

1. Fundamental Duties – Explained

Prelims Level: Polity

Mains Level: GS-II Indian Constitution- historical underpinnings, evolution, features, amendments, significant provisions and Basic Structure.

Why in News?

- Over last few days, the Prime Minister, President, Vice President and Law Minister have been stressing Fundamental Duties on various occasions.

What is Fundamental Duty?

- The Fundamental Duty is defined as the moral obligations of all citizens to help promote a spirit of patriotism and to uphold the unity of India.
- These duties set out in Part IV–A of the Constitution, concern individuals and the nation.
- These are statutory duties, not enforceable by law, but a court may take them into account while adjudicating on a matter.

How they are incorporated in the Indian Constitution?

- The Fundamental Duties were incorporated in Part IV-A of the Constitution by the Constitution 42nd Amendment Act, 1976, during Emergency under Indira Gandhi's government. Today, there are 11 Fundamental Duties described under Article 51-A, of which 10 was introduced by the 42nd Amendment and the 11th was added by the 86th Amendment in 2002, during Atal Bihari Vajpayee's government.
- The idea behind their incorporation was to emphasize the obligation of the citizen in exchange for the Fundamental Rights that he or she enjoys.
- The concept of Fundamental Duties is taken from the Constitution of Russia.

What are the Fundamental Duties under Article 51-A?

- 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 which inspired our national struggle for freedom
- To uphold and protect the sovereignty, unity and integrity of India — it is one of the preeminent national obligations of all the citizens 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; to renounce practices derogatory to the dignity of women.

- To value and preserve the rich heritage of our composite culture — our cultural heritage is one of the noblest and richest, it is also part of the heritage of the Earth
- To protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures
- To develop the 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
- 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.
 - ✓ It is the one on children's education that was added in 2002 by the 86th Amendment that provided for the Right to Free and Compulsory Education for children in the age group 6-14, with the insertion of Article 21A. It also cast an obligation on parents to provide such opportunities under Article 51A (K).

Under what circumstances was the 42nd Amendment passed?

- The amendment came at a time when elections stood suspended and civil liberties curbed.
- The government arrested thousands under MISA (Maintenance of Internal Security Act) and carried out anti-poverty programmes, slum demolition drives, and a forced sterilization campaign.
- Apart from adding the Fundamental Duties, the 42nd Amendment also changed the Preamble to the Constitution to include the words 'Socialist and secular' to describe India, in addition to its being 'Sovereign Democratic Republic'.
- New 'Directive Principles' were added and given precedence over Fundamental Rights.
- Jurisdiction of the Supreme Court and High Courts to review constitutionality of the laws was curtailed.
- High Courts were prohibited from deciding on the constitutional validity of central laws.
- A new Article 144A was inserted, prescribing a minimum of seven judges for a Constitution Bench, besides stipulating a special majority of two-thirds of a Bench for invalidating central laws.

Swaran Singh Committee Recommendations:

- In 1976, the committee was set up to make a recommendation for fundamental duties, the need and necessity of which was felt during the emergency period.

- The committee recommended for the inclusion of separate chapter under the heading of Fundamental Duties.
- It will make citizen conscious of their duties while enjoying fundamental rights.
- The government accepted the suggestion and included in a separate article 51A which had ten fundamental duties.
- The government declared that non-inclusion of fundamental duties in the original constitution was a huge mistake which has now been ratified by the present government.
- Although Swaran Singh Committee suggested the incorporation of only eight fundamental duties but the 42nd Amendment had ten duties.
- It is not surprising that not all recommendations were accepted by the then government, some of these non-recommendations are:
 1. The Parliament may provide for the imposition of punishment or penalty as considered suitable for non-compliance of these duties.
 2. Such punishment or law won't be questioned in a court of law for the enforcement of fundamental Rights and in case it caused a breach of fundamental rights.
 3. Duty to pay taxes by the citizen was by the citizen was also on the list of fundamental duties.

Justice Verma Committee Report:

- Justice Verma Committee was constituted in 1998 to plan a strategy and to work out for a methodology for operationalizing a programme initiated countrywide for the purpose of teaching fundamental duties and make it enforceable in every educational institution and to initiate as in-servicing training.
- The committee had knowledge of non-operationalization of Fundamental duties and it was not because of the lack of concern or non-availability of legal provisions, but it was because of the strategy of implementation.
- There are enough legal provisions and committee had provided with these provisions:
- The prevention of Insults to National Honour Act, 1971 has already been implemented stipulating that no citizen can disrespect the National flag, Constitution of India and the National anthem which are enshrined in the first clause of the Article 51A.
- There are various criminal laws which are enacted to provide punishment to people encouraging enmity between different sections of people on the grounds of race, religion, language, place of birth and so on.

- To provide punishment for the offence related to caste and religion, The Protection of Civil Rights Act (1955) was enacted.
- There are various sections in the Indian Penal Code that declare the imputation and assertions which are prejudicial to nation's integrity and unity and are punishable offences. The Unlawful Activities (Prevention) Act of 1967 was enacted to prevent a communal organisation to be declared as an unlawful association.
- For the disqualification of Members of Parliament or state legislatures that have indulged in corrupt practices such as soliciting votes in the name of religion or promoting enmity between different sections of people on grounds of race, caste, language, religion or any other ground, The Representation of People Act of 1951 was enacted.
- The protection of wildlife and prohibition of trade in rare and endangered animals is done by The Wildlife (Protection) Act of 1972. To ensure the implementation of Clause (g) of Article 51A, The Forest (Conservation) Act of 1980 was implemented which provides for indiscriminate deforestation and diversion of forest land for non-forest purpose.

Why Fundamental Duties Needed?

- It serves as a constant reminder to the citizens while enjoying their rights, the citizens should be aware of their duties their nation and towards other citizens.
- These serve as a warning to the people against the anti-social activities that disrespect the nation like burning the flag, destroying the public property or disturbing public peace.
- These help in the promotion of a sense of discipline and commitment towards the nation. They help in realizing national goals by the active participation of citizens rather than mere spectators.
- It helps the Court in determining the constitutionality of the law. For instance, any law passed by the legislatures, when taken to Court for constitutional validity of the law, if it is giving force to any Fundamental Duty, then such law would be taken as reasonable. They can be enforced by the law; the parliament has the right to impose any type of penalty or punishment for violating any of the Fundamental Duties.