

CLASS: LL.M. II

SUBJECT: HUMAN RIGHTS

SUB CODE: L-2004

TOPIC: **FUNDAMENTAL DUTIES**

DUTIES : Legal obligations to do or not to do something.

Types of Duties

Legal Duties :- Binding (Non performance of this duty is punishable)

Moral Duties :- Non binding (Non performance is not punishable)

Fundamental Duties :- Inserted by Art. 51A, 42nd amendment. On recommendation of Sardar Sarwan Singh Committee.

Importance of Fundamental duties can be gauged by that 44th amendment nullifies various amendments made 42nd amendment act.

There is no change proposed regarding the amendment under Art. 51A.

Initially farmers of the constitution does not feel incorporating duties in the constitution of India. As they are inculcated at the very basic home traditions and there at education system .

But with passage of time there is degradation in value in public life. So it felt the need for amendment regarding duties under Indian Constitution.

However Part III has inbuilt obligations.

Indian thoughts has laid a greater emphasis on duties. But in the modern post constitution enactment period there was greater emphasis laid upon the Rights of the Citizens.

“ Rights flow from the duty well performed”.

“Duty is inalienable part of right”.

Art. 51A is also furthering the ideas of UDHR Article 29(1).

EFFECTUATION OF FUNDAMENTAL DUTIES :-

There are five steps for achieving it.

Elucidation

Awareness

Inculcation

Aspiration

Implementation

Implementation of Fundamental Duties :- For enforcement of Fundamental duties, Fundamental rights, Fundamental duties and Directive Principle of State Policy to be read together.

Out of eleven duties five are positive and remaining six are negative, so they are left to the will and aspiration of the citizens.

However people holding Public office or related to any obligated through Government of Law or rules regulating Profession bodies or department rules or conduct.

The duties can also be enforced through appropriate Legislation on the citizens also. Legislations can be brought in furtherance of Art 51A (a),(c),(e),(g),(i)&(k).

Judicial Pronouncements :- Chandra Chavan Boarding and Lodging Bangalore vs. The State of Mysore (1969) 3SCC84

Rural Litigation and entitlement Kendra 2 others vs. State of U.P. (1986) Supp SCC 517.

M.C. Mehta vs. Union of India (1998) I SCC 471

Vellore citizen welfare Forum vs. Union of India (1996) SCC 647.

Bijoe Emmanuel vs. State of Kerala AIR 1987 SCC 8

Vishakha vs. State of Rajasthan AIR 1997 SC 3011

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