

MAKING NEW INDIA: THIS IS HIGH TIME FUNDAMENTAL DUTIES OF CITIZENS ARE MADE MANDATORY

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ABSTRACT:

There has been a clarion and repeated calls by the present Prime Minister to the citizens of our country for making a “New India” by removing our existing shortcomings and counting on our strengths. Each one among us is expected to contribute in this mission. There are definitely many ways in which citizens may contribute in achieving the cherished vision and goal of “New India”, one of the most important and timely contributions will be abiding by the fundamental duties enshrined in the Constitution of India [(Part-IVA, Article-51A, Clauses- (a) to (k)]. Over the years there has been one sided focus on the fundamental rights and many socio-economic and political milestones have been achieved, this is high time the focus shift on fundamental duties, each and every citizen start following his/her fundamental duties strictly, surely a “New India” would be the outcome and hopefully this would be a vivid improvement over the existing one.

Key Words: 1. New India; 2. Fundamental Duties; 3. Fundamental Rights; 4. Constitutional Democracy; 5. Making an Ideal Society and Country; 6. Balance between Rights and Duties.

1. INTRODUCTION

The goal and vision of making “New India” has been the part of the Prime Minister (PM), Narendra Modi’s political speeches since last few years and the same got highlighted more and more as the 2019 General Elections (Lok Sabha polls) approached. Painting a picture of what this vision entailed, the Prime Minister said that in this “New India”, the “aspirations of youth” would be “fulfilled”, women would be respected, and it would “be free from poverty as well as filth”. In one of his speeches he identified three obstacles in the path of making “New India” and maintained, “When the whole world has started accepting the importance of India, we need to shed our

shortcomings. We need to build a new India which is free from venom of casteism. It should be free from communal controversies. There can't be a place for corruption in this New India" (Business Standard, 2019).

However, the PM called on the people of the country to help him achieve this vision. Stating that a country was not built by the Government, the administration, or even by the politicians, the PM called on the common man to move towards a "New India". "A country is built by the strength of its citizens. No power in this world can stop us if all citizens make a resolution and move in the direction of building a New India", he said (Business Standard, 2019). In fact the PM was most likely rendering a famous and historical statement of one of the earlier presidents of United States of America (USA), John F. Kennedy, "Ask not what your country can do for you, ask what you can do for your country".

There are definitely many ways in which citizens may contribute in achieving the cherished vision and goal of "New India", one of the important and timely contributions will be abiding by the fundamental duties enshrined in the Constitution of India [(Part-IVA, Article-51A, Clauses- (a) to (k)]. Over the years there has been focus on the fundamental rights and many socio-economic and political milestones have been achieved, this is high time the focus shift on fundamental duties, each and every citizen start following fundamental duties strictly, surely a "New India" would be the outcome and hopefully this would be an improvement over the existing one.

2. THE CONCEPT OF FUNDAMENTAL DUTIES

The concept of duty has been one of the important elements of the Indian civilization and even the Kings or rulers in the ancient times were not free from the notions of their compulsory duties, for example, protection of people's life and welfare in the society. After the independence, the Constituent Assembly while framing the Constitution did not consider it necessary to include a chapter on fundamental duties because they assumed that citizens will follow their duties on their own following the noble and inspiring ideals of the freedom struggle. They further were of the opinion that goals specified in the Preamble of the Constitution will be a guiding force for the citizens to follow their duties.

In a recent op-ed in *The New York Times*, Modi quoted Gandhi: "The true source of rights is duty, if we all discharge our duties, rights will not be far to seek". However, Gandhian thinking on rights and duties represents only a sliver of India's constitutional tradition. Most of Indian constitutional thinking, forged in the crucible of our freedom movement, emphasized rights and not duties. Apart from one or two instances where members of the Constituent Assembly echoed Gandhi's idea on rights and duties, we find no evidence that remotely suggests that

the framers of our Constitution seriously considered adopting something that resembled fundamental duties (Krishna, 2019).

Approximately after three decades of independence, on the recommendation of *Swarn Singh Committee*, Article 51A was incorporated in the Constitution through 42nd Amendment laying ten fundamental duties for citizens to follow. One more fundamental duty was added to the Constitution by 86th Constitutional Amendment Act, 2002. If we look for similar provisions of duties/fundamental duties around the world, a few important examples may be pointed out viz. Universal Declaration of Human Rightsⁱ [UDHR, Article 29(1)]; Constitutions of Japanⁱⁱ, Chinaⁱⁱⁱ, Russia^{iv} and Germany^v. According to M.Y. Pylee^{vi}, some other examples are Algeria, Argentina, Armenia, Azerbaijan, Bangladesh, Bhutan, Bulgaria, Chad, Finland, Hungary, Indonesia, Italy, Nigeria, North Korea, Oman, Poland, Puerto Rico, Qatar, Rwanda, Saudi Arabia, Serbia, Spain, Sri Lanka, Sudan etc.

Among the countries, viz. United Kingdom, Canada and Australia etc. the rights and duties of citizens are governed by common law and judicial decisions. While the Constitution of USA does not provide the list of fundamental duties; there is some reference of the same in the French Constitution, they both have significant records in maintenance of basic rights of the individuals in their society.

3. FUNDAMENTAL DUTIES AND THEIR IMPORTANCE FOR MAKING “NEW INDIA”

Addressing the All India State Bar Council on 27th March 1976, H. R. Gokhale the then Union law minister stated that the post independent history particularly on the eve of the emergency in June 1975, highlighted the fact that a section of people had been emphasizing the fundamental rights available to a citizen under the Constitution with a zeal much greater than that shown in fulfilling their fundamental obligations of respecting the established legal order (Deshta & Kashyap, 2014). He further expressed the view that providing a chapter on fundamental duties in the Constitution might have a “sobering effect on these restless spirits who have led a host of anti-national, subversive and unconditional agitations in the past”.

Fundamental Duties (total eleven in number) enshrined in the Constitution (Article 51A) and their significance in making “New India” may be studied as given below:

(i). Article 51A(a): This provides that it shall be the duty of every citizen of India: *to abide by the Constitution and respect its ideals and institutions, the national flag and the national anthem*. This Clause enjoins three sub set of duties to be followed and abided by the citizens: firstly, it is expected that citizens abide by the Constitution as the supreme and fundamental law of the land for the wide spread diversity, the unity and essence of the country

has been epitomized through one Constitution for both the Union and States; one flag and one national anthem for the whole country. Secondly, it is expected that citizens respect and follow the ideals enshrined in the Constitution and have respect for its institutions. It may be noted that the main institutions of the Constitution are ‘the Executive’, ‘the Legislature’ and ‘the Judiciary’ and various other agencies working under them and it is our pious duty to respect them and follow their deliberations and proceedings. When we refer to the various ‘ideals of the Constitution’, the Preamble of the Constitution remains the best guidance which specifies among many things, the source of authority, the system of Government, the objectives to be achieved by the political system etc. According to Granville Austin, “one test of a Constitution is whether it can provide a durable framework for Government in the midst of great social and economic change. This, the Indian Constitution has so far done” (Austin, 1985). He further maintained:

...The Constitution was to foster the achievement of many goals. Transcendent among them was that of social revolution. The theme of social revolution runs throughout the proceedings and documents of the Assembly. It provided the basis for the decisions to adopt parliamentary Government and direct elections, the fundamental rights and the directive principles of state policy (DPSP) and even many aspects of the Executive, Legislative and Judicial provisions of the Constitution.

Thirdly, it is expected that citizens will respect the National Flag and National Anthem. It is a matter of pride that we respect our national flag and national anthem without fail for it establishes an immediate connection with our country and gives us a psychological feeling and boost but it is true that this feeling comes from the heart. In *Bijoe Emmanuel & Ors v. State of Kerala & Ors* case^{vii} (1986) (popularly known as National Anthem case), the Supreme Court of India maintained that there was no provision of law which obliged anyone to sing the national anthem nor was it disrespectful to the national anthem if a person who stood up respectfully when the national anthem was being sung did not join singing. Proper respect is shown to national anthem by standing up when it is sung. It will not be right to say that disrespect is shown by not joining in the singing.

(ii). Article 51A (b): This provides that it shall be duty of every citizen of India *to cherish and follow the noble ideals which inspired our national struggle for freedom*. The ideals envisaged in Clause - (b) are also the ideals of the Constitution reflected in some other Clauses of the Article 51A itself. The promotion of harmony and spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women vide Clause (e), to value and preserve the rich heritage of our composite culture vide Clause (f), to develop scientific temper, humanism and the spirit

of inquiry vide Clause (h), to strive towards excellence vide Clause (j) are also the noble ideas which inspired our national struggle for freedom.

According to B.R. Atre, some of the noble ideas which inspired our national struggle for freedom were: a. to achieve freedom from foreign rule so that the people of India have self-government which would establish a society where there will be no exploitation of man by man, no poverty, no disease, no illiteracy; b. the above objectives can be achieved only when all citizens have opportunities for all round development of their personality; c. for all round development of personality, man-making education is required; d. such education can be inculcated when precept is coupled with practice, and e. country is placed above self (Atre, 2016). He further maintains that citizens of India must remember, imbibe and follow the ideals which pervaded our freedom struggle which was not a struggle only for winning political freedom of India, rather, it was for the social and economic emancipation of the people all over the world. Its ideals were those of building a just society and a united nation of freedom, equality, non-violence, brotherhood and peace. If we follow these ideals in our day today life, a “New India” may be made.

About the ideals of the Indian Constitution, Granville Austin says, “the Indian Constitution is a document in which provisions expressing general principles and humanitarian sentiments—vows of purpose, level-headed practicality and administrative details marked by idealism which stemmed from an awareness of the plight of the mass of Indians are in abundance. The Constituent Assembly was able to draft a Constitution that was both a declaration of social intent and an intricate administrative blueprint because of the extraordinary sense of unity among the members” (Austin, 1985). Thus ideals adopted during the freedom struggle remains significant even today for making “New India”.

(iii). Article 51A-(c): Clause (c) of the Article 51A provides that it shall be the duty of every citizen of India *to uphold and protect the sovereignty, unity and integrity of India*. The philosophy of the Indian Constitution has been well documented in its Preamble which highlights the resolve of “we the people” of India into making our country as per cherished goals enshrined in the Constitution. The word ‘integrity’ was added to the Preamble by 42nd Constitutional Amendment Act in 1976. The ‘sovereignty’, ‘unity’ and ‘integrity’ of the country have been regarded as supreme and sacrosanct ideals and there is a national obligation on all the citizens not only to protect them at all cost rather to cherish them in all situations.

The Constitution in Chapter III provides fundamental rights but the same may be curtailed on the grounds of protection of ‘security, sovereignty and integrity’ of the country. Our country would never rise to its full potential

if we do not uphold and protect its sovereignty, unity and integrity because our future depends on the very existence of our motherland. Any idea and goal of making “New India” would never be possible if these ideals are not abided, cherished and protected.

(iv). Article 51A- (d): Clause (d) of the Article 51A provides that it shall be the duty of every citizen of India *to defend the country and render national service when called upon to do so*. This Clause may be read with Article 23(2) of the Indian Constitution where the State has been empowered to impose compulsory service for public purposes without making any discrimination on grounds only of religion, race, caste or class or any of them. In our country, it is generally believed that only government employees & personnel have their duties to maintain services and facilities by keeping them operational and functional, citizens do not contribute their best efforts to maintain and preserve them. The purpose of this duty is for the citizens to be ready for the call of duty to defend the country and render national service in contingent and required situations without debates and arguments. Definitely ‘right- centric approach’ on the part of citizens today is required to shift towards ‘service-centric/duty-centric approach’ and then we can expect better conditions for making “New India”.

(v). Article 51A- (e): Clause-(e) provides that it shall be the duty of every citizen of India *to promote harmony and spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional diversities; to renounce practices derogatory to the dignity of women*. This Clause has two parts: firstly, it is expected that citizens will promote and maintain harmony and common brotherhood among them. It is true that India is home to people having diverse religion, region and culture and it is expected from us that these diversities would be transcended and spirit of common brotherhood, the sentiments of a common family would be maintained.

Our past shows the glimpses of ‘*vasudhaiv Kutumbkam*’ (whole world is the family). This is true if this spirit is maintained today, the problems associated with regionalism; religious, cultural and lingual clashes; issues related with uneven development etc. may be curtailed and certainly the sense of oneness among the citizens may be inculcated leading to making of “New India”—where a harmonious society helps citizens to grow to their full potentials.

The second part of this Clause maintains that citizens shall renounce practices derogatory to the dignity of women. It is expected that citizens abandon and renounce customs and practices that cause humiliation to women. The Constitution has provided similar rights to both men & women and the State is empowered to make special legislation for the welfare of women, still the society is not free from its prejudices against women. Over the

years, many laws have been passed by the Union and the State Governments which punish practices derogatory to the dignity of women, we have to come forward to abandon these practices by bringing a change in our mindset in favour of women. A “New India” would never be possible without creating conditions which are complimentary for women in society.

(vi). Article 51A-(f): This Clause provides that it shall be the duty of every citizen of India *to value and preserve the rich heritage of our composite culture*. This Clause may be read with Article 49 of the Indian Constitution which enjoins the State to protect monuments and places and objects of national, artistic or historic importance. It is expected that citizens would value, preserve and take pride in the vastness and richness of the Indian cultural heritage which is undoubtedly due to a very ancient and rich civilization. Indian cultural heritage depicts a heterogeneous mixture of multiple cultures meeting and co-existing together. Indian culture has rightly been described by Sri Aurobindo (Deshta & Kashyap, 2014) as:

“...more high reaching subtle, many sided, curious and profound than the Greek, more noble and humane than the Roman, more large and spiritual than the old Egyptian, more vast and original than other Asiatic civilizations, more intellectual than the European prior to 18th century possessing all that these had and more, it was the most powerful, self-possessed, stimulating and wide in influence of all past human cultures”.

The compositeness of Indian culture is also due to the fact it has accepted ideal thoughts from around the world and has wished well-being for the entire world in its eternal philosophy based upon:

*“Om Sarve bhavantu Sukhinah, Sarve santu niramayah I
Sarve bhadrani pasyantu ma, kashchidduh khabhaghaveta, Om Shantih, Shantih, Shantih II”*

(“May all sentient beings be at peace, May no one suffer from illness, May all see what is auspicious, May no one suffer. Om peace, peace, peace”).^{viii}

Definitely the abovementioned thought full of idealism has accommodated all the pious thoughts about the well-being of all the living beings in the universe and if such a rich heritage is valued, preserved and practiced, the goal of “New India” would never be beyond our reach.

(vii). Article 51A-(g): Clause-(g) provides that it shall be duty of every citizen *to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures*. This Clause may be read with Article 48A under Directive Principles of State Policy (DPSP) which enjoins the State to protect

and improve the environment and safeguard the forests and wild life. The Constitution has reiterated the vital link between the living being and the natural environment and it is clear that we can't survive if the environment around us is polluted, so, citizens must have to follow fundamental duty to protect the same. The Supreme Court of India has also stressed on the importance of this duty through various decisions. The Environmental Protection Act is in force and the educational curriculums at the school and university level have been provided with various necessary chapters to enrich the students about the need to protect the environment. Lately, the environmental concerns have got centre stage in our day-to-day life and public awareness has increased about the industrial, vehicular pollution and citizens have realized their due role in containing this menace. It is expected that with the continued and sustained efforts, the goal of clean environment would be achieved in "New India".

(viii). Article 51A-(h): Clause (h) provides that it shall be duty of every citizen *to develop the scientific temper, humanism and the spirit of inquiry and reform*. The objective enshrined in this duty is that citizens will have progressive outlook and attitude based on scientific reasons and the same will be depicted in their behaviour. Further it is expected that the basis of our behaviour and conduct should have 'humanism' as its ideal and 'the spirit of inquiry and reform' should be carried on for these two will validate the multiple policies framed by the democratic institutions prescribed by our constitution. If we want to build a "New India", the role of scientific temper, the spirit of inquiry and reform becomes the guiding force and means to achieve this goal.

(ix). Article 51A-(i): Clause (i) provides that it shall be duty of every citizen *to safeguard public property and to abjure violence*. Over the decades, it has been observed that during the so called agitations and protests in various parts of our country for their rights, public property becomes the first target and enormous loss has occurred because of this. Further while causing harm to public property, citizens indulge in violence to settle their various scores and take law into their own hands. This needs to be immediately stopped for there is no place of violence in a civilized society where 'rule of law' is the norm. We must abandon the 'path of violence' for it leads us nowhere and our differences must be solved through available democratic, constitutional and legal mechanisms. The goal of "New India" will never be achieved if we do not abandon the menace of the increasing instances of causing harm to public property and following the path of violence for these are one of the biggest impediments in achieving the objectives of inclusive growth and progressive society which is the hallmark for the cherished goal.

(x). Article 51A-(j): Clause (j) provides that it shall be duty of every citizen *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*. This Clause is full of high expectations from the citizens and it is expected that all the activities,

endeavours undertaken by them should lead to the progress of the country. This ideal goal and the link between the individual endeavours and national progress is definitely very important to be established, practiced and achieved for no society, no nation could ever think and strive to achieve progress if its citizens do not co-operate. There is a definite link between the contribution of citizens and that of the progress of the nation and if adopted and implemented correctly, the goal of “New India” would be a reality.

xi. Article 51A-(k): Clause (k) provides that it shall be the duty of every citizen *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.* This Clause puts an obligation on the parent/guardian to educate their children/wards so that they become a responsible citizen in future. Realizing its importance education of children between the age of six and fourteen years has been made compulsory & free and has been raised to the status of fundamental rights by the 86th Constitutional Amendment Act, 2002. This is clear that education is one of the most important means to create a civilized society and if citizens follow this duty, surely it would help in making “New India”.

4. EFFECTUATION OF FUNDAMENTAL DUTIES

It is clear from the above discussion that fundamental duties enshrined in the Constitution have immense significance for making the society and nation an ideal unit as per the aspirations and objectives mentioned therein. Effectuation of these fundamental duties has always been a concern for the stakeholders for there is neither any provision in the Constitution for direct enforcement of these duties nor is there any sanction to prevent its violation except the existing sanctions in other statutes. These are like moral homilies guiding the civilized behaviour in the society and it is high time citizens follow them strictly.

A committee was appointed by the Union Government in July 1998 under the Chairmanship of Justice J.S. Verma, former Chief Justice of India (CJI) to operationalize the suggestions to teach fundamental duties to the citizens of the country (PIB, -----). The other members of the Committee included Dr. L.M Singhvi, Dr. Karan Singh, Dr. J.S. Rajput, Dr. Subhash Kashyap and Dr. A.K. Sharma. The Committee submitted its report in 1999 and some of the important recommendations were: “a). generating awareness and consciousness; b). optimizing benefits from existing schemes and programmes; c). protection and improvement of environment; d). re-orienting approaches to school curriculum; e). elimination of gender bias; f). re-orienting teacher’s education programmes; g). incorporating fundamental duties in higher and professional education; people’s representatives from Panchayat to Parliament; public administration and civil servants; administration of justice; business and industries and media”.

The Supreme Court (bench headed by the Chief Justice of India, J.S. Kehar) in 2017 refused to entertain and pass an order in connection with a Public Interest Litigation (PIL) filed by Ashwini Upadhyay seeking a direction to the Union Government for implementation of the recommendation of Justice J.S.Verma Committee to bring into force the fundamental duties of citizens. The bench observed, “this Report is of 1999. How can a court direct the Government to implement fundamental duties?” (Business Standard, 2017).

It is expected that these fundamental duties would be followed by all citizens but their effectuation is still a challenge for frequently we come across with news related with violation of these duties in the society. It is true that rights will never be realized and become fully effective when the corresponding duties are not performed well. According to Gautam Bhatia, “it is only after a guarantee of the sum of all promised fundamental rights by the Constitution is achieved that citizens can be asked to do their duty for it was only with these guarantees could an individual rise from the status of subject to that of citizen”. He says further that the language of duties can play an important role in society that continues to be divided and unequal: in such a society, those who possess or benefit from entrenched structural and institutional power (starting with the state and going downwards) certainly have a duty not to use that power to the detriment of those upon whom they wield it. This is precisely what the guarantees against untouchability, forced labour and discriminatory access in the Constitution seeks to accomplish (Bhatia, 2020).

5. CONCLUSION

We may conclude that fundamental duties are very significant in their content; their implementation remains a difficult task and the idea of “New India” may not be achieved without citizens following these duties for these have been recognized as ‘ideals’ to be followed in one’s day to day conduct in the society. By following these duties citizens may contribute towards the twin goals of ‘nation-building’ and ‘socio-economic’, scientific, ‘moral and intellectual progress’ of the country. Definitely a society where each citizen enjoys his/her fundamental rights without any hindrance and contribute his/her best by following his/her fundamental duties will usher us towards “New India”—the goal and dream shown to us by none other than the present Prime Minister of India. This is high time fundamental duties of citizens are made mandatory and our ‘right- centric’ approach make a shift to that of ‘duty-centric’.

NOTES AND REFERENCES

NOTES:

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Source: <https://www.un.org/en/universaldeclarationhumanrights/#:text=Article%2029.,of%20personality%20possibe> (Accessed on: January 03, 2021).

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