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BLOG: RIGHTS AND DUTIES OF INDIAN CITIZENS

~*Kanak Kumari*

The uniqueness of the Indian Constitution lies in trying to create a just balance between individual rights and collective responsibilities. It enunciates certain duties that remind the citizens of their responsibilities towards the nation while protecting different rights considered crucial for human dignity and democracy. To understand the balancing act, we must see what the constitutional framework says about rights and duties, how unwritten rules were interpreted by courts, and where the challenges arise in keeping this balance.

The question of citizenship is fundamental. Articles 5 to 11 of the Constitution define citizenship, with Article 11 allowing Parliament to create laws about how citizenship can be obtained or lost¹. This means that citizenship is both a constitutional and legal concept, and only citizens are entitled to the full set of rights and responsibilities outlined here.

Part III of the Constitution is the foundation of the Indian democratic project. It sets out Fundamental Rights, which guarantee equal protection under the law, equal opportunity in public employment, and the abolition of untouchability and titles through Articles 14 to 18². The freedoms of speech and expression, assembly, association, movement, and residence are outlined in Articles 19 to 22. While these freedoms come with "reasonable restrictions" for public order, decency, and Indian sovereignty, they are not absolute.

The judicial branch has greatly expanded its role. In the famous case of *Maneka Gandhi v. Union of India*, the Supreme Court broadened the interpretation of Article 21, stating that the "procedure established by law" must be reasonable, fair, and just. This ruling tied the right to life and personal

¹ INDIA CONST. Art. 11.

² INDIA CONST. Art.14-18.

liberty to the principles of natural justice³. Since then, Article 21 has been interpreted to cover rights such as health, education, a clean environment, and privacy.

Other rights include religious freedom, rights of minority cultures and education, protection against exploitation, and the right to constitutional remedies. Dr. B. R. Ambedkar called Article 32 the “heart and soul of the Constitution,” allowing citizens to approach the Supreme Court to protect their fundamental rights⁴. The Court determined in *Kesavananda Bharati v. State of Kerala*⁵ that this right, which is central to the Constitution, cannot be removed, even through amendments. Similarly, High Courts have writ jurisdiction under Article 226, which strengthens the system of legal and fundamental rights.

*Indira Gandhi v. Raj Narain*⁶ the constitution identifies rights as amendments occurring in the Indian context. And these amendments require judicial checks since they being the amendments to any constitution have limits set by the Supreme Court. It also invalidated an amendment aimed at protecting the election of the prime minister from judicial review. *Minerva Mills Ltd. v. Union of India*⁷ In this case, the Court held that the balancing of rights and amendments formed a part of the basic structure of the Constitution and declared invalid amendments that would give precedence to Directive Principles over Fundamental Rights. Such judgments bring to focus the importance of the contribution made by the judiciary in the field of rights safeguarding them against possible violations by the legislative or executive institutions.

Duties make the moral basis on which citizenship rests; rights are those most treasured. In the year 1976, the 42nd Amendment introduced the notion of fundamental duties under Article 51A, which added the new clause pertaining to a parent's duty to educate his or her child between the ages of six and fourteen in 2002. At present, Article 51A⁸ enumerates eleven duties which involve honoring the Constitution and the National Flag, safeguarding the environment, promoting scientific thinking, and aspiring for excellence in different spheres. These duties cannot be enforced directly before courts like rights as they are not justiciable per se.

³ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

⁴ INDIA CONSTI. Art. 32(1).

⁵ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

⁶ *Indira Nehru Gandhi v. Raj Narain*, 1975 Supp SCC 1.

⁷ *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625.

⁸ INDIA CONSTI. Art. 51(A).

Yet, it is pragmatism. Fundamental Duties can also be used to interpret and judge the reasonableness of laws, according to the Supreme Court in *AIIMS Students' Union v. AIIMS*⁹. Disregard of the national symbols is now criminalized through laws such as the Prevention of Insults to National Honour Act, 1971¹⁰.

Moreover, citizenship brings with it unmentioned obligations, that is, responsibilities not mentioned in Article 51A. Civic duty, such as voting, or obligations under the law, for example, obeying the law, paying taxes, and respecting property, can be equated to citizenship. The 2005 Right to Information Act¹¹ is a good example of one that bridges the duties and rights of the citizens, to claim accountability while expecting the responsible exercise of this right for better governance. Environmental law is another example where the courts take the obligations imposed under Article 51A(g) to lay obligations upon individuals and corporations.

A kind of tension exists between rights and duties. It is sometimes necessary to limit rights in order to protect collective responsibilities. For example, the right to free speech may be restricted in the interest of maintaining public order or in defense of women's dignity. It is Article 359 which provides for that certain rights may be suspended during a national emergency but Articles 20 and 21 are inviolable even during such conditions. This balance represents how the Constitution views rights not as absolute privileges but rights intended to be freedom exercised in a framework of social responsibility.

Judicial activism has been a major contributor in founding the young and nascent rights and obligations. The Supreme Court has striven to promote access to justice and to put a shield around the rights of marginalized communities through Public Interest Litigations (PILs). The courts have occasionally reminded citizens that the exercise of one's rights cannot take place without the corresponding discharge of one's duties. It is this constitutional culture that is supposed to gel liberty and responsibility, instead of weighing one against the other, as seen in judgments giving weight to civic duty, environmental protection, and national unity.

Rights are there to oppose unjust acts of the state, while duties expect citizens to work for the common good. In a series of historic judgments- notably, *Maneka Gandhi*, *Kesavananda Bharati*,

⁹ *AIIMS Students' Union v. AIIMS*, (2002) 1 SCC 428.

¹⁰ Prevention of Insults to National Honour Act, No. 69 of 1971, § 2 (Ind.)

¹¹ Right to Information Act, No. 22 of 2005, § 3 (Ind.).

Indira Gandhi v Raj Narain, and Minerva Mills- the Supreme Courts have held that these duties must exist for the meaningful exercise of rights so that rights themselves may flourish. Citizens should also fulfill their responsibilities if a democracy is going to survive. Rights and responsibilities are maintained in a form of balance through active participation in democratic life, civic education, and legal awareness. Hence, the interdependence and essence of the Republic call for strengthening constitutional democracy in India.