

Directive Principles of State Policy and Fundamental Duties: Constitutional Imperatives

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Lecture 31: Relationship between Fundamental Rights, DPSP and Fundamental Duties; Judicial Approach

Greetings to all of you. We are in module 6, where we are discussing evolution and relevance of fundamental duties. Today, we shall be discussing about interaction of fundamental duties with fundamental rights and the directive principle. The concept which we aim to cover is we will try to understand that what are the three pillars of the Constitution. In our context it is the fundamental rights, the directive principles and fundamental duties. How interrelationship between these three pillars work in India and how the judiciary has strengthened this interrelationship, how the judiciary has addressed the issue of reading the rights, directives and duties together. Now, we read this three features of the Indian Constitution as important pillars to fulfill the constitutional goal of establishing a society where the idea is based on justice, where the justicing is not only political justice, but social and economic justice as well, where the idea is liberty, but liberty is also coupled with the idea of dignity and liberty and dignity gets necessary support from the very promise on fraternity. And all this collectively together is aimed to establish equitable society, egalitarian society where there are means available to everyone and those means are good enough for enjoying a decent and dignified life. And that is why these three components play a significant role in materializing the very symbolic India that is Bharat that how do we really understand that the goal of Bharat is fulfilled or not. So, these three pillars they play a very significant role in governance of the country, play a significant role in fulfilling the goals enshrined in the Constitution, play a very significant role in limiting the power of the government and guiding the government that what kind of initiatives government need to undertake for fulfilling the aspirations of the people. So, each of them they serve an important purpose of creating a balance shaping the conduct of the sovereign and its citizens alike.

Let us understand very briefly about these three pillars, though we have been discussing about it in earlier sessions as well. So, rights are generally considered to be a sort of anchoring the

idea of liberty. It is a bedrock of all liberties, which grant freedom to speak, freedom to worship, assemble, enjoy quality, life and personal liberty. All these are very fundamental to the very rights landscape. Some of these are categorically enumerated in Part III of the Constitution and because of that it has been also suggested that the very nature of these rights are inalienable and inherent which is considered to be a birthright of every soul that doth walk this land. And the duty of the state to ensure that these rights are duly protected and not to be unnecessarily taken away, unreasonably taken away through the state action. When you look at the directive principles, we serve as a guiding light which is about the constitutional moral compass of the state that whether the state is fulfilling its responsibility in the rightful way or not, whether the programs policies of the government they are addressing the needs of the people or not. And whether the same is directed towards promoting the welfare of the people or not. And that is why directives is based on the very premise of justice which is social economic and political justice.

Where it is not only about one man one vote, but it is also about socio economic entitlements for every people. Where it is been urged that the state shall undertake necessary measures. To reduce inequality, it shall take measures to provide access to education, to provide necessary support at the time of ill health and old age. Then it should provide also shelter, promote common good. It should see that resources are not accumulated with a few. Now fundamental duties which has got added through a constitutional amendment which was not there in the original Constitution of 1950 which reminds us that all of us owe to this motherland and there is a responsibility towards the state towards the society and towards fellow citizens. So, these duties are of significant value they are of utmost importance without them the rights which are guaranteed would not bring any kind of fruit because as we understand that rights are always coupled with the duties and duties here should not be seen only as duties of the state but also duties of citizens.

So, citizen must honour and respect Constitution. They must uphold the dignity, dignity of the individual as well as dignity of the nation and cherish the ideals of the freedom struggle. In essence one can say that the duties are the moral fabric that sustains the very edifice of the republic where the understanding is that the governance is by the people where it is the people who authorizes the elected representatives to always work for the welfare of the people. So, relationship one may argue that it is all about reading rights, fundamental duties and directive principles together in order to realize the goal for which this new country has aspired for, the

goal which this new country which has got into establishment in the year 1947, India that is Bharat. Everyone must have all necessary means of livelihood, all necessary means to enjoy the livelihood and also to enjoy the benefits which the state promises or offers. So, there is a relationship because fundamental rights set forth the individual liberties and freedoms.

Fundamental duties ask for the citizens their due responsibility towards the state, whereas the directive principles serve as the state's constitutional obligation to care for the welfare, well-being of all with a particular emphasis on the marginalized class or least privileged people. Now, there is a thread which connects these three important pillars, three important values of the Constitution, though they are separate in form, they are separate in its nature, but then the fundamental rights, directive principles and fundamental duties, they are certainly interwoven like the threads of a finely spun tapestry, where each contributes in a strengthening and in integrating the country, where each contributes in reaffirming our faith and trust on the values like liberty, dignity and also it is collectively working for establishing welfare society in this country. So, in the interplay of these elements one can say that Constitution seeks a kind of delicate balance where freedoms are well guarded, well respected, responsibilities are upheld and state is guided to act in the service of people's welfare and that is why you find that there is a complementary nature of fundamental rights and fundamental duties.

So, one can argue that rights and duties are two sides of the same coin, where rights are guaranteed to citizen and it grants certain freedoms to citizens and protections to citizens. Whereas exercise of these rights must not infringe upon the rights of others or disrupt the harmonious functioning of the society. And that is how you when you look at the grounds of reasonable restrictions given under Article 19 particularly Article 19(2) to 19(6) you find this relationship very well where freedom is guaranteed, but restrictions are they also there and those restrictions are also in a form of duties towards others when you read the reasonable restrictions given or restrictions of Articles 25, 26 which is on right to religious freedom of an individual or religious denomination or cultural and educational rights given to minorities under Articles 30 or 29 of the Constitution.

So, one you can see this complementary nature with one example where Article 19(1)(a) guarantees freedom of speech and expression. Then Article 19(2) which is which describes grounds to restrict the freedom and one of the grounds given is sovereignty and integrity of India and then when you read it with fundamental duties, Article 51A(c) also talks about upholding sovereignty, unity and integrity of India which is everyone's duty. So, it is not only

the rights of individuals and duties of the state, there is a duty of the individual also under Article 51A, where the responsibility of everyone is there to value the integrity of the country and to do all the needful to maintain and strengthen the unity of the country. There is a that is what this relationship says where citizens are required to uphold and protect the sovereignty and unity of the country. Then you also find the relationship between the directive principles and fundamental duties. For example, both DPSP and fundamental duties are directed towards the state and citizens respectively where it has been said that that the directive principles is a sort of guidelines for the state to follow and the state must consider while making laws, whereas fundamental duties guide the citizens. So, when you look at both DPSP and fundamental duties you would find that both the states, both the state and the citizens are they are being guided by these two important documents, two important parts of the Constitution. And, that is for valuing the Constitution that is for strength in the constitutional values and to increase the respect towards those values. So, they overlap they are integrated they are to be read together for the very purpose of understanding the aim and objectives laid down in the constitution, the very purpose of having a Constitution where it is not about the focus on governmental structure, but also about the very right liberty duties of individual along with the responsibility of the state. So, when you look at the direct principles and fundamental duties, you would find that common thread running between certain provisions. For example, promotion of a just and equitable society when you look at the language of Article 38 of Part IV, it reads as the state shall strive to promote the welfare of the people by securing a just social, economic and political order.

Whereas, when you read something, you would find of a similar flavour in Article 51A(b) that to cherish and follow the noble ideals that inspired the national struggle for freedom. Then you have excellence of individual and collective activity, where you find that again Article 38 becomes relevant along with Article 39, where you have a certain policy which the state needs to follow particularly no accumulation of wealth, no concentration of wealth or material resources are to be distributed for self-serving common good. And then you have Article 51A(j) which talks about 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. Then you also have a promotion of educational and scientific development where you will find that Article 41. Talk about the right of every individual for securing the right to education work and public assistance and then you have Article 45 which talks about provision for free and compulsory education for children. Particularly this Article 45 has got amended and talks about the responsibility of the early childhood care education. Then Article 51A(k) talks about to

provide opportunities for education to children between 6 and 14 years of age. Then preservation of heritage and culture you have Article 49 which says that the state shall protect monuments, places and objects of national importance. On a similar line you have fundamental duties under Article 51A(f) which talks about to value and preserve the rich heritage of our composite culture. Then you have protection of environment by talking about improvement in environment Article 48A which is there in the directive principles (added through a constitutional amendment), says that the state shall protect and improve the environment and safeguard forests and wildlife. Then you have Article 51A(g) which talks about to protect and improve the natural environment including forests, lakes, rivers and wildlife. So, you can very well see that there is a common thread between different provisions of the directive principles and fundamental duties. So, on the one hand when you look at the directive principles as an obligation of the state and you find duties as an obligation of an individual, you can very well say that for establishing a good society, for establishing a welfare society, for establishing a society where needs of everyone is fulfilled, both the state and the citizen, they need to come forward and they need to work in tandem.

So, one can say that there is a sort of very defined interrelationship between these three pillars, rights, duties and DPSB. For example, on a matter of bringing an eligibility to contest election, taking the number of children into account. In the case of *Javed v. State of Haryana*, the court has read this interrelationship and said that “*Fundamental rights are not to be read in isolation. They have to be read along with the chapter on directive principles of State policy and the fundamental duties enshrined in Article 51-A. Under Article 38 the State shall strive to promote the welfare of the people and developing a social order empowered at distributive justice — social, economic and political.*” So, when you read this the judgment where the court has justified the eligibility criteria in terms of having a number of child for the panchayat election. Obviously, now the situation is overturned that necessary amendment has been brought in. But then, in this case, when the court has validated, justified the child norm for contesting the election, the court read the relationship between these three important values of the Constitution.

Something similar also on the issue of banning slaughtering of animals. Again, the court in this case of *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat*, the court said that “by enacting clause (g) in Article 51-A and giving it the status of a fundamental duty, one of the objects sought to be achieved by Parliament is to ensure that the spirit and message of Articles 48 and

48-A are honoured as a fundamental duty of every citizen.” So, court categorically looks into the directive principles and fundamental duties in order to see that how the very steps taken by the legislature is justified or it is in furtherance of the two important provisions, two important Parts of the Constitution. Ramlila Maidan Incident, In re, is a rather important case where the court has declared widen the ambit of right to sleep by reading it within Article 21. Court has again read *“a common thread runs through Parts III, IV and IV-A of the Constitution of India. One Part enumerates the fundamental rights, the second declares the fundamental principles of governance and the third lays down the fundamental duties of the citizens. While interpreting any of these provisions, it shall always be advisable to examine the scope and impact of such interpretation on all the three constitutional aspects emerging from these Parts.”* So, one can very well read and find out that the court while acknowledging that there is right to sleep as a facet of right to lie, but at the same time the court has also seen that the very use of force at wee hours in that ground is also not appropriate.

It is something which doesn't go along with the obligation of the state to disturb the people when they are sleeping. So, that is how the court has read the significance of these three provisions, these three parts of the constitution. And another case which is decided by Jammu and Kashmir High Court in Dr. Tawseef Ahmad Bhat v. State of Jammu & Kashmir, the court has again observed that *“Any infraction in this regard shall be treated as breach of fundamental duties which may disentitle a citizen to claim fundamental and other statutory rights”*. So, this was an observation made in regard to the issue before the court as to whether or not standing up for the national anthem or singing it may amount to disrespect and failure to adhere to the fundamental duties as enshrined in the Constitution. So, it categorically said that be disrespectful towards the national symbol is something to be seen not only as a case of not honouring, not fulfilling the duties, but also one should not claim rights unnecessarily if there is some kind of ill intent in not honouring the country, not honouring the state, not honouring the nation, particularly when that is done through paying respect towards the national symbols.

So, in conclusion one may argue that these rights, duties and directives they work together, they do have a symbiotic relationship, where the entire idea is to strengthen the constitutional framework governance of this country where we the people gets truly realized not only by improving the quality of life of an individual, but also to see that how the government becomes more accountable, how the government is carrying on its responsibility as it has been envisaged under Part IV of the Constitution. So, the relationship between these pillars, these elements is

one of balance and complementarity where each plays a distinct role in ensuring that Republic of India functions in a manner where well-being of every citizen is addressed and catered.

These are the references for this session.

Thank you very much.