
“Ignorance of Fundamental Duties”

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ABSTRACT:

Constitution of India has provided several rights as “fundamental rights” and duties as “fundamental duties” to its citizen. Constitution being supreme in itself creates the fundamental rights with remedy to enforce them under article 32 and 226 of constitution of India. Fundamental duties numbering eleven have been corporate in constitution but there seems least guiding factor for remedy of breach of fundamental duties. Law is interplay of rights and duties breach of duty and disregard must be actionable except in few situations falling under general exception. As rights and duty being co relative in border sense a duty without remedy can be considered as writ in water. Three things makes a nation to achieve objective of article 51A-first is noble ideas, second is citizens being capable of achieving the noble ideas and third is striving excellence by such citizens. In Indian constitution there is disproportionate emphasis on rights of citizen as against their duties even though Indian tradition laid greater emphasis on duties as right flows from well performed duty. there are fundamental duties for their breach remedy is prescribed in law like Indian penal code 1860, Environment protection Act,1986, Prevention of insult to national honor Act, 1971. But there seem some duties for their breach no remedy is there so it needs adopting some measures for promoting and enforcing such duties. Breach of duty may be initially may be taken as civil wrong and later it may be cured by punishment for an offence. For giving effect to duties three things can also be done first is elaboration and elucidating of duties, second is awareness and third one is performing of duties. This paper aims to finding out reasons of ignorance of fundamental duties and the need of enforcement of fundamental duties in present scenario.

INTRODUCTION

"If people only kept the Fundamental Duties in their mind, we will soon have a peaceful and friendly revolution".

Mrs. India Gandhi, Former Prime Minister,

The Constitution is framed for the people with an objective to build a developed and strong nation. The Preamble is the soul of our Constitution and an integral part of our Constitution. The Preamble to the Constitution states the social philosophy, i.e. liberty, equality and fraternity, as principles of life. It embodies the sovereignty of the Constitution. But we people are quite ignorant about the constitutional principles, philosophy and morality. This ignorance of the common man as well the people in the government has created problems. Therefore, talking about ignorance of fundamental duties assumes great importance.

We should with an open heart recognize the greatest contribution of Dr BR Ambedkar in the framing of the Constitution of India. It is because of his efforts that we have got this Constitution based on the principles of justice, liberty, equality and fraternity. The aims and objectives are

embodied in Preamble. The unique features are: a parliament system of executive, fundamental rights and its enforcement, directive principles of state policy, an independent judiciary, adult franchise, centre-state relationship, federal structure and a unique blend of rigidity and flexibility, and fundamental duties. Equality, liberty and sovereignty are the guiding principles of a good state.

The other essential feature of modern day society is the rights which are given to the people. However, to establish a counter force as well as balance the rights, there are duties. Jurisprudence, the science and philosophy of justice, says that rights are what the state owes its people, but duty is what the people owe the state in return. It's a plain and simple barter which maintains equilibrium and helps society progress.

However, over the years there seems to be a constant degeneration of the idea of duties, and now an imbalance has come in to the picture. People are getting more and more protective about their rights, primarily because they are more aware and a lot of people like us at are working hard to make people aware of their rights. However, they are getting more and more ignorant about their duties.

HISTORICAL BACKGROUND:

To achieve the above objective, a brief historical background leading to the inclusion of article 51A in the Constitution of India, needs to be set out. The Swaran Singh Committee appointed by the Congress Party for a review of the Constitution had recommended that certain Fundamental Duties and obligations which every citizen owed the nation should be included in the Constitution. These recommendations were implemented with the incorporation of the new article 51A in the Constitution. As rights and duties are two sides of the same coin, it looks rather enigmatic that the framers of the Indian Constitution did not lay down Fundamental Duties for the citizens along with their Fundamental Rights. "Right", as defined by Mahatma Gandhi, "right is duty well performed". Right carries with it a corresponding obligation Gandhiji also said that "the true source of right is duty". If we all discharge our duties, rights will not be far to seek. Mahatma Gandhi laid on the natural link between rights and duties. The Fundamental Duties were incorporated into the Constitution under Art 51-A by the 42nd Constitution (Amendment) Act, 1976. Insertion of Part IV- A in the Constitution containing Fundamental Duties can hardly be called an innovation on the part of the Indian Parliament. There are many Constitutions in the world containing such duties. In fact, there are more than 50 nations in the world having specific provisions in regard to Fundamental Duties in their Constitutions. England, which is called 'the mother of democracy', has neither any Fundamental Right nor any Fundamental Duty.

However, the fact is that Fundamental Duties of the citizens were not incorporated into the draft Constitution, and when the Constitution of India came into force, there was no Chapter on Fundamental Duties. It seems that the people in the country had been so much obsessed with rights that they forget the importance of their duties and obligations towards the society and the nation which enabled them to claim; and exercise their rights. Impact of absence of duties on the Indian society.

CONCEPT OF DUTY:

There has been some rather disproportionate emphasis on the rights of citizens as against their duties even though the traditions and temper of Indian thought through the ages laid greater emphasis on duties. Actually, rights and duties are the two sides of the same coin. For every right, there is a corresponding duty. Rights flow only from duties well performed. Duty is an inalienable part of right. What is duty for one is another person's right and respect human life and not to injure another person. If everyone performs his/her duty, everybody's rights would be automatically protected.

REASON OF INSERTING FUNDAMENTAL DUTIES:

The reasons for including a specific Chapter on Fundamental Duties of the citizens were quite pressing. It was necessary to make duties explicit as undue stress was being laid by self-seekers on rights, leading to gross misuse of liberty. Unfortunately some elements were misusing liberty to the detriment of the society, and this had to be checked if the values enshrined in the Constitution were to be preserved. The incorporation of the duties in the Constitution was further necessitated by the growing concern of the Government to zealously safeguard the natural environment. The ruthless deforestation of our jungles and the impending extinction of wild life and the growing tendency among the people to damage national property, unmistakably called for such a measure as a reminder to unscrupulous elements that they had certain obligations towards the nation which had bestowed upon them certain basic rights.

Over and above all these, the inclusion of duties should be appreciated also in the background of the twin concept of rights and duties. They ought to be correlative. Since Fundamental Rights had already been included, the inclusion of Fundamental Duties within the framework of the Constitution, therefore, was also strongly supported. It was felt that there was no need to define in the Constitution such duties as might flow from the rights or other parts of Constitution themselves. The inclusion of Fundamental Duties brought our Constitution in line with article 29 (1) of the Universal Declaration of Human Rights and with provisions in several modern Constitutions of other countries.

This article 51A has the potential to regenerate and reconstruct the nation. It has been on the statute book for the last 24 years. It commands that – “it shall be the duty of every citizen of India” – but it is an irony that more than 99 per cent of the citizens of India do not even know about the existence of this article in the Constitution, much less its provisions.

“The greatest of all the means for ensuring the stability of the Constitution is the education of citizens in the spirit of the Constitution”.

Aristotle

This paper attempts to propagate the principles of Article 51A of the Constitution of India thereby remind the citizens about their duty and obligation to protect the sovereignty and integrity of the country.

51A[a] it shall be the duty of every citizen of India to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem

51A[b] It shall be the duty of every citizen of India to cherish and follow the noble ideals which inspired our national struggle for freedom.

51A[c] It shall be the duty of every citizen of India to uphold and protect the sovereignty, unity and integrity of India

51A[d] It shall be the duty of every citizen of India to defend the country and render national service when called upon to do so.

51A[e] It shall be the duty of every citizen of India 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.

51A[f] It shall be the duty of every citizen of India to value and preserve the rich heritage of our composite culture.

51A[g] It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures.

51A[h] it shall be the duty of every citizen of India to develop the scientific temper, humanism and the spirit of inquiry and reform.

51A[i] It shall be the duty of every citizen of India to safeguard public property and to abjure violence

51A[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.

51A[k] It shall be the duty of every citizen of India who is a parent or guardian to provide opportunities for education¹¹ to his child or, as the case may be, ward between the age of 6 and 14 years.ⁱ

Effectuation Of Fundamental Duties:

The implementation of such Fundamental Duties requires aspiration of the citizens rather than enforcement or sanction. When at the formative age of life such noble ideals are inculcated and hammered upon, and also practiced in daily life, aspiration to practice them throughout life will be inevitable; it will become part and parcel of the nature and character of the citizen. Strong foundations of nature and character are laid during the formative period (6 to 17 years) that is when the boys and girls are at school. The students of today are the nation builders of tomorrow Steps towards Effectuation of Fundamental Duties.ⁱⁱ

Awareness:

It is axiomatic that ignorantia leg is non-execus at. However, one in a thousand is aware of article 51A; the Fundamental Duties. Even highly educated citizens may not be aware of this part of the Constitution. The Central Government should direct to the educational institutions throughout India to teach at least for one hour in a week, lessons relating to protection and the improvement of the natural environment including forests, lakes, rivers and wild life in the first

ten classes. Create a national awareness of the problems faced by the people by the appalling all-round deterioration of the environment.

Radio and video spots, highlighting important messages related to Fundamental Duties, in the background of proper music and the National Flag, to be commissioned by All India Radio, Doordarshan, and other DD Channels. This should become a regular feature at least in all Doordarshan channels around the country, once or twice a day, to have significant impact over the years. January 3 to be observed as Fundamental Duties Day.

Aspiration:

Sincere and effective inculcation of Fundamental Duties particularly in the younger generation will automatically give rise to aspiration to translate them into daily life. The test whether inculcation has been sincere and effective is as to whether aspiration has arisen in the minds of the students, to implement the Fundamental Duties.

Implementation and Enforcement of Fundamental Duties:

It is true that there is no legal sanction provided for violation or non-performance of Fundamental Duties. There is neither specific provision for enforceability nor any specific prohibition. However, Fundamental Duties have an inherent element of compulsion regarding compliance.

Judicial pronouncements:

In Rural Litigation and Entitlement Kendra & Ors. Vs. A State of Uttar Pradesh & Ors.,ⁱⁱⁱ (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, Dehradun & Ors. Vs. State of U.P. & AIR 1985 SC 652, in order to prevent imbalance to ecology and hazard of healthy environment being created due to working of lime-stone quarries, the Supreme Court directed the quarries lessees being cancelled and lime-stone quarries being closed down permanently. The directions were issued in face of fundamental right to trade and business and the right to earn livelihood. Assigning paramount significance to Fundamental Duties and rather placing the Fundamental Duties owing to people at large above the fundamental right of a few individuals the court held that such closure 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 Sachidanand Pandey & Anr. Vs. State of West Bengal & Ors., , the court expressed in unmistakable terms that 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) which proclaims the Fundamental Duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.

In M.C.Mehta (II) Vs. Union of India & Ors.,^{iv}, article 51A containing Fundamental Duties of citizens was read casting duties on the government and for issuing certain directions consistently

with article 51A. Directions were:-The Central Government shall direct to the educational institutions throughout India to teach at least for one hour in a week, lessons relating to protection and the improvement of the natural environment including forests, lakes, rivers and wild life in the first ten classes;

The Central Government shall get text books written for the said purpose and distribute them to the educational institutions free of cost;

The children shall be taught about the need for maintaining cleanliness and with the cleanliness of the house, both inside and outside and the street in which they live;

The Central Government shall consider training of teachers who teach this subject by the introduction of short-term courses for such training;

The Central Government, the Government of the States and all the Union Territories shall consider desirability of organizing "Keep the city/town/village clean" week;

To create a national awareness of the problems faced by the people by the appalling all round deterioration of the environment.

In Vellore Citizens' Welfare Forum Vs. Union of India,^v and Bandkhal and Surajkund Lakes matter,^{vi} 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.

In Bijoe Emmanuel vs. State of Kerala^{vii}, it has been held that there is no provision of law which obliges anyone to sing the National Anthem nor is it disrespectful to the National Anthem if a person who stands up respectfully when the National Anthem is sung does not join the singing. It is true that article 51A (a) of the Constitution enjoins a duty on every citizen of India "to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem". 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. It was observed that there was no law enacted by Parliament making it obligatory to comply with article 51A (a).

Available legal provisions for enforcement of fundamental duties:

1. In order to ensure that no disrespect is shown to the National Flag, Constitution of India and the National anthem, the Prevention of Insults to National Honor Act, 1971 was enacted.
2. The Emblems and Names (Prevention of Improper Use) Act 1950 was enacted soon after independence, inter alia, to prevent improper use of the National Flag and the National Anthem.
3. There are a number of provisions in the existing criminal laws to ensure that the activities which encourage enmity between different groups of people on grounds of religion, race, place of birth, residence, language, etc. are adequately punished. Writings, speeches, gestures, activities, exercise, drills, etc. aimed at creating a feeling of insecurity or ill-will among the members of other communities, etc. have been prohibited under Section 153A of the Indian Penal Code (IPC).

4. Imputations and assertions prejudicial to the national integration constitute a punishable offence under Section 153 B of the IPC
5. A Communal organization can be declared unlawful association under the provisions of Unlawful Activities (Prevention) Act 1967.
6. Offences related to religion are covered in Sections 295-298 of the IPC (Chapter XV).
7. Provisions of the Protection of Civil Rights Act, 1955 (earlier the Untouchability (Offences)

Suggestions for Further Action:

In particular, it is suggested that there is imperative need for wider dissemination of information and generating greater awareness in regard to the Fundamental Duties of citizens and obligations of citizenship. This must assume the dimensions of a peaceful, nationwide, mass-based movement. This can be done through –

- Organization of advocacy and sensitization programme,
- Display of the text of article 51A ‘Fundamental Duties’ prominently in government publications, diaries calendars, offices and at public places,
- Radio and video spots highlighting important messages related to Fundamental Duties on AIR, Doordarshan and other channels,

ENDNOTES:

ⁱ Article 51A constitution of India.

ⁱⁱ Legalaffairs.gov.in

ⁱⁱⁱ (1987) 2 SCC 295

^{iv} (1998) 1 SCC 471

^v 1996) 5 SCC 647

^{vi} (1997) 3 SCC 715

^{vii} AIR 1987 SC 8 at pp.751, 752