

# Importance of Fundamental Duties in Indian Constitution

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## I. INTRODUCTION

Rights and Duties are like two sides of a coin, absolutely inseparable. Whenever and wherever we have any rights, we must have corresponding duties. Whether it be the home, the society or the country, in every sphere of life we have rights and duties that go hand in hand. We have rights in the same measure as we have duties.

The Fundamental Duties are a novel feature of the Indian Constitution in recent times. Fundamental Duties of citizens serve a useful purpose. In particular, no democratic polity can ever succeed where the citizens are not willing to be active participants in the process of governance by assuming responsibilities and discharging citizenship duties and coming forward to give their best to the country. Some of the fundamental duties enshrined in article 51A have been incorporated in separate laws. There has been some rather disproportionate emphasis on the rights of citizens as against their duties even though the traditions and temper of Indian thought through the ages laid greater emphasis on duties. Actually, 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. Fundamental duties are given in part IV of the Indian constitution under art. 51 A.

## II. ORIGIN AND SCOPE OF FUNDAMENTAL DUTIES

### ORIGIN:

The Fundamental Duties of citizens were added to the Constitution by the 42nd Amendment in 1976, upon the recommendations of the Swaran Singh Committee that was constituted by the government earlier that year. Originally ten in number, the Fundamental

Duties were increased to eleven by the 86th Amendment in 2002, which added a duty on every parent or guardian to ensure that their child or ward was provided opportunities for education between the ages of six and fourteen years. We have borrowed these duties from the constitution of Japan.

### SCOPE:-

Fundamental duties are obligatory in nature. But there is no provision in the constitution for direct enforcement of these duties. There is no sanction either to prevent their violation. However, the importance of fundamental duties can be gauged from the following facts:

- a. As rights and duties are the two side of the same coin, it is expected that one should observe one's duties in order to seek the enforcement of one's fundamental rights, in the context if a person approaches the court for the enforcement of any of his fundamental rights, the court may refuse to take a lenient view of him if it comes to know that the concerned individual has no respect for what is expected of him by the state as a citizen of the country.
- b. They can be used for interpreting ambiguous statutes. The court may look at the fundamental duties while interpreting equivocal statutes which admit of two constructions.
- c. While determining the constitutionality of any law, if court finds that it seeks to give effect to any of the duties, it may consider such law to be 'reasonable', and thereby, save such law from unconstitutionality.

## III. FUNDAMENTAL DUTIES IN INDIA

Article 51 A: Under this article of our Constitution every citizen has been obligated to perform certain duties called the Fundamental Duties. These duties are defined as the moral obligations of all citizens to help promote a spirit of patriotism and to uphold the unity of India.

The following are the Eleven Fundamental Duties of every citizen of India: (a) To abide by the Constitution and respect the National Flag and the National Anthem;

The first and the foremost duty assigned to every citizen of India is to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem. These are the very physical foundations of our citizenship. All of us are supposed to maintain the dignity of the Constitution by not indulging in any activities in violation of the letter or spirit of the Constitution. Ours is a vast country with many languages, sub-cultures and religious and ethnic diversities, but the essential unit of the country is epitomized in the one Constitution, one flag, one people and one citizenship. We are all governed and guided by this Constitution irrespective of caste, religion, race, sex, etc. The Constitution is the result of the many commitments, promises and pledges made by nationalist leaders to the people of India. Also, it embodies efforts of reconciliation, accommodation and compromise. All of us and the Fundamental Rights of each of us are protected by it. Similarly, the National Flag and the National Anthem are symbols of our history, sovereignty, unity and pride. If a citizen of India by any overt or covert act shows disrespect to the Constitution, the National Anthem or the National Flag, it would be not only an anti-social and anti-national activity but it would also spell doom to all our rights and very existence as citizens of a sovereign nation. Each citizen must therefore not only refrain from any such activity but also do his best to prevent any miscreant trying to show disrespect to our national symbols. Every nation is proud of its citizens because of their dedication, sincerity and patriotism. We, the citizens of India, have to be equally proud of our nation, our Constitution, our National Flag and our National Anthem. We must put the nation above our narrow personal interests and then only we will be able to protect our hard-earned freedom and sovereignty.

(b) To cherish and follow the noble ideals which inspired our national struggle for freedom;

The citizens of India must cherish and follow the noble ideals which inspired the national struggle for freedom. The battle of freedom was a long one where thousands of people sacrificed their lives for our freedom. It becomes our duty to remember the sacrifices made by our forefathers for the cause of the

country. But what is much more important is to remember, imbibe and follow the ideals which pervaded our unique struggle. It was not a struggle merely for political freedom of India. It was for the social and economic emancipation of the people all over the world. Its ideals were those of building a just society and a united nation of freedom equality, non-violence, brotherhood and world peace. If we, the citizens of India remain conscious of and committed to these ideals, we will be able to rise above the various fissiparous tendencies raising their ugly heads now and then, here and there.

(c) To uphold and protect the sovereignty, unity and integrity of India;

It imposes a Fundamental Duty on every citizen of India that he shall not do anything derogatory of upholding or protecting the sovereignty, unity or integrity of India. It is a duty prohibitory in nature addressed to traitors and spies.

(d) To defend the country and render national service when called upon to do so;

In modern nation-States, it is considered axiomatic that every citizen is bound to be ready to defend the country against war or external aggression. The present-day wars are not fought on the battlefield only nor are they won only by the armed forces; the citizens at large play a most vital role in a variety of ways. Sometimes, civilians may be required also to take up arms in defence of the country.

(e) To promote harmony and the spirit of common brotherhood amongst all people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women;

The duty to promote harmony and the spirit of common brotherhood amongst all the people of India essentially flows from the basic value of fraternity enshrined in the Preamble to the Constitution. India is a country of different castes, languages, religions and many cultural streams but we are one people with one Constitution, one flag and one citizenship. Spirit of brotherhood should come very normally among the citizens of a country like India where the norm has been to consider the entire world as one family. The Constitution also casts upon us the Fundamental Duty of ensuring that all practices derogatory to the dignity of women are renounced. This again should come normally to a country where it is an aphorism that

Gods reside where women are worshipped. It is for us to rise above the later day degenerations and aberrations which tarnished the image of our society.

(f) To value and preserve the rich heritage of our composite culture;

To preserve the rich heritage of our composite culture is another Fundamental Duty of every Indian citizen. Our cultural heritage is one of the noblest and the richest. Also, it is part of the heritage of the earth. What we have inherited from the past, we must preserve and pass on to the future generations. In fact, each generation leaves its footprints on the sands of time. We must hold precious and dear what our forefathers have created and their successive generations bequeathed to us as symbols of their artistic excellence and achievements. Generations to come always draw inspiration from past history which stimulates them to aim at ever greater heights of achievement and excellence. It becomes the ardent duty of every citizen to ensure that these monuments and pieces of art are not in any way damaged, disfigured, scratched or subjected to vandalism or greed of unscrupulous traders and smugglers.

(g) To protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures;

In the face of the menace of the increasing pollution and environmental degradation, it is the duty of every citizen to protect and improve natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures. The rising air, water and noise pollution and large-scale denudation of forest are causing immense harm to all human life on earth. The mindless and wanton deforestation in the name of needs of development is causing havoc in the form of natural calamities and imbalances. By protecting our forest cover, planting new trees, cleaning rivers, conserving water resources, reforesting wastelands, hills and mountains and controlling pollution in cities, villages and industrial units, we can help save the future of our fellow citizens and of planet earth itself. What is needed is a concerted effort at, an awareness campaign and a planned strategy to move forward through voluntary citizen initiatives. Governmental steps alone cannot help bring about a pollution-free atmosphere to live now and in the future.

(h) To develop the scientific temper, humanism and the spirit of inquiry and reform;

it is the bounden duty of every citizen to preserve and promote a scientific temper and a spirit of inquiry to keep pace with the fast-changing world. Also, the Constitution ordains that science and technology must be tempered with a sense of humanism because ultimately the end of all progress is the human being and the quality of life and relationships that is developed.

(i) To safeguard public property and to abjure violence;

It is most unfortunate that in a country which preaches non-violence to the rest of the world, we see from time-to-time spectacles of senseless violence and destruction of public property indulged in by a few of its citizens. This is why it became necessary to prescribe the responsibility "to safeguard public property and abjure violence" as a fundamental citizenship duty.

(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."

The drive for excellence in all spheres of individual and collective activity is the demand of times and a basic requirement in a highly competitive world. Nothing but the best would have survival potential in tomorrow's world. This would include respect for professional obligations and excellence. Whatever work we take up either as individual citizens or as groups, our effort should be directed to achieving the goal of excellence. Also, special emphasis is called for in the area of collective activity.

(k) To provide opportunities for education by the parent the guardian, to his child, or a ward between the age of 6-14 years as the case may be.

Value and Importance of fundamental duties in India

a) They serve as a reminder to the citizens that while enjoying their rights, they should also be conscious of duties they owe to their country, their society and to their fellow citizens.

b) They serve as a warning against the anti-national and antisocial activities like burning the national flag, destroying public property and so on.

c) They serve as a source of inspiration for the citizens and promote a sense of discipline and commitment among them. They create a feeling that the citizens are no mere spectators but active participants in the realisation of national goals.

d) They help the courts in examining and determining the constitutional validity of a law. In 1992, the Supreme Court ruled that in determining the constitutionality of any law, if a court finds that the law in question seeks to give effect to a fundamental duty, it may consider such law to be 'reasonable' in relation to Article 14 (equality before law) or Article 19 (six freedoms) and thus save such law from unconstitutionality.

e) They are enforceable by law. Hence, the Parliament can provide for the imposition of appropriate penalty or punishment for failure to fulfill any of them.

The importance of fundamental duties is that they define the moral obligations of all citizens to help in the promotion of the spirit of patriotism and to uphold the unity of India.

#### IV. JUDICIAL DYNAMICS

1. M.C. MEHTA (2) V. UNION OF INDIA (1983) 1 SCC 471: -

The Supreme Court has held that under art.51-A(g) it is the duty of the central government to introduce compulsory teaching of lessons at least for one hour in a week on protection and improvement of natural environment in all the educational institution of the country. It directed central government to get textbook written on that subject and distribute them to the educational institute free of cost. In order to arouse amongst the people, the consciousness of cleanliness of environment, it suggested the desirability of organizing – keep the city clean week, keep the town clean, keep the village clean week in every city, town and village throughout India at least once in a year.

2. AIIMS STUDENT UNION V. AIIMS AIR 2001 SC 3262

In this case importance of fundamental duties enshrined in art 51A has been shown while striking down the institutional reservation of 33% in AIIMS coupled with 50% reservation disciplinewise as violative of art.14 of the Constitution, the Supreme Court said that they are equally important like fundamental rights. Though fundamental duties are not made enforceable like fundamental rights but it cannot overlook as “duties” in Part IV is prefixed by to same word “fundamental” which was prefixed by the founding fathers of the constitution to “right” in Part III. Every citizen of India is fundamentally obliged to

develop the scientific temper and humanism. Though art. 51A does not cast any fundamental duty on the state. The fact remains that the duty every citizen is the collective duty of the state. Any reservation apart from being substantive on the constitutional anvil must also be reasonable to be permissible. In assessing the reasonability one of the factors to be taken into consideration would be whether the character and quantum of reservation would stall or accelerate in achieving ultimate goal of excellence enabling nation constantly rising to higher level.

It was also held that fundamental duties though not enforceable by a writ of the court, yet provide a valuable guide and aid to interpretation of constitutional and legal issues. In case of doubt or choice of people’s wish as manifested through art.51A can serve as a guide not only for resolving the issues but also for constructing or moulding the relief to be given by courts.

3. ARUNA ROY V. UNION OF INDIA AIR 2002 SC 3176

In this case the validity of National Curriculum Framework for School Education was challenged on the ground that it was violative of art.28 of the constitution and anti-secular. It provides imparting of value development education relating to basics of all religions. The court held that the NCFSE does not mention of imparting “religious instruction” as prohibited under art.28. what sought to be imparted is incorporated in art.51A(e) which provides “to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounces practices derogatory to the “dignity of woman”. And to see those universal values such as truth related conduct, peace, love and non-violence be the foundation of education. Accordingly, the court held that such education is neither violative of art. 28 of the constitution nor is against the concept of secularism.

4. GOVERNMENT OF INDIA V. GEORGE PHILIP AIR 2007 SC 705

In this case the respondent has challenged his compulsory retirement from service. He was granted leave by the department to pursue advanced research training. He was granted leave by the department to pursue advance research training. He was granted leave for two years. He over stayed in a foreign country inspite of repeated reminders come and join

his duty after the expiry of his leave. An inquiry was instituted against him and the charge of overstaying in a foreign country was proved. He was compulsorily retired from service. The tribunal and the high court granted him remedy of joining his service without back wages. The Supreme court set aside the order of the high court. The Supreme court held that art.51A(j) imposed a duty on citizen to strive towards excellence in all sphere and it cannot be achieved unless employees maintain discipline and devotion to duty. The courts should not pass orders which instead of achieving underlying spirit and object of part IV A of the Constitution has tendency to negate or destroy the same. Overstay of leave and absence from duty by government employee and granting him six months' time to join duty amount to not only giving him premium to indiscipline but wholly subversive of work cultures in organization.

5. Dr. Dasarathi Vs. State of Andhra Pradesh (AIR: 1985 AP 136)

It was held that under article 51A (j) of the Constitution, we all owe a duty to ourselves to strive towards excellence in all spheres of individual and collective activity so that this nation may constantly rise to higher levels of Endeavour and achievement. When the State undertakes to promote excellence, it can do so only through the methods which our Constitution permits to adopt. Rewarding of sycophancy only helps to retard the growth of efficiency and excellence.

## V. CONCLUSION

Fundamental Duties of citizens serve a useful purpose. In particular, no democratic polity can ever succeed where the citizens are not willing to be active participants in the process of governance by assuming responsibilities and discharging citizenship duties and coming forward to give their best to the country. Some of the fundamental duties enshrined in article 51A have been incorporated in separate laws. For instance, the first duty includes respect for the National Flag and the National Anthem. Disrespect is punishable by law. To value and preserve the rich heritage of the mosaic that is India should help to weld our people into one nation but much more than article 51A will be needed to treat all human beings equally, to respect each religion and to confine it to the private sphere and not make it a bone of contention between different

communities of this land.

The most important task before us is to reconcile the claims of the individual citizen and those of the civic society. To achieve this, it is important to orient the individual citizen to be conscious of his social and citizenship responsibilities and so shape the society that we all become solicitous and considerate of the inalienable rights of our fellow citizens. Therefore, awareness of our citizenship duties is as important as awareness of our rights. Every right implies a corresponding duty but every duty does not imply a corresponding right. Man does not live for himself alone. He lives for the good of others as well as of himself. It is this knowledge of what is right and wrong that makes a man responsible to himself and to the society and this knowledge is inculcated by imbibing and clearly understanding one's citizenship duties. The fundamental duties are the foundations of human dignity and national character. If every citizen performs his duties irrespective of considerations of caste, creed, colour and language, most of the malaise of the present-day polity could be contained, if not eradicated, and the society as a whole uplifted. Rich or poor, in power or out of power, obedience to citizenship duty, at all costs and risks, is the essence of civilized life.

With regards Mohammad Ayoub