

**Directive Principles of State Policy and Fundamental Duties: Constitutional
Imperatives**

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**Lecture 32: Comparative Analysis: Fundamental Duties and Civic Responsibilities in
Other Constitutions**

Greetings to all of you. We are in module 6, where we are discussing evolution and relevance of fundamental duties. In today's session, we shall be talking about which has incorporated references of other constitutions which have incorporated fundamental duties or some kind of responsibilities to be fulfilled by citizens. In that process we shall try to look at the comparison with the perspective that the Indian Constitution is not the only experiment done by incorporating fundamental duties in the 1976. So, these are the concepts which we aim to cover where we shall be talking about how shall we really perceive or understand the meaning of the idea of duties, relationship between the citizen state and society. We shall also quickly look at the relevant provisions on UDHR which connects with duty. And then we shall look at the duties which are there in some of the constitutions of different jurisdictions for example, the Soviet Union, China, Sri Lanka and Japan. It is generally been said that some of these provisions have influenced certainly the making of the fundamental duties under the Indian Constitution. When you look at the fundamental duties, it seems that constitutions in different jurisdictions are designed to address the domestic concerns of that particular society. And that is why generally it has been said that constitution in general is very domestic in its nature, scope and ambit because it addresses the very national issues. However, it has been also seen that certain values are very universal in nature and we find them across the jurisdictions certain core principles are there which are very common to most of the constitutions. What are those provisions? Generally, it has been seen that when it comes to fundamental rights, we generally find that they are there in almost every constitution with a kind of clear masses to the government that government's power is very limited. Then constitution also deals with the structuring government is structuring the organization of the government. It also it deals with power and function of different agencies, different institutions or different levels of the

government. In addition to these core features of a constitution or constitutions in general, it has also been seen that in some of the constitutions there are clear guidelines or obligations or duties which are there also for citizens and such guidelines and obligations are generally seen as in addition to the obligations which are imposed upon the state through constitutional provision through specific provisions in a constitutional document. Now when you look at the obligations of citizen to contribute to society or to uphold the constitution and support the state generally it is seen that such kind of obligations which are there for citizens or duties which are there for citizens to follow they are generally for fostering unity or protecting collective welfare and balancing individual rights where it has to be seen that the exercise of rights should not be of such a nature where it should take away the rights of others so that there shall be a sort of balancing done between the scope and ambit of the rights of one with the duties of others or if one follows the duties then in a way there is also a possibility of honouring the rights for others. For example, when you look at Article 15 of the Constitution which is about non-discrimination. It is not only the responsibility of the state to not to discriminate on state action, but also is responsibility upon every individual to not to discriminate and that is what precisely the language of Article 15(2) suggest. For example, Article 17 of the Constitution which talks about abolition of untouchability which you would find that those are also in a way duties which are entrusted upon citizens for building a good society for working for the betterment of the society or for establishing a social cohesion. And that is why we find that there is a sort of involvement of three stakeholders when you talk about the duties, citizen, state and society and they are in a way interrelated. So, the relationship between citizen state and society is dynamic and it is based on reciprocity where it is all the entities are in a way supporting each other, all the entities are in a way pursuing the same goal of dignity to every individual and the nation building and to ensure the unity and integrity of the nation. So, citizens do have an obligation towards both the states and society along with the rights what has been conferred upon them. While the state has a responsibility to protect citizens and to ensure that there is sort of societal well-being for establishing welfare society for everyone, for ensuring that socio-economic entitlement is there for everyone. So, together these three entities create a sort of very robust framework for governance for social order and individual empowerment and all of which are very fundamental for a successful democracy.

Because as we understand that democracy is about valuing the electorate opinion, legitimizing the government through the electoral process and at the same time the elected representative must work for the welfare of the people. That's what is the overall idea. So, that

is how we see the role of citizen, state and society in establishing democratic society, in establishing a republican setup or system. And when you look at the Indian Constitution, preambular concept very well highlights the concept of republican democracy as a value. When I look at the Indian Constitution as I said that and discussed in the earlier session that a new provision has been added through 42nd Constitutional Amendment Act in the year 1976. Where a Part IVA was added in the Constitution just after the directive principles where 11 fundamental duties are added under Article 51A and 11th fundamental duties was added later on through 86th Constitutional Amendment Act. Now, the language of Article 51A is not very clear on the justiciability part of it. Therefore, it is to be presumed that these fundamental duties are largely imposing or entrusting a moral obligation upon the citizens where every citizen has a duty to do the needful as it has been outlined under Article 51A of the Constitution.

These are the fundamental duties which you would find under the Indian Constitution as I said that 1 to 10 fundamental duties were there in 1976 when we amended the Constitution and adopted the fundamental duties through for 42nd Constitutional Amendment Act where the 11th one was added through 86th Constitutional Amendment Act. If I read these fundamental duties for your reference:

- to uphold and protect the sovereignty, unity and integrity of India;
- to defend the country and render national service when called upon to do so;
- 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;
- to value and preserve the rich heritage of our composite culture;
- to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- to develop the scientific temper, humanism and the spirit of inquiry and reform;
- to safeguard public property and to abjure violence;
- 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.
- 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.

So, these are the broad fundamental duties which are there and if you look at these duties you would find that citizens do have categorical duties towards the nation as well as towards the society. For example to renounce practices derogatory to the dignity of women as a duty it is duty of every citizen every fellow citizen to see that women are being treated in a dignified way or for that matter there is a kind of duty towards the society when it says that to render national service when called upon to do so we can very well find that fundamental duties Talks about the concern of the nation, state as well as concern of the society where it very integrally involves the citizen for fulfilling the civic responsibility as well as the responsibility towards the state. Now, when we look at Part IVA of the Indian Constitution, we find that there is some kind of reference one can draw from Article 29(1) of the Universal Declaration of Human Rights which was adopted in the 1948, where there is a provision also on duties to the communities. Article 29(1) it reads as everyone has duties to the community in which alone the free and full development of his personality is possible. And you can very well find that this is in or the Indian Constitution is in alignment with this provision of the UDHR. There has been a kind of voluminous literature on this the nature of duties which Article 29(1) talks about. So, generally it has been seen that duties which is imposed upon individuals to guarantee the full exercise of rights and freedom in their dealing and in their dealing with their relationship with others and community they are a part of. So somewhere it has been seen that rights and duties they are correlated and for limiting the power of the government it is equally important that the reference should be drawn of the rights, but then duties are also to be brought in into picture in order to make the people responsible for one's action and that is why it says that it is not only about duties of citizen it is also about or duties to the community it is also about rights in the citizenry where one has to see that how an informed citizenry can be there for a good society and that is why it has been argued that had there been exclusion of duties from the UDHR there would have been possibility of demanding more rights. That is why the framers of the UDHR categorically provided for duties in the document where much emphasis has been given to the rights as we know very well that good number of provisions are there on the rights in the UDHR and very scant references there for the duties, but then the very presence of Article 29(1) and the very emphasis on duties to the community establishes this very point that the obligation of citizen in general is very important for maintaining a harmonious community for ensuring that there is a kind of social order. So, duties are generally been seen not very unique to certain reason or certain countries, but it has been seen that it is like rights, it is also of universal nature which has got a kind of cross-cultural philosophical foundations that is what also the significance of duties on the similar lines of the rights.

Let us look at some of the prominent constitutions which has a reference of fundamental duties and one may argue that references of the provisions on duties has references of such fundamental duties have influenced the making of Part IV A of the Constitution in addition to our own text wherein there was a value of duties along with the rights in the era of Independence Movement. For example, this 1936 Constitution of Soviet Union which is generally been said to be one of the first few constitutions which has categorically highlighted on the duties of citizen. So, 1936 Constitution provides for duty of citizen of the USSR to abide by the constitution, duty to safeguard and strengthen public socialist property, duty relating to universal military service and duty to defend the fatherland that is what is this very significant is there. Now fatherland here generally symbolizes the nationalist idea where it has been seen that one has to really dedicate to the national service and one has to really work for the national integrity and unity of the nation which it is in contradistinction with the understanding on motherland. Then the 1977 Soviet Union Constitution continue to keep the provisions of continue to keep the provisions on fundamental duties. For example, Chapter 5 from Articles 59 to 69 deals with Basic Rights, Freedoms and Duties of Citizens, where Article 59 mandates that citizens exercise of their rights and freedoms is inseparable from the performance of their duties and obligations. So, there are clear cut duties which are there in the Constitution. For example, observe the law and defend the Soviet state, protect socialist property, military service as a sacred duty or emphasis on collective responsibility and loyalty to socialism. So, you can find that 1977 Constitution has got a reference of 1936 Constitution as well. Let us look at also the Chinese Constitution where there is a reference of fundamental rights and obligations of citizen from Article 33 to Article 56 under Chapter II of the Chinese Constitution. Obligation more certainly highlights that there is more of a kind of moral obligation when it comes to the very understanding or looking at the nature of the responsibility which has been interested upon the citizen. So, Chinese Constitution mandates obligation to safeguard national unity and solidarity of all country's ethnic groups. It also talks about obligations to abide by the Constitution. It also talks about defend the motherland and join military service and pay taxes according to the law. These are prominent duties which are there or obligations which are there in the Chinese Constitution. We also find a reference of the same in the Sri Lankan Constitution where Article 28 under Chapter IV provides for fundamental duties which is on a similar line to Article 59 of the Soviet Constitution 1977 where it reads as the exercise and enjoyment of rights and freedoms are inseparable from the performance of duties and obligations. So, some of the duties which are there in the Sri Lankan constitution is inseparable. to uphold and defend the constitution and the law, to further the national interest and to foster national unity, to work

consciously in his chosen occupation, to preserve and protect public property and to combat misuse and waste of public property, to respect the rights and freedom of others to protect nature and conserve its riches. These are the duties which you would find under Article 28 of the Sri Lankan Constitution.

Japanese Constitution is again one constitution which is generally been indicated in the documents of the literature that while formulating the fundamental duties. In India, Japanese Constitution were also referred to. So, Chapter III of the Japanese Constitution 1947 deals with rights and duties, where you find that the Japanese Constitution reads duties along with the rights in a very implicit way. Though there are no separate provisions which deals with duties of citizen, but then in the chapter on rights itself, you would find that there is a reference of duties. For example, the language of Article 12 states that *“The freedoms and rights guaranteed to the people by this Constitution shall be maintained by the constant endeavour of the people, who shall refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare.”* It has been also indicated in the literature that the inclusion of duties was instigated at the request of the Japanese themselves so they are the one who highlighted the role of duties in order to build a good society and that's how Article 12, particularly the expression public welfare is to be used where it says that that people use their freedom responsibly.

It is not that freedom has to be used only by looking at oneself, but also to look at that how that exercise of freedom is overall going to contribute to the societal peace or societal growth. So, there are certain duties also which are there in the chapter on fundamental rights where you find that there is a duty to work which is there, duty to provide education for minors under one's protection is there under Article 26. The duty to ensure children are not to be exploited and then there is a duty to ensure that marriage is based on mutual consent and maintained through mutual cooperation. And that is what it has been seen that Japanese have traditionally perceived this as a social reality in terms of duties rather than looking at it as a right and demanding the same from the state. Instead of that they thought they believed that these are the values which are very much part of social norms and that is an obligation on every citizen to go by that to abide by those values.

When you compare this, you find that there are similarity and differences, but then one thing is very clear that duties are there in other constitutions as well which certainly highlights which certainly signifies that along with the rights, duties have also become a kind of integral part of

the constitution across the jurisdictions. There are differences on the enforcement and how the entire conceptualization on the justiciability has taken place on the matter of the duties and how do we really look at the role and responsibility of the state towards these duties particularly in the form of making of the laws or the judiciary enforcing the same. So, duties are legally enforceable in some of the socialist systems like USSR and China, but when you look at Indian or Sri Lankan position it is more been seen as a moral obligation on every individual. So, that every individual believes that it is something which is a kind of internal value which everyone has to listen and everyone has to go by that value and fulfil the responsibility as indicated in Part IVA of the Indian Constitution. So, when you look at the Soviet and Chinese Constitution, it reflects a sort of collectivist ideologies emphasizing upon the loyalty towards the state and socialist ideals.

This is a comparative chart where you find that how Indian position is compared vis-a-vis the constitutions what we have referred to.

Aspect	India	Soviet Union	China	Sri Lanka	Japan
Constitutional Basis	Article 51A (Part IVA)	Articles 59–62	Articles 33–54	Article 28 under Chapter IV	Chapter III
Legal Enforceability	Non-justiciable	Enforceable	Partially enforceable	Non-justiciable	Implicit, tied to public welfare
Focus	National unity, environment, culture, public property	Socialist loyalty, military service, property protection	National unity, environmental stewardship, family values	Patriotism, environmental conservation, cultural preservation	Harmony, public welfare

For example, when you look at the parameter on constitutional basis, you find that there is constitutional provision in India along with other constitutions which we have discussed, Soviet Union, China, Sri Lanka and Japan. There is on a question on legal enforceability generally it has been seen that in India it is non-justiciable on the lines of the directive principles whereas Soviet Union it is enforceable or China it is partially enforceable whereas in Sri Lanka it has been non-justiciable. Japan it is implicit because of the language of Article 12 which talks about public welfare. When you look at the overall focus on the duties, there is a focus on the duties for example national unity, environment, culture, public property. These are the focus which are there in Part IVA. Soviet Union focuses on socialist loyalty, military service, property protection. Then Chinese Constitution also talks about national unity, environmental stewardship, family values. Sri Lankan Constitution talks about patriotism, environmental conservation, cultural preservation. Japanese Constitution as we have seen that duty to work, to value marriage. And with regard to minors' education, so this is all categorically included along with public welfare as it has been there in Chapter III of the Japanese Constitution.

So, one may conclude that countries like India and Sri Lanka they are more aligned with the moral obligation using the non-justiciable characteristics of duties which is all about fostering the idea of social cohesion along with the very notion of building the nation's identity and nation's unity. Whereas when you look at the socialist constitution like Soviet Union or China obviously now the reference has to be the Russian Constitution. it emphasizes on enforceable duties tied to the state loyalty, collective welfare and ideological adherence. But we have been very particular about referring only to Soviet Union and we are not referring to the Russian Constitution for our discussion. In democracies like the Japan responsibilities are largely implied or codified in a statutory law whereby looking at those particular duties where there is a focus on individual liberty as we have seen.

These are the references of today's session.

Thank you.