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# **A RESPONSIBLE CITIZEN VIS-A-VIS** **FUNDAMENTAL DUTIES UNDER THE** **CONSTITUTION OF INDIA.**

AUTHORED BY - HOMA BANSAL

## **ABSTRACT**

Citizens of India have been endowed with a number of social, economic and political rights by the Constitution. These rights enable every person to achieve his true potential while living a life of dignity. In any society, rights are meaningful only if people are responsible enough to have a sense of duty towards the society. Thus, both rights and duties have been explicitly mentioned in the Constitution of India. Though, state has a significant role in protecting rights of its citizens, but in true sense, it is the people who protect the rights of their fellow citizens by performing their duties. Such sense of responsibility among the people of a society determines the level of development of such society. The framers of the Constitution of India had a realization that it is not possible to enforce duties only with the force of law. Thus, there was no explicit mention of duties of citizens in the original Constitution. Moreover, the tradition and culture of India is replete with a number of values that require people to perform their duties and respect the rights of other people. Thus, it was assumed that people, on their own, would act as per the traditional values of dharma. Considering all this, the chapter on fundamental duties was not explicitly added in the Constitution of India. As the time passed, it was realised that people were not as sensitive towards their duties as they ought to be. So, in order to sensitize people towards their duties, an explicit chapter on Fundamental Duties was added to the Constitution of India. On the recommendation of Swaran Singh Committee, Chapter IV-A was added to the Constitution vide 42nd Constitution Amendment Act, 1976. By this amendment, ten fundamental duties were added to the Constitution, but these duties were not made enforceable through court of law. It was realized that true enforcement of duties is possible through education and change of attitude. The importance of education in achieving other societal objectives was underscored with 86th Constitutional Amendment Act, 2002. Through this amendment, education was not only recognised as a Fundamental Right, it was also added as a Fundamental Duty of parents

to provide education to their children. Education is a tool which can instil a sense of responsibility among the citizens of a country, and it is the responsible citizens who realise their duties and play a significant role in development of the nation.

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## **INTRODUCTION**

India, the largest democracy in the world, was once under the clutches of British colonial rule. The victory of freedom was achieved after a long struggle by making immense sacrifices. With the new breeze of freedom, the people of India could finally be granted much desired fundamental rights. Even a cursory glance on Indian Constitution would reveal that a lot of emphasis has been given to the rights of people in the Constitution. But unfortunately, the duties of citizens, which are nothing but a counterpart of rights, were not included in the original Constitution. It took us more than two decades to realize that duties of citizens, without which rights are meaningless, ought to be given their due place in the Constitution. Duties are the true source of rights. If every person performs his duties diligently, then the society as a whole need not worry about its rights<sup>1</sup>. Therefore, a citizen who understands his responsibilities adequately and contributes in various social welfare activities can altogether direct the nation towards priority and development.

A country runs through its citizens. They constitute the most vital parts of the nation. Any nation aspires to tread on a path of development cannot afford to possess lethargic, dormant and unresponsive citizens. Similarly, the State is also required to act responsibly by undertaking adequate measures towards creating a friendly, co-operative and motivated environment to its citizens. A State cannot expect its citizens to act responsibly unless it itself sets an example through its policies and actions which aims towards social, economic, religious and political upliftment. The preamble to the Constitution of India, the fundamental rights mentioned under Part III of the Indian Constitution, the

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<sup>1</sup> P.K. Thakur, A Vision of Values, 20 CDS 27,(1999).

directive principles of the state policies mentioned under Part IV of the Indian Constitution and the fundamental duties mentioned under Part IV-A of the Indian Constitution together constitute all the rights and responsibilities of Indian citizens and the State. However, the Fundamental Duties were not expressly mentioned in the original Constitution and were later incorporated by 42<sup>nd</sup> Amendment, 1976 to remind the citizens of India that they being a part of a democratic country cannot merely harp upon their rights without performing their responsibilities towards the society. It reminds citizens that they can claim their rights only if they create a balance in the society by performing their duties<sup>2</sup>.

## WHO IS A RESPONSIBLE CITIZEN?

A responsible citizen is one who understands his socio-legal obligations towards the society. He understands that he is a part of the society and cannot survive in exclusion of it. A responsible citizen tries to contribute positively towards the betterment of society and does not merely sit back and blame the government or the constitution for non-development of the nation. In fact, the demand for a new Constitution indicates that people are not able to understand and cherish its importance. In this regard Dr. B.R. Ambedkar, the chairman of the drafting committee of the Indian Constitution, while addressing the Constituent Assembly commented that even a perfect constitution can turn out to be useless and redundant if the people who are required to follow it are themselves not worthy enough. If people are themselves devoid of morals and values which are essential for a dignified living then no amount of rules and policies can bring much change in the society. Such people of twisted characteristics are often seen taking advantage of loopholes in such laws and regulations and use them according to their own convenience. On the other hand, even a bad or a moderate Constitution can turn out to be good if people who are following it are of unrighteous character and virtue<sup>3</sup>.

A responsible citizen is one who is not only aware about his rights but is equally conscious about his duties towards his fellow citizens and the society as a whole. He maintains a balance in the society by exercising his rights and at the same time performing his moral as well as legal duties towards it. A responsible citizen gives equal weightage to his rights and duties and performs his duties considering them to be his privileged rights. For example paying taxes, casting informed vote in every elections, doing work and receiving education which will further develop one's scientific temper and

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<sup>2</sup> Justice P.D. Kudal, On legal aid and Fundamental Duties, 13 SI 37, (1976).

<sup>3</sup> 11, Constituent Assembly Debates 975.

shed the long shadowed darkness of superstitions, taking several measures towards environment protection, waste reduction, protection of natural resources by reducing air, water and soil pollution, taking part in various social welfare activities, voluntary donations and charities etc. It is high time that people understood that the duties performed by them will in return benefit not only others but will equally benefit them too<sup>4</sup>.

## **FUNDAMENTAL DUTIES: MEANS OF ACHIEVING RESPONSIBLE CITIZENS.**

The concept of duty is based on respect, empathy and selfless giving. It helps to maintain a balance in the society by providing natural justice and dignity to all. It aims to create an environment where every individual is able to fulfil his dreams and aspirations. Article 51-A of the Indian Constitution<sup>5</sup> casts eleven fundamental duties upon the citizens of India. Though these duties are non-enforceable yet they constitute an important part of the Constitution. They act as eleven commandants which guides a citizen to act responsibly and work towards the betterment of the society. The fundamental duties reforms the citizens in the following manner:-

- 1) For India, the fundamental duty is not a new concept. The concept of 'Dharma' and 'Karma' has been an integral part of our ancient culture. The incorporation of fundamental duties in the Constitution is just an explicit reminder to people of their duties and obligation towards the society. The fundamental duties encourages the spirit of 'selfless' giving and service to the society.
- 2) The fundamental duties remind the citizens that they can survive in the society only if they perform their responsibilities towards it. It reminds the citizens that they can claim their rights only if they perform their duties. It helps citizens to become responsible towards their obligations. For example, the consistent performance of duties by the citizens of Singapore has transformed it from a less developed nation to a highly developed one over a span of few years. Similarly, the citizens Almanac, issued by the US citizenship speaks about their citizens and the understanding of their responsibilities.

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<sup>4</sup> Mygovblog, <https://blog.mygov.in/we-the-people-we-the-citizen/> (last visited December 16,2021).

<sup>5</sup> India Const. art. 51A

- 3) The fundamental duties warn the citizens not to cause any kind of destruction. It directs the citizens towards sustainable development. It reminds them that the nature would treat them in a similar manner in which they would treat it. Further it warns them not to indulge in any kind of harmful activities as their survival depends on the very existence of the nature itself. It casts duty on every citizen to protect the environment and to abstain from violent activities such as destructing property by burning or any other mode.
- 4) The express mentioning of fundamental duties in the Indian Constitution reminds the Citizens of India of the hard earned freedom which it got after a long struggle from the British rule. It creates a sense of oneness, commonness, and equality among the people of India which further generates the feeling of love, respect and patriotism towards the country. This feeling of 'oneness' and 'equality' goes a long way in generating a sense of respect and pride for the Mother Land, the National Flag, the National Anthem to such an extent that people are even motivated to give away their lives in order to defend their nation.
- 5) It duty as well as right of each citizen of India to receive education. The Constitution guarantees to provide free and compulsory education to each child between the ages of six to fourteen years and thereby directs the states to take appropriate measures to raise the level of education. Simultaneously, the Constitution casts duty upon every parent and wards to send their child to school and provide them with opportunities to enjoy their right of education. The education helps reform an individual and enables them to think logically by developing and encouraging the spirit of inquiry.
- 6) The preamble to the Constitution of India promises to secure 'we the people of India' with justice and equality. Similarly Article 14 under Part III of the Indian Constitution guarantees to every person living in India 'equality before law' and 'equal protection of law'. However, the state alone cannot bring a change in the society. It requires co-operation and participation of the individuals. Article 51A(e) casts duty upon every citizen to develop the sense of brotherhood and thereby generate the sense of equality among people irrespective of any discrimination of caste, sex, class, language etc. Therefore, the fundamental duties help citizens to behave responsibly by shedding all the derogatory practices done against women and by creating an atmosphere of gender equality.
- 7) The fundamental duties make a citizen responsible by directing them to protect the ancient heritage of the Country.

Therefore, it is clear that the fundamental duties incorporated under Part IV-A of the Indian Constitution directs the citizens to behave responsibly by guiding them to act in a certain manner in different walks of life. However, it is sad that even today after so many years of its incorporation, not many people are aware of their duties. Therefore, it is need of an hour that the Government adopts effective measures to aware and sensitize the citizens of their duties so that each citizen is able to contribute towards the progress of the country.

## **INCORPORATION OF ARTICLE 51-A IN THE INDIAN CONSTITUTION: 42<sup>ND</sup> AMENDMENT, 1976.**

While drafting the Constitution of India, one of the debates was regarding incorporating the provisions of fundamental duties of citizens in the Constitution. Many policy makers and political leaders were in favour of adding the fundamental duties in the Constitution. Gandhiji while suggesting the addition of fundamental duties to the Constitution commended that it is of utmost importance that citizens are constantly reminded of their obligations towards the society. A nation cannot survive unless its citizens are ready to defend it at time of war and aggressions. Citizens should perform their duty to maintain law and order in the society and thereby secure peace and stability in the nation<sup>6</sup>. Even Dr Rajindra Prasad was worried that complete silence on fundamental duties would create an atmosphere of lawlessness by encouraging irresponsible behaviour. But unfortunately, even after so many suggestions the fundamental duties were not expressly added to the original Constitution of India. Mainly due to the fact that the framers of the Indian Constitution hold the view that the concept of 'Dharma' had always been a central part of India's traditions and culture and therefore they hardly felt the need to expressly mention the fundamental duties of citizens in the Constitution itself<sup>7</sup>.

However, this perception did not turn out to be wholly correct as in the absence of express inclusion of fundamental duties in the Constitution, the people gradually became so much right centric that they started ignoring their duties completely. During the time of national emergency, Shri H.R. Gokhale, then law Minister of India showed a serious concern regarding an imbalance created in the society. He was of the view that people have forgotten their responsibilities towards the Government and the

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<sup>6</sup> Ram Ratan, Gandhi's Concept of Political Obligation 91 (Minerva Associates 1972).

<sup>7</sup> Dr. Mrityunjay Kumar Raj, Fundamental Duties- A Touchstone of Constitutional Mirror 102 (Regal Publications 2015)

society. He suggested that appropriate measures should be taken by Government to educate and aware citizens of their responsibilities. He suggested an amendment to the Constitution to incorporate fundamental duties as a separate part in the Constitution. He was of a view that this incorporation would have a sobering effect on those restless people who work against the development of nation<sup>8</sup>. Similarly, Shi D.K.Burah, then president of Indian Nation Congress party stressed that there was a need to raise moral consciousness of people towards their state. He was of view that by adding a chapter on fundamental duties in the Indian Constitution, people would become aware about their obligations<sup>9</sup>. Keeping the above view into Consideration, He appointed Swaran Singh Committee to prepare a report on incorporation of fundamental duties in the Constitution. Thereby by 42<sup>nd</sup> Amendment, 1976 fundamental duties were added to the Indian Constitution on the basis of recommendation of the Committee. However, the recommendations of Swaran Singh Committee were not accepted in toto and some of the recommendations like penalizing or punishing the citizen for non-observance of fundamental duties or denial of judicial review over such penalty or over laws providing such penalty were rejected.

## 86TH AMENDMENT 2002

As discussed above, ten fundamental duties were incorporated by 42<sup>nd</sup> Amendment, 1976. To these duties one another duty was added by 86<sup>th</sup> Amendment 2002. The 86<sup>th</sup> Amendment 2002 emphasised on education. Through this Amendment three major changes pertaining to education were brought in the Constitution of India. First Article 21-A was added to the Constitution which guarantees free and compulsory education to each citizen between the ages of six to fourteen years<sup>10</sup>. Secondly, Article 51 A (k) was added to the Constitution of India which lays down a corresponding duty upon parents and guardians to provide an adequate opportunity of education to their children<sup>11</sup>. Thirdly an amendment was made in the Article 45 of the Constitution and a provision of early childhood care was incorporated in it<sup>12</sup>

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<sup>8</sup> Times of India, March 27, 1976.

<sup>9</sup> 3 Samaraditya Pal, India's Constitution—Origins And Evolution (Constituent Assembly Debates, Lok Sabha Debates On Constitutional Amendments And Supreme Court Judgments) 897 (Lexis Nexis, Universal Law Publishing 2014).

<sup>10</sup> India Const. art. 21-A

<sup>11</sup> India Const. art. 51A(K)

<sup>12</sup> India Const. art. 45

To effectuate the above amendment, various guidelines were issued by the Supreme Court of India:<sup>13</sup>-

- 1) All Governmental schools, colleges and universities to deliver a minimum one hour lecture per week pertaining to deterioration of environment and steps to taken for its prevention.
- 2) The Government should adopt various measures to ensure that all the educational institutes are conducting the above lectures and following various other directions of the Government and the Supreme Court of India.
- 3) The Central and he State Government should work harmoniously in order to provide free and compulsory education to all children between the ages of six to fourteen years. The Government may provide several incentives like mid-day meal, distribution of free books and uniforms.
- 4) Various programs like ‘swatch Bhaat’, ‘keep city green and clean’ etc. to be initiated.

## **NATIONAL COMMISSION TO REVIEW THE WORKING OF CONSTITUTION**

The Government setup a commission to review the working of the Constitution and make suitable suggestions. It reviewed the guidelines given by Justice Verma Committee and made following recommendations<sup>14</sup>:-

- There is a need to aware people about their rights and duties as provided in the Constitution.
- Every person has a right to live with dignity.
- Every person should be treated equally. There shall be no discrimination on the basis of caste, sex, creed, language etc. The minority rights should be protected.
- There is need to lay emphasis on practical vocational training and education.
- There is a need to sensitise people regarding their responsibilities towards the society.
- Governmental organizations, Non- Government organizations and individuals should join their hands together and work towards educating the citizens.
- Government should provide parental guidance so as to enhance the mental, physical and emotional upbringing of the child.

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<sup>13</sup> AIR 1115, 1998 SCR (20) 530.

<sup>14</sup> Report of the National Commission to Review the Working of the Constitution, *available at*: [https://www.thehinducentre.com/multimedia/archive/03091/ncrwc\\_3091109a.pdf](https://www.thehinducentre.com/multimedia/archive/03091/ncrwc_3091109a.pdf) ( Visited on December 19,2021).

- Certain duties like – duty to pay tax, duty to vote, duty to co-operate with the government in implementing various welfare activities should be included in the list of fundamental duties.

## IMPACT OF NON-ENFORCEABILITY OF FUNDAMENTAL DUTIES ON RESPONSIBILITIES OF CITIZENS

Ironically, the fundamental duties which were considered to be so important that they were later added to the Constitution of India by an amendment are not justiciable and enforceable in the court of law. Sadly, the non-enforceability of the fundamental duties is often equated with non-usability of it. The non-enforceability of fundamental duties creates a doubt regarding its importance. Does this mean that the non-enforceable fundamental duties are inferior or less important than enforceable fundamental rights? Does it mean that citizens hold no responsibility towards the society? The answer to the above questions lies in negative. A law is a law no matter no sanctions are attached to it. In this regard G.W. Paton commented that People do not follow a law just because of fear of punishment. People follow only those rules and commandments with which they associate themselves. No doubt, sanctions play a major role in strengthening a law but it is not the only criteria<sup>15</sup>. Therefore, it is a wrong to say that a law if not backed by punishments loses its credibility. People will follow the rules only when they foresee any positive change through them. Once these rules and regulations becomes a part of their habit, there is no difference whether any punishment is attached to them or not. Over the years, many conventions and usages are given a status of law even if their non-fulfilment does not attract any punishment. Therefore, there is no denying the fact that the fundamental duties are as important as fundamental rights are. Every citizen owes several obligations towards the society. Every person is a part of society, he is enjoying many rights and freedoms from it and one cannot ignore their responsibilities just because they are not enforceable in the court of law. One cannot mix ‘what should I do’ with ‘what would be the punishment or penalty if I did not do it’<sup>16</sup>.

In *Javed v. State of Haryana*<sup>17</sup> The Supreme Court declared that even before the incorporation of Part IV-A in the Constitution of India, the concept of duties was not entirely missing in the Constitution. The reasonable restrictions which are attached to the rights guaranteed under the Constitution of India

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<sup>15</sup> G.W. Paton and David P. Derham, A Text Book of Jurisprudence 78(The Clarendon Press 1972).

<sup>16</sup> R.W.M. Dias, Jurisprudence 236 (Aditya Prakashan 1985).

<sup>17</sup> Javed v. State of Haryana, AIR 2003 SC 3057.

are nothing but the fundamental duties of citizens. Similarly, *in AIIMS Students Union v. AIIMS*<sup>18</sup>, the fundamental duties are declared to be a ‘valuable guide’ and an ‘aid to interpretation’ of the constitutional provisions. The Supreme Court of India declared that just like directive principles of the state policies, the fundamental duties should be taken into consideration while framing any rules and policies. The court explained that Part IV-A lists not only fundamental duties of citizens of the state but of the state itself as state is nothing else but the collection of its individuals. In the case of *Minerva Mills Ltd. V. Union of India*<sup>19</sup>, the Supreme Court of India held that a citizen is expected to perform its duty for the sake of performing it and not for the purpose of avoiding any punishment or penalty. A citizen should understand his role in the society and should respect all laws irrespective to the fact that whether any punishment is attached to it or not.

## CONCLUSION

An Individual should understand that he is a part of society and cannot survive without it. A citizen should value their responsibilities as they value their rights. Besides, the duties mentioned under part IV-A of the Constitution of India, there are other duties which citizens should perform such as duty to vote, duty to pay taxes, duty to help accident victims, duty to keep premises clean, duty to respect elders etc. Unfortunately, people have forgotten their ancient culture and teachings which primarily focused on ‘dharma’. Once our teachings evolved around the concepts of respect, love, empathy, honesty, non-violence, selfless service, duties and responsibilities which now has been replaced by worldly facts and figures. Today education has become one of the most profitable businesses. Today students are merely taught subjects like mathematics, science, history, geography and are not equipped with basic moral principles which help shape the life of an individual. It is high time government took serious steps to improve the quality of education and aware citizens of their role and responsibilities in the society.

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<sup>18</sup> AIIMS Students Union v. AIIMS, (2002) 1 SCC 428 para 58.

<sup>19</sup> Minerva Mills Ltd. V. Union of India, AIR 1980 SC 1789