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## Linking Fundamental Rights and Fundamental Duties

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*Only In a world of Duties Rights can be enjoyed. We all are vested with natural rights just for being human. There is a difference between natural rights and fundamental rights. Natural Rights belong to a human irrespective of caste, creed, race, or nationality. Fundamental rights are rights that are fundamental to the life of the citizen of a country. Rights as per law are reasonable claims of a person accepted by society and approved by a statute. These rights are essential for the survival and development of an individual. On the other hand, we have moral duties. These are moral obligations on an individual that needs to be executed to respect the rights of others, these Moral and legal social obligations are bestowed upon the citizens to Enact. Fundamental Rights guaranteed by the Constitution of India are enforceable through the court of law. Laws existing or made should not abridge or contravene with the fundamental rights, On the other hand, Fundamental rights are interpreted in the light of Fundamental duties.*

**Keywords:** *fundamental rights, natural rights, fundamental duties, statute, constitution.*

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### INTRODUCTION

*“Life is a balancing act. While we have all the rights to be in freedom, peace, harmony, and bliss; we do have a responsibility to ensure that others too enjoy their own freedom, peace, harmony, and bliss.”<sup>1</sup>*

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<sup>1</sup> Vishwaschavan, *Vishwasutra* (1<sup>st</sup> edn., Author House UK 2012)

-Vishwas Chavan

The concept of Rights and Duties is ancient. Rights can be well defined as "Privileges" held by the public. In ancient Indian texts, Vedas, and other Auxiliary texts various basic Human Rights have been talked about, with special emphasis on Equality and Mutual Respect. This also talks about the principle that "one person's right is another person's obligation", giving us insight into the relationship between Rights and Duties. Rights are always a bone of contention between individuals and the state. It's a two-way relationship, firstly, the authority of the state is sought to be limited, secondly, all individuals and groups demand a positive role from the state. Therefore, every right requires social recognition. without such recognition, rights are empty claims. The makers of the Indian Constitution embedded this concept of political intervention for the socio-economic upliftment of the vulnerable and marginalised.<sup>2</sup>

**In modern times, Rights have been modified in two ways-**

The advantages of rights should not be confined to a tiny class that is placed in a privileged position by any means. Rights should not be confined to delimiting the sphere of activity and authority of the state, but the benefits should reach the bulk of society This evolution of rights as an obligation on the state and other powerful authorities or entities becomes "Duty", particularly concerned with questions like how far, when and why an individual is obliged to obey the norms or the laws of any political or politico-social authority.

**Example -** In the field of jurisprudence, the social life of mankind is regulated by law. And, to protect the right to life, the government must maintain public order and ensure personal as well as national security.

However, obligations do not always fall on the state. Individuals who possess rights must acknowledge the obligations towards the state, otherwise civilised life would become a far-fetched dream. So, it must be understood that in modern times, we are governed by a well-

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<sup>2</sup> H.S. Dwivedi & Ratan Sinha, 'Dr. Ambedkar : The Pioneer of Social Democracy' (2005) 66 (3) The Indian Journal of Political Science

defined and usually democratically elected government. And in such a scenario, the citizen has to acknowledge the authority of the state and obey its laws. The responsibility to heed the state is based on an unspoken promise made by the simple fact that “residents choose to stay within its barriers.”

## CONCEPT OF RIGHTS AND DUTIES UNDER JURISPRUDENCE

Within a political authority, laws protect the legal rights of every citizen, as they choose to stay within the boundaries of the state. The individual must protect the rights of every individual. According to Salmond, A legal right is an “interest which is protected and recognized by the rule of law. It is an interest which has its duty and disregard of which is wrong”<sup>3</sup>. He also talks about five criteria that need to be fulfilled for a right to be a legal right, these are:-

- The subject of right
- The subject of duty
- The subject matter of legal right
- The object of the legal right
- Title of the legal right

Salmond also defined the Expression “Duty”, According to Salmond “A duty is an act which one ought to do, an act opposite to what is wrong.” Duty is also defined by several other jurists, According to Keeton “A duty is a Forbearance which is enforced by the state in respect of the right vested in another and breach of which is wrong.” Enforcement of legal rights can be understood through ‘Ubi jus ibiremedium’ which means that ‘where there is a right there is a remedy’ i.e. if a person's right is violated, he/she can approach the court under Article 32<sup>4</sup> (SC) and Article 226<sup>5</sup> (HC). Such issues are also governed under various legal texts and relief or welfare acts/schemes. On the other hand, every Right has its correlative Duties. When a Right is given to a person, it is assumed that certain Legal Duties are also imposed on that person.

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<sup>3</sup> Richa Goel, ‘Concept of Rights and Duties Under Jurisprudence’ (*Ipleaders*, 19 June 2019)

<<https://blog.ipleaders.in/concept-of-rights-and-duties-under-jurisprudence/>> accessed 08 June 2022

<sup>4</sup> Constitution of India, 1950, art.32

<sup>5</sup> Constitution of India, 1950, art.226

Moral duties are under an individual's own will. It's an "Ought to be" situation, not a "must-do" one. Therefore, both are co-existent and cannot exist independently of one another. This can also be understood in the words of Salmond, that no Rights exist without the corresponding Duties.

## DUTIES AND RIGHTS ARE CORRELATIVE

Fundamental Rights and Fundamental duties are correlative and go hand in hand. Recently, due to breach of the Fundamental Duties in the country terms like " Duties of the citizens " and " Anti-national " have become buzzwords in the political Landscape. in a constitutional democracy, For society to Peacefully Coexist, the state has given citizens rights and laid down some duties for them. Sometimes state-imposed duties infringe the rights of the marginalised sections of society. Thus, the Language of the duties is Vague as its interpretation lies at the discretion of the state. Duties become a tool in the hands of the state tending to be misused and used to impose the will of the state on the citizens or the social majority on the vulnerable section. Harold Laski said, "one man's right is also his duty " for eg. If the state gives a right of life to an individual. It also imposes an obligation not to endanger his life and respect the Right to life of others. In *AIIMS student union v AIIMS*<sup>6</sup>, The Supreme court prioritised the test of merit over reservation for admission in Postgraduate medical courses, the Court held that both Fundamental duties and fundamental rights carry equal importance. The court can strike down the institutional reservation of 33% in AIIMS, which along with 50% reservation discipline-wise was violative of Article 14<sup>7</sup> of the constitution court in addition to this the court said that just because Duties are not obligations they cannot be overlooked, they are equally crucial as fundamental rights. This led to the admission of internal students with low marks being admitted in the entrance exam at the cost of other students, this was challenged in the Supreme court and quashed. In this article, we will observe how Fundamental Duties and Rights follow different logic but still go hand in hand.

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<sup>6</sup> *AIIMS Student Union v AIIMS* (2001) Civil Appeal No. 7367/2001

<sup>7</sup> Constitution of India, 1950, art.14

In *Hind Swaraj*<sup>8</sup>, Mahatma Gandhi observed "Real rights are the result of the performance of duty." The fundamental duties are taken from the Constitution of Russia and were added to the Part-IVA of the constitution by the 42nd Constitutional amendment Act, 1976, with the recommendations of the Swaran Singh Committee. The Fundamental Duties are to serve as a reminder to the people that while they are enjoying their rights under the constitution of India, it also observes citizens abide by the fundamental duties and observe basic norms of democratic behaviour and conduct. Rights and Duties are very closely related and cannot be separated. There is an affiliated duty for every right. Every resident must stay dedicated to the state as it shields their Rights. Duties also act as a warning to the people that disrespect the nation and are involved in anti-social activities apart from this, Duties promote a sense of discipline and commitment towards the Nation. Fundamental duties like Directive Principles are non-justiciable.

In *Javed. In the state of Haryana*<sup>9</sup>, the court held that Fundamental rights are to be read with Fundamental Duties and Directive principles of state policy and cannot be read in isolation. In *Minerva Mills Ltd. Vs Union of India*<sup>10</sup>, the supreme court held that merely because a rule is not backed by sanctions for disobedience, that does not change the fact that it is a rule that is meant to be followed and it carries equal importance.

In *Dr. Dasarathi v State of Andhra Pradesh*, the court held that every citizen must strive toward excellence in diverse fields of life; that is how a nation as a collective body of citizens will lead to excellence.

In *MC Mehta v Union of India*<sup>11</sup>, the Supreme Court held that all educational institutes must organise a teaching lecture of at least one hour a week on safeguarding and improving the natural environment and it is also the duty of the Central Government under Article 51A (g)<sup>12</sup> to introduce this in all the educational institutes. The Central Government should also

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<sup>8</sup> M.K. Gandhi, *Hind Swaraj or Indian Home Rule* (1<sup>st</sup> edn., Jitendra T Desai Navajivan Publishing House Ahmedabad), 380

<sup>9</sup> *Javed v State of Haryana* (2003) Writ Petition (Civil) No. 302/2001

<sup>10</sup> *Minerva Mills Ltd. v Union of India* (1980), AIR 1789

<sup>11</sup> *M.C Mehta v Union of India* (1987), AIR 1086

<sup>12</sup> Constitution of India, 1950, art.51A (g)

distribute books free of cost on the same subject in all the institutes and also raise awareness amongst people towards a clean environment.

In *Aruna Roy v Union of India*<sup>13</sup>, the court upheld the validity of the National Curriculum Framework for School Education (NCFSE) which was challenged on the ground that it violated Article 28<sup>14</sup> of the Indian Constitution and it was not anti-secular because it handed for value development education relating to the basics of all persuasions. The court said that the NCFSE doesn't mention anything affiliated with conducting religious instruction which is banned under Composition 28 and education neither violates Composition 28 nor the concept of secularism.

After the *Ramlila Maidan Incident*<sup>15</sup>, the court held that a balance had to be maintained between the rights and restrictions on one hand and rights and duties on the other hand. There would be an imbalance if significance is given to only rights or duties. Duty is considered a true source of rights. The courts consider the duties that are present in Article 51A<sup>16</sup> while examining the reasonableness of the legislative restriction on the exercise of colorful freedoms. The court also said that duties like guarding the sovereignty, and integrity of the country, furnishing safeguard to public property, etc. aren't insignificant.

The necessity for fundamental rights in India emerged from the heinous experiences under the Colonial British regime. Framers of the constitution while pondering over the fundamental rights were of the view that every human should have access to basic needs, dignity, and equality that will be absolute and cannot be taken away by the state. For ages, India has been divided, based on gender, caste, and religion. Fundamental rights save a citizen not only from the arbitrariness of the state but from social majorities as well. Example: Article 14 ensures Equality before the law and equal protection of laws for every citizen, protecting an individual against the tyrannical will of the state. As discussed above Rights and Duties go hand in hand, however, it is the interpretation of duties that plays a crucial role in a society like India that

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<sup>13</sup> *Aruna Roy v Union of India* (2002) Writ Petition (Civil) No. 98/2002

<sup>14</sup> Constitution of India, 1950, art.28

<sup>15</sup> *Ramlilamaidan Incident v Home Secretary* (2012) Writ Petition (Criminal) No. 112/2011

<sup>16</sup> Constitution of India, 1950, art.51A

continues to be unequal and divided. Every duty imposed on the citizens must comply with Due process of law i.e. no person shall be deprived of life, liberty, or property except in accordance with the law. Without Rights, Implementation of Duties can lead to Undesirable consequences. The reform of democracy revolves around the evolution of rights leading to the empowerment of society and people in general. Fundamental Rights and Fundamental duties complete one another. India continues to be divided, and where in some areas realisation of even the fundamental right is still a work in progress, due to lack of awareness, any shift in state policy emphasis from rights to duties will be unsuitable to such people. Duties are meant to create a feeling of collectivism among citizens, all individuals will collectively strive for a better nation when their rights are safeguarded by the state. Citizens already perform various duties such as paying fines, and taxes, adhering to laws, and taking part in elections. This shows that people are performing their duties while asking for their rights that are guaranteed by the constitution. A country will be great when Article 14 will be implemented in a true sense, and rule of law will prevail along with principles of justice, equity, and good conscience. The best thing a government can do is uphold and guarantee the fundamental rights of the citizens.

## CONCLUSION

Both Fundamental Rights and Fundamental Duties are equally vital for the existence and balanced working of the constitution. The former is a negative injunction on the State, and the latter is an obligation on the State and its subjects. But cumulatively, both are important for the upliftment of marginalised and depressed classes while upholding laws of Natural Justice for all Indian Citizens. Along similar lines, Justice J S Verma pointed "Rights and Duties go hand in hand". To know this balance between the Fundamental Rights and Duties -the Justice Verma Committee was formed in 1999 and had the task of identifying the existence of legal provisions for the implementation of some of the Fundamental Duties. It successfully made the following observation - that the Indian Constitution and law have several Provisions for the effective implementation of Duties and Rights- Ex:- IPC, CrPC, The National Flag Code, The Protection of Civil Rights Act, etc. Therefore, based on many rational-legal texts which evolved with time

and various religious-cultural texts, it's the "kartavya" of every individual to perform one's duties towards the society/Nation/Fellow citizens. India as Composite culture as explained in Maha Upanishad as "VasudhaivaKutumbakam", also found in (Article 51A(f)) embedded in the concept of "Social Democracy" given by Dr. B R Ambedkar <sup>17</sup>while drafting the Indian Constitution.

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<sup>17</sup> H.S. Dwivedi & Ratan Sinha (n 2)