

NON-JUSTIFIABILITY OF THE FUNDAMENTAL DUTIES

The Fundamental Duties are non-enforceable and non-justiciable. There is no provision in the constitution for direct enforcement of these duties. It means that no citizen can be punished by a court for violation of a Fundamental Duty. In this regard, Fundamental Duties are like Directive Principles of State Policy of Part IV. Fundamental Duties were not placed at the end of Part-III of Indian Constitution which is justiciable but included in Part-IVA that is non-justiciable and non-enforceable. India's case is different from some other examples regarding the enforceability of the Fundamental Duties. These examples included erstwhile USSR, Yugoslavia and Albania. Unlike India, constitutions of these countries made Duties legally enforceable. You have read in the preceding section of this unit that most of Fundamental Duties have been included in Indian Constitution on according to the recommendations of Swaran Singh Committee Report. VKRV Rao (Rao and Singh 1976) criticized the recommendations of Swaran Singh Committee Report on the ground that Fundamental Duties cannot be followed if there is no legal action for their violation. He argued that people lack courage and willingness to obey duties. Therefore, duties can not be properly obeyed if they are not legally binding. Right do not have ethical basis, they can be properly enjoyed with enforceable duties. On the need to obey Fundamental Duties, the Supreme Court of India issued a notice in 1998 to the Government of India enquiring about its plan to teach Fundamental Duties to the citizens of the country. In response to this notice, Government of India established a committee under the chairmanship of Justice J S Verma Committee, known as Verma Committee on *Fundamental Duties of the Citizens* (1999) to examine operational aspects of Fundamental Duties and recommend steps which can teach and educate people about the need to obey Fundamental Duties. The Verma Committee made the following recommendations:

- a) Fundamental Duties will raise standards of the citizen in public life. Therefore, every individual should obey and promote these duties.
- b) Public office holders should avoid selfishness or nepotism. Their foremost priority must be to serve public interests rather than individual interests.
- c) Integrity should be the main principle in the functioning of public office.
- d) Holders of public office must be accountable for their decisions and actions to the public.
- e) They should be as open as possible about all the decisions and actions which were taken by them.
- f) Public officials should maintain honesty while in office.
- g) Leadership is very important in the sense that holders of public office should promote these principles by leadership skill and set an example.

Fundamental Duties can strengthen the foundation of society and nation. But mere legislation is not enough to fulfill them. An effective implementation of the rules is essential for an effective fulfillment of duties. That is possible if favourable attitudes and commitment to obey duties are created among the citizens of India. To increase the awareness among the people of India concerning Fundamental Duties, Verma Committee had identified few existing acts by which a proper implementation of such duties can be accomplished. These are discussed below:

- a) The Representation of People Act, 1951: According to this act, membership of any member of the Indian Parliament or State Legislatures can be rejected if he or she found involved with corrupt activities.
- b) The Unlawful Activities Protection Act, 1967: Sectarian organizations within the national boundaries of the country must be banned in view of making a peaceful and stable society.
- c) The Protection of Civil Rights Act, 1955: Offenders who preach and practice untouchability must be punished in accordance with the act.
- d) The Wildlife Protection Act, 1972: It aims at protecting and preserving rare and the perishing animals, birds and plants. For this reason, this act strongly prohibits the illegal trading of animals.
- e) The Prevention of Insults to National Honour Act, 1971: By this act insults and disrespects of the national anthem, flag, the constitution of the land have been firmly prohibited.
- f) The Forest Conservation Act, 1980: The act strongly prohibits the destruction of natural forest keeping in mind its increasing degradation. It also prohibits the usage of forest for other human activities.

The Supreme Court of India has issued directions to governments to create a conducive environment for effective fulfillment of duties. In this regard, the Supreme Court, directed the Central Government in August 2003 to implement the recommendations of the National Commission to Review the Working of the Constitution (2000) and Verma Committee (1999). Anupama Rao criticized the recommendations of Justice Verma Committee Report in an article published in *Economic and Political Weekly* (2003). She argues that Justice Verma's report puts disproportionate emphasis on duties of citizens in relation to the state and nation. Such emphasis on duties undermines citizens as equals, and duty as a precondition for citizenship.

Acknowledging the significance of Fundamental Duties Supreme Court said that it was intended to regulate behaviour and to inspire fellow citizens to strive towards excellence. For instance, some vested interests were harming bio-diversity and environment in Mussoorie Dehradun belt (which was part of UP before formation of Uttarakhand state). They were violating Fundamental Duty to protect the environment and biodiversity. Regarding this, in *Rural Litigation & Entitlement Kendra vs. State of Uttar Pradesh*, 1988, the Supreme Court banned illegal mining in Mussoorie Dehradun belt suggested several regulatory directions for protection of biodiversity and environment. Thus, the court underlined the significance to protecting the biodiversity and environment a Fundamental Duty and made direction for its protection.

Constitution Review Commission chaired by M.N. Venkatachaliah too recommended some initiatives to be taken by the government for the successful implementation of Fundamental Duties. Some of his recommendations included as follows:

- a) The Union and State governments should sensitize the people and create general awareness about Fundamental Duties amongst the citizens.
- b) Right to freedom of religion and other freedoms must be jealously guarded and rights of minorities and fellow citizens respected.

- c) People should be sensitized about their duty to vote in elections, pay taxes and actively participate in the democratic process of governance.
- d) Recommendations of Justice Verma Committee on operationalisation of Fundamental Duties of Citizens should be implemented at the earliest.
- e) The industrial organizations should provide education to children of their employees.