THE DEFICIT OF CIVIC SENSE: A CRITIQUE OF THE LEGAL EFFICACY OF ARTICLE 51A IN CONTEMPORARY INDIA

Sindhu S Shivamoggi, LLM,
University Law College & Department of Studies in Law, Bangalore University

ABSTRACT

The Indian Constitution provides for Fundamental Duties under Art.51A of part IVA. At the very base, they are unenforceable or non-justiciable in nature. One cannot move to court of law if there's a violation of those duties compared to Fundamental Rights. The author believes that this non-justiciability is causing negative impact on the Indian society specially, the lack of civic sense. Citizens are lacking awareness about their moral and ethical duties which is causing chaos in the society, ultimately declining the civic sense of the people of India. We can cite too many such instances like linguistic disputes, destruction of public property and polluting roads, rivers, etc., which is a direct violation of Fundamental Duties.

This paper critically analyses the loophole of this particular provision concerning over who is going to take responsibility and if they are not given enforcement, why bother to insert them? Though some of the duties were enforced indirectly by the apex court through various judgements, again someone has to take the initiative to file a complaint regarding the matter and until then they are neglected by everyone. The paper concludes that being a human and being in a society, one cannot only worry about his fundamental rights but also have to think about the duties towards each other and towards the nation- which may subsequently uplift the civic sense of the citizens and helps in building a better society of India.

Keywords: Fundamental Duties, Fundamental Rights, Civic Sense, Unenforceability, Non-justiciability.

1. Introduction

The framers of the constitution carefully added part III[1] into the Indian constitution and the same is expanding its scope and value in every facet possible till the date. The Grundnorm even made the way for the state responsibilities[2] but left a void by not inserting equivalent framework governing the citizen's obligations towards the society. To correct this historical mistake, the Forty Second Amendment Act 1976 introduced part IVA, establishing Art. 51A to the Constitution of India. But, even after five decades of adding those duties there still remains a functional void as they are non-justiciable in nature. A citizen gets a platform to enforce his fundamental rights but not a duty. This is leading to a major crisis such as open littering, destruction of public property, degradation of public spaces and most chaotic linguistic fights. This showcases how the people of India lack civic sense and are not obligated towards the society.

As the say goes, "PUBLIC PROPERTY BELONGS TO EVERYONE YET EFFECTIVELY BELONGS TO NO ONE"[3] – not a single person bothers about their responsibilities and obligations towards the nation. Rights should come along with the duties so that atleast it somehow keeps public in order. While [4]Art.32 and [5]Art.226 directly makes way to enforce fundamental rights, it could have been better if the constitution has made provisions to enforce the fundamental duties. Though the judiciary has attempted to interpret Art.51A in some serious circumstances- notably in PILs relating to environmental issues as in the series of case of *M C Mehta* cases, such applications are remains indirect and discretionary. The fundamental duties are rarely treated as binding legal directives by the public which is strongly impacting negatively to both the society and administration.

2. History and Legal Framework of Fundamental Duties

2.1. Evolution

The fundamental duties are invariably found in the socialist constitutions. Before the inclusion of the fundamental duties, P V Kane was critical of the constitution that it ignored the Indian

[1] India Const.
[2] India Const. pt. IV.
[3] Res communis omnium est re nullius
[4] India Const. art. 32.
[5] India Const. art. 226.

tradition of duties and spoke only of rights, as duties may also be associated with cultural traditions of the society.[6] However, the duties find its root in Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights (ICCPR). Further, in 1976 the Swaran Singh committee was set up to provide suggestions on the inclusion of the fundamental duties in Indian constitution. [7]As per the recommendations of the committee, the then government inserted 10 fundamental duties into the constitution through the Forty Second Amendment Act, 1976.

2.2. [8]Article 51A: Fundamental Duties-

(a) To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem.

(b) To cherish and follow the noble ideals which inspired our Indian freedom Struggle.

(c) To uphold and protect the sovereignty, unity, and integrity of India.

(d) To defend the country and render national services when called upon to do so.

(e) To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic, and regional or sectional diversities; to renounce practices derogatory to the dignity of women.

(f) To value and preserve the rich heritage of our composite culture.

(g) To value, protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures.

(h) To develop the scientific temper, humanism, and spirit of inquiry and reform.

(i) To safeguard public property and to abjure violence.

(j) To strive towards excellence in all spheres of individual and collective activity so that the

[6] V.N. Shukla, Constitution of India (Mahendra Pal Singh ed., 14th ed. 2022).
[7] Swaran Singh Committee, Report of the Committee Appointed by the Congress President to Suggest Amendments to the Constitution of India (1976).
[8] India Const. art. 51A.

nation constantly rises to higher levels of endeavour and achievement.

(k) Duty of the parent or guardian to provide opportunities for education to his child, as the case may be, between the age of six to fourteen years.[9]

3.Verma Committee on Fundamental Duties

In 1999, the government of India set up 'Verma Committee on Fundamental Duties of Citizens' under the chairmanship of Justice J S Verma. This committee was tasked with examining the operational aspects of fundamental duties and recommending measures to educate and encourage citizens to fulfil these duties. The committee outlined some of the existing legal frameworks to increase the awareness among the people of India concerning fundamental duties[10]-

i. The Representation of People Act, 1951

ii. The Unlawful Activities Protection Act, 1967

iii. The Protection of Civil Rights Act, 1955

iv. The Wildlife Protection Act, 1972

v. The Prevention of Insults to National Honour Act, 1971

vi. The Forest Conservation Act, 1980

4.Judicial Interpretation of Fundamental Duties

The fundamental duties are not entirely unenforceable or non-justiciable. Some of them, such as-protection of environment and improvement of the natural environment,[11] prohibition of cow slaughter under Art.51A(g)[12] and 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[13] - these were interpreted by the court but upto what extent these are implemented

[9] The Constitution (Eighty-Sixth Amendment) Act, 2002.
[10] Justice Verma Committee, Report of the Committee on Teaching Fundamental Duties to Citizens (1999).
[11] *S. Jagannath v. Union of India*, (1997) 2 S.C.C. 87.
[12] *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat*, (2005) 8 S.C.C. 534.
[13] *Air India Stat. Corp. v. United Labour Union*, (1997) 9 S.C.C. 377.

is the question before us. Though the court has interpreted them, they were enforced indirectly rather than direct enforcement.

If, for a time being, let's say some of the duties were enforced by court of law, then what about the remaining duties? Who is responsible for those obligations that are not even looked into? The apex court itself upheld that it shall be the duty of every citizen of India to abide by the constitution, to promote harmony and the spirit of common brotherhood, to safeguard public property and to abjure violence.[14] And it further interpreted in case of *AIIMS' Students Union v AIIMS*,[15] that though not enforceable by a writ of the court, fundamental duties as manifested through Art. 51A provide a valuable guide and aid to interpretation of constitutional and legal issues. The Supreme Court even developed the 'doctrine of harmonious construction' to balance the Part III, Part IV and Part IVA. Still, India is behind in following its fundamental duties. People consider them as mere moral duties which is severely causing more chaos in the society.

5.Civic Deficit and Its Impact

Everyday someone or the other will witness something relating to ignorance of duties such as open litter, polluting rivers, encroachment of public property and destruction of monuments, etc. This is happening in a very high frequency. For instance, the Ganga-river pollution in the name of offerings to the God, Yamuna-river pollution by untreated industrial effluents and the major concern is road and city clogging. Here, the interesting observation is that, most of the litigations and landmark rulings were about the environmental issues with reference to fundamental duties. Even after the existence of these decisions, the pollution still continuing in high range. Simultaneously, India is going through the linguistic disputes mostly in Maharashtra, Tamil Nadu and Karnataka. This has shaken the very foundation of the Indian constitution i.e., fraternity which was pledged in the preamble by 'we the people of India'. Obviously, it is the violation of the fundamental duty provided under Art.51A(e), which eventually causes disharmony and fails to promote brotherhood in the society. These are just some random incidents and we can witness many more instances as them in our daily life.

6.Way Forward

To bridge the gap between fundamental rights and fundamental duties and to put duties in the

[14] *In re* Ramlila Maidan Incident, (2012) 5 S.C.C. 1.
[15] *AIIMS Students' Union v. AIIMS*, A.I.R. 2001 S.C. 3262.

same weight as rights, India must move away from treating civic obligations as mere duties and make them as enforceable in nature. To give effect, the followings are recommended:

i. **Statutory reforms**: Parliament should follow the Verma Committee (1999) guidelines and codify the Fundamental Duties into statutory laws.

ii. **Implement penalty system**: Parliament should approach in a stricter way by implementing financial penalties for public littering, open urination and destruction of public property, etc.

iii. **Advanced monitoring**: As the world is incorporating AI-Driven technology everywhere, the respective authorities should deploy this AI-technology to monitor and control these issues.

iv. **Dispute resolution**: Authorities should resolve the disputes such as linguistic and regional flashpoints as early as possible through proactive, state-led mediation forums before they spill onto the streets as vandalism against commercial establishments and public signage.

v. **Awareness campaigns**: The respective authorities should conduct awareness campaigns to public and workshops at schools, colleges and universities.

7.Conclusion

The contemporary India cannot function solely through the granting of rights; it requires a reciprocal foundation of civic responsibility. While Part III of the Indian Constitution guarantees for individual freedoms against state action, the systemic erosion of civic sense showing in public asset vandalism, environmental neglect, and disregard for public order highlights the risk of maintaining a rights-centric model without enforceable obligations. Article 51A was incorporated into Part IVA not to diminish individual liberties, but to provide for responsible citizenship. Not following a duty leads to violation of rights of other persons. To ensure the fundamental rights effectively requires enforcement of duties. By converting specific constitutional duties under Article 51A into actionable legal standards, India can build a legal culture-where individual rights and civic duties function as complementary pillars of democratic governance.

REFERENCES:

1. India Const.
2. India Const. pt. IV.
3. *Res communis omnium est re nullius*
4. India Const. art. 32.
5. India Const. art. 226.
6. V.N. Shukla, Constitution of India (Mahendra Pal Singh ed., 14th ed. 2022).
7. Swaran Singh Committee, Report of the Committee Appointed by the Congress President to Suggest Amendments to the Constitution of India (1976).
8. The Constitution (Eighty-Sixth Amendment) Act, 2002.
9. Justice Verma Committee, Report of the Committee on Teaching Fundamental Duties to Citizens (1999).
10. *S. Jagannath v. Union of India*, (1997) 2 S.C.C. 87.
11. *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat*, (2005) 8 S.C.C. 534.
12. *Air India Stat. Corp. v. United Labour Union*, (1997) 9 S.C.C. 377.
13. *In re* Ramlila Maidan Incident, (2012) 5 S.C.C. 1.
14. *AIIMS Students' Union v. AIIMS*, A.I.R. 2001 S.C. 3262.
15. D.D. Basu, Indian Constitutional Law (Pranab Kumar Chattopadhyay, Subhro Kamal Mukherjee, S.R. Roy & S.P. Sen Gupta eds., 4th ed. 2014).
16. M.P. Jain, Indian Constitutional Law (6th ed. 2010).
17. P.M. Bakshi, The Constitution of India (Universal Law Pub'g Co.).
18. Dutta's The Constitution of India (2d ed. 2019).