



# Constitutional Morality: The Soul Beyond the Text

Exploring how the Supreme Court uses constitutional morality to balance tradition and reform.

*Prof. Gangotri Chakraborty*

Former Head Of the Department  
Department of Law



" Constitutional morality is not a natural sentiment. It has to be cultivated"  
– Dr. B. R. Ambedkar



# Introduction

- The Constitution embodies moral and philosophical values.
- Constitutional morality bridges law and ethical governance.
- It ensures constitutional values prevail over societal pressures.

# Understanding the Concept

- Originated from George Grote's writings on Athenian democracy.
- Introduced by Dr. B. R. Ambedkar.
- Means adherence to spirit and principles of the Constitution.

# Ambedkar's Vision

- Democracy in India needs cultivation of constitutional morality.
- Without it, democracy may fail despite legal structure.
- Demands restraint, tolerance, and respect for diversity.

# Constitutionalism vs. Constitutional Morality

- Constitutionalism – limitation of power, rule of law.
- Constitutional morality – ethical interpretation of power, spirit of justice.

# The Soul Beyond the Text

- Text provides structure;
- morality provides soul.
- Transforms legal compliance into moral commitment.

# Philosophical Foundations

- Derived from Justice, Liberty, Equality, Fraternity: Universal Morality
- Anchored in human dignity and rational governance and Rule of Law.



# Constitutional Morality in Action

- Guides institutions in ethical exercise of power: “ Procedure Established by Law” [Article 21 r/w Maneka Gandhi v. Union of India]
- Ensures impartiality and accountability.
- Protects minority rights and personal freedoms

# Constitutional vs. Public Morality

- Public morality: social convention.
- Constitutional morality: principle-based justice.
- Example: Navtej Singh Johar (2018).

# Judicial Evolution

- Naz Foundation (2009) **Public morality** reflects the **dominant social norms**, which may be based on prejudice, tradition, or majority opinion.
- **Constitutional morality**, on the other hand, flows from the **core values of the Constitution — liberty, equality, dignity, and fraternity**.
- The Court held that **laws cannot be justified by public disapproval or majority sentiment** if they infringe upon fundamental rights.

# Judicial Evolution

- Navtej Singh Johar (2018): Emphasized autonomy and dignity. Constitutional morality over social morality. Affirmed pluralism as constitutional virtue.
- Sabarimala (2018): Equality over custom.

# Judicial Evolution

- Joseph Shine (2018): Rejected patriarchal morality.
- NCT Delhi v. Union of India (2018): Constitutional morality requires a commitment to the principles and values enshrined in the Constitution rather than to one's own political ideology or institutional ego.

# Judicial Role

- Constitutional morality as interpretative principle.
- Expands rights with time.
- Raises debate on judicial activism.

# Ambedkar's Warning Revisited

- Morality must be internalized, not imposed.
- Legal form without ethics is hollow.
- The Constitution is only as good as those who live it.

# Ethical Core of Governance

- Integrity in office:

**Centre for Public Interest Litigation v. Union of India (2G Spectrum Case), (2012) 3 SCC 1 Held:** The Court quashed the arbitrary allocation of 2G spectrum licenses, holding it **violated the principle of integrity and transparency in public administration.**

- The judgment reaffirmed that **public offices are positions of trust**, and the exercise of power must be **guided by constitutional morality, transparency, and integrity.**
- **Quote:**  
“Public officials are trustees of the constitutional powers vested in them; such powers must be exercised in a manner that upholds public interest, integrity, and fairness.”
- **Significance:**
- Integrity in office = adherence to constitutional principles, fairness in decision-making, and avoidance of arbitrariness or corruption.



- **2. Vineet Narain v. Union of India (Jain Hawala Case), (1998) 1 SCC 226**
- **Held:** The Court emphasized that **lack of integrity in governance erodes the faith of citizens** in constitutional institutions. It directed the establishment of mechanisms like the **Central Vigilance Commission (CVC)** to ensure **independent and honest investigation** into corruption by high officials. “The rule of law is the foundation of a democratic society. It requires that those who hold public offices discharge their duties with integrity, accountability, and without fear or favour.”
- **Significance:**
- Reinforced that *integrity in office* is a **constitutional expectation**, not a moral option.

- **3. Manohar Joshi v. State of Maharashtra, (2012) 3 SCC 619**
- **Held:** The Court held that **public office is a public trust**, and misuse of office for personal or political gain is a **breach of that trust**.
- Integrity is central to maintaining the sanctity of public office.
- **Quote:**“Every holder of public office is accountable to the people, and integrity in the discharge of duties is the essence of constitutional governance.”

#### 4. B.P. Singhal v. Union of India, (2010) 6 SCC 331

- **Held:**
- The Court held that **arbitrary removal or appointment of Governors** violates constitutional morality and integrity of office.
- Emphasized that **constitutional offices must not be politicized**, as they represent the dignity and stability of governance.

# Impact of Constitutional Morality

- Protection of dissent.
- Non-discrimination.
- Empathy for marginalized.

# Challenges

- Political populism.
- Institutional erosion.
- Misuse of constitutional symbols.
- Weak constitutional literacy.

# Role of Citizens

- Citizens must uphold constitutional ethics.
- Promote civic education and literacy.

# Comparative Perspective

- U.S.: Constitutional patriotism.
- South Africa: Transformative constitutionalism.
- India: Blend of legality, ethics, social justice.

# Transformative Justice

- Moral force for social reform.
- Living Constitution that evolves with society.



# Future Relevance

- AI and digital rights.
- Environmental constitutionalism.
- Intersectional justice.

# Conclusion

- Constitutional morality is the soul beyond the text.
- It bridges law and ethics.
- Preserving it ensures justice and fraternity.

## Final Quote

- "The Constitution is not a mere lawyer's document; it is a vehicle of life." – Justice Vivian Bose

# References

- Constituent Assembly Debates (1948–49)
- Naz Foundation (2009)
- Navtej Singh Johar (2018)
- Indian Young Lawyers Association (2018)
- Joseph Shine (2018)
- Ambedkar, Annihilation of Caste

*Thank You*