

Fundamental Duties

Though the rights and duties of the citizens are correlative and inseparable, the original constitution contained only the fundamental rights and not the fundamental duties. In other words, the framers of the Constitution did not feel it necessary to incorporate the fundamental duties of the citizens in the Constitution. However, they incorporated the duties of the State in the Constitution in the form of Directive Principles of State Polity. Later in 1976, the fundamental duties of citizens were added in the Constitution. In 2002, one more Fundamental Duty was added.

The Fundamental Duties in the Indian Constitution are inspired by the Constitution of erstwhile USSR. Notably, none of the Constitutions of major democratic countries like USA, Canada, France, Germany, Australia and so on specifically contain a list of duties of citizens. Japanese Constitution is, perhaps, the only democratic Constitution in world which contains a list of duties of citizens. The socialist countries, on the contrary, gave equal importance to the fundamental rights and duties of their citizens. Hence, the Constitution of erstwhile USSR declared that the citizen's exercise of their rights and freedoms was inseparable from the performance of their duties and obligations.

SWARAN SINGH COMMITTEE RECOMMENDATIONS

In 1976, the Congress Party set up the Sardar Swaran Singh Committee to make recommendations about fundamental duties, the

need and necessity of which was felt during the operation of the internal emergency (1975-1977). The committee recommended the inclusion of a separate chapter on fundamental duties in the Constitution. It stressed that the citizens should become conscious that in addition to the enjoyment of rights, they also have certain duties to perform as well. The Congress Government at Centre accepted these recommendations and enacted the 42nd Constitutional Amendment Act in 1976. This amendment added a new part, namely, Part IVA to the Constitution. This new part consists of only one Article, that is, Article 51A which for the first time specified a code of ten fundamental duties of the citizens. The ruling Congress party declared the non-inclusion of fundamental duties in the Constitution as a historical mistake and claimed that what the framers of the Constitution failed to do was being done now.

Though the Swaran Singh Committee suggested the incorporation of eight Fundamental Duties in the Constitution, the 42nd Constitutional Amendment Act (1976) included ten Fundamental Duties.

Interestingly, certain recommendations of the Committee were not accepted by the Congress Party and hence, not incorporated in the Constitution. These include:

1. The Parliament may provide for the imposition of such penalty or punishment as may be considered appropriate for any non-compliance with or refusal to observe any of the duties.
2. No law imposing such penalty or punishment shall be called in question in any court on the ground of infringement

of any of Fundamental Rights or on the ground of repugnancy to any other provision of the Constitution.

3. Duty to pay taxes should also be a Fundamental Duty of the citizens.

LIST OF FUNDAMENTAL DUTIES

According to Article 51A, it shall be the duty of every citizen of India:

- (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 that inspired the 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 and to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of the country's composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures;
- (h) to develop 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; and
- (k) to provide opportunities for education to his child or ward between the age of six and fourteen years. This duty was added by the 86th Constitutional Amendment Act, 2002.

FEATURES OF THE FUNDAMENTAL DUTIES

Following points can be noted with regard to the characteristics of the Fundamental Duties:

1. Some of them are moral duties while others are civic duties. For instance, cherishing noble ideals of freedom struggle is a moral precept and respecting the Constitution, National Flag and National Anthem is a civic duty.
2. They refer to such values which have been a part of the Indian tradition, mythology, religions and practices. In other words, they essentially contain just a codification of tasks integral to the Indian way of life.
3. Unlike some of the Fundamental Rights which extend to all persons whether citizens or foreigners¹, the Fundamental Duties are confined to citizens only and do not extend to foreigners.
4. Like the Directive Principles, the fundamental duties are also non-justiciable. The Constitution does not provide for their direct enforcement by the courts. Moreover, there is not legal sanction against their violation. However, the Parliament is free to enforce them by suitable legislation.

CRITICISM OF FUNDAMENTAL DUTIES

The Fundamental Duties mentioned in Part IVA of the Constitution have been criticised on the following grounds:

1. The list of duties is not exhaustive as it does not cover other important duties like casting vote, paying taxes, family planning and so on. In fact, duty to pay taxes was recommended by the Swaran Singh Committee.
2. Some of the duties are vague, ambiguous and difficult to be understood by

- the common man. For example, different interpretations can be given to the phrases like 'noble ideals', 'composite culture', 'scientific temper' and so on².
3. They have been described by the critics as a code of moral precepts due to their non-justiciable character. Interestingly, the Swaran Singh Committee had suggested for penalty or punishment for the non-performance of Fundamental Duties.
 4. Their inclusion in the Constitution was described by the critics as superfluous. This is because the duties included in the Constitution as fundamental would be performed by the people even though they were not incorporated in the Constitution³.
 5. The critics said that the inclusion of fundamental duties as an appendage to Part IV of the Constitution has reduced their value and significance. They should have been added after Part III so as to keep them on par with Fundamental Rights.

SIGNIFICANCE OF FUNDAMENTAL DUTIES

In spite of criticisms and opposition, the fundamental duties are considered significant from the following viewpoints:

1. 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.
2. They serve as a warning against the anti-national and antisocial activities like burning the national flag, destroying public property and so on.
3. 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 not mere spectators but

active participants in the realisation of national goals.

4. 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.
5. They are enforceable by law. Hence, the Parliament can provide for the imposition of appropriate penalty or punishment for failure to fulfil any of them.

H.R. Gokhale, the then Law Minister, gave the following reason for incorporating the fundamental duties in the Constitution after twenty-six years of its inauguration: 'In post-independent India, particularly on the eve of emergency in June 1975, a section of the people showed no anxiety to fulfil their fundamental obligations of respecting the established legal order the provisions of chapter on fundamental duties would have a sobering effect on these restless spirits who have had a host of anti-national subversive and unconstitutional agitations in the past'.

Indira Gandhi, the then Prime Minister, justified the inclusion of fundamental duties in the Constitution and argued that their inclusion would help to strengthen democracy. She said, 'the moral value of fundamental duties would be not to smother rights but to establish a democratic balance by making the people conscious of their duties equally as they are conscious of their rights'.

The Opposition in the Parliament strongly opposed the inclusion of fundamental duties in the Constitution by the Congress government. However, the new Janata Government headed by Morarji Desai in the post-emergency period did not annul the Fundamental Duties. Notably, the new government sought to undo many changes introduced in the Constitution by the 42nd Amendment Act (1976) through

the 43rd Amendment Act (1977) and the 44th Amendment Act (1978). This shows that there was an eventual consensus on the necessity and desirability of including the Fundamental Duties in the Constitution. This is more clear with the addition of one more Fundamental Duty in 2002 by the 86th Amendment Act.

VERMA COMMITTEE OBSERVATIONS

The Verma Committee on Fundamental Duties of the Citizens (1999) identified the existence of legal provisions for the implementation of some of the Fundamental Duties. They are mentioned below:

1. The Prevention of Insults to National Honour Act (1971) prevents disrespect to the Constitution of India, the National Flag and the National Anthem.
2. The various criminal laws in force provide for punishments for encouraging enmity between different sections of people on grounds of language, race, place of birth, religion and so on.

3. The Protection of Civil Rights Act⁴ (1955) provides for punishments for offences related to caste and religion.
4. The Indian Penal Code (IPC) declares the imputations and assertions prejudicial to national integration as punishable offences.
5. The Unlawful Activities (Prevention) Act of 1967 provides for the declaration of a communal organisation as an unlawful association.
6. The Representation of People Act (1951) provides for the disqualification of members of the Parliament or a state legislature for indulging in corrupt practice, that is, soliciting votes on the ground of religion or promoting enmity between different sections of people on grounds of caste, race, language, religion and so on.
7. The Wildlife (Protection) Act of 1972 prohibits trade in rare and endangered species.
8. The Forest (Conservation) Act of 1980 checks indiscriminate deforestation and diversion of forest land for non-forest purposes.

ভারতীয় নাগরিকদের মৌলিক কর্তব্য

ভারতের মূল সংবিধানে মৌলিক কর্তব্য সম্পর্কে কোনো কিছুই উল্লেখ ছিল না। 1976 খ্রিস্টাব্দে 42তম সংশোধন দ্বারা সংবিধানের চতুর্থ অংশে (Part-IV-A) 51 (a) নং ধারায় 10 টি মৌলিক কর্তব্য পালনের কথা উল্লেখ করা হয়। পুনরায় 2002 খ্রিস্টাব্দে 86 তম সংবিধান সংশোধন দ্বারা আরও 1টি কর্তব্য যুক্ত করা হয়। বর্তমানে তাই ভারতীয় সংবিধানে মৌলিক কর্তব্য হল 11 টি। এই কর্তব্যগুলি হল—

- [1] সংবিধান মেনে চলা এবং সংবিধানের আদর্শ ও প্রতিষ্ঠানসমূহ এবং জাতীয় পতাকা ও জাতীয় স্তোত্রের প্রতি শ্রদ্ধা জানানো।
- [2] যেসব সুমহান আদর্শ দেশের স্বাধীনতা সংগ্রামে অনুপ্রেরণা জুগিয়েছিল, সেগুলিকে পোষণ ও অনুসরণ করা।
- [3] ভারতের সার্বভৌমত্ব, ঐক্য ও সংহিতিকে সমর্থন করা ও সংরক্ষণ করা।
- [4] দেশরক্ষা ও জাতীয় সেবামূলক কার্যে যোগদানের জন্য আহবানে সাড়া দেওয়া।
- [5] ধর্মগত, ভাষাগত, আঞ্চলিক বা শ্রেণীগত বিভেদের উর্ধ্বে উঠে সকল ভারতবাসীর মধ্যে ঐক্য ও ভ্রাতৃত্ববোধের বিকাশ সাধন করা এবং নারীজাতির মর্যাদাহানিকর সকল প্রথাকে বর্জন করা।
- [6] আমাদের মিশ্রসংস্কৃতির গৌরবময় ঐতিহ্যকে মূল্য প্রদান ও সংরক্ষণ করা।
- [7] বনভূমি, হ্রদ, নদনদী ও বন্যপ্রাণী-সহ প্রাকৃতিক পরিবেশের সংরক্ষণ ও উন্নতিসাধন এবং জীবজন্তুর প্রতি মমত্ববোধ পোষণ করা।
- [8] বৈজ্ঞানিক মানসিকতা, মানবতাবোধ, অনুসন্ধিৎসা ও সংস্কারমূলক দৃষ্টিভঙ্গির প্রসার সাধন করা।
- [9] জাতীয় সম্পত্তি সংরক্ষণ ও হিংসার পথ বর্জন করা।
- [10] সমস্তরকম ব্যক্তিগত ও সমষ্টিগত কর্মপ্রচেষ্টাকে উন্নততর স্তরে উন্নীত করার জন্য বিভিন্ন ধরনের কার্যকলাপের উৎকর্ষ সাধন করা।
- [11] 6 থেকে 14 বছর বয়স পর্যন্ত প্রত্যেক শিশুর শিক্ষাদানের ব্যবস্থা করা তার বাবা-মা বা অভিভাবকের কর্তব্য।

উপসংহার: ভারতের নাগরিকের কর্তব্যসমূহকে সংবিধানের চতুর্থ অংশে লিপিবদ্ধ নির্দেশমূলক নীতির সঙ্গে যুক্ত করা হয়েছে। এই কারণে কোনো কর্তব্যকে কেউ অমান্য করলে তার প্রতিকার আদালতে পাওয়া যায় না। কারণ সংবিধানের চতুর্থ অংশে বর্ণিত নির্দেশমূলক নীতিগুলি আদালত দ্বারা বলবৎযোগ্য নয় বলেই কর্তব্যসমূহের জন্য একইকথা প্রযোজ্য বলে ধরা হয়েছে।