

Duties within Constitutions

(Special Focus on Fundamental Duties Under Indian Constitution)

*Deepa Kansra

I. Introduction

Duties constitute an integral part of the constitutional scheme of values. The nature and influence of duties is of great interest to practitioners and scholars. The literature on the subject is primarily concerned with the exactness of duties as operational values within constitutions.¹ In general, Bauer and Bolsinger attribute three functions to constitutional values. Namely, *they regulate by directing human action at the desired target, enabling legitimation and justification of actions, and simplifying decision-making.*² While debating whether duties have a functional quality, several questions gain prime importance. To name a few- do constitutional duties enable positive action? Is there a universal binding framework on duties?³ How are duties related to other constitutional values within constitutions? Are duties within constitutions interpreted in light of international standards? Are there be unenumerated or un-written duties?, etc.

Few scholars have interpreted *duties within constitutions* in light of another set of constitutional values, namely *rights*. In the words of Krasnov, constitutional duties are a *group of restrictions on the absoluteness of the rights and liberties.*⁴ To Vieriu, the universality of rights also implies the universality of duties, and the two are connected by an indissoluble bond.⁵ According to Ferrari, a *duty is any bond or limitation on will, imposed by a legal source legitimized to introduce it and having the same force than the source itself.*⁶

* Assistant Professor of Law, Human Rights Studies Programme, School of International Studies, Jawaharlal Nehru University, India.

1 Christian Alexander Bauer, Harald J Bolsinger, Constitutional Values: An Exploratory Study of the Constitutions of Bavaria and India, 1 Tattva-Journal of Philosophy, 26 (2017). Available at | <https://doi.org/10.12726/tjp.17.2>

2 Ibid.

3 In many scholarly works, the terms duty and responsibility have been used interchangeably. And under specific international law instruments, the terms have been defined separately. Under Article 1 of the Declaration on Human Duties and Responsibilities (Valencia Declaration, 1998), duty is an ethical or moral obligation, and responsibility constitutes an obligation that is legally binding under existing international law.

4 Krasnov M.A., Some aspects of the problem of limiting constitutional rights (on the example of economic rights) // Vol. 1 (92) Comparative Constitutional Review 82-93(2013).

5 Eufemia Vieriu, The Constitutional Principles Applicable To The Fundamental Rights, Liberties And Duties Of Romanian Citizens, 8:120 Journal of Law and Administrative Sciences, 120 (2017).

6 Giuseppe Franco Ferrari, On Duties, Vol.1:6 Comparative Law Review (2015)

In another source, the inseparability of duties from rights is emphasized as follows;⁷

...rights and duties are the two sides of the same coin. For every right, there is a corresponding duty. Rights flow only from duties well performed. Duty is an inalienable part of right : What is duty for one is another person's right and respect human life and not to injure another person. If everyone performs his/her duty, everybody's rights would be automatically protected.

On the dependency of rights on duties, Haugli and others illustrate and discuss the dependence of children's rights on the duties of their parents. In the words of the authors, law endows parents the right to secure the rights and interests of children. When the parents fulfill their obligations, children are not particularly vulnerable, at least compared to other groups who are potential victims of dignity breaches but lack someone responsible for claiming their rights. Problems especially arise when parents do not fulfill their parental duties. In such cases, children are vulnerable, and even more vulnerable than other comparable groups, because of their legal bond to the parents, and their dependence on them, for instance, practically and economically.⁸

Further, of great interest is the discussion on un-written or unenumerated duties, occasionally also described as *a typology of values* that grow outside the constitutional text. In several jurisdictions, reform agendas have advocated for the inclusion of new duties to take account of these un-enumerated duties and reflect on the contemporary realities.⁹ The present chapter concerns the nature and function of *duties* within constitutions. It also covers a few academic positions on the interpretation of rights and duties under the global governance paradigm. The chapter includes a note on the importance of fundamental duties under the Constitution of India.

II. Few Perspectives

Few works inform and allow for a comprehensive understanding of duties in the rights-based globalized world order. First is *Human Duties and the Limits of Human Rights Discourse* by Eric R. Boot. In this book, Boot traces the shifts from the traditional duty-centric view of society and individuals to a right-centric view. Under the former, according to Boot, *moral problems were analyzed solely in terms*

7 Advisory Panel on Effectuation of Fundamental Duties of Citizens, , A Consultative Paper on the Effectuation of Duties of Citizens, National Commission to Review the Working of the Constitution (2001).

8 Trude Haugli, Anna Nylund, Randi Sigurdson, Lena R.L. Bendiksen (eds.), *Children's Constitutional Rights in the Nordic Countries*, at 33.

9 Candice Delmas, *The Civic Duty to Report Crime and Corruption*, Vol. 9 No.1 *The Ethics Forum* (2014). Available at <https://www.erudit.org/fr/revues/ateliers/2014-v9-n1-ateliers01328/1024294ar/>

of duty (and perhaps of virtue), to the exclusion of rights, now it has become nearly impossible to speak about normative matters in a way that does not include rights. Even when we do speak of duties, these are considered to be derivative of rights, which has now become the most fundamental moral category.¹⁰ Boot finds the identification of duties from a perspective of rights slightly problematic and advocates for a perspective on duties as the basis for understanding rights. This shift in perspective, according to Boot, will allow for the recognition of the full scope of human duties (instead of focusing solely on rights-corresponding duties) – thus enriching the moral landscape. Secondly, it will neatly clarify the content of those duties and allocate them to specific duty-bearers.¹¹ In the book, Boot covers the conflict in views between human rights scholars and those that support the making of universal declarations on duties.

The second important work is the paper *Duties by Giuseppe Franco Ferrari*.¹² The author makes a comparative analysis of the provisions of duties provided within different constitutions. According to Ferrari, an overview of contemporary constitutionalism allows a synthetic summary of provisions often very similar, though adopted in quite different contexts, varying from Latin American to Asian countries, from ancient democracies to legal systems in transition, from surviving communist States to Islamic ones. A fascinating contribution is made by Ferrari when he states that duties belong to the second season of constitutionalism, where the real aim of declarations and of written constitutions which include them, is the promotion and protection of rights.

Third is the paper by Patricia Morales, *The Valencia Declaration of Duties and Responsibilities*, the author highlights the shifts concerning the duty-bearers under international law. In light of the Valencia Declaration on Duties and Responsibilities (UNESCO), Morales speaks of the changes brought forth by the relationships of global interdependence. In light of the provisions of the Declaration, Morales explains that the bearers of duties are all the members of the global community, who have both collective and individual duties. Under the Declaration, the global community as a duty-bearer refers to States and non-State actors. It includes international, regional, and sub-regional intergovernmental organizations, non-governmental organisations, public and private sector (trans)national corporations, civil society, peoples, communities, and individuals taken as a collective. Other notable feature of the Declaration being duties towards

10 Eric R. Boot, *Human Duties and the Limits of Human Rights Discourse*, Springer International, 3 (2017).

11 Ibid at 4.

12 Supra note 7.

future generations and duties towards the planet, emanating from the increasingly drastic impact of human activities on the planet.¹³

Another notable work is the Indian Constitution-specific Consultation Paper on the *Effectuation of Fundamental Duties of Citizens*.¹⁴ In light of the constitutional amendment to the Indian Constitution which introduced a chapter of fundamental duties, the paper provides, the need for incorporating a chapter on duties was the *degradation of values, particularly values in public life*.

The inclusion of Fundamental Duties brought our Constitution in line with Article 29 (1) of the Universal Declaration of Human Rights and with provisions in several modern Constitutions of other countries.

*The rights and responsibilities of the citizens in a democracy are immense. And yet no systematic effort was made over the years to educate the citizens in democratic governance. The State and the society have failed to provide adequate means and mechanisms for citizens to identify, imbibe and practice the "Culture of the Constitution". This failure is mainly responsible for the low effectuation of Fundamental Duties.*¹⁵

The Consultation Paper includes six enablers for the effectuation of duties of citizens, namely elucidation and elaboration, awareness, inculcation, aspiration, implementation (performance), and enforcement. The Consultation Paper and the works mentioned above provide a backdrop to understanding the essence of duties through the prism of international and constitutional developments.

III. The Prism of International Developments

Considering the diversity of views on duties, the subject can be examined first and foremost through the prism of international instruments and developments. Take the example of the the United Nations General Assembly (UNGA) Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (1998). The Declaration provides that *everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance* (Article 7).¹⁶

13 Patricia Morales, *The Declaration of Duties and Responsibilities*, 82 (1998). Available at <https://doi.org/10.1017/9781780685113.006>

14 *Supra* note 8.

15 *Ibid* at 3.2.4.

16 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RightAndResponsibility.aspx>

Article 18 of the Declaration provides;

1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.
2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.
3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and

Other instruments to incorporate a set of duties within their provisions are the Valencia Declaration of Human Duties and Responsibilities (UNESCO), the African Charter on Human and People's Rights¹⁷, the Universal Declaration on Human Rights¹⁸, the Preambles to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.¹⁹ A cursory glance at some of these provisions brings to light the importance of duties as enablers for action (example Article 7, UNGA Declaration), duties as tools for protection, and duties as intertwined with other values including rights, etc.²⁰

According to Boot, the advent of *human duties declarations* in the past two decades should be considered as a blessing for they force human rights scholars and legal philosophers alike to confront the question of individual human duties and their content, scope, and status, as well as their relation with rights. They serve the purpose of elucidation

¹⁷ Article 27 provides that every individual shall have duties towards his family and society, the State and other legally recognized communities and the international community.

¹⁸ Article 29 of the UDHR provides that everyone has duties to the community in which alone the free and full development of his personality is possible.

¹⁹ The Preambles provide that realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the Covenant.

²⁰ Boot summarises the five points of critique regarding the danger of human duties declarations. These include the indeterminate nature of the duties listed in the human duties declarations, their unclear status (are they legal or moral duties?), the threat of paternalism, the support from repressive regimes, and the fear that the performance of human duties will become a precondition for the enjoyment of human rights. *Supra* note 11 at 19.

of positive duties which have remained underdetermined in human rights documents.²¹ On the Valencia Declaration, Morales writes;

*this declaration attempted, for the first time, to comprehensively reveal the role and importance of duties and responsibilities contained in our human rights systems and to identify their bearers..*²²

Another purpose of looking at the international developments is to understand the influence of international law on the interpretations of duties within constitutions. This influence can be traced through the development of new jurisprudence and processes for activism. In other words, duties within constitutions are under considerable influence of international developments. One may find suitable illustrations to support the above statements. The Constitution of Senegal, for instance, in the preamble, mentions the international documents including the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the Convention on Rights of the Child (CRC). Further, it speaks of the determination to strive for peace and fraternity with all the peoples of the world.²³

According to Sayegh, when duties are linked with international developments, they become associated with larger collective goals. A suitable illustration is the case of *Urgenda Foundation v. The Netherlands*²⁴ which reflects on the exercise of duties by individuals in light of the international framework on climate change governance.²⁵ In the case, the Hague Court of Appeal relied on climate science and the internationally agreed temperature goal of limiting global warming

21 Supra note 11 at 32.

22 Supra note 14.

23 Constitute, Senegal's Constitution of 2001 with Amendments through 2009. Available at (constituteproject.org)

24 See *Urgenda Foundation v. The Netherlands* (2015) HAZA C/09/00456689

25 The case concerns the claim of Urgenda, a Dutch citizens' environmental organisation with members from various domains in society, whose aim is to stimulate and accelerate the transition processes to a more sustainable society. The claimants asserted that the government of the Kingdom of the Netherlands has acted unlawfully towards Urgenda because of its failure to commit to an emission reduction target so that the cumulative volume of Dutch greenhouse gas emissions would have been reduced by at least 25 per cent, compared to the base year of 1990, by the end of 2020. With its ruling, the Hague Court of Appeal confirmed the decision of the Hague District Court of 24 June 2015. In essence, The Hague Court of Appeal upheld the ruling that the State is under a 'duty of care' to limit the joint volume of Dutch annual greenhouse gas emissions ('GHG emissions' or 'emissions') so that this volume will have reduced by at least 25 per cent by the end of 2020 compared to the level of the year 1990. See Petra Minnerop (2019) Integrating the 'duty of care' under the European Convention on Human Rights and the science and law of climate change: the decision of The Hague Court of Appeal in the Urgenda case, 37:2 *Journal of Energy and Natural Resources Law* (2019). Available at <https://doi.org/10.1080/02646811.2019.1584441>

to determine the concrete standard of the duty of care of the State.²⁶ According to Sayegh, the development of cases like the Urgenda Case is of paramount importance with the bottom-up judicial approach keeping the legal community encouraged to be engaged in the fight against climate change.²⁷ This approach is called polycentric governance, which concerns the distribution of moral duties. Under polycentric governance, the international top-down architecture that dominated the climate governance scene for decades has been replaced by a fragmented and decentralized regime. This regime is composed of a multitude of agents (states, cities, private companies, courts, churches, and individuals) at different levels of government (federal, regional, and municipal), using different tools (market tools, legal tools, corporate social responsibility, technological development, national incentives, and government interventions).²⁹

IV. The Prism of Constitutional Developments

Many constitutions incorporate a chapter or set of provisions on duties titled as constitutional duties or duties of citizens or fundamental duties. In the seminal work *Constitutional Preambles A Comparative Analysis*, Voermans, Stremmer, and Cliteur provide a comparative analysis of duties within constitutions. One notable interpretation from the authors comes in light of the application of rights and duties on the equitable basis (i.e. on the foundation of equality). The authors, in this regard, refer to the preamble of Papua New Guinea, which calls for equal participation by women citizens in all political, economic, social, and religious activities, and, second, recognition of the principles that a complete relationship in marriage rests on equality of rights and duties of the partners. And that responsible parenthood is based on that equality. Further, the preamble of Cameroon is cited, which states all persons shall have equal rights and obligations. The preamble of Lebanon includes equality in rights and duties among all citizens, without distinction or preference. The preamble of Poland provides for equality in rights and obligations towards the common good. Further, the Egyptian constitution aims to promote equality between us in rights and duties with no discrimination.³⁰

²⁶ Petra Minnerop (2019) Integrating the 'duty of care' under the European Convention on Human Rights and the science and law of climate change: the decision of The Hague Court of Appeal in the Urgenda case, 37:2 Journal of Energy and Natural Resources Law, 153 (2019).

²⁷ Alexandre Gajevic Sayegh, Moral duties, compliance and polycentric climate governance, International Environmental Agreements: Politics, Law and Economics, 2020. Available at <https://link.springer.com/article/10.1007/s10784-020-09494-4>

²⁸ See Nadine Jenny Shirin Schröder, The lens of polycentricity: Identifying polycentric governance systems illustrated through examples from the field of water governance, Environmental Policy and Governance (2018). Available at <https://doi.org/10.1002/eet.1812>

²⁹ Supra note 28..

³⁰ Wim Voermans, Maarten Stremmer, Paul Cliteur, *Constitutional Preambles A Comparative Analysis*, Edward Elgar Publishing, 48 (2017).

Duties within constitutions have also been seen as the *raw energy* for action and mobilization. The Constitution of Tanzania, for instance, provides for duties to the society, including the duty to participate in work and to abide by laws of the land, etc.³¹ The Constitution of Ghana provides for duties of a citizen, including the duty to declare his income honestly to appropriate and lawful agencies and to satisfy all tax obligations.³² The Constitution of Bhutan under 8 (5) provides that a person shall not tolerate or participate in acts of injury, torture, or killing of another person, terrorism, abuse of women, children, or any other person and shall take necessary steps to prevent that act. Under 8 (6), it provides the responsibility to provide help to victims of accidents and in times of natural calamity to the greatest extent possible. Under 8 (9) it provides that every person shall have the duty to uphold justice and to act against corruption.³³ Under the constitution of Uganda, it is the duty of every citizen to engage in gainful work for the good of that citizen, the family and the common good and to contribute to national development; to promote responsible parenthood; to foster national unity and live in harmony with others, etc.³⁴

The influence of duties can be traced through the increase in the number of claims being made in the exercise of one's duty/duties within constitutions. These claims signal that duties are guiding tools for action and empowerment. In addition, legislative and policy interventions have also been informed by the language of duties within constitutions. On notable example is of the Uganda National Parenting Guidelines (2018) adopted by the Ministry of Gender, Labour and Social Development of Uganda.³⁵ The Ministry of Uganda in the backdrop to the National Guidelines states;

Over the last three decades, the extended family and community systems have broken down as a result of several factors such as HIV and AIDS epidemic, civil strife, conflicts, prevalent poverty and the negative effects of globalization. This has resulted into

31 Citizen's duty to obey the laws of the country arises from (at least in the ideal case) three basic duties: gratitude, fidelity and beneficence. We should be grateful for the benefits we have received from the state; we have made an implicit promise to obey by retaining permanent residence in a country whose laws we know we are expected to obey; beneficence also requires us to obey the laws because they are 'a potent instrument for the general good. See David McNaughton, *An Unconnected Heap of Duties?*, *The Philosophical Quarterly* (1950-), Oct., 1996, Vol. 46, No. 185 (Oct., 1996), pp. 433-447, at 436

32 See Constitution of Republic of Ghana. <https://constitution.com/constitution-of-the-republic-of-ghana/>

33 See Constitution of Bhutan. <https://www.gov.bt/constitution-of-bhutan/>

34 See Constitution of Uganda. <https://ulii.org/akn/ug/act/statute/1995/constitution/eng%402018-01-05>

35 Ministry of Gender, Labour and Social Development of Uganda adopted the Uganda National Parenting Guidelines (2018). Available at <https://bettercarenetwork.org/sites/default/files/2021-01/Uganda-National-Parenting-Guidelines.pdf>

increased child abuse and neglect by parents, moral decadence, drug and alcohol abuse as well as increased abusive behavior among children. Uganda has not had National Guidelines to equip parents, guardians, care givers and communities with principles, skills and information necessary for upbringing of a child. In addition, there is no framework on how to raise children into responsible citizens for the Country. The three most common parenting issues: provision of physical care and welfare; moral training; and provision of life and livelihood skills have not been systematically tackled to have a balanced Uganda child. All these factors compound the problem of parenting in Uganda that needs urgent intervention.

The Ministry further states that the National Guidelines are in compliance with international and regional instruments including the African Charter on the Rights and Welfare of the Child, the United Nations Sustainable Development Goals, the United Nations Convention on the Rights of the Child, the Convention on Economic, Social and Cultural Rights and the Convention on the Elimination of all forms of discrimination against Women (CEDAW). The Guidelines also provide a set of principles concerning *parenting* as a cardinal responsibility of parents, the principle of shared responsibility of mother, father and community in parenting, etc. The Guidelines can be marked as a unique policy intervention adopted in order to give effect to duties under the concerned Constitution and international law.

The intersection of the international and constitutional interpretations on the subject of duties, stands as a prominent feature of duties within constitutions. Through the two prisms, one may explore several questions concerning duties, their limits, their duty-bearers, and measures for enforcement etc. As discussed previously, akin to the international instruments, constitutional frameworks have also been a dynamic in the determination of the above-mentioned questions.

V. The Indian Constitution

Under the Indian Constitution, Article 51-A (Part IVA) provides the following duties of citizens;

- a. to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- b. to cherish and follow the noble ideals which inspired our national struggle for freedom;
- c. to uphold and protect the sovereignty, unity and integrity of India;
- d. to defend the country and render national service when called upon to do so;

- e. 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;
- f. to value and preserve the rich heritage of our composite culture;
- g. to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- h. to develop the scientific temper, humanism and the spirit of inquiry and reform;
- i. to safeguard public property and to abjure violence;
- j. 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;
- k. 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.

Two sources provide a comprehensive understanding of duties under the Indian Constitution. One source is the interpretations of the Indian courts, and the other is legislative interventions by the Parliament. Take the example of the environmental jurisprudence of the Indian courts. The courts have interpreted rights and duties as the two sides of the same coin.

In the Indian context, duties under Article 51 (A) apply to citizens, State, community, and other entities. In *K.M. Chinnappa, T.N. Godavarman v. Union Of India*³⁶, the Court opined that in light of the different provisions of the Indian Constitution (Articles 47, 51-A, 21), it is the duty of the State and the citizens to maintain a hygienic environment. In the words of the Court, *the State, in particular, has a duty on that behalf and to shed its extravagant unbridled sovereign power and forge in its policy to maintain ecological balance and a hygienic environment. In Jitendra Singh v. Ministry of Environment*,³⁷ the Court did a combined reading of Article 48A and Article 51 A (g). Article 48 A casts a duty on the State to protect and improve the environment and safeguard the country's forests and wildlife. Under Article 51A(g), the citizens are expected to perform their fundamental duty to protect and improve the natural environment. In the words of the Court, *a perusal of our Constitutional scheme and judicial development of environmental law further shows that all persons have a right to a healthy environment.*

36 Writ Petition (civil) 202 of 1995; Decided in 2002

37 Civil Appeal No. 5109 of 2019.

It would be gainsaid that the State is nothing but a collective embodiment of citizens, and hence collective duties of citizens can constructively be imposed on the State. The Consultative Paper classifies duties as positive and negative, requiring the citizens to perform their duties actively.

In *Periyambadi Narasimha Gopalan v. Secretary to Government*³⁸, on protection and preservation of cultural heritage, the Court makes the State and citizens duty-bound under the Constitution. The Court also refers to the international guidelines adopted by the United Nations Educational, Social and Cultural Organization (UNESCO). In the words of the Court;

It is the duty of the state to protect the monuments including Idols and antiques of historical value. That is why Article 49 was incorporated in the Directive Principles of State Policy (Part IV of the Constitution), which for the sake of reference, is extracted below: "49. Protection of monuments and places and objects of national importance. - It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be."

According to Article 51A(f), it shall be duty of every citizen of India to value and preserve the rich heritage of our composite culture. The Constitution thus, not only brings an obligation on the state, but also a duty on every citizen of this country to value and preserve the rich heritage of the culture of this country, which goes without saying that it includes temples, arts, sculptures and scriptures. However, it is the sorry state of affairs that the Government has miserably failed in its duty not only to protect the places of national importance, but also the properties of temples, such as idols, lands etc. Therefore, the Directive Principles of State Policy must be directed towards protection of the ancient monuments and Idols and thwart all attempts to damage and/or smuggle them.

...The State Government shall take steps to upgrade the courses offered in Government College of Architecture and Sculpture, Mamallapuram and also offer post graduate courses on par with other colleges so as to excel in the profession, strengthen the in-house skill and management of the temples with the help of the qualified persons as pointed out by the UNESCO.

The persuasive value of fundamental duties under the Indian Constitution has long been emphasized. In *M.R. Ajayan v. State of Kerala*³⁹, the Court stated that fundamental duties though not enforceable by the writ of the Court yet provide valuable guidance and aid to interpretation and resolution of constitutional and legal issues. Further, the Consultative Paper on the Effectuation of Duties of Citizens provides that the courts in India must incorporate fundamental duties in the judicial decisions. Being provisions of the Constitution, the courts are to give due regard to the Fundamental Duties in interpreting the text of the Constitution. They will also be justified in molding relief in individual cases regarding the person's antecedents seeking relief, mainly judged by the yardstick of Fundamental Duties. Further, the Fundamental Rights in Part III, the Directive Principles of State Policy in Part IV, and the Fundamental Duties in Part IVA form a compendium and have to be read together.⁴⁰

Under the animal rights jurisprudence, the courts have interpreted Article 51 A (g) as the *Magna Carta* of animal rights in India. In the case of *Animal Welfare Board of India v. A. Nagaraja*⁴¹, while interpreting the provisions of the Prevention of Cruelty to Animals Act, stated as follows;

When we look at the rights of animals from the national and international perspective, what emerges is that every species has an inherent right to live and shall be protected by law, subject to the exception provided out of necessity. An animal also has honor and dignity which cannot be arbitrarily deprived of, and its rights and privacy have to be respected and protected from unlawful attacks.⁶⁶ The animal rights guaranteed to S.3, S.11, etc., are only statutory rights. The same has to be elevated to fundamental rights, as has been done by a few countries worldwide, to secure their honor and dignity. Rights and freedoms guaranteed to the animals under S.3 and S.11 have to be read along with **Art.51A (g)(h)** of the Constitution, which is the *Magna Carta* of animal rights.

*The binding nature of duties towards others can be emphasized while linking them to the framework of fundamental rights provided under the Constitution. In Re: The Proper Treatment of COVID-19 Patients and Dignified Handling of Dead Bodies in the Hospitals, etc.*⁴² the Court made Article 21 (right to life and personal liberty) the basis of duties of the State and the citizens. It further emphasized the importance of fundamental duties to realize fundamental rights within Part III of the

39 *M.R.Ajayan v. State Of Kerala*; WP(C).No. 28255 of 2011

40 *Supra* note 8.

41 Civil Appeal No. 5387 of 2014 @ Special Leave Petition (Civil) No.11686 of 2007

42 *Suo Motu Writ Petition (Civil) No. 7 of 2020.*

Indian Constitution. According to the Court, the State has to make provisions for affordable treatment, and every citizen must perform their fundamental duties as guaranteed under the Constitution of India. By not following the Guidelines/SOPs issued by the State from time to time, such as not wearing masks, not keeping social distances, participating in the gatherings and the celebrations without maintaining social distances, they are ultimately not damaging themselves and causing damage to the others. They cannot be permitted to play with the lives of others, and they cannot be allowed to infringe the rights of other citizens, like the right to health guaranteed under Article 21 of the Constitution of India.

In another context, Shubhankar Dam emphasizes the importance of strikes not simply as a right under Part III but also as a method associated with the noble ideals that inspired the national struggle for freedom. In the words of Dam, under the scheme of constitutional duties, strike as an ingredient of the larger Satyagraha philosophy was an integral part of the ideals that inspired our national struggle for freedom. Therefore, when Article 51(1)(b) encourages Indian citizens to cherish and follow the noble ideals that inspired our national struggle for freedom, it includes a fundamental duty to strike. And, strikes may be said to have been "inspired by our national ideals" only if it satisfies the conditions of "just demand", "non-violence," and "willingness to submit the dispute for arbitration". In other words, a strike that turns violent or a strike wherein participants refuse to submit to arbitration cannot be in pursuance of the fundamental duty under Article 51A(b). Further, irrespective of a fundamental right to strike under Part III, a fundamental duty in Part IVA undeniably exists under the Indian Constitution. Workers have a constitutionally mandated duty to strike. And they must, provided conditions are satisfied. If workers fail, they shall be failing in their constitutional duty to cherish and follow the noble ideals which inspired our national struggle for freedom.⁴³

Further, Indian courts have protected actions or activities undertaken by citizens to exercise their fundamental duties. In the case of *R. Nagendran v. Chairman of Tamil Nadu Bar Council*⁴⁴, the court concluded on the lawfulness of the actions of citizens under Article 51-A for impressing upon the State the need to follow the Directive Principles of State Policy enshrined in Article 47 of the Constitution.

The interpretations mentioned above have allowed the Indian courts to give meaning to terms like duty bearers and collective responsibility of

⁴³ Shubhankar Dam, *Strikes Through The Prism Of Duties: Is There A Duty To Strike Under The Indian Constitution?*, 1 Asia-Pacific Journal on Human Rights and the Law 82 (2004).

⁴⁴ W.P.No.20130 of 2015, dated 11.08.2015

the state, citizens, and the community. In particular, the developments under Article 51 A reflect the emerged duty consciousness in the legal and social spaces.

VI. Final Points

The concept of complementarity, i.e., the duties of the citizens are complimented with the duties of the State and others, is one notable feature of the Indian jurisprudence. Another feature is the interpretation of duties as value orientations of a dynamic nature. This understanding leaves scope for recognizing new duties through legislative interventions and judicial interpretations. The Indian jurisprudence on the subject does incorporate a comprehensive approach while discussing the rights and duties under the Indian Constitution. The dependency of rights on duties, as has been emphasized in several of the Indian cases, has enhanced the status of fundamental duties as persuasive and influential constitutional values.

The scholarly works on duties have also made it necessary to evaluate the scheme of duties in terms of whether they speak of contemporary times. In the Indian context, aspects in need of greater analysis are the scope of duties of citizens towards the international community, and the kind of measures needed for the enforcement, endorsement, and advancement of fundamental duties as both constitutional and international values. In the context of these two areas, one may agree with the findings of Boot when he says that the scope of duties, in comparison to rights, has largely remained underdetermined.