environment of quality that permits a life of dignity and well-being; and
- (b) Man bears a solemn responsibility to protect and improve the environment for present and future generations.

In 1976, these developments led the Congress Party to appoint the Swaran Singh Committee to review of the Constitution. The Committee, among its recommendations said that certain Fundamental Duties and obligations which every citizen owed the nation should be included in the Constitution. In 1976, the Parliament accepted the recommendations and in the same year, a chapter of fundamental duties under Article 51 A was introduced in our Constitution.⁹ Originally, there were 10 fundamental duties. The fundamental duties were increased to eleven by the 86th Amendment in 2002, which added a duty on every parent or guardian to ensure that their child or ward was provided opportunities for education between the ages of six and fourteen years.¹⁰

Importance of fundamental duties

The riots of 1970s and other violent instances that have taken place in India demonstrate how fundamental duties is a means towards responsible citizenry. A 2009 report claimed that the lack of awareness about fundamental duties posed a major barrier to good governance in the country.¹¹ No democratic polity can ever succeed where the citizens are concerned only about their rights and are not willing to be active participants in the process of governance by assuming responsibilities, discharging citizenship duties and coming forward to give their best to the country.¹²

⁶ Chandra Bhavan Boarding and Lodging V. State of Mysore, AIR 1970 SC 2042.

⁷ Justice Joseph Kurien, *My Fundamental Duties Under The Constitution Of India*, The HINDU (2016).

⁸ IPCC, Declaration of the United Nations Conference on the Human Environment (1972), <http://docenti.unimc.it/elisa.scotti/teaching/2016/16155/files/file.2017-03-11.7227158899>.

⁹ 42nd Amendment Act, 1976.

¹⁰ 86th Amendment Act, 2002.

¹¹ Second Administrative Reforms Commission, *CITIZEN CENTRIC ADMINISTRATION The Heart of Governance*, Government of India (2009) <https://darpg.gov.in/sites/default/files/ccadmin12.pdf>.

¹² *Supra* 6.



The importance of fundamental rights was beautifully summed up Justice A.V. Chandrasekhar (citation), who opined¹³:

Man does not live for himself alone. He lives for the good of others as well as of himself. It is this knowledge of what is right and what is wrong that makes a man responsible to himself and to the society and this knowledge is inculcated by imbibing and clearly understanding one's citizenship duties. The fundamental duties are the foundations of human dignity and national character. If every citizen performs his duties irrespective of considerations of caste, creed, colour and language, most of the malaise of the present-day polity could be contained, if not eradicated, and the society as a whole will be uplifted.

Fundamental duties are important because nation is what the citizens are. If the citizens of a nation do not work for the progress of their nation then that nation cannot progress. The entire responsibility rests upon the citizens to take their nation to new heights. In India, sovereignty lies in the hands of citizens of India. It is the citizens' responsibility to take upon their shoulders the task of seeing that order, justice and freedom are maintained.¹⁴

The inclusion of fundamental duties in our constitution did not guarantee people following it. Unlike, fundamental rights, there is no constitutional remedy for breach of fundamental duties. However, there are

other means available for the effectuation of fundamental duties.

Legislative action

At the time of introduction of fundamental duties, many along with the Swaran Singh Committee itself suggested sanctions. The government did not favour sanctions because the fundamental duties were worded in very general words.¹⁵ Further, Indira Gandhi opposed the enforcement of fundamental duties. According to her, "If people only kept the Fundamental Duties in their mind, we will soon have a peaceful and friendly revolution".¹⁶

But there are other laws which accord for few of the fundamental duties. In 1999, the Justice Verma Committee Report recognised the fundamental duties are protected through statutes. According to their report, some fundamental duties are protected by statutes (Article 51-A(c),(e) & (g)), while some are merely declaratory (Article 51-A(b),(d),(f),(h) & (j)) .

More recently, a book released by Haryana State Legal Services Authority¹⁷, identifies the following legal statutes that enforce fundamental duties on citizens:

Article 51A		Statute
a	to abide by the constitution and respect its ideals and institutions, the	Prevention of Insults to National Honour Act,1971

¹³ Justice A.V. Chandrashekar, Fundamental Duties- Need to Effectively Propagate them, KARNATAKA JUDICIAL ACADEMY <https://kjablr.kar.nic.in/sites/kjablr.kar.nic.in/files/05.%20Fundamental%20Duties.pdf>.

¹⁴ *Fundamental Duties*, HARYANA STATE LEGAL SERVICE AUTHORITY

<http://hslsa.gov.in/sites/default/files/documents/Fundamental%20Duties.pdf> .

¹⁵ Government of India, *Deficiencies Observed During the Working of Constitution In General*

¹⁶ L. S.Sinha, *The Fundamental Duties: Their Importance*, SOCIALIST INDIA (Oct.23,1976)

¹⁷ *Supra* 14.



	national flag and the national anthem		i	to safeguard public property and to abjure violence	Prevention of Damage to the Public Property Act, 1984.
c	to uphold and protect the sovereignty, unity and integrity of India	Sections 153A, 153B of Indian Penal Code, 1860	k	to provide opportunities for education by the parent or the guardian, to ms child, or a ward between the age of 6-14 years	Right of Children to Free and Compulsory Education (RTE) Act 2009
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	Article 14, 15, 16. Multiple acts for eradicating discrimination towards women.	<p>The 1999, the Justice Verma Committee Report suggested that there is a need for adopting curative measures for inculcating duties instead directly adopting coercive measures except in exceptional cases squarely and clearly satisfying the components of offence.¹⁸ The committee asserted the need to set up an autonomous body to act like ombudsman on Citizenship Values which could create a mechanism to act as catalyst towards overseeing operationalization of Fundamental Duties. In 2017, Supreme Court rejected a PIL to implement fundamental duties. In the opinion of the court, the legislature was better equipped to enforce fundamental duties than the courts.¹⁹</p> <p>In 2002 National Commission To Review The Working Of The Constitution suggested the following measures to enforce fundamental duties.²⁰</p>		
g	to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures	Multiple acts			

¹⁸ Justice Verma Committee Report (1999).

¹⁹ANI, *Supreme Court on Justice Verma Committee*, BUSINESS STANDARD (2017), <https://www.business-standard.com/article/news->

[ians/can-t-enforce-fundamental-duties-supreme-court-117042400595_1.html](https://www.business-standard.com/article/news-ians/can-t-enforce-fundamental-duties-supreme-court-117042400595_1.html).

²⁰ Supra 4.



- Article 51(A) should be shifted to Part II of Constitution which deals with constitution.
- Can be added as a compendium as fundamental rights

This committee also recognised that a comprehensive legislation is needed for clauses (a), (c), (e), (g) and (i). The remaining 5 clauses, which are exhortation of basic human values, have to be developed amongst citizens through the education system by creating proper and graded curricular input from primary level of education to the higher and professional levels.²¹

“There can be laws which imposes an obligation on an individual or authority even though it may not be enforceable. The obligation exists prior to and independent of the mechanism of enforcement.”²²

Thus, it is evident that the Committees have favoured the enforcement of Fundamental Duties. However, there has been little developments in enforcement of fundamental duties. The government has widely considered Fundamental duties to be guiding principles than principles that need to be enforced.

Judicial interpretation

The Judiciary has viewed Fundamental Duties in two ways: Fundamental duty as the duty of the state and its employees and as a means of interpretation of fundamental rights. Though this is not a general trend, in some cases, the Supreme Court has viewed fundamental duties and fundamental rights complementary to each other²³ and

considered Fundamental duties to be equally important as fundamental rights.²⁴

Fundamental duty as a duty of the State and its employees

While Article 51 does not expressly cast any fundamental duty on the State, the Apex court considers that the duty of every citizen of India is the collective duty of the State.²⁵ In *L. K. Koolwal v. State of Rajasthan*²⁶, The Rajasthan Government opined:

“We can call Article 51A ordinarily as the duty of the citizens. But in fact, it is the right of the citizens as it creates the right in favour of citizens to move to the Court to see that the State performs its duties faithfully and the obligatory and primary duties are performed in accordance with the law of the land.

Article 51-A gives a right to the citizens to move the Court for the enforcement of the duty cast on State instrumentalities, agencies, departments, local bodies and statutory authorities created under the peculiar law of the State.”

In *Mohan Kumar Singhania & Ors. Vs. Union of India & Ors.*²⁷, officers in All-India Services were not taking the training seriously resulting in deterioration of the services. Service Rules were amended so as to give weightage to the training and penalize the failure. On a challenge being laid to the constitutionality of the amendment in the rules. The courts referred to article 51A which commands every citizen of India 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. It was held that

²¹ Supra 4.

²² *Minerva Mills V. Union of India*, AIR 1980 SC 1789.

²³ *Supra* 4.

²⁴ *Students Union V. AIIMS*, AIR 2001 SC 3262

²⁵ *Charu Khurana v. Union of India*, (2015) 1 SCC 192.

²⁶ (2004) 3 SCC 402.

²⁷ (1992) Supp.1 SCC 594



the effort taken by the Government in giving utmost importance to the training programme of the selectees so that this higher civil service being the topmost service of the country is not wasted and does not become fruitless during the training period is in consonance with the provisions of article 51A (j).

Similarly, in *State of U.P. Vs. Yamuna Shanker Misra & Anr.*²⁸, the object of writing the confidential reports and making entries in the character rolls were read in the light of article 51(j) as giving an opportunity to a public servant to improve excellence.

In *State of Punjab & Ors. Vs. G.S. Gill and Anr.*, (1997) 6 SCC 129, kindling the spirit of clauses (e) and (j) of article 51A and the Directive Principle contained in article 38 (1), the court reminded the administrators of the government that they too are primarily the citizens and, therefore, their vision should be of national interest. Fundamental Duties oblige the administrators of the government to be good administrators.

While these judgements give a higher sense of responsibility to government servants, these responsibilities won't be fulfilled until citizens are aware about the duties of the government servants.

Fundamental duties as a means for interpretation

The Supreme Court has time and again used fundamental duties as a means of interpretation. According to the Supreme Court, rights and duties are not to be read in isolation. Rights have to be read in relation to fundamental duties.²⁹ There has to be a balance and proportionality between the right

and restriction on the one hand, and the right and duty, on the other. It will create an imbalance, if undue or disproportionate emphasis is placed upon the right of a citizen without considering the significance of the duty. The true source of right is duty. When the courts are called upon to examine the reasonableness of a legislative restriction on exercise of a freedom, the fundamental duties enunciated under Article 51-A are of relevant consideration.³⁰ A common thread runs through Parts III, IV and IV-A of the Constitution of India. While interpreting any of these provisions, it shall always be advisable to examine the scope and impact of such interpretation on all the three constitutional aspects emerging from these Parts.³¹ The courts have also been empowered to uphold the constitutionality of a statute, the object of which is in consonance with a provision in Article 51A of the Constitution.³²

In *State of Gujarat v. Mirzapur*³³ Supreme Court held:

“It is thus clear that faced with the question of testing the constitutional validity of any statutory provision or an executive act, or for testing the reasonableness of any restriction cast by law on the exercise of any fundamental right by way of regulation, control or prohibition, the directive principles of State policy and fundamental duties as enshrined in Article 51-A of the Constitution play a significant role.”

By looking at issues through the lenses of fundamental duties, the Supreme Court enforces the fundamental duties. For example, in 2012, the Supreme Court held that the right to education places a burden not

²⁸ (1997) 4 SCC 7.

²⁹ *Javed v. State of Haryana*, (2003) 8 SCC 369

³⁰ *In re Ramlila Maidan Incident*, (2012) 5 SCC 123.

³¹ *N.K. Bajpai v. Union of India*, (2012) 4 SCC 653

³² *Mumbai Kamgar Sangh Sabha V. Abdulbhai Faizullabhai*, Air 1976 SC 1455.

³³ (2005) 8 SCC 534.



only on the State, but also on the parent/guardian of every child because, children won't receive access to education solely with the support of the State.³⁴

Article 51-g

As mentioned above, Supreme Court often employs fundamental duties as a means to interpret laws. One fundamental duty frequently used by the Supreme Court is Article 51-g which imposes upon citizens the duty to (insert 51 (g)) whenever a problem of ecology is brought before the court, the court is bound to bear in mind article 48A of the Constitution and article 51A (g).³⁵

In *Rural Litigation and Entitlement Kendra & Ors. Vs. A State of Uttar Pradesh & Ors.*, (1986) Supp. SCC 517, Ranganath Misra, J. held.

“Preservation of the environment and keeping the ecological balance unaffected is task which not only governments but also every citizen must undertake. It is a social obligation and let us remind every Indian citizen that it is his Fundamental Duty as enshrined in Article 51A (g) of the Constitution.” In *Rural Litigation and Entitlement Kendra & Ors. Vs. A State of Uttar Pradesh & Ors.*, (1986) Supp. SCC 517, Ranganath Misra, J. held. “preservation of the environment and keeping the ecological balance unaffected is task which not only governments but also every citizen must undertake. It is a social obligation and let us remind every Indian citizen that it is his Fundamental Duty as enshrined in Article 51A (g) of the Constitution.”

Similarly, in *RLEK Dehradun V. The Court* assigned paramount significance to

Fundamental Duties, placing the Fundamental Duties owing to people at large above the Fundamental Right of a few individuals. The court held that such closure of limestone mines would undoubtedly cause hardship, “but it is a price that has to be paid for protecting and safeguarding the right of the people to live in healthy environment with minimum disturbance of ecological balance and without avoidable hazard to them and to their cattle, homes and agricultural land and undue affectation of air, water and environment”.

In *Vellore Citizens' Welfare Forum Vs. Union of India*³⁶ and *Bandkhal and Surajkund Lakes matter*³⁷ the Supreme Court recognized ‘The Precautionary Principle’ and the ‘The polluter pays’ principle as essential features of ‘Sustainable Development’ and part of the environment law of the country. Article 21, Directive Principles and Fundamental Duty clause (g) of article 51A were relied on by the Supreme Court for spelling out a clear mandate to the State to protect and improve the environment and to safeguard the forests and wild life of the country.

Awareness programs

In recent times, the government has turned its attention towards awareness programs to ensure effectuation of Fundamental Duties. Among the many objectives of the Verma Committee, they were also tasked “to work out a strategy as well as methodology of operationalizing a countrywide programme for teaching fundamental Duties in every educational institution as a measure of in service training”. The Committee further

³⁴ *Society for Un-Aided Private Schools of Rajasthan vs. U.O.I & Another*, (2012) 6 SCC.

³⁵ *Sachidanand Pandey & Anr. Vs. State of West Bengal & Ors.*, (1987) 2 SCC 295.

³⁶ (1996) 5 SCC 647.

³⁷ (1997) 3 SCC 715.



suggested celebrating 3rd January every year as our Fundamental Duties Day. The National Commission for the Review of Constitution suggested sensitising people and to create a general awareness of the provisions of fundamental duties amongst the citizens on the lines recommended by the Justice Verma Committee on the subject.³⁸

Even the courts in India have constantly iterated the need to create awareness about fundamental duties. In 1988, Supreme Court directed all educational institutions throughout India to give weekly lessons in the first ten classes, relating to protection and improvement of the national environment including forests, lakes, rivers and wildlife.³⁹ This was done in pursuance of Article 51-A(g). Justice Ranganath Mishra once addressed a letter to the Government of India. The letter read as⁴⁰:

“As a nation-building measure, teaching Fundamental Duties in every educational institution and as a measure of inservice training everywhere, was necessary as these cannot be inculcated in our citizens unless these are brought into their minds and living process through teaching and education.”

He further stated that it is the obligation of the State to educate the citizens in the matter of Fundamental Duties so that a right balance between Rights and Duties may emerge.

In 2016, the Karnataka High Court had also mentioned the need to remind people about their fundamental duties. According to the Court,” A study shows that even highly educated citizens do not appear to be aware

of the fundamental duties appearing in part IV-A of the Constitution. A systematic effort should be made to spread awareness on the fundamental duties which would educate the citizens to effectively it and actively involve them in the nation-building exercises. At all levels, effort should be made to generate awareness of fundamental duties and the importance of discharging the fundamental duties to enable citizens to practice the citizenship values”⁴¹

Recent developments

Recently, the need to create awareness about fundamental duties has gained momentum. As a part of 70th Independence Day celebrations, the law ministry undertook a massive outreach plan to educate people about their fundamental duties. Under the scheme, the Bar Council was engaged law students to give presentations in the neighbouring schools. The views on fundamental duties of seventy eminent personality from each state was recorded and circulated across social media platforms with a view to create awareness on Fundamental Duties.⁴²

Similarly, on the occasion of 50th anniversary of Constitution Day, 2019, Vice President Venkaiah Naidu suggested a three point action plan including introduction of Fundamental Duties at an appropriate level in the curriculum, displaying the duties at all the educational institutions, offices and public spaces across the country and reaching out to

³⁸ *Supra* 17.

³⁹ MC Mehta V. UOI, 1987 SCR (1) 819

⁴⁰ *Supra* 4.

⁴¹ Create awareness on fundamental duties: Karnataka High Court, DECCAN CHRONICLE (March 6, 2020), [https://www.deccanchronicle.com/nation/current-](https://www.deccanchronicle.com/nation/current-affairs/211116/create-awareness-on-fundamental-duties-karnataka-high-court.html)

<https://www.deccanchronicle.com/nation/current-affairs/211116/create-awareness-on-fundamental-duties-karnataka-high-court.html>.

⁴² Govt begins drive to teach people fundamental duties, TIMES OF INDIA, (March 4, 2020) <https://timesofindia.indiatimes.com/india/govt-begins-drive-to-teach-people-fundamental-duties/articleshow/72340581.cms>.



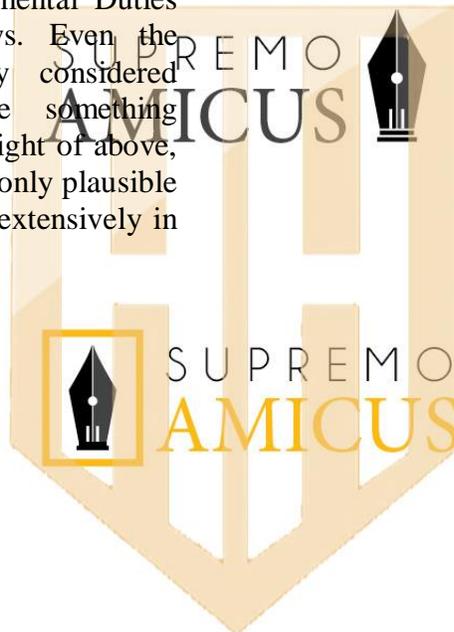
the youth through appropriate campaigns.⁴³
In January, 2020, the Centre announced a year-long plan for the raising awareness on Fundamental Duties.

Conclusion

“Begin with duties of a man and rights will follow as spring follows winter”

Gandhi

The chapter on Fundamental Duties was introduced to ensure that people don't misuse their Fundamental Rights. But the lack of effectuation has failed Fundamental Duties in what it set out sought to achieve. There are several limitations on Fundamental Duties being enforced through laws. Even the Supreme Court has widely considered Fundamental Duties to be something individual and not public. In light of above, raising awareness remains the only plausible option, and is being explored extensively in current times.



⁴³ Vice President Secretariat, Fundamental Rights and Duties go together, asserts Shri Venkaiah Naidu, Press Information Bureau (November 26, 2019)

<https://pib.gov.in/newsite/PrintRelease.aspx?relid=195002>.