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Fundamental rights and duties: Two sides of a coin

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Abstract--The jurisprudence of law is that each right has a relating obligation. Moreover, Rights and Duties are cut out of the same cloth which cannot exist independently. A responsible citizen is a person who plays out his social and moral commitments and his ethical obligations towards the state and their compatriots. Fundamental Duties [1] are nothing but the core values for the citizens of the country to take responsibility and be accountable towards the State. All citizens fulfilling their duties, as led down in the Constitution automatically protect their Fundamental Rights, [2] which are guarded by the Constitution. On the proposals put forward by the Swaran Singh Committee and the controversial Forty-Second Amendment, [3] Fundamental duties were integrated into the Indian Constitution during the period of emergency which tried to aggravate the landmark judgment of the Keshavanand Bharati Case [4] but strengthened by the Apex court in Minerva Mills Case [5]. However regrettably, these essential obligations are not themselves enforceable in courts of law nor is their infringement. Here the question arises: Just because a standard rule is not upheld with sanctions for their noncompliance, will it mean that it has no significance? This article shades light on the importance of proper enforceability of fundamental duties along with the fundamental rights to achieve responsible citizenry.

Keywords--fundamental duty, enforceability, fundamental right, responsible citizen.

Introduction

The Indian Constitution in chapter III of Fundamental Rights (From Article 12 to Article 35) has provided basic human rights which are fundamentals. These rights are not absolute as reasonable restrictions are imposed on them. Such reasonable restrictions gave birth to the concept of duty or moral commitment of every citizen, towards the state - protecting their fundamental rights. The mainstream rationale in the traditional culture of India supports the concepts of "*Dharma*" [6] as well as "*Karma*" and such qualities have been inculcated in the Indian culture since days of yore, emphasizing the importance of the individual to carry out his duty responsibly. Indians are popular all over the map for their firm ethics and understanding obligations for common, conventional, and social convictions. But while studying the Indian Constitution, it is no secret that rights are given more importance over duties especially in respect of enforceability- where duties are regarded as mere moral obligations for the citizens to follow. But the noteworthy observation here is that no right is complete, without having the strong backing of a corresponding duty that comes along with it. The right of living in a clean environment comes with the obligation to keep it spotless and sound, not just by one but by all of us. The right to freedom comes with the duty of non-impedance in other's lives too.

Right of an individual nowadays only seeks advantages from all the laws and infrastructures created by the state, instead of giving any heed to their corresponding duties as responsible citizens. In a democratic country like India, no individual should be supported who just appreciates the rights and neglects to play out his duty. The responsible citizen sensibly shows that the thought of being an individual who is capable to fulfill his duties along with his established rights simultaneously in an efficient manner. India has kept up with a great degree of rights and obligations, and the new decisions in which understanding of different laws has been analyzed and vital changes have been made. Such occurrences make the Constitution alive and generally appropriate for an enthusiastic country like India.

Research Methodology

The method of research used for this article is Qualitative research of Doctrinal Nature. Various legal research papers, articles, and commentaries have been referred to. The Doctrinal Research Methodology has helped the researcher to study the jurisprudential aspect of the subject matter with the help of various books and journals which have been used for qualitative research.

Jurisprudential Theories on Fundamental Duties

Emphasizing just on the rights instead of accomplishing the duties that follow is not the definition of a model citizen. He must actively participate and ensure efficiency in fulfilling his duties as well. This vision will broaden the moral sphere of the citizen as well as act for the betterment of the nation. Needless to say, that law is an interplay between Rights and Duties. The researcher has studied the jurisprudential aspects of Fundamental Rights and Duties by various political thinkers.

For Salmond, [7]

"A right is an interest recognized and protected by a rule of right. It is an interest respect for which is duty, and disregard of which is wrong."

But on the other hand, Duguit [8] believes,

"No one has any other right than always to do his duty."

Kelson [9] did not believe in the concept of Right. But then came Austin's view, [10] who described four types of absolute duties saying that 'The duties which are always correlated with a right are called relative duties.' To understand the concept of Rights and Duties in an elaborative manner, analyzing different theories from a number of jurists helped the researcher.

Fundamental Duties Under Indian Constitution

According to Article 51A of The Constitution of India,

"It shall be the duty of every citizen of India—

(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 national struggle for freedom;

(c) to uphold and protect the sovereignty, unity and integrity of India;

(d) to defend the country and render national service 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 protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;

(h) to develop the scientific temper, humanism and the 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 nation constantly rises to higher levels of endeavour and achievement;

(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years." [11]

Judicial pronouncements reinforcing importance of Fundamental Duties under Indian Constitution:

- ***M.C. MEHTA (2) vs. UNION OF INDIA [12]***

Regarding Article 51-A(g), the Supreme Court of India instructed the Central government that it should introduce mandatory coaching by introducing "Environment Protection" as a compulsory Subject in the school curriculum. It urged the government to design textbooks on this discipline and distribute them free of charge to schools and universities. Further, a time period of one hour a week was mandated for lectures on environment protection in the educational institutions. This was done with the objective that it would stimulate the

cognizance of neatness and cleanliness of the environment among youth of the nation.

- **AIIMS STUDENT UNION vs. AIIMS [13]**

The Supreme Court upheld the importance of Fundamental duties while quashing down the institutional reservation in AIIMS on the ground of “*violation of Article 14 of the Indian Constitution*”; expressly stating that Fundamental Duties are no less significant as that of the fundamental rights under the Indian Constitution. Further it was added that unenforceability of Fundamental duties cannot be the reason of them to be disregarded. The bench brought into notice that “*Duties are prefixed by the same word "fundamental" which was prefixed to the term rights by the framers of the Indian Constitution.*”

- **ARUNA ROY vs. UNION OF INDIA [14]**

The constitutionality of “*National Curriculum Framework*” which has been established in school curriculums was challenged in this case on the allegations that it violated Article 28 of the Indian constitution, giving it an anti-secular image. This case has focused and emphasized the importance of Article 51A(e) of the Indian Constitution and ascertained that universal values like peace, harmony and fraternity should be the foundation of the public schooling systems. Taking this into consideration, the Supreme court ruled that such learnings in school curriculum does not violate Indian Constitution's Article 28 or contradict the principle of secularism.

- **GOVERNMENT OF INDIA vs. GEORGE PHILIP [15]**

The Apex court of India held that Article 51A(j) requires Indian citizens to aspire towards excellence in all the spheres. But with the understanding that it cannot be accomplished unless employees keep in existence the discipline for their work. It was instructed that the courts should not pass any order which will be hampering the spirit and object of the Fundamental Duties.

Final Results and Findings

- 1) Fundamental Duties can be treated as a rich source of motivation for the citizens inculcating a feeling of responsibility and discipline among them, which eventually will make an inclination that the citizens are no simple onlookers, but dynamic members of the society who will fulfill rights and duties effectively.
- 2) Fundamental Duties have significant importance in reminding the citizens that, while asking for the active protection for their rights, mandatory consciousness is needed in terms of duties for the development of their own country.
- 3) Proper guidelines should be issued for enforceability of Fundamental duties by taking appropriate measures if any citizen is failing to fulfill any of them. Citizens must ensure the significance of Fundamental Duties, characterizing their ethical commitments, putting rights and duties on equal footing, assisting in the nation development along with other citizens.

- 4) Fundamental Duties detest anti-national behavior and attitudes such as disrespecting our national flag or damaging public property for ill motives. Emphasis should be given on the enforceability of these fundamental duties.
- 5) While witnessing the unenforceability fiasco of Fundamental Duties, various legislations have been introduced, attempting to establish model citizenry which are as follows:
 - Environment (Protection) Act, 1986, and
 - Forest (Conservation) Act, 1980 and some indirectly imposed obligations, provide for specifications, penalties, and punishments,
 - Prevention of Insults to National Honor Act, 1971,
 - Unlawful Activities (Prevention) Act, 1967,
 - Protection of Civil Rights Act, 1955,
 - Representation of the People Act, 1951. [16]

Conclusion

While discussing the connection between rights and duties, it is relevant to state here that one's right corresponds with one's duty, and it is mandatory for a citizen that he must fulfill his duties which correspond with the rights conferred on him. One cannot solely focus upon enforcing their rights without fulfilling their obligations. It is high time to understand and implement that "*Real duties are the results of fulfillment of Rights.*" [17]. Different rights revered in the Constitution of India are fundamental rights enforceable by law but speaking about the Fundamental duties: they are not legal obligations but instead they are moral and social commitments. We, as responsible citizens of India should fulfill the moral duties listed in the constitution with the same quantum of importance which we give to the other articles and enforceable regulations. Only this will contribute to the development of the nation into a model nation.

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