

FACULTY OF JURIDICAL SCIENCES

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Lecture-22



Concept of Duties

- As citizens, there exists a wide range of duties that bind us in everyday life. These duties are owed both to the state and to individuals.
- There is a legal duty to pay taxes, to refrain from committing violence against fellow-citizens, and to follow other laws that Parliament has enacted.
- Breach of these legal duties triggers financial consequences (fines), or punitive measures like imprisonment.
- Duties follow a simple logic that, **peaceful co-existence requires a degree of self-sacrifice**, and that if necessary, this must be enforced through the set of sanctions.

Does this suggest that duties are unimportant?

- As indicated above, duties exist in every sphere of society. However, it is the **language of duties** that can play an important role in a society like India that continues to be divided and unequal.
- Any duty imposed upon the citizens must comply with **due process of law**.
 - The concept of 'due process of law' holds that no person shall be deprived of life, liberty or property except in accordance with the explicit provisions of law and with due regard to his rights.
- Without the moral compass of rights and their place in the transformative constitutional scheme, the language of duties can lead to unpleasant consequences.
 - A good example of this is a Supreme Court judgment from the early 1980s, which upheld the differential treatment of male and female flight attendants on the ground that women had a "duty" to ensure the "good upbringing of children" and to ensure the success of the "family planning program" for the country.

In this light, 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. Interpretation of 'Duties' and the debate around it should include the duties of those with power. Those with power should not use it to exploit those from whom they wield it. It is only after guarantee to all the full sum of humanity, dignity, equality, and freedom promised by the Constitution, that we can ask of them to do their duty. It is only after ensuring the humanity, dignity, equality, and freedom for all, as promised by the Constitution, that the burden of 'following the duties' should be imposed on the citizens.

Fundamental Duties

The Government is planning to assign its different Ministries with the task of spreading awareness about Fundamental duties among people.

- The **idea of Fundamental Duties** is inspired from the **Constitution of Russia**.
- These were incorporated in **Part IV-A** of the Constitution by the **42nd Constitutional Amendment Act, 1976** on the **recommendations of Swaran Singh Committee**.
- Originally 10 in number, one more duty was added through the 86th Constitutional Amendment Act, 2002. All the **eleven duties** are listed in **Article 51-A** of the Constitution (the sole Article in Part-IV-A).
- The fundamental duties serve as a reminder to citizens that while enjoying their rights, they have also to be quite conscious of duties they owe to their country, their society and to their fellow-citizens.
- However, like the Directive Principles, the duties are also **non-justiciable** in nature.

List of Fundamental Duties

- To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- To cherish and follow the noble ideals that inspired the national struggle for freedom;
- To uphold and protect the sovereignty, unity and integrity of India;
- To defend the country and render national service when called upon to do so;
- 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;
- To value and preserve the rich heritage of the country's composite culture;
- To protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures;
- To develop scientific temper, humanism and the spirit of inquiry and reform;
- To safeguard public property and to abjure violence;
- 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
- To provide opportunities for education to his child or ward between the age of six and fourteen years (added by the 86th Constitutional Amendment Act, 2002).

Relationship between Rights and Duties

As there is a close relationship between the body and soul, so there is a relationship between the rights and duties.

Professor Laski finds the following points of relationship between the rights and duties:

(1) The right of one is related to the duty of the other:

If one has the right, the other has the duty related to that right. If one enjoys the right, it becomes the duty of the other not to prove an obstacle in the enjoyment of his right. For example, if I enjoy the right to life it is the duty of others not to cause any harm to my life.

(2) The duty of the one is the right of the other and vice versa:

If I possess rights, I owe duties also. As we treat others so others will treat us. If the other has the right to life and security, it is our duty that I should not cause any harm to his life and security. To give proper respect and regard to the rights of others is our duty.

(3) The state guarantees the enjoyment of certain rights to every individual:

But at the same time, it becomes the duty of the individual that he should make the use of those rights for promoting the common welfare. For example, if I have the right to vote, it becomes my duty that I should cast my vote in favour of a deserving candidate. While casting my vote, I should not allow my prejudice to work. I should not be influenced by the distinction of caste and creed, rich and poor, black and white, etc.

(4) If the state protects me in the enjoyment of my rights:

It becomes my cardinal duty to serve the state in full spirit. If rights spring to us from the state, it becomes our duty to perform certain duties towards the state. If the state protects us, it becomes our cardinal duty that we should pay taxes regularly and remain faithful and loyal to the state. Treachery is a crime.

Thus, it is quite clear that rights and duties are so closely related to each other, that they cannot be separated from each other. If every individual pays 'attention only to his rights and does not perform his duties to others, rights of individual will cease to exist.

There is a close relationship between the rights and duties. They are the same conditions viewed from different angles. They are the two sides of the same coin. If we have the right to speech, writing, wandering, running institutions and any religion we like, it is our duty, at the same time that we should not spread evils in society by our writing work or by our lectures.

If we have the right to vote, we should make the proper use of this right and cast our vote in favour of the honest and deserving candidate. If we have the right to make the use of roads for our vehicles, it becomes, at the same time, our duty that we should keep to the left so as to avoid accidents.

MCQ

1. The fundamental duties are included in the constitution by which of the following act?

- (a) 40th amendment act
- (b) 44th amendment act
- (c) 43rd amendment act
- (d) 42nd amendment act

2. The fundamental duties are mentioned in which of the following?

- (a) Part-IV A
- (b) Part-IV
- (c) Part-III
- (d) In schedule IV-A

3. Which of the following article of the Constitution contains fundamental duties?

- (a) 45 A
- (b) 51 A
- (c) 42
- (d) 30B

4. Which of the following are fundamental duties?

- (a) Safeguarding public property
- (b) Protecting the sovereignty, integrity and unity of India
- (c) Developing scientific temper and humanism
- (d) All the above

5. Which of the following committee suggested to incorporate fundamental duties in the constitution?

- (a) Malhotra committee
- (b) Raghavan committee
- (c) Swaran singh committee
- (d) Narasimhan committee