



- Fundamental Duty is a notion which conveys a sense of moral obligation & commitment to the citizenry, society & to state.
- People obliged to perform duties towards their family, workplace and ultimately modern state.
- Ancient Roman philosopher Cicero in his work 'De Officiis' (On Duties) opines that duties may come from four different sources viz. wisdom, justice, courage and temperance.
- The fundamental rights and the fundamental duties are interrelated.
- Fundamental rights can be properly realized, if the citizens perform their fundamental duties.
- The Citizen's Almanac, issued by the US Citizenship and Immigration Services, details the responsibilities of its citizens — a copy of this document is given to every person on becoming a citizen of the country.
- Singapore, whose growth story has been fuelled by its emphasis on the relentless pursuit of duties by its citizens.
- Eminent historian K P Jayaswal remarks that the concept of republic in ancient India is older than of the Roman or Greek republican system
- The ancient republics or janapadas such as Vaishali, Kapilavastu and Mithila — and their constitutions — date back to 600 BC.
- When one citizen performs his or her duties properly, it protects & conserves the fundamental rights of others
- The fulfillment of obligation of duties by the citizens puts her on the moral pedestal to get the fundamental rights – Eastern jurisprudence of rights & duties.
- Countries with Fundamental Duties in their constitutions :- Soviet Union, People's Republic of China, India, Poland, Albania, Czechoslovakia, the Netherlands, Yugoslavia, the Democratic Republic of Vietnam, Japan and Italian Republic
- The USSR was the first country of the world to adopt fundamental duties in its constitution.

#### CONSTITUTIONAL MANDATE

- Original Constitution did not have provisions of Fundamental Duties. However, Article 33 provided for some Fundamental Duties.
- According to Article 33, the armed forces & police were supposed to maintain discipline & perform duties
- The 42nd Constitutional Amendments provided for inclusion of Fundamental Duties in the Constitution.
- 86th amendment of 2002 upgraded the fundamental right of right to education under art 21 A – Amendment of article 51A – added clause (k) who is a

parent or guardian to provide opportunities for education to his child between 6-14 years of age.

- The 42nd Amendment was passed during the period of Emergency (1975-1977).
- According to it, the civilians who are not the part of armed forces and police were expected to follow Fundamental Duties.
- Fundamental Duties are mentioned in Article 51 A, Part IVA of the Constitution
- The Fundamental Duties enshrined in Article-51A is in concurrence with Article 29(1) of the Universal Declaration of Human Rights which states "everyone has duties to the community in which alone the free & full development of his personality is possible"
- After the passage of the 42nd & 86th Constitutional Amendments, there are 11 Fundamental Duties of the citizens of India.

#### LIST OF FUNDAMENTAL DUTIES

- 1) To abide by the constitution & respect its ideals & institutions, the National Flag & the National Anthem.
- 2) To cherish & follow the noble ideals which inspired our national struggle for freedom.
- 3) To uphold & protect the sovereignty, unity & integrity of India.
- 4) To defend the country & render national service when called upon to do so.
- 5) To promote harmony & the spirit of common brotherhood amongst all the people of India transcending religious, linguistic & regional or sectional diversities to renounce practices derogatory to the dignity of women.
- 6) To value & preserve the rich heritage of our composite culture
- 7) To protect and improve the natural environment including forests, lakes, rivers and wildlife, & to have compassion for living creatures.
- 8) To develop the scientific temper, humanism and the spirit of inquiry and reform.
- 9) To safeguard public property & to abjure violence.
- 10) 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.
- 11) 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.

#### SALIENT FEATURES

- Fundamental Duties are both civic & moral in nature.
- It emphasized on the Indian way of life especially respecting and preserving Indian culture.

- This provision is not applicable upon the foreigners, only citizens of India will obey these constitutional duties.
- There are clear differences between Fundamental Rights and Fundamental Duties.
- It is non-justiciable and non-enforceable.
- The 42nd Constitutional Amendment was made in the light of the recommendations of the Swaran Singh Committee Report.
- The legal utility of fundamental duties is similar to that of the directives; while the Directives are addressed to the state, so are the duties addressed to the citizens, without any legal sanction for their violation

#### PHILOSOPHY OF THE DUTIES

- They follow a simple logic: that peaceful co-existence requires a degree of self-sacrifice, & if necessary, this must be enforced through the set of sanctions.
- The problem, however, lies in the conflation of rights and duties.
- As per Samuel Moyn “the rhetoric of duties has often been deployed euphemistically by those whose true purpose is a return to tradition won by limiting the rights of others”(The Boston Review)
- Moyn’s target here are traditions that invoke the language of duty – in order to subordinate or efface the individual in the face of the collective (whether state or community)
- In that context, it is always critical to remember Dr. B.R. Ambedkar’s words in the Constituent Assembly: that the fundamental unit of the Constitution remains the individual.

#### RECOMMENDATIONS OF SWARAN SINGH COMMITTEE

- The Swaran Singh Committee was set up in 1976 by Indira Gandhi Govt
- Swaran Singh was the Chairman of the Committee. The Committee had recommended to include a new part in the Constitution of India on the Fundamental Duties of the Indian citizen
- The Swaran Singh Committee suggested eight items to be incorporated in the constitution as duties of the citizen.
  - To respect and abide by the constitution and the laws.
  - To uphold the sovereignty of the nation and to function in such a way as to sustain and strengthen its unity and integrity.
  - To respect the democratic institutions enshrined in the constitution, & not to do anything which may impair their dignity or authority.
  - To defend the country and to render national service including military service when called upon to do so.
  - To abjure communalism in any form.
  - To render assistance and cooperation to the State in the implementation of Directive Principles of State Policy, and to promote the common good of the people so as to sub serve the interests of social & economic justice.

- To abjure violence; to protect and safeguard public property & not to do anything which may cause damage or destruction to such property.
- To pay taxes according to the law.
  - However, then Congress government led by Prime Minister Indira Gandhi did not accept all suggestions or recommendations made by the Swaran Singh Committee.

#### NON-JUSTICIABILITY

- The Fundamental Duties are non-enforceable & non-justiciable.
- It means that no citizen can be punished by a court for violation of a Fundamental Duty.
- The constitutional mandate for Fundamental Duties are almost similar to those of Directive Principles of State Policy of Part IV.
- On the other hand in the countries like USSR, Yugoslavia & Albania duties are legally enforceable.
- VKRV Rao (Rao and Singh 1976) opined that, Fundamental Duties cannot be followed if there is no legal action for their violation.
- According to him, people lack courage and willingness to obey duties.
- Rights do not have ethical basis, they can be properly enjoyed with enforceable duties.
- The Supreme Court of India issued a notice in 1998 to the Government of India enquiring about its plan to teach Fundamental Duties to the citizens of the country.

#### RECOMMENDATION OF VERMA COMMITTEE

- In response to this notice of Supreme Court, Gol established a committee under the chairmanship of Justice J S Verma (1999).
- The Verma Committee made the following recommendations:
  - 1) Fundamental Duties will raise standards of the citizen in public life. Therefore, every individual should obey and promote these duties.
  - 2) Public office holders should avoid selfishness or nepotism. Their foremost priority must be to serve public interests rather than individual interests.
  - 3) Integrity should be the main principle in the functioning of public office
  - 4) Holders of public office must be accountable for their decisions and actions Fundamental Duties to the public.
  - 5) They should be transparent about all the decisions and actions which were taken by them.
  - 6) Public officials should maintain honesty while in office.
  - 7) Leadership is very important in the sense that holders of public office should promote these principles by leadership skill and set an example
- Fundamental Duties can strengthen the foundation of society and nation.
- But mere legislation is not enough to fulfill them.
- An effective implementation of the rules is essential for an effective fulfillment of duties.

- That is possible if favourable attitudes & commitment to obey duties are created among the citizens of India.
- Few existing acts identified by Verma committee to increase the awareness among the people concerning Fundamental Duties
- The Representation of People Act, 1951: – Under which, membership of any member of the Indian Parliament or State Legislatures can be rejected if he or she found involved with corrupt activities.
- The Unlawful Activities Protection Act, 1967: Sectarian organizations within the national boundaries of the country must be banned in view of making a peaceful & stable society.
- The Protection of Civil Rights Act, 1955: Offenders who preach & practice untouchability must be punished in accordance with the act
- The Wildlife Protection Act, 1972: It aims at protecting & preserving rare and the perishing animals, birds and plants. For this reason, this act strongly prohibits the illegal trading of animals.
- The Prevention of Insults to National Honour Act, 1971: By this act insults and disrespects of the national anthem, flag, the constitution of the land have been firmly prohibited.
- The Forest Conservation Act, 1980: The act strongly prohibits the destruction of natural forest keeping in mind its increasing degradation. It also prohibits the usage of forest for other human activities.
- The Supreme Court issued directions to govt to create a conducive environment for effective fulfillment of duties.
- Supreme Court, directed the Government in August 2003 to implement the recommendations of the National Commission to Review the Working of the Constitution (2000) and Verma Committee (1999).
- Anupama Rao argues that Justice Verma's report puts disproportionate emphasis on duties of citizens. Such emphasis on duties undermines citizens as equals, and duty as a precondition for citizenship.

#### SIGNIFICANCE

- Fundamental Duties have ethical, social and economic significance.
- If a citizen performs his/her duties, he/she has moral claims on his/her rights.
- Fulfillment of duties can help in sustenance of environment and economic development.
- The consciousness and realization to fulfill Fundamental duties have increased in India during past some decades
- The court and civil society organizations, political parties and governments have also underlined its significance
- The Morarji Desai government which was formed by the opponent of Indira Gandhi did not change the provisions about the Fundamental Duties.
- This indicated the importance given to Fundamental Duties across political parties.

- Supreme Court said that it was intended to regulate behaviour & to inspire fellow citizens to strive towards excellence
- These are statutory duties, not enforceable by law, but a court may take them into account while adjudicating on a matter.
- The idea of citizenship has acquired a new meaning, content and purpose in the democratic world
- Many nations across the world have transformed into developed economies by embodying the principles of "responsible citizenship" — all the responsibilities and duties that citizens of a nation should exercise and respect
- The citizens' duties as enshrined in the Constitution are essentially a codification of tasks integral to the Indian way of life — they focus on tolerance, peace and communal harmony.
- They intended to serve as a constant reminder to every citizen that while the constitution conferred on them certain Fundamental Rights, it also requires citizens to observe certain basic norms of democratic conduct and democratic behaviour because rights and duties are correlative
- Fundamental duties are the foundations of human dignity and national character .

#### RECOMMENDATION OF CONSTITUTION REVIEW COMMISSION

- Chaired by M.N. Venkatachaliah too recommended some initiatives
- The Union & State govts should sensitize the people and create general awareness about Fundamental Duties amongst the citizens.
- Right to freedom of religion & other freedoms must be jealously guarded & rights of minorities and fellow citizens respected.
- People should be sensitized about their duty to vote in elections, pay taxes and actively participate in the democratic process of governance
- Recommendations of Justice Verma Committee on operationalisation of Fundamental Duties of Citizens should be implemented at the earliest.
- The industrial organizations should provide education to children of their employees.

#### CHALLENGES

- It is not practicable to enforce the Fundamental Duties and they must be left to the will and aspiration of the citizens
- Appropriate sanctions can be provided for lapse in respect of each Fundamental Duty
- In M.C. Mehta (2) v. Union of India, Court has held that under Art. 51-A (g) it is the duty of the Central Govt 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.
- The most important task is to reconcile the claims of the individual citizen & 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.
  - The fundamental duties enjoined on citizen under Article 51-A should also guide the legislative and executive actions of elected or non-elected institutions and organisations of the citizens including the municipal bodies.
  - Duties are observed by individuals as a result of
    - dictates of the social system,
    - the environment in which one lives,
    - under the influence of role models, or
    - on account of punitive provisions of law.
  - It may be necessary to enact suitable legislation wherever necessary to require obedience of obligations by the citizens. If the existing laws are inadequate to enforce the needed discipline, the legislative vacuum needs to be filled.
  - The duties as such are not legally enforceable in the Courts of law, but if a law has been made to prohibit any act or conduct in violation of the duties, it would be reasonable restriction on the relevant Fundamental Rights.
  - The framers of the Constitution did not deem it appropriate to incorporate those duties in the Constitution : – Because
    - 1) The concept of religious morality deeply rooted into Indian society
    - 2) The duties of citizens are encapsulated in the preamble
- DUTIES DEMANDED TO BE THE PART OF ARTICLE 51A**
- Duty to vote - Article 326 of the Constitution read with Section 62 of the Representation of People's Act, 1951 confers the right to vote.
  - Quite often the question arises as to whether that right also implies an obligation.
  - A right is a privilege to be granted, whereas an obligation is an act which one is required to do. Therefore, it is very crucial to analyse that, adult suffrage should be articulated as a right and a duty to vote.
  - As per our Constitution, voting is a civic right and not a civic duty.
  - DUTY TO PAY TAXES - Justice Jackson and Justice Reed have acknowledged the same in *Miller Bros. v. State of Maryland* - "The fact of residence creates universally reciprocal duties of protection by the state and of allegiance and support by the citizen. The latter obviously includes a duty to pay taxes, and their nature and measure is largely a political matter."
  - Swaran Singh Committee had recommended the addition of the payment of taxes as a FD as part of the 42nd Constitutional Amendment.
  - Indian citizens do not believe that it is their duty to pay tax but the duty of the state to collect it.
  - DUTY TO HELP ACCIDENT VICTIMS - According to the Law Commission of India, at least 50% of fatalities can be prevented if road accident victims receive medical attention within the critical first hour after the accident.
  - Many civil law systems, which are common in Continental Europe, Latin America and much of Africa, impose a far more extensive duty to help the accident victims
  - The only exclusion is that while attempting to rescue, the person must not endanger his or her own life or that of others.