

The background of the journal cover features a top-down view of a desk. On the left, there is a pair of black leather brogue shoes. In the center, an open notebook with lined pages and a silver pen lies on a light-colored wooden surface. To the right, a black leather bag is partially visible, and a black leather watch with a silver dial is placed on the desk. A large, semi-transparent white rectangular box is centered over the image, containing the journal's title and ISSN information.

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NON-JUSTICIABILITY OF FUNDAMENTAL DUTY- RE-EVALUATING ARTICLE 51A AS CIVIC RESPONSIBILITY

AUTHORED BY - LISIYA DAS
(Assistant Professor, Shyambazar Law College)

ABSTRACT

This study examines is Article 51A of the Indian Constitution just a mere non-justiciable provision or developing as substantive civic responsibility. Article 51A was introduced by 42nd constitutional amendment, fundamental duties were supposed to gradually impart discipline and encourage national values in citizens. Though the fundamental duties are non justiciable in nature but still judicial interpretations have given it a normative significance. Through a doctrinal analysis and various landmark judgments, this study tends to state that Fundamental Duties are just a mere symbol but an instrument to shape the constitutional governance. This is relevant in today's contemporary India, relevant in areas like environmental protection, civic responsibility and so on. Though article 51A was just a traditional non-justiciable character, still embodies an emerging constitutional morality.

Keywords: Civic Responsibility, Non-justiciable, Normative.

INTRODUCTION:

The constitution of India is the foundation of social order and harmony, it's not only envisages fundamental rights but also imposes some duties on the citizen. What rights an individual should have in this country has been provided in the part III of the constitution side by side some duties have also been provided in part IVA, though these duties were originally not there but added later on through amendment. Article 51A attempts to balance between rights with corresponding responsibilities, there by rooting a constitutional morality.

The question may arise, whether these duties are just symbolic not having any enforceability just like fundamental rights or having some normative and legal value. This study argues that though the fundamental duties are non-enforceable in nature but evolving as a interpretative tools influencing judicial reasoning and civic conduct along with legislative policy.

The 42nd Constitutional amendment:

The fundamental duties were incorporated in the constitution through 42nd amendment act, 1976 while there was Emergency during that period 1975-1977. The inclusion of these fundamental duties was recommended by Swaran Singh Committee to balance the rights and a sense of responsibilities among the citizens.¹

Primarily, ten duties were incorporated starting from respect for the constitution to protection of the environment. But later on through constitutional 86th amendment act, 2002 clause (k) was added which imposes a duty on parents and guardians to provide opportunities for education to children from 6-14 years.²

Though these duties were introduced to enforce discipline among the citizens of India, but today they play a very important role in the functioning of constitution.

Nature of Fundamental Duties: Non-Justiciability:

Fundamental rights enshrined in part III are enforceable under article 32 and 226 but fundamental duties are non-justiciable in nature that is why there is no corresponding legal remedy.³ This is the reason why scholars characterize these fundamental duties as moral obligation rather than a legal mandate.

Though absence of direct enforceability it still have constitutional significance. Supreme court has observed on various occasion that constitutional provisions must be interpreted comprehensively and duties are not empty slogans but interconnected⁴ with fundamental rights and directive principles of state policy to form a balanced constitutional machinery. Rights and duties are two sides of the same coin, where individual rights can be balanced by civic responsibility to form a welfare state. These duties are not legally enforceable because some duties are personal and idealistic in nature as they depend upon the mindset and behaviour of the people like developing scientific thinking or promoting harmony, these cannot be measured by force of law. Instead of punishing people for not following, these duties are a guiding principle and encourage responsible behaviour.

¹ Report of the Swaran Singh Committee (1976).

² The Constitution 86th amendment act, 2002.

³ Constitution of India arts. 32, 226.

⁴ Kesavananda Bharti v. State of Kerala, (1973) 4 SCC 225.

Judicial Interpretation of Article 51A:

Indian Judiciary played a very important role in changing the fundamental duties from just a mere constitutional provision to operative principle. Courts cannot enforce these duties directly but invokes them while interpreting statutes and expand the scope of fundamental rights. In *AIIMS Students' Union v. AIIMS*, the Supreme Court expressed that fundamental duties are essential for maintaining discipline and cannot be ignored in governance⁵. Further court clarified that success of the constitution does not only depend on state but also on the effective participation of the citizens.

Similarly, in *M.C. Mehta v. Union of India*, the court observed that even though court cannot enforce fundamental duties but still every citizen has the duty to protect environment and 51A(g) supports to enforce stronger environmental laws⁶. This approach shows a shift that duties are being read with rights, particularly Article 2021.

In *Aruna Roy v. Union of India*, the court held that education must be value-based, fundamental duties are necessary for shaping responsible citizenship⁷. Additionally in *Rural Litigation & Entitlement Kendra v. State of U.P.*, the court indirectly invoked environmental duties for imposing restrictions on mining activities⁸.

These decisions prove that, fundamental duties are very important helps to interpret and also influences the development of constitutional law.

Fundamental Duties as Civic Responsibility:

The idea that liberty can be achieved through active citizenship, civic virtue is the core reason of fundamental duties; democracy can be sustained only through active citizens. In liberal constitutionalism priority is given only to the rights of the individuals while republican theory based on the importance of civic virtue and participation. Article 51A is represents this philosophy and encourages the citizens to act for collective interest. Promoting harmony, safeguarding public property and protecting the environment is the reflection of communitarian ethos which tries to harmonize individual and societal interest.

Furthermore the concept of constitutional morality, was expressed in *Navtej Singh Johar v. Union of India*, the supreme court of India stated the importance of duties in shaping ethical

⁵ *AIIMS Students' Union v. AIIMS*, (2002) 1 SCC 428.

⁶ *M.C. Mehta v. Union of India*, (1987) 1 SCC 395.

⁷ *Aruna Roy v. Union of India*, (2002) 7 SCC 368.

⁸ *Rural Litigation & Entitlement Kendra v. State of U.P.* 1985 Supp SCC 79.

citizenship⁹. Although this mentioned case was mainly concerned with fundamental rights, but its emphasis on constitutional values.

Thus fundamental duties are an important instrument for developing civic consciousness and promoting participatory democracy.

Recent Judicial Developments (Post-2018):

After 2018 the constitutional jurisprudence shows a growing judicial sensitivity towards the fundamental duties even though maintaining non-justiciable nature.

In recent case related to the enforcement of fundamental duties, the Supreme Court in *Durga Dutt v. Union of India* (2022), issues a notice on a petition seeking enforceability of duties, which acknowledges the continuing constitutional debate regarding the legal status¹⁰.

However the court concurrently reaffirmed the non-justiciable nature of these duties. In 2024, in similar plea, the apex court clarified that these duties cannot give direction to the legislature to enact laws and enforce fundamental duties as there is constitutional limitation on judicial power in this area.

Fundamental duties under article 51A (g) must be read with article 21 which can strengthening the right to healthy environment. Additionally court has emphasised the duties are important for realizing right based framework specially in environment protection and social harmony.

Contemporary Relevance of Article 51A:

Because of rapid social, technological, and environmental changes the relevancy of fundamental duties has increased significantly. Article 51A (g) talks about environmental protection, which has gained prominence because of climate change and ecological degradation¹¹. The importance gained by this provision because of judicial reliance has contributed to evolution of environmental jurisprudence in India.

Similarly, Article 51A (h), emphasizes the development of scientific temper is important to deal with the challenges posed by misinformation and pseudoscience. In digital media era, duty to promote rational thinking is of highest importance. The emergence of digital citizenship widens the scope of fundamental duties. Responsible online activity, respect for diversity, and maintaining the constitutional values are very relevant in the virtual sphere.

Additionally promoting harmony is significant in pluralistic country like India, where social

⁹ Navtej Singh Johar v. Union of India, (2018) 10 SCC 1

¹⁰ Durga Dutt v. Union of India, W.P. (C) (2022) (Supreme Court of India)

¹¹ Shyam Divan & Armin Rosencranz, Environmental Law and Policy in India (2d ed.2001)

unity is essential for national integration.

Critical Analysis:

Despite the growing importance of fundamental duties there is still limitation. The non-enforceable nature restricts the direct impact and there is very minimal to zero awareness among citizens. There is also tendency for misusing the provisions, as fundamental duties may be invoked for justifying the restrictions on fundamental rights. The critics argue that article 51A is broad and vague in nature, which makes it susceptible to subjective interpretations only. However the flexible nature opens the door for the courts to adapt duties to serve the societal needs. A balanced approach is necessary for ensuring that fundamental duties must complement the fundamental rights rather than undermining it.

Conclusion:

Article 51A in an unique invention which seeks to balance rights with responsibilities.

Though this is non-justiciable but its normative and interpretative feature made it significant through judicial engagement and societal evolution.

This study concludes that fundamental duties are not just a symbolic nature but constitutes an integral part for constitutional governance. This functions as an guiding star which shapes the civic behaviour, judicial reasoning and promote constitutional morality. As India is an democratic nation, the importance of Article 51A is likely to become central point for promoting an engages, responsible and constitutionally conscious citizenry.

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