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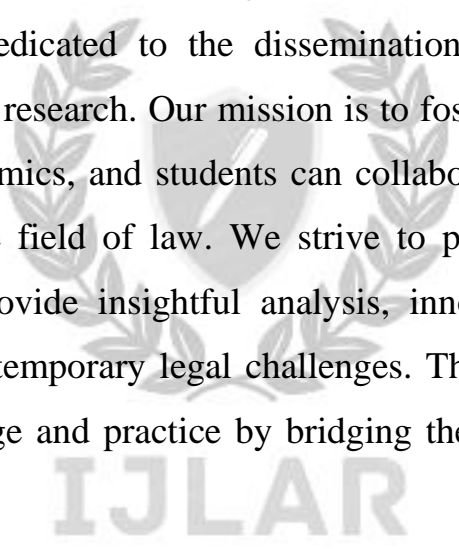
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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

A large, faint watermark of the IJAR logo is centered on the page. It features a circular emblem with a laurel wreath and a central shield containing a scale of justice. Below the emblem, the letters 'IJLAR' are printed in a large, bold, sans-serif font.

Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

THE CIVILIZATIONAL FOUNDATION OF FUNDAMENTAL RIGHTS AND DUTIES IN INDIA

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Abstract:

The Indian Constitution is regarded as a unique constitution which harmoniously integrates modern democratic ideas and the age-old civilizational legacy of India. Both Fundamental Rights and Fundamental Duties represent the ethical and legal foundation of the constitution. While fundamental rights protect individual freedom and dignity, fundamental duties instill responsible citizenship. These principles do not represent mere copies from Western constitutions, but are rather a part of the deep civilizational heritage of India. Indian civilization has since ancient times been committed to certain values, such as dharma, justice, equality, toleration, social harmony, respect for nature and responsibility towards society. These eternal values guide the Indian citizens and provide them with the sense of identity and direction within a diverse culture. The respect for rights and duties contributes to the building of a just society where the spirit of cooperation prevails among individuals. The ancient texts of Indian civilization like the Vedas, Upanishads, Ramayana, Mahabharata, Buddhist writings, Jain philosophy, and Arthashastra reflect the tradition of the balance between rights and duties. Equality, religious freedom, cultural and educational rights, and Directive Principles of State Policy as contained in the Constitution of India exemplify this civilizational heritage of the country. Furthermore, the introduction of Fundamental Duties in the Indian Constitution through the 42nd Constitutional Amendment has made this aspect even more relevant. Important Supreme Court decisions in cases like Kesavananda Bharati, Maneka Gandhi, M.C. Mehta, and Bijoe Emmanuel played a vital role in affirming constitutional morality and plurality and the relationship between rights and duties in India. This paper analyzes the

civilizational origins of fundamental rights and duties in India with reference to the ancient Indian philosophies, constitutional aspects, and judicial interpretations.

Keywords:

Indian Constitution, Fundamental Rights, Fundamental Duties, Civilizational Heritage, Dharma, Constitutional Morality, Indian Philosophy, Social Justice, Constitutional Values, Cultural Pluralism Directive Principles of State Policy, Judicial Interpretation, Responsible Citizenship, Ancient Indian Traditions, Constitutional Ethics, Equality and Freedom, Supreme Court, Jurisprudence, Environmental Responsibility and Religious Freedom.

Introduction:

The Constitution of India is one of the largest and most elaborate constitutions in the world. The Constitution of India was drafted in a way to ensure not only political democracy but also social and economic justice. While Fundamental Rights are enshrined in Part III of the Constitution, Fundamental Duties of citizens are mentioned in Part IVA of the Constitution.

It is pertinent to note that the principles of rights and duties are ingrained in the Indian ethos long before the drafting of the Constitution. Indian civilization has always looked at life with a perspective of dharma. Dharma means moral order, ethics, justice and duty towards the society. While some other cultures have emphasized individualism, Indian philosophy has been largely based on interrelationship between personal interests and social good. Ancient Indian literature has made it clear many times that rights and duties are inseparable.

The makers of the Indian Constitution have been strongly influenced by Indian philosophy and cultural traditions. Indian leaders like Dr. B. R. Ambedkar, Jawaharlal Nehru and Mahatma Gandhi wanted a Constitution that would promote democratic values but still be closer to Indian tradition. Hence constitutional guarantees such as equality, religious freedom and cultural rights are rooted in Indian tradition of pluralism and respect for human dignity.

The inclusion of Fundamental Duties in the Constitution by virtue of the 42nd Amendment Act, 1976 makes it further clear that Indian constitution recognizes that every citizen has certain duties

towards the country, society and the environment.

Fundamental Duties of Indian citizens, such as respect to Constitution, protection of environment and harmonious relations, have been deeply rooted in India's civilizational traditions. Judiciary in India has always played an important part in protecting and developing constitutional values. Supreme Court of India has given wide interpretation to fundamental rights. It has recognized fundamental rights relating to dignity, right to livelihood, education, right to privacy and environmental rights. However, while interpreting fundamental rights, courts have stressed the importance of fundamental duties and social responsibilities. This essay discusses the civilizational background of Fundamental Rights and Duties in India from four different angles. Namely, Ancient Indian Views on Civilizational Basis of Fundamental Rights, Constitutional Basis, Judicial Interpretations and Contemporary Relevance.

Perspectives on Rights and Duties in Ancient India:

Concept of Dharma

India is a civilization where the concept of dharma plays a crucial role. Law, morality, justice, ethics, and social responsibility were some of the aspects which defined the concept of dharma. In ancient Indian civilization, dharma was perceived as something which ensured harmony and equilibrium in society. Scholars in ancient Indian civilization believed that peace and stability would prevail only if every individual performed their duties with sincerity.

As per Mahabharata,

➤ "Dharma protects those who protect dharma"

This quote explains the close connection which exists between rights and duties. The people in ancient India did not view their rights as individual claims. Instead, they perceived their rights in the light of righteousness and their social responsibilities.

Vedic and Upanishadic Teachings

Vedic traditions were known to promote ideas about unity, equality, and welfare of all people in society. The civilizational belief of welfare of humanity was clearly visible in the ancient Indian prayers such as,

➤ "Let all be happy, let all be free from illness."

These values were highly concerned with the welfare of humans. On the other hand, the Upanishads taught the civilizational lesson of spiritual equality through their belief of a supreme god present in every person. They believed in the concept of 'Vasudhaiva Kutumbakam', which means "the world is one family". This concept encourages tolerance, equality, and co-existence of individuals. Values which include equality, fraternity, and secularism are inspired by these ideas.

Ramayana and Mahabharata

Ancient Indian epics such as Ramayana and Mahabharata have contributed to the development of the idea of social responsibilities. Lord Rama was depicted as the king of Ayodhya who preferred public good over self-interest. He is remembered as a just great leader who sacrificed for the welfare of society. Moreover, Bhagavad Gita also emphasizes the importance of performing one's duty selflessly. The doctrine of Nishkama Karma teaches individuals that their primary concern should be fulfilling their responsibilities rather than expecting anything in return. As per Bhagavad Gita, "Your right is to perform your duty, not the fruits thereof". This quotation reflects the Indian civilizational preference for duty rather than individualism.

Buddhism and Jainism

Religious philosophies such as Buddhism and Jainism played a major role in promoting humanitarian values. These religions emphasize moral teachings such as compassion, equality, non-violence, and love of life. According to Buddha, everyone should think freely and avoid caste-based discrimination in society. These teachings encourage people to think rationally and adopt social equality. Jainism also promotes the value of Ahimsa, which means avoiding any form of violence. It also emphasizes moral responsibility towards other living beings.

These beliefs later influenced some of the constitutional values such as equality, dignity, secularism, and social justice.

Mauryan and Ashokan Governance

Rule of Ashoka has been recognized as one of the best examples of ethical governance in Indian

history. After the Kalinga War, Ashoka followed policies of compassion and welfare. He encouraged religious tolerance, nature protection, and welfare of people.

Many principles which prevailed in the rule of Ashoka came to be included in the Indian constitution.

Arthashastra

Arthashastra is one of the early books written in India about governance and political administration. Justice, accountability, and moral responsibility towards welfare of citizens were some of the most prominent themes of Kautilya's Arthashastra.

According to Kautilya,

"Proper prosperity and happiness of the ruler depend upon the welfare of the people".

This principle is similar to the welfare state envisioned in the Indian constitution

Fundamental Rights under the Constitution of India:

Fundamental Rights have been provided under Part III of the Constitution which includes articles from 12 to 35.

These rights are vital in securing liberty, equality and development of personality of individuals within the context of democratic societies.

1c Right to Equality (Articles 14-18)

Right to Equality ensures equality before law and equal protection of law to everyone. Civilizational Basis

The spiritual equality of man has been acknowledged by Indian philosophy.

The reform movements like Buddhism and Bhakti movement advocated for equality and fought against discrimination.

Constitutional Provisions Article 14: Equality before law

Article 15: No discrimination on grounds of religion, race, caste, sex or place of birth Article 16:

Equality of opportunity in matters of public employment

Article 17: Abolition of Untouchability

Article 18: Abolition of Titles

All these Articles ensure social justice and protect human dignity.

2c Right to Freedom (Articles 19-22)

Right to freedom ensures some essential freedoms like freedom of speech, freedom to move freely throughout the territory of India, freedom to reside, freedom to form associations, freedom to practice any profession etc.

Civilizational Basis

Indian civilization has always promoted free discussion and free expression.

In ancient times, universities of Nalanda and Takshashila used to be the hubs of debates and discussions.

Constitutional Provisions

Article 19 provides for the following:

Freedom of speech and expression Freedom of assembly

Freedom of association

Freedom to move freely throughout the territory of India Freedom to reside and settle in any part of India Freedom to practice any profession

Article 21 ensures the protection of life and personal liberty.

3c Right Against Exploitation (Articles 23-24)

These Articles provide that there will be no human trafficking and forced labor. Child labor is also prohibited.

Civilizational Basis

Ethical tradition of Indian civilization has condemned all forms of exploitation. The Indian ethical tradition has emphasized the importance of compassion, justice and human dignity.

4. Right to Freedom of Religion (Articles 25-28)

Right to freedom of religion is guaranteed by our Constitution following the policy of secularism.

Civilizational Basis

Indian civilization is a civilization with respect to its religious diversity. The principle of Sarva

Dharma Sambhava emphasizes respect for all religions equally.

5c Cultural and Educational Rights (Articles 29-30)

Cultural and educational rights are important for protecting cultural and educational interests of minorities.

Civilizational Basis

Indians have always lived in culturally rich environment where people belonging to different languages and traditions live together harmoniously.

6c Right to Constitutional Remedies (Article 32)

Article 32 guarantees that citizens can invoke the Supreme Court to ensure their fundamental rights are protected. Dr. B. R. Ambedkar called this Article the heart and soul of the constitution.

Fundamental Duties in the Constitution:

The Fundamental Duties are included in Part IV-A of the Constitution under Article 51A. They have been inserted by way of the 42nd Amendment to the Constitution in 1976 after the advice of the Swaran Singh Committee.

Nature and Significance

The Fundamental Duties act as a reminder to citizens about their obligations when exercising their rights. The Fundamental Duties foster nationalism, discipline, harmony, and national integration.

Duties Under Article 51A

Citizens should:

Respect the Constitution and its national symbols Defend the sovereignty and integrity of India

Encourage harmony and fraternal spirit Conservation of our cultural heritage

Protection of the environment Scientific attitude

Protection of public property Strive for excellence

Cultural Basis for the Duties

The concept of duty has been fundamental in Indian civilization. Ancient Indian civilization has always stressed the following responsibilities:

Family Community Nation Nature Mankind

Fundamental Duties as incorporated in the Constitution have drawn heavily on these traditional Indian values.

Environment Protection Duty

Nature was considered divine in ancient Indian civilization. Nature, rivers, forests, hills, and animals were venerated. The environmental duty imposed under Article 51A(g) is an expression of this ancient environmental ethos.

Duty on cultural heritage preservation

Indian civilization has always respected and revered arts, culture, and traditions. Article 51A(f) enshrined its reflection of this culture where the obligation to preserve those cultural treasures of Indian civilization.

Judicial interpretation and case laws:

The courts have played a major role in shaping our understanding of basic human rights and responsibilities aligned with India's constitutional morality and values of civilization through various modes.

Landmark cases

Kesavananda Bharati v. State of Kerala (1973)

Facts

This case challenged the legitimacy of constitutional changes impacting property ownership Parliament's ability to tweak the Constitution

Decision

The Supreme Court established the "Basic Structure Doctrine," which essentially says Parliament can't Change or tear down the fundamental framework of the constitution

Importance

It safeguarded key democratic principles such as secularism, the rule of law, and the judiciary review, and liberty.

It shows a strong promise to keep democracy alive

The cultural identity of India

Maneka Gandhi v. Union of India (1978)

Facts

The government took the petitioner's passport without giving any good reasons

Decision

The Supreme Court gave a thorough reading of article 21 and said that it covers a wide range of rights

Actions affecting personal freedom need to be fair, just, and reasonable

Importance

The choice has broadened the range of personal freedom and human respect
Constitution. It turned Article 21 into one of the most adaptable rights concerning

Human rights in India

Minerva Mills Ltd. v Union of India (1980)

Decision

The Supreme Court zeroed in on the need to keep things consistent with the Fundamental Rights and Directive Principles of state Policy

Importance

This case confirmed the balance between personal rights and the collective good welfare. This shows how Indian culture juggles individual rights with the responsibilities we share as a community Bijoe Emmanuel v. State of Kerala (1986)

Facts

Students from the Jehovah's Witness faith didn't sing the national anthem

Because of their faith

Decision

The Supreme Court safeguarded religious freedom under Article 25 and confirmed they could
They won't face consequences for their polite quiet while the anthem plays

Importance

This case highlights India's rich tradition of religious tolerance, pluralism, and respect for individual
conscience.

M.C. Mehta v. Union of India (since 1987)

Decision

The Supreme Court formulated certain principles concerning environmental protection and tied
environmental rights to Article 21 of the Constitution.

Significance

It integrated the Fundamental Rights with the Fundamental Duties, more precisely Article 51A(g)
of the Constitution which imposes obligations on citizens to conserve and improve the natural
environment.

Vishaka v. State of Rajasthan (1997)

Facts

It pertains to sexual harassment at work places.

Decision

The Supreme Court laid down certain guidelines for safeguarding women working in work places
until legislation is enacted.

Significance

It furthered the constitutional ideals of gender equality, dignity, and social justice.

Justice K.S. Puttaswamy v. Union of India (2017)

Decision

The supreme court has confirmed privacy as a Fundamental right under Article 21 of the constitution

Significance

It offered constitutional safeguards for liberty, dignity, and personal autonomy in the era of information technology

Relation between fundamental rights and fundamental duties:

Fundamental Rights and Duties go together in essence. While rights confer freedom and dignity on us, duties make us disciplined and responsible. Rights and Duties work hand-in-hand towards maintaining harmony in society.

Our culture has always upheld the principle that rights and duties cannot be separated from each other. Rights in the absence of duties would mean self-centred behavior, but duties without rights will mean oppression. Hence, both the aspects are important for ensuring good democratic order.

For instance:

The right to freedom of expression entails the duty not to incite anyone to violence.

Right to religious freedom entails respect for others' beliefs.

The right to environmental protection is tied to duty towards preserving ecology.

The judiciary has repeatedly made it clear that democracy can survive only if people follow constitutional morality.

The Importance of Rights and Duties Today:

The idea of Fundamental Rights and Duties is still very important in India. The values that are part of the Constitution are based on traditions and help us deal with the problems we face today. These problems can be social, political or related to the environment.

1. Living Together in Harmony and Unity

India is a country with different religions, languages and cultures. The values in the Constitution

such as being friendly to each other being patient and respecting one another help us live together peacefully. Fundamental Rights and Duties are essential in this process.

2. Taking Care of the Environment

The environment is getting worse. The weather is changing, so it is more important than ever to take care of the earth. The Constitution says we have a duty to protect the environment, which's something that Indians have always believed in. Rights and Duties related to the environment are crucial.

3. Being a Citizen

We have to use our rights in a responsible way to protect the institutions that are important to our country and the values that are part of the Constitution. When we participate, respect the law and know what is going on we make our country stronger. Fundamental Rights and Duties play a role in this.

4. The Challenges We Face Today

Nowadays we have problems such as false information mean things people say online crimes that happen on the internet and keeping our personal information safe. We have to be careful and find a balance between what we can do and what we should do. Rights and Duties are important, in the era.

5. Loving Our Country and the Constitution

When we respect the ideas that're part of the Constitution we help bring our country together we support democracy and we become responsible citizens. The Constitution is what unites us as Indians. Reminds us of our Rights and Duties.

Conclusion:

The Fundamental Rights and Fundamental Duties in the Constitution of India are based on the country's history and culture. India has always believed in things like justice and equality. Being kind to others. The Constitution of India took these values and made them into laws that people have to follow. The Fundamental Rights are meant to protect peoples freedom and make sure

everyone is treated equally and with respect. The Fundamental Duties remind people that they have to do their part for the country and for the earth. Together they create a balance between being free and doing what is right for society. The old Indian ideas like dharma and ahimsa still influence how the government and courts work. The courts have made decisions that have expanded peoples rights and also reminded people to be citizens. The idea of India's Constitution is not about laws and politics it is about creating a good society. This society is based on culture and values like being kind and responsible. In today's world, where there are problems, like people not getting along and the earth being hurt the Fundamental Rights and Duties are still important. They help us achieve fairness and peace and bring the country together .The fact that these principles are still important today shows that India's democracy is strong because of its values and culture not its laws.

