AILET

Fundamental Duties for CLAT

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Introduction

This article covers Fundamental Duties for CLAT, it is useful for legal aptitude as well as the general knowledge section of the law entrance exam.

Lawyers and law aspirants should agree that the rights and duties are the sides of a coin, thus rightly said that where there is a right there lies a duty.

The Constitution of India in **part IVA under Article 51A** enlists the fundamental duties. The Constitution originally did not have fundamental duties and these were subsequently inserted vide the **42nd amendment in 1976 and subsequently by the 82nd amendment in 2002**

The duties are in consonance with international instruments such as **Article 29[1]** of the Universal Declaration of Human Rights and relevant provisions of the International Covenant on Civil and Political Rights.

The fundamental duties are designed concerning the individual and the nation. The main purpose of incorporating the duties is to instil a sense of patriotism in the citizens. There are no legal provisions for the enforcement of these duties.

These duties are non-justiciable meaning that any violation is not punishable. Citizens are morally obligated with an inherent compulsion towards the performance of these duties.

Important concepts about fundamental duties

1. The duties have been incorporated in the constitution based on the recommendations made by the Swaran Singh Committee in 1976. This committee suggested 10 fundamental duties.
2. The concept of fundamental duties as much as is unique to the Indian constitution, it was borrowed from the USSR.
3. The 11th duty viz mandating parents for compulsory education of children aged between 6-14 was inserted in 2002. This provision was borrowed from Japan.

4. These duties are intended to regulate the behaviour of the citizens whilst at the same time inspire them towards excellence and a constant strive to it.
5. Unlike the fundamental rights, the duties are only applicable to the citizens of the country and not the aliens.
6. There are 11 fundamental duties out of which six are positive implying an obligation to do the act whilst the rest five are negative duties restraining and foreboding the citizens from doing the acts.
7. Albeit as stated above the duties are non-justiciable for citizens, interestingly, duties can be enforced against the citizens holding public offices by way of suitable legislation such as the Prevention of Insults to National Honour Act, 1971.
8. Fundamental duties are not legally enforceable in a court of law. They can be seen as a reasonable restriction in case of a violation of law promulgated to oversee the conduct of these duties.
9. Fundamental duties cannot be enforced by mandamus or like remedies.
10. The Supreme Court of India has recently issued directions to the states demanding provisions that are enabling and effective towards the proper performance of duties by the citizens.
11. Any citizen cannot claim to be equipped by the state to facilitate the performance of their duties. This is so because fundamental duties are not addressed to the government.
12. The Justice JS Verma Committee noted specific legal provisions in various legislations that could be used towards the better implementation of fundamental rights.

Scope of Fundamental duties for CLAT

1. It helps the courts in determining the constitutionality of the law whilst declaring any law that gives force to fundamental duties as reasonable and valid.
2. They are used by the courts for interpreting the statues that would otherwise have many constructions. Any interpretation of the law that is in line with the fundamental duties is found to be the best interpretation.
3. Whilst deciding on the enforceability of fundamental rights, the courts look upon the fulfilment of corresponding duties by the claimant. Courts take a stern view in case it is found that the claimant has fallen short in the performance of his duties.
4. They serve as a warning against anti-national and anti-social activities against the nation.

The list of fundamental duties

Article 51A of the Indian Constitution lays down the fundamental duties of citizens in India. The 11 fundamental duties of India are as follows:

- 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.
- 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.
- To protect and improve the natural environment including forests, lakes, rivers and wildlife, 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.
- To provide opportunities for education by the parent the guardian, to his child, or ward between the age of 6-14 years as the case may be.

Judicial decisions concerning fundamental duties for CLAT

- M.C. Mehta v. Union of India & Ors, 1988

The Apex Court, in this case, enunciated the duty of the central government to introduce compulsory teaching lessons on the protection and importance of the natural environment.

It mandated all educational institutions to spare one hour per week towards the fulfilment of this objective under Article 51[g]. **The court, vide this judgement, also directed the central government to organise a clean week once a year in every village, town and city.**

It was directed that the government authorise publication of books on the importance of nature and distribute them free of cost in all educational institutions.

- A.I.I.M.S. Students Union v. A.I.I.M.S. & Ors, 2001

In this case, the Apex Court reiterated that fundamental rights albeit legally unenforceable provide guidance and help in the interpretation of constitutional challenges.

It upheld the position that fundamental duties ought to be given their full meaning as expected by the enactment of the Forty-second Amendment. The court expanded on the fundamental duties to strike-off institutional **reservation of 33% in AIIMS**, in addition with 50% reservation discipline wise as violative of Article 14.

The court **held that though Article 51A does not cast any duty on the state it is the collective duty of every citizen of the state**.

- Aruna Roy v. Union of India, 2002

The Supreme Court in the instant case illuminated on the need to focus on the duty laid under Article 51[c] viz promoting harmony, unity and common brotherhood in all tasks pertaining religious, linguistic and social diversity.

The court considered this whilst upholding the validity of the National Curriculum Framework for School Education under Article 28 and holding it as secular.

It was said that the curriculum emphasised on imparting value education based on all religions and not hampered the tenets of any religion per se.

- Mohan Kumar Singhania v. Union of India, 1992

This case upheld a governmental decision to give utmost importance to the training programme of the Indian Administrative Service selectees was upheld by deriving support from **Article 51-A (i)** of the Constitution, holding that the governmental decision was in consonance with one of the fundamental duties.

Conclusion

In conclusion, one must remember that fundamental duties serve a very useful purpose by reconciling the claims of the citizens and the civic society. Article ***51A seeks to reinforce equality of citizens, religion and confine it to the private sphere. It emphasises the duty***

of the citizens to protect the environment and respect the articles and symbols of national importance. It orients the citizens to be conscious of their social and citizenship responsibilities and shape the society in consideration of the fundamental rights of fellow citizens.

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