

**"Over last few days, the Prime Minister, President, Vice President and Law Minister have been stressing Fundamental Duties. A look at what these duties are, and how they were included in the Constitution."**

Over the last one week, the government has been making a pitch for fundamental duties. In his Constitution Day address to a Joint Session of Parliament last week, Prime Minister Narendra Modi stressed the importance of constitutional duties, while making a distinction between seva (service) and these duties. On the same occasion, President Ram Nath stressed the difference between rights and duties, while Vice President M Venkaiah Naidu called for fundamental duties to be included in the school curriculum and the list of the duties to be displayed at educational institutions and at other public places. Also on Constitution Day, Union Law Minister Ravi Shankar Prasad, writing in The Indian Express, called for citizens to remember their fundamental duties as they remember their fundamental rights.

Fundamental Duties are described in the Constitution — an Emergency-era provision that was introduced by the Indira Gandhi government. Days before the pitches made on Constitution Day, The Indian Express had reported how the government has been dusting off this provision and asking ministries to spread awareness about Fundamental Duties.

### **How were Fundamental Duties incorporated in the 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 were introduced by the 42nd Amendment and the 11th was added by the 86th Amendment in 2002, during Atal Bihari Vajpayee's government.

These are statutory duties, not enforceable by law, but a court may take them into account while adjudicating on a matter. The idea behind their incorporation was to emphasise 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?**

#### **The 11 Fundamental Duties are:**

- 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 preminent na-

tional 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 sterilisation campaign. "With the opposition MPs locked away, a series of Constitutional amendments were passed to prolong Mrs Gandhi's rule," writes historian Ramachandra Guha in India after Gandhi.

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.

#### **How many of the changes made under the 42nd Amendment are still in effect?**

In the 1977 elections, the manifesto of the Janata Party promised to restore the Constitution to its pre-Emergency form. However, after being voted to power, the Morarji Desai government did not have the numbers for a complete reversal. Reversal happened only in bits and pieces.

In 1977, the 43rd Amendment restored the jurisdiction of the Supreme Court and High Courts to review the constitutional validity of laws. The following year, the 44th Amendment changed the grounds for declaring Emergency under Article 352, substituting "internal disturbance" with "armed rebellion", besides requiring of the President that he shall not do so unless the decision of the Union Cabinet is communicated in writing to him.

Right to Liberty was strengthened by stipulating that detention under the Preventive Detention Act shall not be for more than two months. Right to Property was converted from a Fundamental Right to a legal right, by amending Article 19 and deleting Article 31.

### Expected Questions (Prelims Exams)

**1. Consider the following statements in the context of the fundamental duties.**

1. Fundamental duties have been added in the constitution by the 42nd Constitution Amendment Act 1976.
2. The present number of fundamental duties are 12.
3. 11th Fundamental Duty has been added by the 86th Constitution Amendment.

Which of the above statements are correct?

- (a) 1 and 2
- (b) Only 1
- (c) 2 and 3
- (d) 1, 2 and 3

### Expected Questions (Mains Exams)

- Q. Whether there is a need to expand the list of fundamental duties at present and make their legal observance mandatory. Comment. (250 words)**

**Note:** Answer of Prelims Expected Question given on 30 Nov., is 1 (c)

Committee