



FUNDAMENTAL RIGHTS AND FUNDAMENTAL DUTIES: WHAT IS MORE IMPORTANT?

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ABSTRACT

The ongoing debate between fundamental rights and fundamental duties is essential for the governance and responsibility of society. Fundamental rights listed in part III of the Indian constitution safeguard the liberty, equality, and freedom of the people of India. On the other hand, fundamental duties, introduced by the 42nd Amendment Act, 1976, under Article 51A, emphasize national integrity, and the social harmony between rights and duties is critical for achieving a just, impartial, and sustainable society. While rights empower, duties guarantee responsible citizenship. Both rights and duties have to be balanced equally for a democratic nation, as uncontrolled rights can lead to abuse, while neglected duties undermine the strength of national unity. This article discusses the interdependence of duties and rights, noting that both are equally important in achieving a responsible and law-abiding citizen.

Keywords: Fundamental Rights, Fundamental Duties, Indian Constitution, Democracy.

INTRODUCTION

A growing democracy requires a delicate balance between personal freedoms and civic obligations to the state. The Indian constitution outlines both the rights and responsibilities of its citizens. Fundamental rights are those basic rights that the citizens of a country enjoy, whereas fundamental duties are the moral and ethical principles that impose a duty upon the citizens to fulfill their obligations toward the development of their country.

Fundamental rights give somebody power or authority to protect their freedom and advocate for justice; on the other hand, fundamental duties remind them of their responsibility towards

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the nation. While some argue that rights form the foundation of democracy, others emphasize that the duties sustain and strengthen the nation. The government must safeguard and ensure rights are respected, and citizens must willingly fulfill their duties.

UNDERSTANDING FUNDAMENTAL RIGHTS

Fundamental rights are essential human rights necessary for the well-being and growth of citizens. Fundamental rights, covered in Part III (Articles 12-35) of the Indian Constitution, serve as the foundation of democracy. They safeguard individuals from state overreach and provide legal remedies in case of violation.:

1. Right to Equality (Articles 14-18)
2. Right to Freedom (Articles 19-22)
3. Right against Exploitation (Articles 23-24)
4. Right to Freedom of Religion (Articles 25-28)
5. Cultural and Educational Rights (Article 29-30)
6. Right to Constitutional Remedies (Articles 32)

The Right to Equality: The right to equality is one of the most important fundamental rights mentioned in the Constitution. It has come under Articles 14-18, which include equality before the law and prohibit discrimination, and Articles 17-18, which collectively encompass further the philosophy of social equality.

Article 14 - Equality before the law: This article explains that all individuals are equal and they should be treated equally it also explains that all individuals enjoy equal protection of the law.

Equality before law: This concept of equality before the law came from Britain during the 16th century, given by the jurist Evichi, stating that no one is above the law and no one shall be punished or made to suffer except for a breach of the law rights guaranteed under article 14, which is not absolute, and certain fictions are imposed upon it, including the privileges and immunities given to the President of India and the governor of the state under article 361 of the Indian constitution. In the case of *Maneka Gandhi v. Union of India* (1978), The court expanded

the scope of Article 14, emphasizing that the legal procedure must be reasonable, just, fair, and not arbitrary.

Equal Protection of the Law: The concept of equal protection of the law is taken from the Constitution of America; it implies the same protection under the same circumstances to all individuals. Article 14 prohibits discriminatory classifications, but it does not prohibit reasonable classifications. In the cases of *Budhan Choudhry v. State of Bihar* (1955) and *Vajravelu Mudaliar v. Special Deputy Collector for Land Acquisition* (1965), it was laid down that for a classification to be reasonable, it must fulfill two criteria

- 1) The said classification must be based on an intelligible differentia, and
- 2) The said classification, based upon intelligible differentia, must be related to the object that is sought to be achieved.

Article 15 - Prohibition of discrimination: This article states that the state shall not discriminate against any citizens based on religion, caste, sex, place of birth, or any of them. This article prohibits discrimination based on man-made criteria but it also allows states to make special laws or provisions for women, children, and backward classes for their upliftment. The case of the *State of Madras v. Champakam Dorairajan* (1951) dealt with the reservation of seats for different communities. The Court held that caste-based reservations violate the equality principle under Article 15, but this judgment led to the First Amendment of the Constitution to allow reservations in educational institutions.

Article 16 - Equal opportunity in matters of public employment: This article prohibits any discrimination and provides equal opportunity to all individuals in matters of employment. In the case of *Indira Sawhney v. Union of India* (1993), the court upheld reservations for underprivileged groups in national government positions but ruled against reservations for forward castes based on economic disadvantage. The court also ruled against the creamy layer receiving reservation benefits.

Article 17 - Abolition of Untouchability: It forbids the practice of untouchability in any form. It makes the enforcement of any disability arising out of untouchability an offense punishable by law. The Supreme Court in the *State of Karnataka v. Appa Balu Ingale* criticized untouchability as an extension of the caste system, stating respondents forcibly restrained the complainant from accessing a borewell.

Article 18 - Abolition of Title: This article profits the district from conferring titles and persons from accepting any time from foreign agents; however, the state can confuse titles that are academic or military. In the case of *Indira Jaising v. Supreme Court of India (2017)*, there was a complaint in this regard challenging the use of the appellation 'senior advocate' before the names of the advocates. The Supreme Court held that this is not the title but a demarcation and hence does not offend Article 18 of the Indian Constitution.

Article 19 - Protection of certain rights regarding freedom of speech: Article 19 safeguards six freedoms namely - Freedom of speech and expression, freedom of assembly freedom to form associations or unions freedom of free movement, freedom of residence freedom of profession, occupation, trade, or business.

Reasonable restrictions can be placed on the grounds of the Sovereignty and integrity of India, security of the State, friendly relations with foreign countries, public order, decency and morality, contempt of court and defamation.

In the case of *Maneka Gandhi v. Union of India (1978)*: This case extended the scope of Article 19, stating that the right to life and personal liberty under Article 21 includes the right to travel abroad and that restrictions must be fair, just, and reasonable.

Article 20 - Protection in respect of conviction for offences: This article guarantees some following protections to individuals accused of crimes

- No ex post facto law – It states that a person is not guilty of an act that was not a crime at the time it was committed.
- No double jeopardy – It states that a person cannot be tried for the same offense twice.
- Protection from self-incrimination – It states that a person cannot be compelled to testify against themselves.

In the case of *Nandini Satpathy v. P.L. Dani (1978)*: The Court ruled that the right against self-incrimination is a constitutional guarantee, and one cannot be forced to answer questions that may implicate them.

Article 21 - Protection of life and personal liberty: This article gives the right to life and liberty. No individual can be deprived of these rights except as per the procedure laid down by the law. The right to life includes the right to a healthy

Environment, the right to sleep, the right to education, etc. In the case of *Kharak Singh v. State of Uttar Pradesh* (1964): The case involved the right to privacy, and while the Court did not specifically declare privacy as a fundamental right, it established the basis for its future recognition.

Article 22 - Protection against arrest and detention in certain cases: This article provides procedural rights to individuals in case of arrest or detention Procedural safeguards are:

1. Individuals have the right to be informed about the grounds on which they are being detained.
2. Right to consult a legal practitioner: The arrested person has the right to consult a legal practitioner.
3. Detention beyond 24 hours: If detained, an individual cannot be held in custody beyond 24 hours without being presented before a magistrate.
4. Preventive detention laws: Preventive detention laws allow the government to detain an individual without trial for up to 3 months. However, such detention requires the approval of an Advisory Board. *Habeas Corpus case (A.K. Gopalan v. State of Madras (1950))*: The Court interpreted the word "procedure established by law" in Article 21 and upheld preventive detention laws, leading to a narrow interpretation of Article 21.

Article 23 - Prohibition of trafficking in human beings and forced labour: The article prohibits forced labour, human trafficking, and other similar practices; it also protects people from exploitation by private citizens. In the case of *Bandhua Mukti Morcha v. Union of India* (1984): In this case, the Supreme Court dealt with the problem of bonded labour, which is a type of forced labour. The court directed the release of bonded labourers and stressed the enforcement of stringent laws to safeguard them from exploitation. The Court further broadened the application of Article 23 by defining forced labour to encompass not only physical force but also the imposition of debt and economic exploitation.

Article 24 - Prohibition of Employment of Children: This article prohibits the employment of children below the age of 14 in hazardous places like factories and mines; children working in nonhazardous employment are exceptions. Various laws were also passed in the promotion of Article 24, like the Factories Act 1948, the Mines Act 1952, and the Child Labour and Prohibition Act 1996. In the case of *M.C. Mehta v. State of Tamil Nadu* (1996): This case, also

known as the 'Child Labour Case,' brought attention to the exploitation of children in hazardous industries. The Supreme Court ruled that children should not be employed in hazardous work environments and emphasized that child labour is a violation of fundamental rights. The judgment also led to the passage of the "Child Labour (Prohibition and Regulation) Act, of 1986," which prohibits the employment of children in hazardous.

Article 25 - Freedom of Conscience and Religion: This article ensures that citizens of the country are free to practice any religion. In the case of *Govind v. State of Madhya Pradesh (1975)*: The Supreme Court held that the right to spread religion does not include the right to convert others. It clarified that the right to spread is subject to the limitations of public order, morality, and health.

Article 26 - Freedom to manage religious affairs: This article gives rights to individuals or groups to establish and maintain institutions for religion and charity. In the case of *D.A.V. College v. State of Punjab (1971)*: The Court emphasized that Article 26 grants the right to manage religious affairs but does not permit religious denominations to violate secular law.

Article 27 - Freedom as to payment of taxes for the promotion of any particular religion: The article states that the state cannot impose any type of tax for the promotion and maintenance of a particular religion. In the case of *Union of India v. L. K. Advani (1997)*: This case involved the issue of religious tax exemptions, and the court highlighted the value of ensuring that public funds are not misused for promoting religious interests.

Article 28 - Freedom as to attendance at religious instruction or religious worship in certain educational institutions: This article deals with the freedom of individuals about religious instruction and worship in educational institutions. It seeks to ensure a secular educational environment while recognizing the specific circumstances of certain institutions. In the case of *Aruna Roy vs. Union of India (2002)*: -In this case, Public Interest Litigation (PIL) was instituted under Article 32 of the Constitution. The petitioner in this case objected to the National Curriculum Framework for School Education because it is anti-secular and contrary to Article 28. The Supreme Court in this case ruled that there was no contravention of Article 28. It reiterated that the learning of religious philosophy is acceptable for encouraging a value-based life in society.

Article 29 - Protection of the interests of minorities: This article ensures that minorities based on language, religion, or ethnicity can preserve their culture, language, and identity

without facing any discrimination. In the case of *St. Stephen's College v. University of Delhi* (1992), the Supreme Court considered the issue of ethnic minority institutions' right to provide reservations to students of their community. The court held that minority institutions are entitled to admit students of their community, but the process of admission must be impartial and transparent.

Article 30 - Right of minorities to establish and administer educational institutions: This article protects the right of religious or linguistic minorities to establish educational institutions that take care of their unique needs without state interference or discrimination. In the case of *M. Nagaraj v. Union of India* (2006): - In this case, the Supreme Court dealt with the question of reservations in educational institutions and their impact on the cultural and educational rights of minorities. The Court affirmed that any form of reservation or affirmative action should respect the rights of minorities, particularly in the context of establishing educational institutions.

Article 32 - Constitutional Remedies: This article is the lifeline provision and "the heart and soul of the constitution," as per B.R. Ambedkar. This article gives individuals the right to seek redress before the Supreme Court of India for enforcement of their basic rights; it also serves as a guarantee for protecting these rights.

Features of Article 32 -

1. Right to Approach the Supreme Court and High Court: Articles 32 and 226 provide every citizen with the right to approach the Supreme Court and High Court directly for the enforcement of their fundamental rights. It can be invoked if any person's rights are infringed.

2. Writ Jurisdiction the Supreme Court has the authority to issue different kinds of writs like:

- Habeas Corpus – To bring forth an individual who has been illegally held.
- Mandamus – To order a public official to do a duty.
- Prohibition – To prevent a lower court from going beyond its jurisdiction.
- Quo Warranto – To challenge the authority of an individual holding a public office.
- Certiorari – To set aside an order issued by a lower court or tribunal.

In the case of *K.K. Verma v. Union of India* (1954): This case upheld the power of the Supreme Court to issue writs for the enforcement of fundamental rights. It reinforced that even when

fundamental rights are suspended during an emergency, the right to approach the court for their enforcement cannot be curtailed unless specifically suspended under Article 359.

UNDERSTANDING FUNDAMENTAL DUTIES

Fundamental duties were added to the Constitution in 1976 through the 42nd Amendment with a Soviet model influence. They are enumerated in Article 51A (Part IV-A) and include strokes of moral duty as a responsibility towards the country. We have the 11 obligations enumerated in the Indian constitution, and obligations have no court proceeding for default:

- (a) To follow the constitution and honour the national flag and the national anthem.
- (b) To revere and adhere to the noble ideals.
- (c) To maintain and safeguard the sovereignty, unity, and integrity of India.
- (d) To protect the nation and serve the country in times of need.
- (e) To uphold and promote the spirit of brotherhood and harmony among all the citizens of India.
- (f) To respect and conserve the rich heritage of our composite culture.
- (g) To preserve the natural environment, including forests, lakes, rivers, and wildlife.
- (h) To foster scientific temper and spirit of inquiry.
- (i) To safeguard public property and eschew violence.
- (j) To work towards perfection in every area of individual and collective endeavour, so that the country keeps on reaching still greater heights of endeavour and achievement.
- (k) To avail opportunities for schooling by the guardian or the parent to his ward or a child between the ages of 6 and 14 years, as the case may be.

JUDICIAL PRONOUNCEMENTS REINFORCING THE IMPORTANCE OF FUNDAMENTAL DUTIES UNDER THE INDIAN CONSTITUTION

1. M.C. Mehta (2) V. Union of India (1983) 1 SCC 471: The Supreme Court has held that by art. 51-A(g), it is the responsibility of the central government to incorporate compulsory

teaching of lessons at least one hour a week on the protection and development of the natural environment in all the educational institutions of the nation. It ordered the central government to arrange for getting that subject textbook written and supply it to the education institute without cost. To generate among the people, awareness of environmental cleanliness, it is recommended to plan to keep the city clean week, keep the town clean, and Keep the village clean week in all the cities, towns, and villages all over India at least once a year.

2. Aruna Roy v Union of India Air 2002 SC 3176: In this case, the validity of the National Curriculum Framework for School Education was challenged on the ground that it was violative of Art. 28 of the constitution and anti-secular. It gives imparting of value development education concerning the basics of all religions. The court ruled that the NCFSE does not speak of imparting "religious instruction" as excluded under art. 28. What wanted to be communicated is enshrined in art. 51A(e), which states "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 woman.". And to ensure that universal values like truth-related conduct, peace, love, and non-violence are the basis of education. The court, therefore, held that such education is neither violative of Art. 28 of the constitution nor against the notion of secularism.

DIFFERENCE BETWEEN FUNDAMENTAL RIGHTS & FUNDAMENTAL DUTIES

It is important to understand the difference between fundamental rights and fundamental duties in governance and citizen rights. These two parts of the Constitution of India define the rights and responsibilities of individuals.

1. Rights that citizens have to protect themselves from the government and on the other hand duties that citizens must have to follow for the betterment of the country and society.
2. Rights empower citizens to demand fair treatment and freedom, and duties encourage people to be caring and responsible towards our society.
3. Rights protect individuals from unfair actions by the government, and duties protect the country's unity, heritage, and environment.
4. Citizens can approach courts if their basic rights are violated but have no legal action if duties are not fulfilled.

5. Right's main focus is on the benefits of citizens of India and duties that talk about the society's welfare.

6. Unlike fundamental rights, fundamental duties are non-justiciable, meaning they cannot be legally enforced. However, they are crucial for maintaining a responsible citizenry.

THE DEBATE: RIGHTS VS. DUTIES

The debate persists among people as to whether rights are far more important than duties. Rights enable an individual to wield the spear against the excess of the state, while duties make certain that such powers are exercised carefully. A society that tends only towards rights could only become self-centered, while a society that seems to be emphasizing more on duties could rather develop into adopting an authoritarian character. Thus, the essence lies in maintaining a perfect balance between both sides.

1. Individualist Perspective: Need for Fundamental Rights: On that note, thus giving importance to fundamental rights. Fundamental rights free citizens from the arbitrary action of the state. They allow the individual citizen to live in dignity because, without them, democracy would become authoritarian. Rights, such as freedom of speech and expression (Article 19) and equality before law (Article 14), guarantee that every individual has the opportunity and space to grow and contribute to society.

2. On the National Perspective: A Case for Fundamental Duties: But while heightening rights, this must be coupled with responsible exercise. Fundamental duties ensure a citizen's contribution to the nation's wholesome development. The duty of upholding public property, therefore, prevents damage, while the duty of promoting harmony speaks for national unity. Without duties, unrestricted rights could only lead to anarchy and social unrest.

CONCLUSION

A healthy democracy requires a balance between fundamental rights and fundamental duties. While rights empower individuals, duties ensure the collective well-being of the society. Instead of prioritizing one over the other, citizens must attempt to exercise their rights responsibly while fulfilling their civil duties. Only then can we build a just, inclusive, and progressive society.

These two must be together to achieve vibrant democracy rights confer dignity and freedom upon the individual, and duties ensure that rights will be consumed cautiously for the collective good. Every responsible citizen, however, will make demands on rights as well as fulfill their duties for a fairer, just, and progressive nation.