

Responding COVID-19 in India: From Article 15 to Article 51A

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The Constitution of India guarantees the right to equality to every citizen through Articles 14 to 18. While Article 14 embodies the idea of equality as expressed in the preamble of the Constitution, its succeeding articles 15 to 18 magnify specific application of the general rules laid down in the Article 14 which states that the state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. All these articles concerning the right to equality, as a part of the fundamental rights, have raised the old issue once again about the fundamental duties mentioned under Article 51A. The Article 15 and Coronavirus (COVID 19), both do not discriminate anyone on the basis of religion, caste or domicile or linguistic group whereas the people's choices are varying in application of Article 51 A amid COVID 19. The eleven fundamental duties, enshrined in Article 51A, are expected to be performed by a citizen to uphold and to protect the sovereignty, unity, and integrity of India; to promote harmony and the spirit of common brotherhood; to defend the country and render national service when called upon to do so. In the wake of the COVID-19 pandemic, the issue of fundamental duties of the citizen has come to the forefront.

At the time of framing the Constitution, the fundamental duties were not included as a part of the constitution probably because of none of the modern western societies provided for such duties and obligations for the citizens. These were added during emergency days as additional chapter. In countries like Australia, United Kingdom or Canada, the right and duties of citizens are normally covered by the common laws and/or through an interpretation of judicial pronouncements. However, Japan's Constitution has mentioned certain rights and duties of the citizens, which one is bound to follow, eventually making Japan as one of the most disciplined countries. Most of the Socialist countries also put emphasis on citizens' duties. The constitution of Yugoslavia pronounces that the right to freedom shall be achieved in solidarity among the people by observing the duties towards each other first. The Russian Constitution also laid emphasis on the practice of honor and dignity of the citizens. The fundamental duties of a citizen have not created any interest in earlier governments and executives. However, there are a few judgments by higher courts that have not made much of an impact on the general populace of the country.

Amid Coronavirus pandemic and the current lockdown, we have noticed many such incidences of disorderliness, misbehavior, unruly hooliganism, rumor-mongering, attack on health care workers, indecent behavior during treatment, misbehaving with police and public servants on duty. People have made deliberate attempts to break general rules laid down under lockdown. This is a matter of general knowledge that Covid-19 also goes with viral speed stretch through

saliva or mucus and all our social distancing efforts are futile if people are spitting these disease-carrying fluids in public places. Such incidences put our head down with national shame. This brings back the issue of fundamental duties for active consideration. During the lockdown, the Government of India has issued certain guidelines that every citizen of the society is expected to follow. Social distancing is one of the many preventive measures which require the voluntary application of such rules. Knowing the nature of the virus, that it spreads quickly with no physical symptoms for at least a week, people have to take precautions and be protected from it at any cost even when they are willing or not since they can put other people at risk. Anyone infected with the virus can spread it to the general public easily if no precautions are taken. If we take the 'R0' (a mathematical term that indicates the contagiousness of a virus, its basic reproductive number) to be 2.5 then one positive person can infect 406 people in 30 days.

Three distinct situations came in notice during lockdown phase to combat corona pandemic. The celebrity singers Kanika Kapoor's case explains willful avoidance and ill behaviour during screening and treatment. She is one such irresponsible example who may have affected a large number of high profile people. There are many others who have enjoyed breaking the protocol on the pretext of nonsensicality or with no valid reason except personal choices. While some may be suffering from narcissistic tendencies or with personality disorders, a large number of people simply do not understand or fail to accept the significance of preventive measures. The second unexpected situation which arose was when a large number of people started reverse migration from the cities to their villages. Many of them decided to walk down more than a thousand kilometers on foot on the pretext that it is better to die in their own community rather than to die in anonymity at their current place of work or living. These migrant laborers have jeopardized the mammoth efforts of the government to contain the spread of the virus. The poor migrant laborers can be exempted on the ground of ignorance, insecurity, and inability to gauge the situation. Now, the third case which came as a challenge for the government and put a dent on their efforts was when more than two thousand people, including a sizeable number of foreigners, were found living in one place in Delhi and some of them later were tested positive for COVID-19. Unfortunately, many of them went to different parts of the country for religious preaching and some of them have a strong conviction that the virus shall not affect them being believers of Allah. All these three cases, though different natures, dimension, and intentions, have raised a fundamental question about their responsibility as a citizen, their response towards fundamental duties and the damage caused to the society as a whole by their conduct. Should these fundamental duties be made obligatory for upholding a normal expected social behavior for the wellbeing of themselves and others?

The education without discipline and discipline without education generate redundant behavior. The society does have certain expectations from its citizens and expect them to adhere to basic norms of democratic conduct and civilized behavior. The honest observance of public duties, respect for the rules governing the current situation and safeguarding public-health are minimum expectations as fundamental duties are intended to serve as a constant reminder of their social

behavior affecting the individual, community, and society at large. Education and awareness are two major tools to create one's consciousness. If people do not show expected decent behavior, we have limited options to deal with such unruly behavior including considering the offenses under the Indian Penal Code. The punishment for such offenses is minimal, for example, spitting at a public place may cause health hazards for a larger community with the possibility of a loss of many precious innocent lives which is punishable with imprisonment of up to six months or fine, or both (S.269 IPC). Similarly, rumor-mongering attracts punishment with imprisonment which may extend up to three years or fine, or both (S.505 IPC). It is a right suitable time to think loudly to devise ways and means to translate these public obligations as concern for one and all, especially in the context of communicable diseases, health emergency or a pandemic.

(The views expressed are personal not any one of those organizations to whom I am associated with.)