

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

**Dr. Uday Shankar**

**Rajiv Gandhi School of Intellectual Property Law**

**Indian Institute of Technology Kharagpur**

**Lecture 33: Engaging Indian Knowledge System with Fundamental Duties I**

Greetings to all of you. We are now in Module 7, where we are discussing the relationship between fundamental duties and the Indian Knowledge System. As we have been discussing the sources of duties, we are trying to understand the relevance of duties, which have finally been incorporated under the Indian Constitution. In that process, we shall also discuss how these fundamental duties, which are enshrined under the Indian Constitution, align with the Indian Knowledge System, which encompasses all of the systematized disciplines of knowledge. These disciplines were developed to a high degree of sophistication in India from ancient times, along with all the traditions and practices that various communities of India, including tribal communities, have evolved, refined, and preserved over generations. So, that's how we'll try to look at the relationship between the Indian Knowledge System and the fundamental duties. So, these are the concepts we shall cover today, where we will try to understand the idea of duty, how the fundamental duties are incorporated under the Indian Constitution, how this concept of duties has been considered under the Indian Knowledge System, and how we should look at these duties in the context of a modern Constitution.

As we have been trying to analyze the relevance and the very purpose of incorporating fundamental duties, we have learned that duties also have cross-cultural philosophical foundations, which is one of the explanations given in relation to Article 29, Clause 1 of the UDHR, where it has been contextualized that duties are not to be read with a specific religion or culture, but duties are also generally seen as having universal value. Now, in order to strengthen this argument of cross-cultural philosophical foundations or in order to legitimize the constitutional entrenchment of duties we shall try to understand how duties are ingrained in our own ancient system and whether such values, which got entrenched in the ancient system, can guide the realization of fundamental duties incorporated under the Indian

Constitution. As we have studied, one of the reasons for not prescribing duties in the 1950 Constitution was based on the very premise that the societal values in this country are based on duty, which is a kind of religious learning in this country. And therefore, every individual respects duties, understands the significance of duties, and recognizes that the fulfillment of a duty is closely related to the claim over a right. That is the sort of argument that was given for not incorporating it in 1950. Now, when we read this as a sort of internal or internal institutional arrangement in reference to the 1950 Constitution or in reference to the Constitution we have now. Let us try to look at whether some kind of connection can be drawn between the duties inscribed under the Indian constitution and the texts which were there governing individuals, governing the state, and governing society in ancient times. So, that is the reason why we generally start with this kind of premise: the idea of duty cannot be defined in a very objective manner primarily because duty symbolizes or signifies varied meanings.

It could be connected with religious affairs, it could be connected with moral obligation, or it could be connected with social obligation. Therefore, it is generally said that duty is the binding or obligatory force that could be moral in nature or legal in nature. When you say moral in nature, it is all about how certain values are perceived in a societal setup where those values determine the conduct of an individual as wrong or right, where the conduct attracts blame or praise. If it is all about attracting blame, then it is considered wrong and morally unacceptable. When it has something to do with praise, then it can be said that it is good and the conduct has approval based on societal values. Thus, generally, duty is seen from this perspective. So, it is said that duty forms the foundation for legal relationships and obligations.

Which, in a way, determines what one is required to do or what one is to refrain from doing in a given context. No doubt, duty changes based on a given context, so what is required may differ in legal settings, cultural settings, interpersonal relationships, or even the ethical considerations followed in a particular society. Now, duty, if you look at it, is closely connected with these three different values, three different aspects of understanding the obligation part of it. For example, duty connects with a legal or very obligatory element. It is connected with moral element. It is connected with social element. Now when you look at legal, moral or social element generally we try to draw a relationship where it is legal in a sense that there is a claimable interest and there is an instrument available for enforcing the duty. When you look at the social duty which also takes a sort of characteristics of legal duty in terms of attracting penalty or harm by not following certain set of duties which has got an acceptance by the

society. Obviously, penalty could be of a different nature in contradistinction with the penalty available in cases of legal duty. And in moral duty it is more of the norms which are being accepted in a society in terms of conscience of an individual and it is more related to individualistic approach. Now, duty under the Indian Constitution as we have been studying that it got incorporated through the Constitutional Amendment Act as part of Article 51A where some 10 duties were added and one was added later on. So, going by the plain language of Article 51A, these duties are non-justiciable. It is connected with the moral obligations because one cannot go to the court of law for enforcing the duty. Therefore, it is a kind of conscience based on which the individual takes a call that whether it is a right decision or a wrong decision. And that's why it has been said that these duties range from respecting ideals, institutions, Constitution to value and preserve rich culture.

And that's what you find a kind of similar connect between the duties enshrined in the Constitution with the ancient text, which appears to be inferred or it has been valued or it has been kind of considered while also designing the fundamental duties through 42nd Constitutional Amendment Act. So, duty under the Indian tradition which is generally based on this very premise that under the Indian tradition we value duties more than rights where there is a kind of believe that if everyone follows duties then rights can be honored. That is what was also a strong belief of Gandhiji where he said that if everyone follows duties then rights can be respected and rights can very well be followed. That is how we distinguish the Indian practice or Indian tradition and civilization from the rest of the world.

And that's why one argues that the Indian tradition, where we give significance to Dharma, refers to the state of moral and ethical duties that each individual must follow. The very idea of one's existence is determined by the element of duty. That's what we find when we analyze the ancient texts; it conveys this idea. Now, let us look at some of the ancient texts where there is a reference to duty. Though we are trying to build a case, we are trying to establish a connection so that while talking about the institutionalization of fundamental duties, it need not be argued that fundamental duties are of recent origin and that they solely or exclusively connect with the Indian Constitution, which came into existence in 1950 and was further amended through the 42nd Constitutional Amendment Act in the year 1976. With this, we are trying to build an argument that even our ancient literature reminds us of the great value given to duties, where all of us have been, in a way, made to learn the very significance and to follow duties with great sincerity and earnestness, like the philosophies of the Bhagavad Gita, where we try to

understand the philosophy under three major categories: what is Karma yoga, Bhakti yoga, Gyan yoga. What we find is that the idea of Karma in the Bhagavad Gita is similar to Kartavya, which one can translate as duty. And the idea of Dharma, which encompasses both duty and Karma, because Dharma is generally not considered purely of a religious nature. It is also connected with something of moral characteristics and traits. So, the ancient Indian texts referred to Dharma in the sense of duty, where you would find that in the Rig Veda, the phrase Dharma has been used as many as 59 times. In the Upanishads, you find that explicitly there is a provision which prescribes the duty of the members of society, that they have an obligation which must be discharged by performing the prescribed acts. It is the society that sustains by the performance of the duties allotted to each individual.

So, that is how, if you look at it, the connection has been drawn between the duty of a citizen and the very strengthening element required for building a society. And that is how a kind of connection has been drawn between citizen society in this ancient context. When you look at the Bhagavad Gita, you find some of the important preachings done by Lord Krishna, where, for example, Lord Krishna writes or says on karma as: न हि कश्चित्क्षणमपि जातु तिष्ठत्यकर्मकृत् | कार्यते ह्यवशः कर्म सर्वः प्रकृतिजैर्गुणैः || which reads as there is no one who can remain without action even for a moment and all beings are compelled to act by their qualities born of material nature. So, Lord Krishna, on the relevance of duty, says that we must keep engaged all the time in performing our duty. That's how he values or preaches the significance of duties.

He states that each one of us is performing one or the other karma for a purpose, which is not just to do karma for the sake of doing karma. Rather, he performs it for the purpose of establishing a precedent that the rest of the folks would follow. So, duty is not only individual-centric; duty has a larger message to communicate or convey to society, where if one follows a duty, then in turn, it is the responsibility of society to respond by establishing a good order. It says like: “यद्यदाचरति श्रेष्ठस्तत्तदेवेतरो जनः यत्प्रमाणं कुरुते लोकस्तदनुवर्तते” Now, when you look at other texts, for example, Manusmriti talks about again Panchrin or five debts, which every individual is born with. So, it is Dev Rin, Risi Rin, Pitr Rin, Manushya Rin, and Bhoot Rin. When you analyze this in the context or try to draw a kind of relationship with duty, you find that Dev Rin all about the bounties of the Almighty, and it signifies the blessings that we receive from the Almighty, such as life itself, natural laws, and spiritual guidance that sustain our existence. Risi Rin is all about the debt of the knowledge system from Rishis and Munis. The teachings of the Rishis through sacred texts and practices are invaluable gifts that shape our

moral fabric and the intellectual fabric of society. Pitṛ Rin is something which we inherit as a sort of privileges from the family, community or society which include the material and spiritual legacy handed down through generations which has kind of social values, customs and traditions. Manushya Rin relates to the bounties of humanity that as an individual we enjoy as human. It compasses the benefits of being part of human society such as social connections, support system and opportunities for growth and development. Bhoot Rin relates to the bounties of mother nature. This date emphasizes the importance of protecting and preserving nature, ensuring its balance and sustainability for future generations.

Now, when you look at, analyze the relevance of duty as it has been prescribed in Manusmṛiti, you find that the idea of human life as per this five or Panchrin suggests that human existence is interconnected with various forms of blessings and obligations where human must acknowledge that these debts and fulfil their duties towards divine knowledge, family, humanity and nature. This text suggests us to live in harmony. If you can recall that is what also somewhere Article 12 of Japanese Constitution refers to as public welfare with these forces giving back to them while also advancing one's own growth as well as welfare of others, welfare of fellow beings. Vyas on Duty, where Puranas and the commentaries by Vyasa also states that the welfare of others is virtuous and righteous. Punya and teasing others is sin and which is a kind of moral wrong. The highest aim of human life is to act with a sense of duty, working for the well-being of everyone. That's what when we read Mahabharata, it also states that "we should nurture and raise a generation that would sacrifice one for the sake of the family, give up the family for the sake of a town; sacrifice a town for the benefit of the nation; leave the earth for the benefit of the soul." So that's what is the value of duty where sacrifices are being truly acknowledged not only for the society but for the nation and ultimately for ultimate nirvana. We also find that in a very erudite writing and great scholarship presented by Dr. Radhakrishnan. He has also highlighted the duty in the form of opportunities offered to man to sink his separate self and grow in to the world. Where it is not about an individual but it is all about individual as a part of the social cohesion and through that it is all about part of contributing towards the community. He says that the duty makes the individual to live life in a community.

And that is why according to our own tradition the concept of duty emphasizes that human existence cannot thrive in isolation It is inherently tied to the being part of a community and that is how when you look at the relevance of duties along with the rights it is only about the

claim against the state may not be sufficient for establishing a just order in the society everyone must also fulfill his or her duty in order to establish that just an equal society. That's how you try to connect between the modern text and the ancient text where it has largely been argued that the political system or the legal system in modern India is based on the framework of western idea or western thinking but then one would not entirely agree with this that our own ancient text has not influenced the very formation of foundation of the Constitution or constitutional values. Though it was a matter of fact that duty was not included in the 1950 Constitution or the original Constitution but possibly it was not included for the very purpose that it was believed that everyone considering the ancient Indian culture, everyone is conscious about the duty and that is very much part of individual's life on day-to-day basis in India based on such kind of learnings what we have from those texts. Though not prescribing duty in the Constitution also attracted criticism. For example, scholar PV Kane has criticized this approach by saying that the shifting from 'duty paradigm' to 'right's paradigm' does not fit in the overall cultural pattern of Indian traditions. So, and that is what we have read in the last session that how some of the constitutions prescribed for fundamental duties. For example, Soviet Union of 1936 Constitution or 1977 Constitution or the Chinese Constitution talks about the duty where you find that reference of duty in Constitutions of generally the western country is not there.

Now, one can say that later on there was a realization that a document which is governing the society, governing the government, governing the individual must also categorically stipulate duties for citizen. That is how Swarna Singh Committee report has suggested the inclusion of fundamental duties which got incorporated as Part IVA through 42nd Constitutional Amendment in the year 1976 and another change was done through 86th Constitutional Amendment where a new duty was attached with regard to education of children. Now when you read this you find that the reading of the ancient text gives us this impression that duty is so valuable that it does not only becomes a very significant element for an individual to follow a righteous path, but it also becomes very significant for social cohesion for a just order and also for nation building and that is how you can very well find that there is a sort of integral and integrated relationship between rights and duties. That's how we have also seen the judiciary interpreting the interrelationship between the rights and duties with this kind of value that both rights and duties are equally important for society building, for equally important for nation building.

That is how we say that the inclusion of fundamental duties signifies that the citizens are conscious of not only rights, but they are also aware of their duties and their liabilities. So, ancient text which focuses on duties. One can say that are to be read as moral code of conduct which are inversely active and that moral code of conduct is independent of the ruler or the king. It is irrelevant that whether that is a manifestation coming from the king or it is independent. It somewhere is an acknowledgement of the fact that the relevance of society is writ large in the text and which in a way reflects that everyone regardless of what is a dicta coming from the ruler or the king, everyone is having a duty to follow, to respect others and do the needful for strengthening the social fabric. And that is why one can argue or one can very well say that overarching nature of duties in the ancient text is a sort of manifestation of the fact that code of laws is not created by supreme power, but being the supreme power itself, because it is the duties which stresses on this very fact is the duties which highlights or which forcefully brings this point that everyone is under an obligation to honour the state, society and to not to cause any harm to fellow citizens fellow beings. If you look at it you would find that that the duty is somewhere is closely connected with being supreme power itself and it is something which is not created by supreme power that is what is kind of inherent value with the duties a kind of lessons, we can learn by going through the ancient text or by perusing ancient text.

So, one may conclude that the fundamental duties are closely connected with our glorious past, and they have now become a kind of formal structure through the 42nd Constitutional Amendment Act. It is there for guaranteeing the larger well-being of the community, and the very concept of fundamental duties you find runs through the different provisions of the Constitution.

These are the references for this session.

Thank you.