

**Directive Principles of State Policy and Fundamental Duties: Constitutional  
Imperatives**

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**Lecture 39: Fundamental Duties and their Reflection in the Legislative and Judicial  
Framework II**

Greetings to all of you. We are in module 8, where we are discussing the legislative, executive and the judiciary on fundamental duties. And we are taking up individual fundamental duties and trying to relate it with the laws enacted by the legislature, particularly the central legislature and any policies or programs initiated by the government of India. The laws which were being discussed or which we have taken it up, they may be predated to the fundamental duties, but then we are trying to draw a connect between those two. So, these are the concepts which we aim to cover this is in continuation of the last session what we had. Let us look at the clause (f) of Article 51A which read as to value and preserve the rich heritage of our composite culture where it has a very categorical obligation on all of us to respect our valuable heritage our rich culture which plays a significant role in inculcating moral values which has a significant role in personality development of every individual. If this duty is being followed right from childhood, it would play a significant role in individuals contribution towards nation building. There are few laws which we thought of discussing here and which we thought of flagging it here which we believe connects with this fundamental duty. For example, Antiquities and Art Treasures Act 1972 and this Ancient Monuments and Archaeological Sites and Remains Act 1958. Our cultural heritage they are richest and novel as I said that this legislations are predated, but certainly they incorporate the duties which are given there. In addition to that we have also been experiencing the time to time the government comes up with the program with an aim to remind every individual every citizen to revisit to remember to recall our historical past and glorious past and to draw a learning lesson from that. That is how this Apni Dharohar, Apni Pehchaan is one of the initiatives of the government which aims to promote cultural and heritage value of the country, develop avenues to create awareness about the heritage sites, tourist sites in the country. It is about safeguarding the intangible cultural heritage and diverse

cultural traditions of India, support and strengthen the efforts of various stakeholders, vis-a-vis wider recognition and acceptance, dissemination, preservation and promotion of rich diverse and vast Indian cultural heritage. Parliament has also enacted a law in the year 2007 which is a very distinct kind of law because otherwise it is supposed to be a part of our culture to respect our elders to see that our elders are leading a dignified life, but then the government has made a law possibly for making the obligation very tangible and non-compliance of such obligation would entail penal consequences. This Act on the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, it can be very well argued that it is well connected with this clause F. Because if you read the provisions salient features of salient provisions of the Act The Preamble says it is to provide more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognized under the constitution. So, there is an obligation which is there to maintain parents and senior citizens under Section 4 and Section 5 of the Act. It also provides for punishment for even abnegation of senior citizen with imprisonment of either description for a term which may extend to 3 months or fine which may extend to 5000 rupees.

So, this one can see that this otherwise supposed to be part of our duty has been codified has been given a legislative flavor. So, that non-compliance with the obligation would attract penal consequences. The two acts what I have discussed this Antiquities and Art Treasures Act, 1972, the Preamble reads as to provide for the prevention of smuggling of, and fraudulent dealings in, antiquities, to provide for the compulsory acquisition of antiquities and art treasures for preservation in public places. Ancient Monuments and Archaeological Sites and Remains Act, 1958 also provide for the preservation of ancient and historical monuments and archaeological sites and remains of national importance, for the regulation of archaeological excavations and for the protection of sculptures, carvings and other like objects. Though these legislations are more of giving a sort of guidance to the state machineries to maintain rich heritage, to maintain monuments or archaeological sites, but then it is also tacitly a reminder to every citizen that we also do have very significant and visible duty to maintain such archaeological sites or the monuments which which which teaches us our teaches us about our historical or glorious past. Apart from the central legislation under Entry 12 of the List II of Schedule VI, States are also been empowered to make law.

This Entry 12 of the List II of Schedule VI provides for a subject read with Article 246 there is a legislative competence to with the state legislature to make a law on monuments, to make a

law on maintaining archaeological sites. Archaeological sites are those sites or those monuments which are not declared as monuments of national importance under parliamentary legislation where Entry 67 List I deals with the same. Judiciary has been referring to this duty in one or the other context for example, in the *Sarika v. Administrator, Shri Mahakaleshwar Mandir Committee, Ujjain*, (2018) which is about preserving and protecting Mahakaleshwar Sivalinga. The court observed that the temple idol has so much importance for spiritual and other gains. There is a constitutional duty to protect as envisaged in Articles 25, 26, read with 49. At the same time, there is a fundamental duty under Article 51A(e) to value and preserve the rich heritage of our composite culture. The state is duty bound to spend so that not only the archaeological historical and ancient monuments are preserved, but the sanctum sanctorum as well as the deity otherwise no useful purpose would be served. So, that is how the court reads the significance of this duty while maintaining an important religious and archaeological site.

Supreme Court in case of *K. Guruprasad Rao v. State of Karnataka*, (2013) also highlights on the issue of an important archaeological site which is been on the in the forest where there was an issue with regard to mining rights in around that archaeological site. The court has said that there is an there must be an attempt drawn to draw a balance between developmental activities and maintaining such ancient monuments. So, that is what the court has said that the production of ancient monuments has necessarily to be kept in mind while carrying out developmental activities. The need for ensuring production and preservation of the ancient monuments for the benefit of future generation has to be balanced with the benefits which may accrue from mining. In this case, there was Jambunath Hill which was declared as a protected document in the district of Bellary and that's how when there was a mining right given, the court has said that it has to be given in such a way so that protected monument must be preserved. It should not be damaged because of mining activities. Clause (g) talks about protecting and improving the natural environment including forest, lakes, rivers and wildlife and to have compassion for living creatures. We have discussed this duty also separately, but again in order to make our discussion comprehensive in terms of covering this module. We thought of also highlighting some of the legislations which have been enacted which have been enacted for protecting environment or for protecting in forest and has got a kind of reference with duty given under Clause (g). Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, Environment Protection Act, 1986 and Forest Conservation Act, 1980 deals with that. For example, when you look at 2006 Act you find that it recognizes the rights of the

forest dwelling tribal communities and other traditional forest dwellers to forest resources and to conserve the community forest resource. It recognises the right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use. Then this 1986 Environment Protection Act it the broad objective of this act is to protect and improve in the environment directly connected with the duty which has been given. Forest Conservation Act you have this preamble which reads as conservation of forests and regulating the forest use regulating the use of forest land for non forest purpose.

As and when the judiciary gets involved for the enforcement of this legislation, judiciary recalls, judiciary highlights the significance of fundamental duties. For example, in this renowned case of MC Mehta v. Union of India, (1984) with regard to Taj Trapezium protecting the Taj monument. It has directed the Taj Trapezium Zone Authority to appoint Forest Research Institute Dehradun as an authority to carry out the tree census of all the existing trees which are there in that zone. Supreme Court in this Vellore District Environment Monitoring Committee v. District Collector, Vellore, (2025), the court has referred to this duty and issued directions for compensation which is arising because of pollution caused by discharge of untreated effluents of bitane rays into the pallor lever in below district. So, when you look at it, court is not just looking at what is the obligation of the state, court is also looking at that as a person who is running the industry, they also do have an obligation to see that nature should not, environment should not get unnecessarily polluted, enough measures or adequate measures are to be taken by every individual to maintain environment, to protect environment and to improve natural environment. Another case where Bombay High Court has highlighted in the in the PIL that the cruelty committed towards animal also is not to be accepted considering the duty which is given under Clause (g) which talks about living creature.

So, in this PIL in Manilal V Valyate versus state of Maharashtra the Bombay High Court has referred to this clause G. which was where the PIL was filed concerning the cruelty caused to Sundar an elephant at the temple and to shift him to a sanctuary that is what the court has highlighted on it. You have then the duty which is Clause (h) which talks about to develop the scientific temper humanism and the spirit of inquiry and reform. A very significant duty which talks about the responsibility on every citizen to develop the very scientific temper, so, that the social problem can be resolved with a very informed decision and not in a very myopic or not in a very narrower sense by following a pedantic approach. The literature suggests that this

very idea of incorporating it as a duty comes from the writings of Pandit Nehru who emphasizes upon the importance of developing a scientific temper and a spirit of inquiry in Indian citizens. Particularly, in the light of revolutionary scientific advances and the backdrop of superstition which has been followed in this country or which has been practiced in this country. And that is why they said that the scientific temper or spirit of inquiry must not be understood in terms of any technological terms. It should not be seen only in terms of science and technology. It has got a very broader understanding which is all about solving the problem of society in a very comprehensive way. And the problem which is dynamic in nature accordingly solution also has to be evolving. Thus the scientific temper humanism and the spirit of inquiry and reform are not to be only matter of privilege and educated class rather it must be aimed to address everyone. Because everyone is supposed to contribute in that inquiry in that inquisitiveness everyone supposed to.

be educated enough to take a informed decision that is why this age becomes very important. We have also located on some of the laws which we may believe that it could be connected with that duty. For example, Anusandhan National Research Foundation Act, 2023 which is about coming up with a strategy for driving the research in India. It says that high-level strategic direction for research, innovation and entrepreneurship in the fields of natural sciences including mathematical sciences, engineering and technology, environmental and earth sciences, health and agriculture, and scientific and technological interfaces of humanities and social sciences. Then you have this Academy of Scientific and Innovative Research Act, 2011 which talks about establish an Academy for furtherance of the advancement of learning and prosecution of research in the field of science and technology in association with Council of Scientific and Industrial Research. We do have IITs which is Institutes of Technology Act, 1961. The IIT Kharagpur is through the Act of 1952. So, now, we have good number of IITs and therefore, there is a one umbrella Act called the Institutes of Technology Act, 1961 which is about declaring certain institutions of technology to be the institutions of national importance. Then we have National Innovation Act of 2008, which talks about facilitating facilitate public, private or public- private partnership initiatives for building an Innovation support system to encourage Innovation, evolve a National Integrated Science and Technology Plan and codify and consolidate the law of confidentiality in aid of protecting Confidential Information, trade secrets and Innovation.

So, this kind of legislations are being highlighted just to bring this point that when you talk about scientific temper there has been enough initiatives taken by the government to bring in technology driven education which can which has a potential for solving many problems of the society based on science and engineering. This case which though got dismissed, but then the court has made an important observation with regard to fundamental duties. Ashwini Kumar Upadhyay has filed a PIL with this plea that necessary directions should be issued to the Union and the State governments to take action against superstition and sorcery practices and to develop scientific temper. The court said that somehow this subject matter does not fall within the domain of the judiciary. It is something which cannot be enforced by the judiciary unless and until there is a legislative backing on the subject matter and that is how the court dismissed PIL by saying that this is something which falls within the domain of the legislature. Again, on the matter of entry of women in Sabarimala temple, when a petition was filed to review the judgment in *Kantaru Rajeevaru v. Indian Young Lawyers Assn.*, (2020). A very significant observation was made by judges who opined in and given a minority opinion, where they have said that a judgment must not be asked to be reviewed only because the citizens are not willing to follow the judgment if the judgment is based on scientific or good reasoning. Though it is a minority opinion, but then significant observation is made in relation to scientific temper and the role and role of reasoning in the society or reason based decision in justice making process. The minority opinion states that *“Let it be said that whoever does not act in aid of our judgment, does so at his peril – so far as Ministers, both Central and State, and MPs and MLAs are concerned, they would violate their constitutional oath to uphold, preserve, and defend the Constitution of India. So far as the citizens of India are concerned, we would do well to remind them of the fundamental duties of citizens laid down in Article 51A of the Constitution, in particular, clauses (a), (e), and (h).”*

Another case of *Rajendra v. Union of India*, (2021) giving advertisement which would promote superstition, Bombay High Court has completely rejected such kind of practices by quoting the relevance of this duty given under Clause (h). In this case of *Rajendra v. Union of India*, (2021), while dealing with this superstitious advertisement relating to Hanuman Chalisa Yantra, court has observed that this duty which is given under Clause (h) must be read into the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori, Practices and Black Magic Act, 2013. And through this legislative backing the court has said that such advertisement does not conform to the law.

There is another duty - Article 51A(i) which is about safeguarding public property and to observe violence. We do find penal provisions which is penalizing any such kind of act where there is a destruction to public property. Bharatiya Nyaya Sanhita, 2023, Chapter XI deals with offenses against public tranquility and Chapter XVII deals with offenses against public property. Then, we have Bharatiya Nagarik Suraksha Sanhita, 2023 where Chapter XI deals with maintenance of public order and tranquility. There is an Act which talks about the Prevention of Damage to Public Property Act, which was enacted in 1984. The very purpose of the Act is to prevent any kind of damages to public property. The Act punishes mischief causing damage to public property where the punishment extends up to the 5 years of imprisonment or with fine and with fine and then there is also punishment with regard to mischief causing damage to public property by fire or explosive substance with rigorous imprisonment for a term which shall not be less than 1 year, but which may extend to 10 years and with fine. A special provision relating to bail where the accused or convicted shall not be released on bail or on his own bond unless the prosecution has been given an opportunity to oppose the application for such a release. So, that is all the significance which the court has given to public property and any damage done to public property. Generally, we have seen that in any kind of rally or any kind of dharna there has been a practice of destroying public property. The court in this matter of *In re Destruction of Public and Private Properties*, (2009) has given a set of guidelines where guidelines says that anyone who is participating in those rallies they must not carry any weapon including knives, lathes they should not carry. Then the organizers of the rallies must give an undertaking that they shall be abiding by the conditions given by the local enforcement agencies.

So, detailed guidelines are been given in this case of 2009, which is again connected with the duty given under Article 51A(i). This case which is all which is about giving kind of or following a practice of animal sacrifice at Tripureshwari Devi Temple, Tripura High Court in the *Subhas Bhattacharjee v. State of Tripura*, (2019) while deciding on the issue of religious practice based on a custom or ritual or tenet, the court has said that such sacrifice should not be considered to be essentially religious connected with that religion. The court while prohibiting the annual sacrifice at Tripureshwari Devi Temple, has said that bear reading of the provision exhibit that the framers had desire to develop a spirit of compassion and humanism, observe violence and also exhibit the same towards all living beings. So, observing violence is not something which every individual must follow only with regard to fellow citizens, but it has to be towards every living beings that is what is the contour of the duty given. We have

another duty which is Clause (j), which talks about to strive towards excellence in all spheres of individual and collective activity, so, that the nation constantly rises to higher levels of endeavor and achievement. You find that the government also comes up with a plan of asking every citizen to take integrity pledge during vigilance awareness week, which is sort of reminder to every citizen that all of us individually also responsible to see that the nation progresses on a very rightful path. Then mission like Swachh Bharat Mission is also a reminder of a collective sense that all of us must see that our neighborhood is clean and that has got a very significant role to play in improving public health. So, one may say that this Swachh Bharat Mission represents a sort of transformative phase in sanitation drive for excellence in all spheres of individual and collective duty. Swachhata Hi Seva campaign further imbibes this principle. This is the integrity pledge which is expected by every citizen to take on October 31st when we celebrate Vigilance Awareness Week. Then there is a Clause (k) which has got added through 86th Constitutional Amendment Act. It is the 11th duty where there is a duty imposed upon parents or guardian to provide opportunities for education to his child or as the case may be ward between the age of 6 and 14 years. And in pursuant to this there is a law enacted in the year 2009 known as the right of children to free and compulsory education act 2009 where Section 3 of the Act very categorically acknowledges the right to free and compulsory education. There is a corresponding duty of parents under Article 51A(k).

So, it is the responsibility of parents to see that that in this age group they should not engage the child for any kind of work which has got a kind of where they earn the remuneration or honorarium or wage, thus, it is it is the responsibility of parents Chapter 3 is specifically mentioned about the duties of appropriate government local authorities and parents where Section 10 says there shall be the duty of every parent or guardian to admit or cause to be admitted his or her child or ward, as the case may be, to an elementary education in the neighbourhood school. So, it is the responsibility of parents, it is not only an obligation imposed only on the state to just come up with a school, come with the appointment of teachers. But then there is a corresponding duty attached on parents that they shall see that their ward is going to the school, so that they get educated. In this case of *Society for Unaided Private Schools of Rajasthan v. Union of India*, (2012) where the certain provisions of the Right of Children to Free and Compulsory Education Act, 2009 was challenged. The court observed that “Unlike other fundamental rights, the right to education places a burden not only on the State, but also on the parent/guardian of every child [Article 51-A(k)]. The Constitution directs both burdens to achieve one end: the compulsory education of children free from the barriers of cost, parental

obstruction or State inaction. Thus, Articles 21-A and 51-A(k) balance the relative burdens on the parents and the State. Thus, the right to education envisages a reciprocal agreement between the State and the parents and it places an affirmative burden on all stakeholders in our civil society.” So, this is what is the significance that when a law is been enacted that how that law gets a further meaningful interpretation with the help of fundamental duties this case is a good example of the same.

So, one may say conclude that fundamental duties given under Article 51A they get reinforced through legislative measures and initiatives. Judiciary plays a significant role to amplify the meaning of the duties and to remind everyone including the state that how significant are those duties. We have seen that laws like Environment Protection Act or Right to Education Act that how they are being interpreted and the court has reminded every citizen of the duties towards environment or parents duty towards ensuring that child gets educated. Judiciary has played a significant role in making the state accountable as well as ensuring that citizens participation is equally important for successful implementation of the duties which are there in Article 51A. That is how we see that the significant programs of the government also reinforces also reminds us of our duties. Effective enforcement certainly requires sort of collective efforts from the government, judiciary and the society, but the question is that when you talk about the fundamental duties it can be effectuated in much better way if we go for more moral education, awareness campaign where the citizens can come forward and get a feeler that there is a responsibility upon every citizen to fulfill the duty instead of stressing upon the legislative framework for materializing that duty. Let there be a legislation for defining the responsibility of the state and through that let the individuals be reminded. Duties are of such nature where culture plays an important role or awareness can play a significant role.

These are the references. Thank you.