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Fundamenta Duties and its Legal Status

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8.1 Introduction

- ▶ Part IV of the Indian constitution deals with Fundamental Duties.
- ▶ As of now, there are 11 Fundamental Duties.
- ▶ Originally, the Constitution of India did not contain these duties. Fundamental Duties were added by 42nd and 86th Constitutional Amendment Acts.
- ▶ Fundamental Duties are applicable only to citizens and not to the aliens.
- ▶ India has borrowed the concept of Fundamental Duties from the USSR.
- ▶ Citizens are morally obligated by the Constitution to perform these duties. However, like the Directive Principles, these are unjustifiable, without any legal sanction in case of their violation or non-compliance.

8.2 Article 51A - Fundamental Duties

- ▶ It shall be the duty of every citizen of India
 1. to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
 2. to cherish and follow the noble ideals which inspired our national struggle for freedom;
 3. to uphold and protect the sovereignty, unity, and integrity of India;
 4. to defend the country and render national service when called upon to do so;
 5. to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
 6. to value and preserve the rich heritage of our composite culture;
 7. to protect and improve the natural environment including forests, lakes, rivers, and wildlife, and 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 and 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 endeavor and achievement.
 11. 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.

8.3 Legal Status of Fundamental Duties

- ▶ The Fundamental Duties have been incorporated into the constitution to remind every citizen that they should not only be conscious of their rights but also of their duties.
- ▶ The Fundamental Rights in Part III, the Directive Principles of State Policy in Part IV and the Fundamental Duties in Part IV forms a compendium and have to be read together.
- ▶ It is true that there is no legal sanction provided for violation or non-performance of Fundamental Duties.
- ▶ There is neither specific provision for enforceability nor any specific prohibition.

- ▶ However, Fundamental Duties have an inherent element of compulsion regarding compliance.
- ▶ It is said that by their nature, it is not practicable to enforce the Fundamental Duties and they must be left to the will and aspiration of the citizens.
- ▶ However, in the case of citizens holding public office, each and all Fundamental Duties can be enforced by suitable legislation and departmental rules of conduct.
- ▶ Appropriate sanctions can be provided for the lapse in respect of each Fundamental Duty and it is quite practicable to enforce the sanction against every citizen holding a public office: for instance, departmental promotions can be deferred, increments can be withheld, etc.
- ▶ If an officer takes part in a strike or stalls the proceedings of his institution, he can be made to forgo the salary for that day.
- ▶ For the proper enforcement of duties, it is necessary that it should be known to all.
- ▶ This should be done by a systematic and intensive education of people that is by publicity or by making it a part of education.
- ▶ In *M.C. Mehta v. Union of India*, the Supreme Court has held that under Article 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 the natural environment in all the educational institution of the country.
- ▶ In *AIIMS Students Union vs. AIIMS*, the Supreme Court said that Fundamental Duties are equally important like Fundamental Rights.
- ▶ 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.
- ▶ The citizen should keep in mind that he owes the duties specified in Article 51-A to the State and if he does not care for the duties, he does not deserve the rights. of course, 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 a reasonable restriction on the relevant Fundamental Rights.
- ▶ However, the Fundamental Duties are not enforceable by mandamus or any other legal remedy.
- ▶ Since the Fundamental Duties are not addressed to the State, a citizen cannot claim that he must be properly equipped by the State so that he may perform his duties under Article 51-A.

8.4 References

M Laxminath "Indian Polity" 4th Edition 2013 Tata McGraw Hill Publication.

Durga Das Basu" Introduction to Constitution of India"

Tejpal Sheth" Indian Constitution"1st Edition 2018 Mahajan Publication.