CHAPTER III

FUNDAMENTAL DUTIES IN RELATION TO PREAMBLE, DIRECTIVE PRINCIPLES OF STATE POLICY AND FUNDAMENTAL RIGHTS.

The founding fathers of the Constitution did not include a specific chapter on Fundamental Duties at the time they framed the Constitution, presumably because they acted under an assumption that rights stem from obligations of citizens in a civilized society. They firmly believed that every citizen would cherish and follow the noble ideals which inspired our struggle for freedom. They had no doubt that every citizen would respect and uphold the sovereignty, unity and integrity of India. They thought that it was implicitly binding on every citizen to perform his duties towards his country, overlooking religious, linguistic, regional and sectional diversities.¹

In other words, the framers of the Indian Constitution did not deem it necessary to include the Fundamental Duties in the Constitution in the belief that rights and duties generally go together and, therefore, the people would take due cognizance of their obligations. But misuse of liberty by the people, resulting in the outbreak of communal violence and destruction of public property, compelled the society to have a fresh look at the Constitution. The inclusion of fundamental duties in the Constitution of India was the result of this rethinking, and it serves as a reminder to the people of their national obligations.
Thus, with the Fundamental Rights, we have now Fundamental Duties spelt out in the Constitution, a step which was whole-heartedly supported by a number of scholars on the plea that it is impossible to conceive of Fundamental Rights without corresponding Fundamental Duties.\(^2\)

Before examining the value and importance of each fundamental duty, it would be prudent to see whether there is any conflict between the list of duties stated in Part IV A of the Constitution including the Preamble to the Constitution.

**Fundamental Duties in relation to the Preamble.**

The Preamble to the constitution (vide Appendix II) expresses two principles which complement each other, viz.: (1) Rights of the individual which correspond to the duties of the State towards the individual, and (2) Duties of the individual towards the State which correspond to the rights of the society against the individual.\(^3\)

The Preamble to the Constitution aims at securing to all the citizens "liberty of thought, expression, belief, faith and worship". These have also been included as the fundamental rights of the citizens. But at the same time, these principles also spell out fundamental duties not to interfere with liberty of thought, expression, belief, faith and worship of others.

The Preamble also stipulates "justice, social, economic and political". While demanding justice, social, economic and
political, a citizen is under an obligation to act in a manner which does not interfere with justice, social, economic and political, guaranteed by the Constitution to all citizens. The Preamble proclaims, "Equality of status and opportunity". Guaranteeing of certain rights to each individual would be meaningless unless inequality is removed from the social structure and each individual is assured of equality of status and opportunity for the development of the best in him and for the enforcement of the rights guaranteed to him. To enable the people to live up to this principle, the list of Fundamental Duties includes in clause (e) of Art. 51 A, the duty "to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities". This duty also helps in the realisation of the vision conjured up by the Preamble "to promote among all the people the fraternity, assuring the dignity of the individual and the unity of the nation". It can hardly be doubted that it is the "common brotherhood" which alone can pave the way for "fraternity assuring the dignity of the individual and the unity of the nation".

Democracy cannot succeed unless a spirit of brotherhood is created among all sections of the people - a feeling that they are all children of the same Motherland. Such a feeling is all the more essential in a heterogeneous nation like India, comprising so many races, religions, languages and cultures. 
Combining the ideals of political, social and economic democracy with those of equality and fraternity, the Preamble seeks to establish what Mahatma Gandhi described as "the India of My Dreams", viz. "... an India, in which the poorest shall feel that it is their country in whose making they have an effective voice; ... an India in which all communities shall live in perfect harmony. There can be no room in such an India for the curse of untouchability or the curse of intoxicating drinks and drugs. Women will enjoy the same right as men". 6

Hence, one can say without reservation that Fundamental Duties and Preamble to the Constitution are not at all inconsistent with each other. On the contrary, they are mutually complementary, and scrupulous observance of fundamental duties would go a long way in translating into action the principles set forth in the Preamble to the Constitution.

**Fundamental Duties in relation to the Directive Principles of State Policy.**

Like the Preamble, the Directive Principles of State Policy also do not seem to be inconsistent with the Fundamental Duties. The Fundamental Duties are appended as Part IV A in the Constitution, while the Directive Principles are included in Part IV. Both are fundamental and yet both are non-enforceable.

Just as the Directive Principles are in the nature of the guidelines to be followed by the State, fundamental duties
emerge as the directive principles to be followed by the citizens. When one looks at the Directive Principles, one finds that they practically cover all aspects of life, including health, nutrition, family planning, education, agriculture, cow-protection, prohibition, civil code, working conditions, wages, cottage industries, children and youth, equality of opportunity to an adequate means of livelihood, full employment, decent standard of life and local self-government.

A careful study of the Directive Principles listed in Appendix III and the Fundamental Duties reveals that they are complementary rather than contradictory. For example, Art.38 directs the State to secure a social order for the promotion of welfare of the people. As provided in clause (1) of this article: "The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life".

Closely related to it is one of the fundamental duties expressed in Art. 51 A(j) that it is the duty of a 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". As this duty cannot be performed unless the State plays an active role in creating proper conditions for the development of excellence, the Directive Principle contained in clause (1) of Art. 38 helps in
creating conditions conducive to the fulfilment of the duties contained in Art. 51 A(j).

Art. 39 enumerates certain principles to be followed by the State in the following words: "The State shall in particular, direct its policy towards securing (a) that the citizens, men and women equally, have the right to an adequate means of livelihood; (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment; (d) that there is equal pay for equal work for both men and women; (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment".

On the other hand, Art. 51 A(e) enjoins upon the citizens the duty "to promote harmony and the spirit of common brotherhood" and "to renounce practices derogatory to the dignity of women".

As a matter of fact, on the face of it, there appears a need to broaden the ambit of Art 51 A(e) so as to cover not only
renunciation of practices derogatory to the dignity of women but also to the dignity of children and other weaker sections; in short, to all human beings. This aspect, however, will be examined subsequently, while dealing with the duty "to renounce practices derogatory to the dignity of all human beings".

Art. 44 requires that the State should introduce a uniform civil code for the citizens throughout the territory of India. As against this, Art 51 A(e) requires that a citizen should promote harmony and the spirit of common brotherhood amongst all the people of India. These provisions are complementary to each other, as a uniform civil code will go a long way in promoting social equality which is a pre-condition for promotion of common brotherhood.

Art. 45 requires the State to introduce free and compulsory education for children. Similarly, Art.46 requires that "the State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation". The fundamental duty listed in Art. 51 A(h), that a citizen's duty is "to develop scientific temper, humanism and the spirit of inquiry and reform", is highly relevant to this 'Directive' as it is through education that a citizen can acquire and develop, "scientific temper, humanism and the spirit of inquiry and reform".
Art 47 provides that "the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption, except for medicinal purposes, of intoxicating drinks and of drugs which are injurious to health".

The implementation of the aforesaid directive principle alone can create suitable conditions for the development of excellence in the various spheres of individual and collective activity. Unless a citizen is physically healthy, he cannot be mentally healthy. In other words, unless his body is sound, his mind cannot be sound, and if his mind is not sound, he cannot be creative to the extent that he can achieve excellence in all spheres of individual and collective activity as laid down in Art. 51 A(j).

Art 48 lays down that "State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds and prohibiting the slaughter of cows and calves and other milch and draught cattle". Further, Art. 48 A provides that "the State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country".

The fundamental duty in Art. 51A(g) stipulates as one of
the duties of a citizen "to protect and improve the natural environment including forests, lakes, rivers, wild life and to have compassion for living creatures". Unless natural environment is protected, forests cannot be protected and unless forests are protected, neither agriculture nor animal husbandry can be developed on modern and scientific lines, nor wild life can be protected by the State in terms of the Directive Principles enumerated in Arts. 48 and 48 A.

Art. 49 provides: "It shall be the obligation of the state to protect every monument or place or object of artistic or historic interest, to be of national importance, from spoilation, disfigurement, destruction, removal, disposal, or export as the case may be".

The fundamental duty complementary to the above article is found in Art. 51 A (f) which lays down as one of the duties of a citizen "to value and preserve the rich heritage of our composite culture". There is no denying the fact that without the support of the State it would be difficult for a citizen to preserve the rich heritage of our composite culture, and without the support of the citizens, it would be impossible for the State to preserve artistic and historical monument. It is through joint endeavour of the State and citizens alone that preservation of these monuments can be feasible.

Hence, it would not be an exaggeration to say that the duties prescribed in Part IV-A and the Directive Principles
enumerated in Part IV of the Constitution have a harmonious relationship, each lending support to the other.

**Fundamental Duties in relationship to the Fundamental Rights.**

A close examination of the provisions in the Indian Constitution leaves no room for doubt that the fundamental duties are not inconsistent with the fundamental rights. In fact Part III of the Constitution, while specifying the Fundamental Rights (vide Appendix IV), casts an obligation upon the State in Art. 14: "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India". One of the Fundamental Duties enshrined in Art. 51A(e) viz., "to promote harmony and the spirit of common brotherhood", cannot be promoted unless equality before law is secured.

Similarly, Art. 15 contains a fundamental right that:

"(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. (2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to (a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public. (3) Nothing in this article shall prevent the State from
making any special provision for women and children. (4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes".

It is very much in consonance with the Fundamental Duty stated in Art 51 A(e), viz.: "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". Art. 16 says: "(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. (2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment of office under the State; (3) Nothing in this Article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office (under the Government of or any local or other authority within, a State or union territory, any requirement as to residence within that State or Union territory) prior to such employment or appointment. (4) Nothing in this Article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which in the opinion of the State, is not
adequately represented in the services under the State. (5) Nothing in this Article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

It is in tune with Art. 51 A(e), as without equality of opportunity in matters of employment, there would be injustice giving rise to friction among the people and in such an atmosphere it would be impossible to inspire the people to observe the fundamental duty 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".

Art. 17 abolishes untouchability and forbids its practice in any form. It says "the enforcement of any disability arising out of "untouchability" shall be an offence punishable in accordance with law". Art. 17 thus creates conditions conducive to the observance of the fundamental duty to promote "harmony and the spirit of common brotherhood...", as stipulated in Art.51 A(e).

Art. 18 says: "(1) No title, not being a military or academic distinction, shall be conferred by the State, (2) No citizen of India shall accept any title from any foreign State;
(3) No person who is not a citizen of India, shall while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State; (4) No person holding any office of profit or trust under the State shall without the consent of the President, accept any present, emolument or office of any kind from or under any foreign State. This right, if properly exercised, helps in the discharge of duty of being faithful to one's country by upholding and protecting the sovereignty, unity and integrity of India, as provided in Art. 51 A(c), as also the duty "to cherish and follow the noble ideals which inspired our national struggle for freedom", as stated in Art. 51 A(b).

According to Art. 19: "All citizens shall have the right - (a) to freedom of speech and expression; (b) to assemble peaceably and without arms; (c) to form associations or unions; (d) to move freely throughout the territory of India and (d) to reside and settle in any part of the territory of India, and (f) to practise any profession, or to carry on any occupation, trade, or business".

As it is a fundamental duty under Art. 51 A(a) "to abide by the Constitution and respect its ideals and institutions, the National Flag and National Anthem", it is the duty of every citizen of India to respect fundamental rights guaranteed by the Constitution. Thus, Art. 19 and Art. 51 A(a), the former a right and the latter a duty, supplement each other.
Art. 23 has two clauses. According to clause (1): "Traffic in human beings and begar and other forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law". This is in tune with Art. 51 A(e) which stresses on the duty "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".

The other clause of Art. 23 says: "(2) Nothing in this Article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them". This provision is in consonance with Art 51 A(d) which lays down the duty of every citizen "to defend the country and render national service when called upon to do so".

Art. 25 guarantees a fundamental right in the following words:"(1) subject to public order, morality and health and to the other provisions of this part, all persons are equally entitled to freedom of conscience and the other right freely to profess, practice and propagate religion. (2) Nothing in this article shall affect the
operation of any existing law or prevent the State from making any law - (a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice; (b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus".

Relevant to the aforesaid right is Art. 51 A(e) which prescribes a fundamental duty namely "to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities." In other words, if it is the right of citizens to propagate and profess any religion, it is also the duty of citizens not to do anything which would endanger the spirit of brotherhood and harmony in the country. Further, the right under Art. 25 can be exercised properly only when the fundamental duty under Art. 51 A(i) is properly observed, namely, "to safeguard public property and to abjure violence".

While comparing Part III and Part IV-A, one does find a few inconsistencies between the two. For example, Art. 25(1) which guarantees the right freely to profess, practise and propagate religion, seems
inconsistent with Fundamental Duty stated in Art. 51 A(e), that it is the duty of every citizen "to promote harmony and the spirit of common brotherhood amongst all the people of India....; to renounce practices derogatory to the dignity of women".

Right to profess and practise religion is all right. But right to propagate religion can hardly promote harmony and brotherhood among the citizens, and very often it is the propagation of religion by two different religious communities which has been responsible for sparking off communal riots.

Similarly, Art. 28, which is a fundamental right, makes a provision for imparting religious instructions or religious worship in certain educational institutions, in the following words: "(1) No religious instruction shall be provided in any educational institution wholly maintained out of State Funds. (2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution. (3) No person attending any educational institution recognized by the State or receiving aid out of State funds shall be required to take part in any religious instructions
that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto."

This provision militates against the fundamental duty of a citizen in Art. 51 A(c), viz. "to uphold and protect the sovereignty, unity and integrity of India", since separate religious institutions of each religious group can hardly be conducive to the unity and integrity of India.

**Relationship between Preamble, Part III, Part IV and Part IV-A.**

Despite these inconsistencies, one finds that, in general, there is a great deal of compatibility among the provisions in Part IV-A listing the Fundamental Duties, Part IV enumerating the Directive Principles of State Policy, Part III enunciating the Fundamental Rights and the Preamble enunciating the philosophy of the Constitution. By and large, they are complementary, lending support to each other.
NOTES


3. V.S. Deshpande, Rights and Duties under the Constitution; Journal of Indian Law Institute, V.15(1973) p.95.


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