

Fundamental Duties: Article 51-A Under Indian Constitution

Introduction

Our country India has the lengthiest written constitution in the world. In this, the rights of every person are kept in mind. However, the three organs of the State cannot make this country self-reliant until they get the proper support from the citizens as well. So there are certain fundamental duties which are expected from the citizens to be carried out. In this article, we will discuss the Fundamental Duties which are expected to be carried out by the citizens of our country. It is a moral obligation on the citizens to maintain the feeling of patriotism and unity among all the citizens of the country.

I remember an instance where a popular celebrity was found to breach the fundamental duty. There was a lady wearing a saree during the commentary of the live cricket match and that saree had a reflection of tricolor in it. In this case, the Indian flag seemed to touch the feet of that anchor. She was brutally criticized by various peoples and in the court, as this was a case of breach of fundamental duty so no legal action can be further taken against that anchor.

This was an instance of the year 2007 when I was still a child and knowing nothing about the Fundamental Duties. However, today I can clearly say that it was a breach of fundamental duty. Fundamental Duties are applied only to the citizens of the country, not to any organ of the state.

Need for Fundamental Duties

It is important to understand that no democratic system could ever succeed if the citizens are not willing to participate actively by discharging their duties which are expected to be done by them.

Our Constitution has provided us with various rights and expects us to perform certain duties as a return. [Article 51\(A\)](#) talks about these Fundamental Duties and has 11 fundamental duties that are expected to be performed by the citizens (there were 10 earlier and 11th was added later by the 86th amendment). First, we will discuss these 11 fundamental duties and then we can move on to the next topic whether it is needed or not.

- We need to follow our Constitution and should respect our national flag and national anthem.
- Should follow the ideals of the freedom struggle.
- Protect the sovereignty and integrity of our nation.
- Protect our nation and provide national services when required.
- Should have the spirit of a common brotherhood.
- Preserve the culture of our country.
- Protect the environment of our country.
- Generate scientific rationale for every thought.
- To protect public property.
- Strive for excellence.
- It is the duty of every parent to send their children between 6-14 years to school.

From these fundamental duties, one can easily understand the need for the fundamental duty in our constitution. It is required to protect the sovereignty of our nation. To maintain the unity and integrity of our nation. Rights and duties go hand in hand and cannot be separated at any cost. Fundamental duties and fundamental rights are two sides of a coin which we know that it can't be separated. Also, it is found as the need of the hour to introduce fundamental duties in our constitution.

- **Maintain the Sovereign Nature of State:** The main aim of the insertion of fundamental duties was to maintain the sovereign nature of our state. Although these are not legally enforced then also provide some kind of sovereign power to our state.
- **To maintain Unity and Integrity of the nation:** In the current scenario, we can see that people are often talking about the term "intolerance". They are relating intolerance with unity. According to them if the people become intolerant then the compatibility with other people will be affected and ultimately the unity among different people will be affected terribly. Our Fundamental Duties help in developing tolerance among the citizens and ultimately help in developing the feeling of unity and integrity among the citizens of our country.
- **In the interpretation of different statutes which are made by the legislature:** The Fundamental Duties help in the interpretation of the law/ statutes made by the legislature. It is held in many cases that the need for Fundamental Duties in interpreting the Fundamental Right is pivotal. In the case of [Mohan Kumar Singhania v. Union of India](#) the court held that statutes made according to [Article 51\(A\)](#) of our Constitution are valid. Thus from this, we can clearly see that Fundamental Duties help in interpreting the constitutional provision.
- **In order to create a balance between the claims of the individual citizen and those of the civil society:** A report was submitted by a committee led by late Justice J.S. Verma in the year 1999. The need for and importance of Fundamental Duties(especially under Article 51A) was explained by this committee. It can be found in recommendation nos 3.38.1 and 3.38.2 of the report. According to this committee, it is important to create a balance between the expectations of individual citizens and to create a civil society. To achieve this goal, it becomes important to orient the citizens of our country to be aware of their social and citizenship responsibility. And by doing this we will ultimately end up by shaping the civil society(By

term 'civil society', we mean that a society where all become concerned and considerate of the rights of fellow citizens).

- **Needed for the current situation:** When our Constitution was drafted by our Constitution makers they found that they didn't need to insert the fundamental duty in our constitution. But as time passes the need and importance of Fundamental Duty was felt that is why they were inserted later by 42nd Amendment in our Constitution. Earlier the feeling of patriotism, harmony, feeling to promote brotherhood, secularism were inherent and there was no need to put any moral or legal obligation on the citizen to the same. The feeling of serving the country and defending the country at any cost was there among the citizens of the country. The people were willing to protect the rich heritage of Indian culture.

However, as time passed people were lacking these qualities. Earlier the above qualities were taught by the family and also by the teachers in school and colleges. But with the passage of time, all the people become so busy in their life that they forget to inculcate these values among themselves. Those qualities which were once an integral part of the life of the citizens of India were found to be enforced in the form of Fundamental Duties.

In [Chandra Bhavan Boarding And Lodging Bangalore v. State of Mysore And Another](#), the Supreme Court held that it is not possible for our constitution to protect all the rights of citizens without assigning certain duties to its citizens. However, this decision was taken before the insertion of fundamental duties in the Indian Constitution. It clearly explains the need for fundamental duties for making a welfare society.

Source of Fundamental Duties

Nowadays we can clearly see that people will start protesting and how often it becomes violent. There are many instances where any protest became violent and people start vandalizing public property and start disrespecting the government. Here citizens go beyond the line and often forget their moral duty towards the nation. There was a similar condition in our country during the National Emergency of 1976 where the then ruling party of our country i.e. Indian National Congress formed the Sardar Swaran Singh Committee.

The main purpose of this committee was to suggest the amendment in the Constitution of India (mainly for the recommendations of fundamental duties). This committee suggested that the citizens should know that for the enjoyment of their rights they also have some duties and they should be abided by those duties. This committee recommended 8 points of fundamental duties. These were as follows:

1. To respect the constitution of our country.
2. To uphold the sovereignty and maintain unity and integrity of the nation.
3. To respect the democratic institutions.
4. To protect our country and provide national services when asked to do so.
5. Affirm communalism in any form.
6. To promote the common good of people and cooperate in the implementation of the Directive Principle of State Policy.
7. To safeguard public property.
8. Pay taxes according to rules and regulations.

However, all of the recommendations were not accepted and some further changes were made to the recommendations of the Swaran Singh Committee and Fundamental Duties were finally inserted by the [42nd amendment](#) in the Indian Constitution in the year 1976. However, initially, there were only ten

fundamental duties and the 11th duty was added later by the 86th amendment in 2002.

Many countries in this world have the fundamental duty mentioned in their constitution. For example, [Articles 43-45](#) of the Democratic Republic of Vietnam talks about the duties of citizens towards the nation. Similarly, Article 194 of The Netherlands also mentions about the same. Japan has also mentioned the fundamental duty of the residents of the country. The idea of Fundamental Duties which has been mentioned in our constitution is basically taken from the constitution of Russia(then USSR). These fundamental duties are mentioned in Chapter 10 of the Constitution of the USSR. The concept of Fundamental Duties have also been discussed in the [Universal Declaration of Human Rights](#) and also in the [International Covenant on Civil and Political Rights](#).

Enforcement of Duties

Directive Principle of State Policy (which is given in Chapter IV of the Indian Constitution) and Fundamental Duties needs to be read together. Both have a moral obligation on the state and citizens respectively.

Fundamental Duties do not have any legal devour for its violation. There are six positive duties which are expected to be done by the citizens of our country and there are five negative duties which are not expected to be carried out by the citizens. There is no legal enforceability for its breach, it is because of the nature of the Fundamental Duties. We can clearly understand that it is practically impossible to enforce these duties.

It is important to know that Fundamental Duties are only enforceable for the citizens holding public offices. It is possible by way of departmental rules of conduct and by making suitable legislation. There are appropriate sanctions for the breach of Fundamental Duties in Public Offices.

There are many places in India where a person holding public office can be barred from departmental promotions, also their increment can be refused. An officer who takes part in strikes and organized a rally against the institution can be made to give up his salary for that day.

Section 3 of the Prevention of Insults to National Honour Act, 1971

Prevention of Insults to [National Honour Act, 1971](#) is an act that prevents the citizens of our country from dishonoring the country. It includes dishonoring the National Flag and Constitution of India. However, these are reasonably enforceable.

[Section 3](#) of this act talks about the prevention of singing of the National Anthem. All the citizens should be punished if they intentionally prevent the singing of the National Anthem or causes disturbance to an assembly which is busy in such singing. For instance, if a person starts making noise in a place where an assembly is doing the National Anthem he would be punished under this article.

In the recent case of [Shyam Narayan Chouksey v. Union of India](#) in which Hon'ble Justice Deepak Misra and Hon'ble Justice Roy passed an interim order making it mandatory to:

- i) Play the National Anthem before the screening of each movie.
- ii) Making it compulsory for all viewers to stand still during the National Anthem.

This judgment was found to be violating [Article 19\(1\)](#) of the Indian Constitution as the unreasonable restrictions were put on the citizens of the country. [Article](#)

[19\(1\)g](#) clearly mentioned that the state can formulate any law which puts a restriction on Article 19(1) however these restrictions should be reasonable. The decision, in this case, was found to be violating the fundamental right of citizens. It was found to be violating the Fundamental Rights as it put unreasonable restrictions that cannot be done by the State. As our country is a liberal country where everyone has the right to think independently, express their views without any obligation and follow their belief without any compulsion.

This case brought turmoil in the Indian society as many people supported this verdict as they found it to protect the honor of our nation. There were also people who were not satisfied with the verdict of the Court as they find it to violate the fundamental rights of citizens. It was a landmark case in the Indian Judicial System. How can one be compelled to stand during the National Anthem without his will? Also, how can the patriotism of a person be judged by this? Here, in this case, the Supreme Court clearly held that the Fundamental Duties are above Fundamental Rights. Here there were many loopholes in the Supreme Court decision.

M.C. Mehta v. Union of India, 1988 SCR (2) 530

The Fundamental Duty, given in [Article 51 A\(g\)](#) of the Indian Constitution clearly mentions the duty of the citizen to protect the environment. According to this article, it is the duty of every citizen to protect and preserve the natural environment (natural environment includes forest, rivers, lakes, and wildlife). A healthy environment is an essential element of the welfare of any society.

In the case of [M.C. Mehta v. Union of India](#) Article 51(g) was enforced by the Supreme Court. In this case, 274.50 million liters of sewage water was being discharged into the river Ganga on a daily basis. This case is about the city of Kanpur, which is the biggest city on the bank of river Ganga. Here water

pollution was to a great extent that's why the petitioner filed a petition in the Supreme Court. Here Apex Court of the country found that Municipal bodies and industries in Kanpur were the main reason for polluting the river. Therefore judgment was taken against Kanpur Nagar Mahapalika. In this case, Nagar Mahapalika and Municipal Boards were held liable because it is their responsibility to maintain and protect the environment in the areas of Kanpur.

Further here the Apex Court held that as there are many grave consequences of water and air pollution and also as there is a need to protect and improve the natural environment it became a moral obligation on the part of the government to ensure the protection of the environment. Also, it is one of the fundamental duties which is given in our constitution which makes a moral obligation on the part of the citizens as well to ensure the protection of the environment. The Supreme Court held that it is the duty of the Central Government to direct all the educational institutions of our country to teach and train citizens about the protection and improvement of the environment for at least one hour a week.

Further Supreme Court held that the Central Government needs to get the textbook written for the same purpose. These textbooks would be further distributed among all educational institutions of our country. There should be training for teachers who are going to give such educational teaching to children.

Fundamental Duties: An Aid to the interpretation of Constitutional provisions

By reading all the Fundamental Rights and Fundamental Duties together we can make a clear understanding that there is a direct relationship between the Fundamental Rights and Fundamental Duties. They are connected in some or other way. It often becomes difficult for one to relate to them. But if we read it

together the task becomes much easier. For example, [Article 21\(A\)](#) is similar to [Article 51 A \(k\)](#). Both of these articles talk about the education of the child between 6- 14 years. While Article 21(A) put the obligation on the state to see that no one is deprived of the Right to Education on the other hand Article 51 A (k) makes the duty of the citizen to make sure that no children are deprived of going to school. Thus here ultimate aim of the constitutional provision under Article 21(A) of providing education to children is achieved by this Fundamental Duty (Article 51A (k)). Thus here by this illustration, we can clearly understand that Fundamental Duties helps in the interpretation of any constitutional provision.

We can't deny the importance of Fundamental Duties simply as they are not enforceable in a Court of Law. Take Another instance, [Article 21](#) which talks about the "Right to Life and Personal Liberty" is achieved by [Article 51A \(g\)](#) which is a Fundamental Duty. Right to Life and Personal Liberty include the Right to a Healthy Environment. It is (Article 21) explained by the Supreme Court in a positive way and the Supreme Court regarded that "Right to Life" means "Right to Clean Environment". Also talking about Article 51 A(g), it makes the duty of the citizen to protect and improve the natural environment. Thus here also we can see that the right of the citizen to get a healthy environment is ultimately achieved by making it the Fundamental Duty of the citizen to protect it.

AIIMS Students Union v. AIIMS, AIR 2001 SC 3262

In the case of [AIIMS Student Union v. AIIMS](#), there was a test of merit (based on marks) over reservation in the admission process for postgraduate medical courses of the All India Institute of Medical Sciences.

In this case, three meritorious students went to Delhi High Court by filing a writ petition for the purpose of getting admission in the prestigious institute of medical science. Here there was a reservation of 33% of seats to those who have graduated from this institute itself. The issue raised was whether AIIMS has the right to give such a reservation to the students. Here the Supreme Court found it unreasonable to reserve a seat for the college student itself and quash such acts of the AIIMS as it was against the constitution.

Here the Supreme Court clearly held that though the Fundamental Duties though may not be enforceable by a writ of the Court they provide a valuable guide in the interpretation of the constitutional provision. Here, in this case, the State (which includes citizens of our country failed) to take care of fundamental duty i.e. to strive towards excellence of individuals and collective activity in order for the betterment of the nation. The Fundamental Duties do not expressly cast any duty on the State, the duty of each individual became the collective duty of the State.

Aruna Roy v. Union of India, AIR 2002 SC 3176

In the very famous case of [Aruna Roy v. Union of India](#) PIL was filed in the Supreme Court. It has been contended that the National Curriculum Framework for School Education (NCFSE) which was published by NCERT is against the constitutional mandate, anti-secular and without consultation with Central Advisory Board of Education (CABE) and therefore it needed to be quashed. The implementation of NCFSE was challenged as it did not get the approval of CABE. Also, NCFSE was found to be against the constitution as it violated the basic principle of secularism.

However, the petition was canceled as the Supreme Court did not find any reason to cancel the framework (NCFSE). What is given in our constitution is that students should be taught that every religion is common/ equal?

Further [Article 51A \(e\)](#) clearly explains this condition. According to this fundamental duty, it is the duty of the citizen to promote harmony and brotherhood among the people of a different religion. And in order to achieve these universal values like truth, right conduct, love, and peace should be the base of education.

The state of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat, AIR 2006 SC 212

Nowadays one of the most rising issues which are often in the news is about the cow slaughtering. The case of [the State of Gujarat v Mirzapur Moti Kureshi Kassab Jamat](#) clearly explains all the aspects of cow slaughtering. The petition was filed challenging the amendments made in the Bombay Animal Preservation and that amendment was applicable to the state of Gujarat. The amendment puts a complete ban on the slaughter of bulls and bullocks. The petition challenged that as the cows and bullocks above 16 years do not possess any economical benefit so they can be slaughtered by those who are willing to do it.

However, the Apex Court held that the economy of Gujarat is still dependent on agriculture. In agriculture processes, these animals are of great importance. It, therefore, becomes important for the preservation and protection of these animals. They can be used for the purpose of creating biogas after they have become old.

The Supreme Court also held that the amendments do not violate [Article 14](#) and [Article 19](#) of our Constitution as this amendment put a reasonable restriction on these rights of the citizen.

Also, the Supreme Court held that according to [Article 51 A \(g\)](#) which puts a duty on the citizen to protect and improve the environment and here environment including forests, lakes, rivers, and wildlife. So the court held that

according to this Article of our constitution the state can make laws for the protection of the environment. This Article helps in the interpretation of [Article 21](#) of our constitution according to which as mentioned earlier in this article talks about the Right to Clean Environment.

Government of India v. George Philip, AIR 2007 SC 705

In this very famous case of [Government of India v. George Philip](#), the purpose of compulsory retirement was challenged by the respondent. The respondent who was working in BARC was granted two years leave at the starting of his service by the department. It was given to him to carry out advanced research training. After many reminders, the petitioner overstayed in the foreign and an inquiry was constituted for the same purpose and charge against him was proven. He was allowed (decision of the High Court) to join his service but no wages were decided to be given to him for those days which he was not able to attend the service. But the Supreme Court overruled this decision of the High Court. The reasoning given by the Supreme Court behind its decision was that the earlier decision i.e. the decision of the High Court was against [Article 51A\(j\)](#).

Article 51A(j) clearly says that it is the duty of one to always strive towards excellence in all spheres of life of an individual and it also talks about the collective activity so that the nation keeps rising higher in an endeavor and this can not be achieved until the employees maintain the discipline.

Conclusion

At last, we can conclude that in this article we have come to know about every aspect of Fundamental Duties and by reading every aspect of it we can clearly understand the need and importance of Fundamental Duty. It was added in our

constitution as our government realized that a civil society (discussed earlier in this article) can not be made by the state only. The citizens of our country need to play a vital role in achieving the basic aim of our constitution. They can do this by following their duties towards the nation as mentioned in [Article 51A](#) of our Constitution.

Also one can not ask for a right if one is not doing the duty assigned to them.