



Rights And Duties

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This article is based on “Rights, duties and the Constitution” which was published in The Hindu on 26/02/2020. It talks about a balance between rights and duties of citizens as well as of State.

Recently, the terminologies like ‘Duties of citizens’ and the ‘anti-national’ (emanating from violation of these duties) have become the buzzwords of the political landscape. In a constitutional democracy, the State provides **rights and lays down duties for the citizenry, so that society can peacefully co-exist**. However, sometimes State imposes such duties on its citizenry that infringes the rights of the marginalised sections of society.

Thus, the major concern lies in the **language of duties** which is **vague** (as their interpretation is left at the discretion of the State). This makes ‘duties’ of the citizenry prone to be misused as a tool to impose the will of the State or the social majority on vulnerable sections.

Rights and Duties Go Hand in Hand

- **Mahatma Gandhi in Hind Swaraj** observed that “**Real rights are a result of the performance of duty**”.
- Rights and duties are closely related and cannot be separated from one another. For **every right, there is a corresponding duty**.

The State protects and enforces rights and it is the duty of all citizens to be loyal to the state. **Thus a citizen has both Rights and Duties.**
- According to **Harold Laski, one man’s right is also his duty**.

For example, if the State gives the right to life to a citizen, it also imposes an obligation on him to not to expose his life to dangers, as well as to respect the life of others.

Rights and Duties Follow Different Logic

Indian Constitution provides its citizens with the Fundamental Rights and lists the Fundamental Duties to be followed by them.

- The Constitution covers a broad spectrum of domains to protect the rights of the common man by introducing six rights as Fundamental Rights (Part III of the constitution).
- Similarly, the Fundamental Duties are also emphasised upon by the Constitution (Part IVA of the constitution).

Concept of Duties

- As citizens, there exists a wide range of duties that bind us in everyday life. These duties are owed both to the state and to individuals.
- There is a legal duty to pay taxes, to refrain from committing violence against fellow-citizens, and to follow other laws that Parliament has enacted.
- Breach of these legal duties triggers financial consequences (fines), or punitive measures like imprisonment.
- Duties follow a simple logic that, **peaceful co-existence requires a degree of self-sacrifice**, and that if necessary, this must be enforced through the set of sanctions.

Concept of Rights

Rights are formulated to ascertain **twin principles viz. Anti-dehumanisation and Anti-hierarchy**. In India, this can be reflected in a chapter on Fundamental Rights in the constitution.

- **Rights as a bulwark against dehumanisation:**
 - Framers of the Indian Constitution while deliberating on Fundamental Rights were of the view that **every human being should have access to basic dignity and equality** that can not be taken away the State.
 - The necessity for Fundamental Rights in India originated from the experiences under the colonial regime where Indians had been treated as subjects.

For example, the colonial government declared some group of people as Criminal Tribes, who were treated as less than human.
- **Rights as a stand against hierarchy:**
 - Indian society has been divided on the lines gender, caste and religion.
 - Fundamental Rights, at a basic level, ensure the protection of all the citizens, not only from the State but from the social majorities as well.
 - For example, through guarantees against forced labour, against “untouchability”, against discriminatory access to public spaces, and others, fundamental rights sought to bring a transformation in the Indian society.

Does this suggest that duties are unimportant?

- As indicated above, duties exist in every sphere of society. However, it is the **language of duties** that can play an important role in a society like India that continues to be divided and unequal.
- Any duty imposed upon the citizens must comply with **due process of law**.
The concept of 'due process of law' holds that no person shall be deprived of life, liberty or property except in accordance with the explicit provisions of law and with due regard to his rights.
- Without the moral compass of rights and their place in the transformative constitutional scheme, the language of duties can lead to unpleasant consequences. A good example of this is a Supreme Court judgment from the early 1980s, which upheld the differential treatment of male and female flight attendants on the ground that women had a "duty" to ensure the "good upbringing of children" and to ensure the success of the "family planning program" for the country.

In this light, it is always critical to remember Dr B.R. Ambedkar's words in the Constituent Assembly that the fundamental unit of the Constitution remains the individual. Interpretation of 'Duties' and the debate around it should include the duties of those with power. Those with power should not use it to exploit those from whom they wield it. It is only after guarantee to all the full sum of humanity, dignity, equality, and freedom promised by the Constitution, that we can ask of them to do their duty. It is only after ensuring the humanity, dignity, equality, and freedom for all, as promised by the Constitution, that the burden of 'following the duties' should be imposed on the citizens.

Drishti Mains Question

In a constitutional democracy, rights always need to be backed up by the duties of citizens as well as those of the State. Analyse.