

# **VASUDHAIVA KUTUMBAKAM: INDIAN CONCEPT OF UNITY IN DIVERSITY**

Author:

Vedant Tiwari & Esham Karanjikar

## **ABSTRACT**

*Vasudhaiva Kutumbakam is the phrase that finds its origin in the Maha Upanishad, essentially meaning “the world is family” has seen an evolution as an ideology to bring about the feeling of oneness among the people. In this paper, we aim at discussing the evolution of Vasudhaiva Kutumbakam from a mere shloka in the Upanishad to a characteristic of the Indian people. Vasudhaiva Kutumbakam is the foundation for India’s amicable foreign policy, this is reflected from the policies of our current leadership and in the basic principles of the Non-Alignment Movement. Vasudhaiva Kutumbakam not only finds a place in the constitutional framework of India through the Preamble but also serves as a limitation to the powers of the legislature and becomes a guiding light in the law-making process by ensuring that the fundamental promise of ‘fraternity’ is not compromised by the Parliament. We study events from the Constituent Assembly Debates to landmark Judicial decisions as we analyse how the roots of this ideal have been strengthened and found an application in law and other spheres of policymaking.*

Keywords: Fraternity, Foreign Relations, Unity in Diversity, Constitution.

## INTRODUCTION

“We are the people who have come from Aham Brahmasmi to Vasudhaiva Kutumbakam, we are the people who have come from the Upanishads to Upagraha” Narendra Modi, Prime Minister of India<sup>1</sup>.

The foreign policy of a country is the sum total of the values, desires and goals that it aims to achieve by its ties with other countries but India’s approach towards foreign relations is historically shaped by the idea of Vasudhaiva Kutumbakam. The foreign policy of India recognizes the concept of Unity in Diversity on the global platform. Historical records and documentation reflect that India as a nation has always tried to approach foreign relations with a balanced approach, without associating itself with a particular power centre. The Constitution of India seamlessly advocates the idea of fraternity and brotherhood. The intents of our Constitution makers are well preserved in the constituent assembly debates records, and while Dr Ambedkar’s words do echo the sentiments of a reality that a nation is only possible when the people recognise themselves as a nation, this feeling of unity and oneness was condensed in the word “fraternity” in the Preamble. In this paper we discuss, the application of India’s age-old ethos of *Vasudhaiva Kutumbakam* in India’s policies and a reflection of that in India’s growing International Relations. We, further study the bold ideology of fraternity from the pronouncements of the Supreme Court in various cases and create a nexus between how an ideology imbibed in the ancient culture of the people of India has seen a rather important place in the law, nearly as a guiding light to achieve the promise in the Preamble.

## ORIGIN OF THE IDEA OF *VASUDHAIVA KUTUMBAKAM*

*Vasudhaiva Kutumbakam* which signifies ‘the world is family’, a novel verse, appears in the Maha Upanishad (VI.71-73) and is beautifully engraved in the entrance hall of the Parliament of India.<sup>2</sup> Megasthenes was a Greek ethnographer and ambassador of Seleucus Nicator, who visited the court of Chandragupta Maurya in the period of 302 – 298 B.C. and wrote a book *Indica*.<sup>3</sup> Ptolemy, a Greek geographer visited India in the period of 130 A.D. and wrote

<sup>1</sup> Modi, N., 2016. PM Modi at the inauguration of 2016 World Culture Festival by Art of Living in New Delhi. [online] Youtube.com. Available at: <<https://www.youtube.com/watch?v=E0goS1osChg>> [Accessed 16 March 2021].

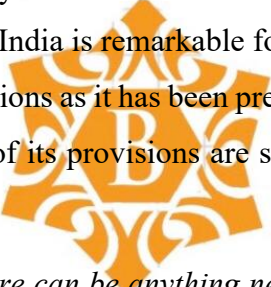
<sup>2</sup> Singh, B.P. & Lama, D. (2008). *Bahudhā and the Post 9/11 World*, Oxford University Press, ISBN 978-0195693553, 51.

<sup>3</sup> Kosmin, P.J., (2013). *Apologetic Ethnography: Megasthenes' Indica and the Seleucid Elephant*. In Eran Almagor, Joseph Skinner (ed.). *Ancient Ethnography: New Approaches*. Bloomsbury Publishing. ISBN 9781472537607.

'*Geography of India*' which described Ancient India. Hiuen Tsang, one of India's earliest and most celebrated explorers, came from China to India in 630 – 645 A.D., during the reign of Harshavardhana, in search of Buddhist values and traditions. He was described as the "prince of pilgrims" and his accounts contain a lot of data on India's political, social and religious establishment. His accounts represent what ancient India once used to be as he stayed in India for 14 long years. Marco Polo, a Venetian Traveller in his work '*The Book of Sir Marco Polo*' gave an invaluable account of the economic history of India when he visited Southern India in 1294 A.D.<sup>4</sup> during the rule of Pandyan of Madurai. India has been the one-stop destination of countless ambassadors and travellers and the concept of India's unity in diversity is reflected in every account, books and travelogues written by them, well documented and preserved

## CONSTITUTION OF INDIA

The best reflection of unity in diversity is seen when the Constituent Assembly started drafting the Constitution. The Constitution of India is remarkable for many outstanding features which will distinguish it from other constitutions as it has been prepared after exploring all the known constitutions of the world and most of its provisions are substantially borrowed from others. As Dr. Ambedkar observed –

  
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*“One likes to ask whether there can be anything new in a Constitution framed at this hour in the history of the world. More than hundred years have rolled when the first written Constitution was drafted. It has been followed by many other countries reducing their Constitutions to writing... Given these facts, all Constitutions in their main provisions must look similar. The only new things, if there be any, in Constitution framed so late in the day are the variations made to remove the faults and to accommodate it to the needs of the country.”<sup>5</sup>*

In fact, the very concept of *Vasudhaiva Kutumbakam* is enshrined in the word Fraternity inserted in the preamble, during the constituent assembly debates while deciding the Preamble of the Constitution, the word 'Fraternity' was proposed on 6<sup>th</sup> February 1946 by Dr. Ambedkar. In his letter dated 21<sup>st</sup> February 1948 to the Constituent Assembly, he included the 'Fraternity' in the Preamble, this was acknowledged by the President as not appearing before in the Objects and Resolutions, however, in Ambedkar's speech he stressed the importance and depth of the word as having to be read with liberty and equality, he elaborated further that it is this trinity

<sup>4</sup> Ramusio, G.B., (1559). *Delle navigationi et viaggi* Vol. II Giunti Venezia, 1574.

<sup>5</sup> Constituent Assembly Debates. VII 35-38.

of liberty, equality and fraternity that are the key ingredients to social democracy. He defined fraternity as “a common brotherhood of all Indians”, he gave it the meaning of Indians being one people by calling it a principle that brings about unity and solidarity in society. He recognised that the people of India are in fact diverse and unique comprising of several cultures, he idealised the fact that in order to become a “Nation” from “Indian people” would require the incorporation of the principles of fraternity, equality and liberty in the society<sup>6</sup>. For the necessary integration of the ideals of unity in the society, he took examples from the United States Constitution in the words of James Bryce and understood the need to see the harsh reality that the people were divided by their innate and social differences which is where the fundamentals of Vasudhaiva Kutumbakam can be said to have been given effect to by the inclusion of the word *fraternity* in the Preamble.

So, though our Constitutions may be said to be a ‘borrowed’ Constitution, the credit of its framers lies in gathering the best features of each of the existing Constitutions and in modifying them with a view to avoiding the faults that have been disclosed in their working and to adapting them to the existing conditions and needs of this country. So, if it is a ‘patchwork’, it is a ‘beautiful patchwork’.<sup>7</sup> The Indian Constitution is the result of a comprehensive study of multiple constitutions in the world. Many elements have been extracted for the Constitution of India, but its essence is fully Indian. Many countries and their Constitutions were an inspiration for the drafting committee. For instance, the legislative form of government was drawn from the ruling British governance. A few other features borrowed from the British Constitution included the rule of law and the principle of single citizenship.<sup>8</sup> A few elements that were taken from the United States of America were the Charter of Fundamental Rights, the federal government system, judicial review, and the Preamble of the Constitution.<sup>9</sup> The French Constitution has been the inspiration for the principles of democracy, freedom and fraternity.<sup>10</sup> Ireland, Canada, the Soviet Union, Australia, South Africa, Japan and the Weimar Constitution were a few other Constitutions from which India has adopted a few provisions so as to provide

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<sup>6</sup> Moon, V. (2014). *Dr Babasaheb Ambedkar: Writings and Speeches*. 13th ed. New Delhi: Dr Ambedkar Foundation.

<sup>7</sup> Constituent Assembly Debates, VII, 2, 242.

<sup>8</sup> Krithika, R. (21 January 2016). *Celebrate the supreme law*. The Hindu. <https://www.thehindu.com/features/kids/Celebrate-the-supreme-law/article14011992.ece> [Accessed 12 February 2021].

<sup>9</sup> Bahl, R. (27 November 2015). *How India Borrowed from the US Constitution to Draft its Own*. The Quint. <https://www.thequint.com/news/politics/how-india-borrowed-from-the-us-constitution-to-draft-its-own> [Accessed 12 February 2021].

<sup>10</sup> Dhavan, R. (26 November 2015). "Document for all ages: Why Constitution is our greatest achievement". Hindustan Times. <https://www.hindustantimes.com/india/the-constitution-of-india-66-yrs-of-change-and-progress/story-ngDCPtXWjXXO6LwDIUzBZL.html> [Accessed 12 February 2021].

a holistic approach to the constitution. This degree of inclusivity was warranted to make India at par with the other countries in the world. Taking inspiration from the constitutions around the world reflects the true nature and ideology of the drafting committee. Being liberal and open to the ideas of other nation and incorporating them into our Constitution was a remarkable approach by our Constitution makers in truly achieving the goal of Vasudhaiva Kutumbakam.

## INDIA'S FOREIGN POLICY POST INDEPENDENCE

It was after the independence that India got its opportunity to reframe the foreign policy of oneness and inclusivity. Jawaharlal Nehru, as the First Prime Minister of India, laid the framework for our foreign policy. The period between the independence of India and the demise of Nehru, in May 1964, has often been referred to as the 'Nehruvian Era' owing to the influence of Nehru on almost all aspects of the decisions taken during that time in India. Many streams of thought influenced Nehru. Some were inspired by his European association and some from his relationship with Europe. Imbued by his close connection with Gandhi, besides what he perceived in the nation on his tours across its regions. As a result, he enunciated a framework of democracy committed to secularism, socialistic approach and social justice, besides the creation of an institutional base for speedy development of the country not only large but marked by huge diversity. He never forgot to keep the notion of a united nation.

To pursue an independent foreign policy, for a nascent nation, was a great challenge for the leaders of independent India. The broad parameters which had evolved during the freedom struggle had to be kept at the core while taking any decisions on international affairs. Nehru gave this voice a shape in the form of the idea of non-alignment and an organisational structure through the non-aligned movement. The vital ethics of India's foreign policy, during the Nehruvian Era, largely spun around the grounds of disapproval of participation in any military alliance either bilaterally or multilaterally, an independent foreign policy not tied to any of the two contending power blocs, though this was not a synonym for a neutral foreign policy, an independent foreign policy not tied to any of the two contending power blocs, though this was not a synonym for a neutral foreign policy, a policy of friendship with every country, whether of the American bloc or of the Soviet bloc, an active anti-colonial policy which supported decolonisation in Asian-African-Latin American countries, open support to the policy of anti-apartheid and promotion of disarmament as the key to world peace.<sup>11</sup>

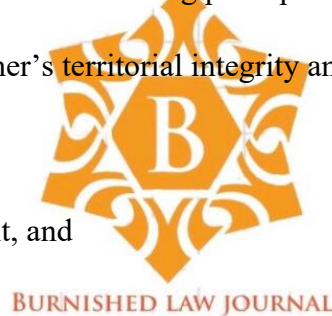
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<sup>11</sup> Ahir, R., (2019). *A Brief History of Modern India*. New Delhi: Spectrum Books, 649.

Soon after the independence, India was prompt in establishing a diplomatic relation with the Nationalist Government China. Later in 1949, it was ousted by the Communist Party. India was again among the first nations to recognize the new government led by Mao Tung. Even though there was no reciprocity in relations established with China, nevertheless India consistently supported China to get admitted to the United Nations. Relations got strained when the Chinese army entered Tibet in 1950 and occupied it. India shared a vast landmass of about 2000 miles with the Tibet region. However, to maintain tranquil relations with China, Nehru signed an agreement with China in 1954 to formally recognize the Chinese occupation of Tibet. This agreement came to be known as Panchsheel.

Panchsheel, or the Five Principles of Peaceful Co-existence, were officially articulated in the Agreement on Trade and Intercourse between the Tibet region of China and India signed on April 29, 1954, which stated, in its preamble, that the two Governments “have resolved to enter into the present agreement based on the following principles: -

- I. Mutual respect for each other’s territorial integrity and sovereignty,
- II. Mutual non-aggression,
- III. Mutual non-interference,
- IV. Equality and mutual benefit, and
- V. Peaceful co-existence.”<sup>12</sup>



This idea of Panchsheel wedged the imagination of the peoples of Asia and the world. Panchsheel was unified into the Ten Principles of International Peace and Cooperation enunciated in the Declaration issued by the April 1955 Bandung Conference of 29 Afro-Asian countries. The universal significance of Panchsheel was emphasised when its doctrines were incorporated in a resolution on peaceful co-existence presented by India, Yugoslavia and Sweden, and unanimously adopted on December 11, 1957, by the United Nations General Assembly. In 1961, the Conference of Non-Aligned Nations in Belgrade accepted Panchsheel as the principled core of the Non-Aligned Movement. Years have passed, the philosophy of Panchsheel continued to be echoed in world events even if there was no conscious ascription, finding expression in the stance of nations involved in the dialogue.

India undertook a drive to incorporate the idea of peaceful coexistence as it signed numerous pacts and treaties with its neighbours. Pakistan and China have always been hostile towards a

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<sup>12</sup> Government of India, E., (2004). Panchsheel [eBook] New Delhi, 2. [http://www.mea.gov.in/Uploads/PublicationDocs/191\\_panchsheel.pdf](http://www.mea.gov.in/Uploads/PublicationDocs/191_panchsheel.pdf) [Accessed 12 February 2021].

relation with India despite of various efforts to maintain peace. But that has not disabled India to establish a friendly tie with other nations. In 1949, India and Bhutan signed a treaty of perpetual peace and friendship. India fixed an exercise of non-interference on the internal matters and administration of Bhutan while Bhutan agreed to be guided by the Indian Government in regards to its external relations. In 1950, India signed a treaty with Nepal recognising its sovereignty, territories and independence. The two countries are committed to each other to resolve any friction, misunderstanding or contingencies.

Lal Bahadur Shastri was sworn in as the second prime minister of India on 9<sup>th</sup> June 1964. He continued Nehru's legacy of foreign relations. His idea of Vasudhaiva Kutumbakam and India's concept of Unity in Diversity reflected in his first address to the nation as prime minister. He said,

*“There comes a time in the life of every nation when it stands at the cross-roads of history and must choose which way to go. But for us there need be no difficulty or hesitation, no looking to right or left. Our way is straight and clear – the building up of a socialist democracy at home with freedom and prosperity for all, and the maintenance of world peace and friendship with all nations. The unique thing about our country is that we have Hindus, Muslims, Christians, Sikhs, Parsis and people of all other religions. We have temples and mosques, gurdwaras and churches. But we do not bring all this into politics. This is the difference between India and Pakistan. Whereas Pakistan proclaims herself to be an Islamic State and uses religion as a political factor, we Indians have the freedom to follow whatever religion we may choose, and worship in any way we please. So far as politics is concerned, each of us is as much an Indian as the other.”<sup>13</sup>*

Shastri continued the policy of non-alignment. He initiated to build closer ties with the Soviet Union to counter the hostile nature of Pakistan and China. Relations between India and Burma (Myanmar) were strained when Burma underwent a military coup in 1962. However, Shastri made an official visit to Rangoon in December 1965, and cordial relations were established again between India and Myanmar. After the United Nations intervention in the Indo-Pak war in 1965, on September 23, a ceasefire was agreed upon by both sides. A South Asian peace conference was held in Tashkent, capital of Uzbekistan, then a part of the USSR, in January

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<sup>13</sup> *Supra* Note 10.

1966 which was mediated by Soviet president Alexei Kosygin. Pakistan's president Ayyub Khan and India's Prime Minister Lal Bahadur Shastri signed the Tashkent Declaration on 10<sup>th</sup> January 1966 to "restore normal and peaceful relations between their countries and to promote understanding and friendly relations between their peoples". The declaration was meant to form a formal structure of lasting peace among the two nations but later the pact broke as both sides were not able to reach an agreement for their own sides. With the demise of Lal Bahadur Shastri in an unnatural circumstance, the major developments in foreign relations were seldom emphasised upon for several years to come.

During the term of Indira Gandhi as the prime minister of India few major developments in the field of foreign relations were seen. India liberated West Pakistan which later became the sovereign nation of Bangladesh. Following the liberation, the relation between the two countries has remained amicable. Under Indira Gandhi, India's relationship with the Soviet Union deepened especially considering the attitudes of The United States of America toward India and China's alliance with Pakistan. India managed to establish a cordial relation with African countries and deepened the ties with them as both shared a common history of colonialism.

As the Janata Party came into power, the sides shifted to friendly ties with the United States of America. With this approach, Jimmy Carter became the first president of the United States to visit India. This relation helped India to again establish a neutral ground on the global stage as we remained unaffected by the polarisation of powers and maintained a uniform relation with both the power centres of the US and the USSR. The Janata Government made it an objective to practise genuine non-alignment. The Junta Government was one of the first administration to normalise their ties with China in 1979. Vajpayee became the highest-ranking Indian official to visit China on an official visit to meet with the Chinese leadership. This led to the re-establishment of diplomatic ties with China which had been suspended since the 1962 Sino-India War. A regular dialogue was established to resolve the disputes and expand their trade and border security.

Indira Gandhi's re-emergence as a Prime Minister saw a reasserted prominence in the Non-Aligned Movement. In 1983, India hosted the 1983 summit of NAM at Delhi and became its chairperson. The resolution of the summit was the reflection of her statesmanship. She drew attention to the connection between disarmament and economic development. She worked extensively to raise awareness of the need for a new international economic order that would



favour the developing nations. This conference was crucial as the importance of United Nations for the developing countries was emphasised. Her performance as the chairperson was lauded by the world leaders and this contributed towards the positive perception of India as an emerging nation. India strategically emerged as a power centre in South Asian demographic and demonstrated the ability to assert its dominance in its regional sphere.

It was that time and today, India is still continuing its tradition of being welcoming to people from around the world without any biases and share the values. It is globally asserted that the exercise of its soft power, focusing on its ancient cultural and civilizational origins, has been one of India's main global contributions.

## COVID-19 AND VACCINE MAITRI

In some of the most difficult times humanity has faced, in the year 2020, the United Nations completed 75 years since its inception in 1945, an organisation that virtually gave effect to the age-old ideology of *Vasudhaiva Kutumbakam*. India is closing in on completing 75 years of Independence, it was during the pandemic that India really stepped up to the task in advancing a vaccine and medical aid to several nations thereby living up to the words etched on the walls of the Parliament. India's participation and contribution in the G20, NAM Summit, and the Global Vaccine Summit furthered this ideology, the Prime Minister echoed a similar sentiment in his address at the G20 Summit where he said, "We look at the world as a borderless economy with an interlinked marketplace."<sup>14</sup>

Some events that really stood out in 2020 include India's active role in the supply chain logistics and trade when it actively supplied Hydroxychloroquine to over 150 countries including the United States of America in the absence of a vaccine.<sup>15</sup> It was initiatives such as Operation Sagar<sup>16</sup> and Operation Sanjeevani<sup>17</sup> wherein India was the first responder in

<sup>14</sup> Shringla, H., (2020). *Indian Foreign Policy in the Times of the Pandemic*. [eBook] Yojana. Available at: <http://yojana.gov.in/LEAD-Indian%20Foreign%20Policy..by%20Harsh%20Vardhan%20Shringla.pdf> [Accessed 12 February 2021].

<sup>15</sup> Mohan, G., (2020). *India sending Hydroxychloroquine to 55 countries, will not procure PPES from China*. India Today. <https://www.indiatoday.in/india/story/india-sending-hydroxychloroquine-to-55-countries-will-not-procure-ppes-from-china-1667822-2020-04-17> [Accessed 12 February 2021].

<sup>16</sup> Siddiqui, H., (2020). *Mission Sagar: India extends a helping hand to IOR countries, Maldives receives food items from New Delhi*. The Financial Express. <https://www.financialexpress.com/defence/mission-sagar-india-extends-a-helping-hand-to-ior-countries-maldives-receives-food-items-from-india/1956851/> [Accessed 12 February 2021].

<sup>17</sup> Siddiqui, H., (2020). *Operation Sanjeevani: IAF airlifts medical and hospital consumables for the Maldives*. The Financial Express. <https://www.financialexpress.com/defence/operation-sanjeevani-iaf-airlifts-medical-and-hospital-consumables-for-the-maldives/1917317/> [Accessed 12 February 2021].

providing medical aid in all capacities. The practical demonstration of *Vasudhaiva Kutumbakam* would lie in the *Sabka Saath, Sabka Vikas* policy of developmental cooperation. The same can be reflected from the vaccination drive started by India earlier this year, wherein it supplied over 20 million vaccines to neighbouring countries including Bangladesh, Nepal and Afghanistan.<sup>18</sup> In addition to vaccines supplied, \$250 Million aid was provided to the Maldives by India to deal with the pandemic, in fact, the ‘Neighbourhood First’ policy of India not only mitigated the impact of the COVID-19 pandemic but also fixated India’s position in the world as a country that has held everyone together despite testing times.

## LEGAL ANALYSIS OF VASUDHAIVA KUTUMBAKAM

Outside of policy decisions and initiatives, the idea of *Vasudhaiva Kutumbakam* has been given effect by the legislature on several occasions. The prime example of this ethos being fostered would be in the, much debated, Citizenship Amendment Act, 2019 which, without going into the constitutionality of things, essentially intends to provide shelter for oppressed and persecuted minorities in neighbouring countries that belong to certain religions. Although there was an argument of this being violative of Article 14<sup>19</sup> and the process giving citizenship being of discriminatory nature, one may take the ‘glass is half full’ view and give a purposive construction to the Act and realise the true intent of the Legislature as not being that to discriminate but to provide a home for minorities. One may also cull out this argument against the Act as it being an anathema to the social construct recognised and explained by Dr Ambedkar as being in need of values of fraternity, equality and liberty. This is quite a rational argument that is made given the numerous protests it sparked leaving the country in a state of unrest. This makes one wonder, whether the incorporation of this ethos in the character of a law is a necessity for deciding upon the validity of the law?

As enlightened formerly, fraternity, as defined by the framers of the constitution, would mean unity and solidarity. It would, however, be imperative to understand a more elaborate explanation of this term to understand its application by the legislature. For the purpose of understanding, we refer to his lordship Justice Sawant’s definition of the goal of fraternity

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<sup>18</sup> Siddiqui, H., (2021). *Vaccine Maitri Diplomacy: India fulfils its promise to the world, supplies vaccines across the globe*. The Financial Express. <https://www.financialexpress.com/lifestyle/health/vaccine-maitri-diplomacy-india-fulfils-its-promise-to-the-world-supplies-vaccines-across-the-globe/2181257/> [Accessed 12 February 2021].

<sup>19</sup> Nishank, R., 2019. *Citizenship law is in line with India’s ethos of fraternity*. The Indian Express. <https://indianexpress.com/article/opinion/columns/caa-protests-nrc-secularism-muslims-hindutva-civilisation-an-act-of-empathy-6192115/> [Accessed 11 February 2021].

which stood as “unity remains a dream without fraternity. The goal enumerated in the Preamble of the Constitution, of fraternity assuring the dignity of the individual and the unity and integrity of the nation must, therefore, remain unattainable so long as the equality of opportunity is not ensured to all.”<sup>20</sup> It was in this matter wherein the Hon’ble Supreme Court upheld the accepted test that in order for a law to valid under Article 14, it has to necessarily be equal or ensure equality, the court also referred to the intent of makers of the constitution behind ‘fraternity’ by holding that inequality has an ill-effect on fraternity and stressed on the view of Dr Ambedkar that equality and fraternity go hand in hand, thereby reading fraternity into Article 14 as well. It can be read as-

*“Preamble of the Constitution, echoing the sentiments of a nation, harassed for centuries by foreign domination, “to secure, to all its citizens justice, social, economic and political; Liberty of thought, expression, belief, faith and worship; Equality of status and opportunity; and to promote among them all Fraternity assuring the dignity of the individual” was not a mere flourish of words but was an ideal set-up for practice and observance as a matter of law through constitutional mechanism.”<sup>21</sup>*

By studying the above judgement, it can be understood that the ethos of *Vasudhaiva Kutumbakam* has seen its varied application in law through fraternity which can be reflected, not only from the Preamble but also echoed in Article 14, 15, 16 and 29 of the Indian Constitution. Article 14 which essentially condenses the idea of equality is in fact, essential to the very quality of unity. It has been held by the Supreme Court that if the equality is compromised it definitely affects fraternity in the society, inequality ill-favours fraternity, and unity remains a dream without fraternity. The goal enumerated in the Preamble of the Constitution, of fraternity assuring the dignity of the individual and the unity and integrity of the nation must, therefore, remain unattainable so long as the equality of opportunity is not ensured to all. In the words of Justice Sawant, it is no longer necessary to emphasise that equality contemplated by Article 14 and other cognate articles including Articles 15(1), 16(1), 29(2) and 38(2) of the Constitution, is secured not only when equals are treated equally but also when unequal is treated unequally. Conversely, when unequal is treated equally, the mandate of equality before law is breached. To bring about equality between the unequal, therefore, it is necessary to adopt positive measures to abolish inequality. The equalising

<sup>20</sup> *Indra Sawhney and Others v. Union of India and Others* [1992] Supp (3) SCC 217.

<sup>21</sup> *Supra* note 3.

measures will have to use the same tools by which inequality was introduced and perpetuated. Otherwise, equalisation will not be of the unequal. Article 14 which guarantees equality before law would by itself, without any other provision in the Constitution, be enough to validate such equalising measures. The Founders of the Constitution, however, thought it advisable to incorporate another provision, viz., Article 16 specifically providing for equality of opportunity in matters of public employment. Further they emphasised in clause (4) thereof that for equalising the employment opportunities in the services under the State, the State may adopt positive measures for reservation of appointments or posts in favour of any backward class of citizens which in the opinion of the State, is not adequately represented in such services<sup>22</sup>. One may form an opinion based on this elaborate judgement given by their lordships, and say that the legislature is bound by express provisions in the Constitution to ensure that the fundamentals of equality, liberty and fraternity remain firm and intact. This principle of ensuring unity and equality among the people has surely seen an evolution from its meaning in the Maha Upanishad to being applied in the very character of governance.

Since *Indra Sawhney v. Union of India*<sup>23</sup>, the concept of fraternity has been used quite interestingly by the Judiciary while answering questions of the validity of laws, in the matter of *Indian Medical Association v. Union of India*<sup>24</sup>, the Supreme Court struck down a policy by holding it to be a barrier to the principles of fraternity and gave Article 38 the character of fraternity by calling it a goal that the State is to achieve through policy and governance. It was held that Article 38 was a reflection of the promise of equality, liberty and fraternity in the Preamble. However, the most interesting discussion on fraternity took place in *Nandini Sundar v. State of Chhattisgarh*<sup>25</sup> here their lordships gave a three-way application to the concept of fraternity, first as a buffer to check state action, second as a mechanism to further policies having the nature of part IV of the Constitution condensed in them and thirdly to enforce the fact that the State has to ensure public and social welfare and thus uphold the human rights. The court followed in the footsteps of the Apex Court in the *Indra Sawhney* case by drawing a connection between equality and fraternity, it extended its interpretation to mean that a violation of fundamental rights ultimately threatens the fraternity in the country. The Court even observed that unity and harmony amongst the people can only be met by equity, justice and dignity for all, and implied that a state of dissatisfaction and dissent in the country is a

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<sup>22</sup> *Supra* note 20

<sup>23</sup> *Supra* note 3.

<sup>24</sup> *Indian Medical Association v. Union of India* [2011] 7 SCC 179.

<sup>25</sup> *Nandini Sundar v. State Chhattisgarh* [2011] 7 SCC 547.

threat to fraternity among the people. The court also reaffirmed the State's obligation to not compromise the fundamental rights and the constitutional values, of which fraternity is a part and made it clear that the principles of equality and fraternity not only bind the state but also place a constitutional limitation with regards to the ambit of the law<sup>26</sup>.

## CONCLUSION

It can along these lines be benign to construe that the concept of *Vasudhaiva Kutumbakam* with a broad meaning and understanding has not only seen its varied application in international relations and the Hindu culture and scriptures but also in bedrock in the foundation of India's democracy. Right from drafting the Constitution to framing the nation's foreign policy, this ideology is vividly reflected. The ethos of *Vasudhaiva Kutumbakam* is evident from the India's Vaccine Maitri initiative, wherein India provided vaccines to over 70 countries, out of which 37 countries got the vital vaccine for free, this gives more meaning to the fact that India played out its policy of 'oneness'. Constitutionally, the deliberations on the true interpretation of the word 'fraternity' reveal that the meaning of 'Vasudhaiva Kutumbakam' is condensed in the Preamble. The promise of fraternity has been given effect through the Fundamental Rights chapter as well. It can be observed through judicial pronouncements regarding the principle of the fraternity or from the words of the late Dr Babasaheb Ambedkar before the constituent assembly or in the texts of the Maha Upanishad, the ethos of *Vasudhaiva Kutumbakam* being an absolutely defining character of the people, a characteristic that develops among *the people* a sentiment of oneness and feeling of being a nation.

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<sup>26</sup> Shetty, S. and Sanyal, T., (2011). *Fraternity and the Constitution: A Promising Beginning in Nandini Sundar v. State of Chhattisgarh*. 4 NUJS L. Rev. 439.