

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES
[ISSN 2581-5369]

Volume 9 | Issue 4

2026

© 2026 International Journal of Law Management & Humanities

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for free and open access by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact support@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

Fundamental Duties in India: A Path to Achieve Rights

DR. POONAM KUMARI*

ABSTRACT

A right is an obligation upon the State to take care of the citizens of the country. At the present time most of the constitutions of the world are right centric and provide various layers of protection for such rights. But in a world of rights, there is a need for the performance of duty as well, so that the rights of everyone are fulfilled. Like other constitutions of the world, India has a specific provision dedicated to the fundamental duties, which are moral and social obligations that, though not directly enforceable, are given indirect effect through ordinary legislation. Despite this, very little attention has so far been paid to the duties. There is a need for sensitisation at every level, for the inclusion of the fundamental duties in school curricula, and for the sensitisation of offices in this regard. A great deal remains to be done in this field. This paper is an attempt to explore the ways through which these duties could be made more visible. It also examines several legislations which are indirectly responsible for enforcing these duties.

Keywords: Fundamental duties, national symbols, fundamental rights, sensitization, nationalism

I. INTRODUCTION

In the present world, people are highly individualistic and centred upon their rights. Consciousness of the fulfilment of guaranteed rights runs deep at every level, whether personal or public, national or international. The concern of every individual is directed towards the achievement of his or her rights. Every constitution of the world is drafted in a manner that seeks to protect individual rights at every level. Some constitutions recognise these rights as fundamental rights, others as legal rights or constitutional rights, but the focus remains upon the fulfilment of rights. The oldest written national constitution still in force is the Constitution of the United States, framed in 1787 and in force from 1789,¹ and it is regarded as the key document that paved the way for later constitutions around the world to give a distinct place to the recognition of basic human rights as fundamental rights of the individual. The Indian

* Author is an Assistant Professor at Department of Law and Governance, Central University of South Bihar, Gaya, Bihar, India.

¹ U.S. CONST. The Constitution of the United States was framed on 17 September 1787, ratified in 1788, and came into force on 4 March 1789.

position is not very different from that of other countries. In our Constitution, the Drafting Committee² inserted a separate Part in the shape of fundamental rights³ at the very inception. This Part is widely regarded as the core of the Indian Constitution, because it brings the true meaning to human life, that is, dignity.⁴

In assessing the significance of fundamental duties, it becomes important to see the place of fundamental duties alongside fundamental rights. In India, fundamental rights are justiciable through the courts and, under the constitutional scheme, the Supreme Court of India is the custodian of rights.⁵ The position is not the same for fundamental duties, as they are not directly justiciable through the courts. This creates a substantial difference in the status of fundamental rights and fundamental duties in India. In this situation, it becomes necessary to analyse and explore the scope of the fundamental duties. This paper examines the scheme of fundamental duties, their applicability, implementation and sensitisation in India.

II. FUNDAMENTAL DUTIES IN INDIA

Like any other constitution, the Indian Constitution has had a separate Part on fundamental rights since its inception. The separate Part on fundamental duties was inserted later, to bring some sense of duty among the citizens of the country. The sense of duty among the people of India has a deep rooted history in Indian civilisation. Unlike other civilisations of the world, where society was right centric, Indian civilisation has always been duty oriented through its concept of dharma.⁶ The concept of dharma is not related to religion; it is related to the idea of the fulfilment of one's duty, which ultimately leads to the achievement of right. This concept has been followed in Indian tradition for a very long time, and the people of India have long followed this righteous path. It is true that Indian civilisation has also witnessed aggression and a long period of suppression, on account of which this idea suffered a setback and people became detached from it.

² 7 CONSTITUENT ASSEMBLY DEBATES (Aug. 29, 1947) (India) (constituting the Drafting Committee, chaired by Dr. B.R. Ambedkar).

³ INDIA CONST. pt. III.

⁴ *Olga Tellis v. Bombay Mun. Corp.*, (1985) 3 S.C.C. 545, A.I.R. 1986 S.C. 180 (India) (life with dignity and the right to livelihood under Article 21); see also *Munn v. Illinois*, 94 U.S. 113, 142 (1877) (Field, J., dissenting) ("By the term life as here used something more is meant than mere animal existence"), a formulation later adopted by the Indian courts in construing Article 21.

⁵ INDIA CONST. art. 32.

⁶ The term is derived from the Sanskrit root *dhr*, meaning to hold, bear or sustain. It symbolises support given to others and the fulfilment of one's right through the performance of one's duty. See MONIER MONIER-WILLIAMS, A SANSKRIT-ENGLISH DICTIONARY 510 (1899).

Fundamental duties were added to the Indian Constitution by the Forty-second Amendment in 1976.⁷ At the time of framing of the Constitution, the framers were primarily concerned with the protection of the citizen's rights against the arbitrary power of the State through fundamental rights, and no separate chapter of duties was adopted. Part IV-A was enacted twenty-six years after the Constitution came into force and was brought into effect on 3 January 1977. The Swaran Singh Committee made several recommendations, including educating citizens and raising awareness about the importance of respecting the Constitution and promoting the national interest.⁸ It also recommended the legal enforcement of these duties and penalties for their violation. The recommendation for penalties was not accepted, the duties being in their nature moral and civic obligations rather than legally enforceable commands.

Express duties of the citizen are less prominent in, though not absent from, the constitutions of the western liberal tradition, which are ordinarily built upon a right centric approach. The Constitution of Italy, for example, lays down duties of solidarity, work, defence of the country, contribution to public expenditure and loyalty to the Republic.⁹ Such duties are found in socialist constitutions such as that of the People's Republic of China,¹⁰ and also in other Asian constitutions such as those of Sri Lanka¹¹ and Japan.¹² The reference to duty is not confined to constitutions; it is present in international instruments as well. The Universal Declaration of

⁷ The Constitution (Forty-second Amendment) Act, 1976, s. 11 (India) (inserting pt. IV-A, art. 51A, cls. (a) to (j), w.e.f. Jan. 3, 1977).

⁸ On the recommendations of the Swaran Singh Committee (1976), including its proposal that Parliament be empowered to impose penalties for non-observance, which was not accepted, see M.P. JAIN, *INDIAN CONSTITUTIONAL LAW* (8th ed. 2018).

⁹ COSTITUZIONE [Cost.] arts. 2, 4, 52-54 (It.) (duties of solidarity, work, defence of the country, contribution to public expenditure and loyalty to the Republic); see also CONSTITUCION ESPANOLA arts. 30-31 (Spain).

¹⁰ XIANFA arts. 53-54 (2018) (China) ("Citizens of the People's Republic of China must abide by the Constitution and the law, keep state secrets, protect public property, observe discipline in the workplace, observe public order, and respect social morality"; "Citizens of the People's Republic of China shall have the obligation to safeguard the security, honor and interests of the motherland; they must not behave in any way that endangers the motherland's security, honor or interests"), <https://www.basiclaw.gov.hk/en/constitution/chapter2.html>.

¹¹ CONSTITUTION OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA art. 28 (1978) (duties "(a) to uphold and defend the Constitution and the law; (b) to further the national interest and to foster national unity; (c) to work conscientiously in his chosen occupation; (d) to preserve and protect public property, and to combat misuse and waste of public property; (e) to respect the rights and freedoms of others; and (f) to protect nature and conserve its riches"); id. art. 29 (the duties in ch. VI are not justiciable in any court or tribunal), <https://www.parliament.lk/files/pdf/constitution.pdf>.

¹² NIHONKOKU KENPO [Kenpo] [Constitution] art. 26 (Japan) ("All people shall have the right to receive an equal education correspondent to their ability, as provided by law. All people shall be obligated to have all boys and girls under their protection receive ordinary education as provided for by law. Such compulsory education shall be free."), https://www.shugiin.go.jp/internet/itdb_english.nsf/html/statics/english/constitution_e.htm. Article 26 states a right to education with a correlative parental obligation; the Constitution of Japan imposes only three express obligations, namely education, work (art. 27) and taxation (art. 30).

Human Rights¹³ and the International Covenant on Civil and Political Rights¹⁴ also contain references to the duties of the individual.

When the concept was introduced into the Indian Constitution in Part IV-A (Article 51A),¹⁵ the motive was to bring a sense of duty and responsibility among the citizens. Article 51A provides that 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.

Clauses (a) to (j) were inserted by the Forty-second Amendment in 1976. Clause (k) was added much later, by the Constitution (Eighty-sixth Amendment) Act, 2002, which is itself an indication that the duties have continued to attract legislative attention.

¹³ G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 29 (Dec. 10, 1948) (“(1) Everyone has duties to the community in which alone the free and full development of his personality is possible. (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.”).

¹⁴ International Covenant on Civil and Political Rights pmb., Dec. 16, 1966, 999 U.N.T.S. 171 (“Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant”).

¹⁵ Part IV-A was inserted by the Constitution (Forty-second Amendment) Act, 1976, *supra* note 7; cl. (k) was inserted by the Constitution (Eighty-sixth Amendment) Act, 2002, s. 4 (India).

These are very extensive duties, and they have been assigned to the citizens of India. On examination, they are found to be in alignment with the fundamental rights and the directive principles of State policy. They cannot be treated in isolation from one another, because they complement each other as a whole. The fundamental duties cannot be discarded in their implementation merely on the ground that they are in tension with the fundamental rights; in a situation of conflict, reconciliation needs to be done.

III. JUSTICIABILITY OF FUNDAMENTAL DUTIES

One of the major hurdles with the fundamental duties concerns their justiciability. They are not enforceable through the courts in the way that fundamental rights are. If fundamental rights are violated, the citizen may at once approach the High Courts and the Supreme Court, but no such legal enforceability is available in the case of fundamental duties. This is one of the reasons why the inclusion of a separate Part on fundamental duties is not always considered necessary in a constitution, since the government may enforce them through separate laws whenever it wishes. The duties, as they stand, are not self-executing. The State must make laws for their implementation.

Some steps have been taken in India to implement the fundamental duties in indirect ways. The Justice Verma Committee¹⁶ is a remarkable milestone in this regard, having sought to make the fundamental duties more visible to the citizens of the country. The Indian judiciary has not remained untouched by the matter, and there are a few decisions in which a demand has been made to implement the fundamental duties in the manner of fundamental rights, so as to create a conscious and responsible citizenry. In *Hon'ble Shri Ranganath Misra v. Union of India*,¹⁷ a letter was addressed to the Chief Justice of India requesting the Court to issue necessary directions to the State to educate citizens in the matter of fundamental duties, so that a right balance might emerge between rights and duties. The Court reproduced and endorsed the view that the desired enforceability can be better achieved not merely by providing legal sanctions but by combining them with social sanctions and the sensitisation of citizens.¹⁸ It directed the Union Government to take appropriate steps towards the implementation of the

¹⁶ PRESS INFORMATION BUREAU, GOV'T OF INDIA, *Report of the Committee on Operationalisation of Fundamental Duties of Citizens (Justice J.S. Verma Committee)* (Jan. 11, 2000), <https://archive.pib.gov.in/archive/releases98/lyr2000/rjan2000/r11012000.html>. The Committee was constituted in July 1998 on the teaching of fundamental duties to citizens, and its recommendations included the incorporation of the fundamental duties in higher and professional education.

¹⁷ *Hon'ble Shri Ranganath Misra v. Union of India*, (2003) 7 S.C.C. 133, W.P. (C) No. 239 of 1998 (India) (decided July 31, 2003).

¹⁸ *Ranganath Misra*, *supra* note 17 (setting out and endorsing the view of the National Commission to Review the Working of the Constitution that the desired enforceability can be better achieved by providing not merely for legal sanctions but also by combining them with social sanctions).

recommendations of the National Commission to Review the Working of the Constitution and of the Justice Verma Committee.

In *Durga Dutt v. Union of India*,¹⁹ the petitioner prays for a direction to the Centre and the States to make comprehensive laws ensuring the implementation of the fundamental duties. He also seeks regulation to sensitise citizens and to spread awareness about the purpose and importance of Article 51A of the Constitution. Notice was issued on 21 February 2022 and the petition remains pending, the Court having observed that it cannot direct the legislature to enact a law.

It is noteworthy that, if the fundamental duties were made enforceable, their clash with the fundamental rights could not be avoided. This is evident from *Bijoe Emmanuel v. State of Kerala*,²⁰ where a tension arose between the fundamental rights of a religious minority and the duty to respect the National Anthem. Children belonging to the Jehovah's Witnesses stood up respectfully during the National Anthem but did not sing it, and were expelled from school. The Court found no violation of the statute protecting the National Anthem and held the expulsion contrary to Articles 19(1)(a) and 25, without treating Article 51A(a) as displacing those rights. There is a possibility that such conflicts may arise in future as well, if the fundamental duties are made enforceable in the manner of fundamental rights.

It is true that the fundamental duties are not justiciable directly, as the fundamental rights are, but they are indirectly enforceable through different laws made by Parliament. The Prevention of Insults to National Honour Act, 1971 protects the national symbols, and a person who shows disrespect to them may be punished.²¹ Four further statutes give indirect effect to the duties contained in Article 51A(f), (g) and (i), on heritage, the environment and public property: the Prevention of Damage to Public Property Act, 1984,²² the Ancient Monuments and

¹⁹ *Durga Dutt v. Union of India*, W.P. (C) No. 67 of 2022 (India) (Sup. Ct.) (notice issued Feb. 21, 2022; pending).

²⁰ *Bijoe Emmanuel v. State of Kerala*, (1986) 3 S.C.C. 615, A.I.R. 1987 S.C. 748 (India) (decided Aug. 11, 1986).

²¹ The Prevention of Insults to National Honour Act, No. 69 of 1971, s. 2 (India) ("Whoever in any public place or in any other place within public view burns, mutilates, defaces, defiles, disfigures, destroys, tramples upon or otherwise shows disrespect to or brings into contempt (whether by words, either spoken or written, or by acts) the Indian National Flag or the Constitution of India or any part thereof, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both."), https://www.indiacode.nic.in/bitstream/123456789/15401/1/insults_to_national_honour_act%2C_1971.pdf.

²² The Prevention of Damage to Public Property Act, No. 3 of 1984, s. 3(1) (India) ("Whoever commits mischief by doing any act in respect of any public property, other than public property of the nature referred to in sub-section (2), shall be punished with imprisonment for a term which may extend to five years and with fine."), <https://www.mha.gov.in/sites/default/files/2022-08/PDPPA%2C1984%5B1%5D.pdf>.

Archaeological Sites and Remains Act, 1958,²³ the Antiquities and Art Treasures Act, 1972,²⁴ and the Bharatiya Nyaya Sanhita, 2023.²⁵ These laws are enforced by the ordinary courts of law through the ordinary procedure.

IV. FUNDAMENTAL DUTIES EMERGING AS A NEW WAY TO ACHIEVE FUNDAMENTAL RIGHTS

It is true that the fundamental duties are not justiciable directly through the courts as the fundamental rights are. Through the various laws passed by Parliament, however, these duties can be given effect, and a citizen who violates them may be punished. At present, the Government is paying serious attention to duties along with rights. The present era is being called Kartavya Kaal, and the Prime Minister has emphasised that the fulfilment of the fundamental duties is essential to national progress.²⁶

The fundamental duties are certainly in focus, but that does not mean that the importance of the fundamental rights has diminished. The fundamental duties have now become a means of achieving the fundamental rights. If the nature of the fundamental duties is examined, it will be seen that they are aligned with the fundamental rights and that, if performed honestly, they will help citizens to enjoy those rights. The role of the judiciary is also praiseworthy here, as it has delivered judgments that recall the sense of duty among citizens. The M.C. Mehta litigation on environmental protection, casting duties upon polluters and requiring a duty towards the protection of the environment, is a strong signal from the judiciary and paves the path of achieving rights through duties.²⁷

²³ The Ancient Monuments and Archaeological Sites and Remains Act, No. 24 of 1958 (India) (“An Act to provide for the preservation of ancient and historical monuments and archaeological sites and remains of national importance, for the regulation of archaeological excavations and for the protection of sculptures, carvings and other like objects.”), https://www.indiacode.nic.in/bitstream/123456789/15477/1/the_ancient_monuments_and_archaeological_sites.pdf.

²⁴ The Antiquities and Art Treasures Act, No. 52 of 1972 (India) (“An Act to regulate the export trade in antiquities and art treasures, to provide for the prevention of smuggling of, and fraudulent dealings in, antiquities, to provide for the compulsory acquisition of antiquities and art treasures for preservation in public places and to provide for certain other matters connected therewith or incidental or ancillary thereto.”).

²⁵ The Bharatiya Nyaya Sanhita, No. 45 of 2023, s. 327 (India) (“Mischief with intent to destroy or make unsafe a rail, aircraft, decked vessel or one of twenty tons burden. (1) Whoever commits mischief to any rail, aircraft, or a decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe, that rail, aircraft or vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”), <https://www.indiacode.nic.in/bitstream/123456789/20062/1/a202345.pdf>.

²⁶ Prime Minister Narendra Modi, Inaugural Address, All India Presiding Officers’ Conference (July 4, 2023) (“Amrit Kaal has been named as Kartavya Kaal”).

²⁷ See, e.g., *M.C. Mehta v. Union of India*, (1987) 1 S.C.C. 395 (India) (Oleum Gas Leak); *M.C. Mehta v. Kamal Nath*, (1997) 1 S.C.C. 388 (India) (public trust doctrine and the polluter pays principle).

In the same line, Parliament has enacted the Prevention of Insults to National Honour (Amendment) Act, 2026, known as the Vande Mataram amendment. It extends to Vande Mataram, the national song, the statutory protection that the parent Act gives to the national anthem, Jana Gana Mana, punishable with imprisonment which may extend to three years, or with fine, or with both.²⁸ The measure was not passed without objection in Parliament. Even so, such a step is likely to strengthen the feeling of nationalism among citizens and their sense of duty towards the national song in particular and the national symbols in general.

V. CONCLUSION

In conclusion, it can be traced that the fundamental duties are not a burden, nor are they forcibly imposed upon the citizens. They are the social and moral obligations which citizens are to follow and fulfil as a constitutional obligation. In a country like India, democratic values need not simply be copied from western democracies, given the differences between them; the Indian tradition places dharma at the centre of social life and strives for the benefit and wellbeing of others along with one's own. Indian society is not an individual based society; it is a society for all. The fundamental duties are moral obligations that complement legal rights, helping to balance individual liberty with collective responsibility in a democratic society. Their enforcement and justiciability would certainly add greater dynamism to the democracy of the country.

²⁸ The Prevention of Insults to National Honour (Amendment) Act, 2026 (India) (amending s. 3 of Act No. 69 of 1971 to extend to the National Song, Vande Mataram, the protection given to the National Anthem, punishable with imprisonment which may extend to three years, or with fine, or with both); see PRS LEGISLATIVE RESEARCH, *The Prevention of Insults to National Honour (Amendment) Bill, 2026*, <https://prsindia.org/billtrack/the-prevention-of-insults-to-national-honour-amendment-bill-2026>.