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“ANALYSIS AND SIGNIFICANCE OF CONSTITUTIONAL MORALITY IN INDIA”

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ABSTRACT

What the terms "morality" or "constitutional morality" signify in the Indian Constitution will be the issue that will be examined in the following research paper. Judges' interpretation of the Indian Constitution has recently added a much greater emphasis than previously on the concept of "constitutional morality." The Supreme Court has applied various facets of this so-called revolutionary and transformative theory in several instances, some of which are regarded as some of the greatest and most significant rulings ever made. Since Dr. Ambedkar's time, the Indian Constitution has included the idea of "constitutional morality," but it was largely dormant until 1950 until lately. In the Keshavananda Bharti and S P Gupta cases, the Supreme Court made two brief references to constitutional morality. It is notable and clear from other instances where this approach has been used that it is advancing and transformative. One aspect emerges evident after analyzing the rulings that came before the above-mentioned judgment. In the judgment of Justice K S Puttaswamy (Retd.) v. Union of India & Ors., where the "Right to Privacy" was elevated to the status of a basic right, Justice Chaleshwar wrote persuasively about constitutional morality, calling it the profound stillness of the constitutional language. In the face of extreme injustice and inequality in India as well as a hostile political situation, Shri Ambedkar used "constitutional morality" to guarantee that the Constitution's goals were fully implemented. Shri Ambedkar underlined that the solution to this tragic predicament did not rest solely with the constitution or the government in charge of the country after a thorough diagnosis. As a corollary, Constitutional Morality is categorized as a second fundamental structural idea. Like the meanings of the other fundamental principles, which essentially depend on the understanding of judges when rendering judgements in different situations, it is naturally a little fuzzy. Nevertheless, it is required by the nation's judicial system, which also calls on judges to "fill in the empty vessels of these theories" with expressions of legal knowledge and expertise gleaned from years of experience. This paper also discusses the

challenges related to constitutional morality in India, Supreme Court's stance on constitutional morality, Comparison of constitutional morality in India and UK and talks about the Sabarimala Judgement related to constitutional morality.

Keywords: Morality, Indian Constitution, Constitutional Morality, Right to Privacy, Dr. Ambedkar, Supreme Court, Sabarimala judgement

INTRODUCTION

The Indian Constitution, established in 1950, is one of the world's longest and most thorough constitutions, and it creates the foundation for the functioning of the Indian state. It establishes fundamental rights and liberties such as equality, free speech and expression, and life and personal freedom. Constitutional morality is inextricably tied to the concept of constitutional democracy. The constitution is the ultimate law of the nation under a constitutional democracy, and all citizens, including the government and its officials, are bound by its provisions.

Given the historical legacy of socioeconomic injustice and prejudice, sustaining constitutional morality in India has been enormous. However, significant efforts have been made in India to promote constitutional morality, including social reform movements, legal advocacy, and public awareness campaigns.

By interpreting the Constitution and defending citizens' fundamental rights, the Indian court has also played an essential role in upholding constitutional morality. The court has had a vital role in shaping significant social and political problems such as affirmative action, minority rights, and privacy rights.

Constitutional morality is critical for building a just and equitable society in India, where everyone can live with dignity and respect. To guarantee that the principles and values embodied in the Constitution are respected and implemented in practice, all parties must make a consistent effort, including the government, civil society, and the judiciary.

ELEMENTS OF CONSTITUTIONAL MORALITY

The concept of constitutional morality in India is based on the principles and values enshrined in the Constitution. Some key elements of constitutional morality in India include:

Respect for the Constitution: The Constitution is the ultimate law of the nation, and adhering to its provisions is critical to preserving constitutional morality in India. This involves respect for citizens' fundamental rights, democratic values, and the rule of law.

Equality Commitment: The Indian Constitution guarantees equality before the law and outlaws discrimination based on caste, religion, gender, and other factors. Maintaining this commitment to equality is critical for sustaining India's constitutional morality.

Fundamental Rights Protection: Fundamental rights are an essential component of the Indian Constitution, and safeguarding these rights is critical for maintaining constitutional morality in India. These rights include the freedom of expression and speech, the right to life and personal liberty, and the right to equality before the law.

The Indian Constitution is devoted to social justice, including abolishing social and economic inequities. Maintaining this commitment to social justice is integral to Indian constitutional morality.

Independent Judiciary: An independent judiciary is required to safeguard constitutional integrity in India. The court is charged with interpreting and upholding the Constitution and defending citizens' fundamental rights.

Civic duty: Civic duty is essential to Indian constitutional morality. This involves respecting others' rights, engaging in constructive discourse, and striving for the greater good.

Overall, constitutional morality in India is founded on democracy, equality, and social justice, necessitating dedication to implementing these concepts.

AMBEDKAR'S STANCE ON CONSTITUTIONAL MORALITY

Dr. B.R. Ambedkar, the principal architect of the Indian Constitution, well understood the notion of constitutional morality and its importance in India. He thought constitutional morality was the key to ensuring that the Indian Constitution was more than just a legal instrument but also a living document representing the Indian people's aspirations and beliefs.

Dr. Ambedkar defined constitutional morality as a collection of ideas and principles that went beyond simple legal compliance and included a dedication to democratic, egalitarian, and social justice goals. He felt that constitutional morality was necessary for establishing a just and equitable society where all people, regardless of social, economic, or cultural background, may live with dignity and respect.

Dr. Ambedkar emphasized the necessity of constitutional morality in India in a speech to the Constituent Assembly of India on November 4, 1948, adding that "constitutional morality is not a natural sentiment." It must be nurtured. We must acknowledge that our people have yet to learn. Democracy in India is only a garnish on an otherwise undemocratic Indian soil." Given the historical legacy of caste-based discrimination and socioeconomic injustice, Dr. Ambedkar recognized the significance of constitutional morality concerns in India. He felt, however, that these obstacles might be overcome by education, social reform, and the unwavering pursuit of constitutional values.

Overall, Dr. Ambedkar's concept of constitutional morality remains immensely relevant in modern India, where the battle to realize the Constitution's full potential is ongoing. His observations and opinions on this topic have inspired generations of Indians to fight towards a more just and equitable society in which constitutional principles are more than simply words on paper but a way of life.

CHALLENGES

There are several concerns related to constitutional morality in India. Some key considerations include the following:

The emergence of majoritarianism: There is rising worry over the rise of majoritarianism in India,

where the majority's domination threatens the minority's rights and liberties. Concerns have been raised regarding the erosion of constitutional morality and the necessity to guarantee that the Constitution safeguards the rights of all people, regardless of religion, caste, or race.

Threats to the judiciary's independence: In India, judicial independence is vital to constitutional morality. However, there are fears that the court is under increasing political pressure, which may jeopardize its capacity to maintain constitutional norms and protect citizens' rights.

There needs to be more accountability in India for transgressions of constitutional ideals and principles. This covers police violence, corruption, and violations of minorities' and marginalized communities' rights. This absence of accountability undermines the rule of law and the underpinnings of Indian constitutional morality.

Economic inequality's impact: The growing disparity between the affluent and poor in India is a source of worry for constitutional morality. The financial gap can undermine the Constitution's inherent social fairness and equal opportunity objectives. This can result in vast portions of society being excluded from the advantages of economic growth and progress, leading to even more social and economic inequality.

The influence of digital technologies: As digital technologies increase in India, they pose new challenges to constitutional morality. The proliferation of fake news and misinformation and the increasing use of surveillance technology endanger the right to Privacy and free speech. It is critical to guarantee that the benefits of digital technology are used in a way consistent with constitutional morality norms.

These concerns underline the necessity for further efforts in India to enhance constitutional morality. To safeguard and uphold the principles and values entrenched in the Constitution, all parties must work together, including the government, civil society, and the court.

SUPREME COURT OF INDIA ON CONSTITUTIONAL MORALITY

The Supreme Court has been at the forefront of defining and protecting constitutional morality in India. Adherence to the ideas and values embodied in the Constitution, such as safeguarding fundamental rights and the rule of law, is called constitutional morality. The Supreme Court has recognized the importance of constitutional morality in sustaining the country's democratic and secular fabric and has issued numerous historic decisions emphasizing its relevance.

The Supreme Court ruled in *Kesavananda Bharati v. State of Kerala* (1973)¹ that the core structure of the Constitution is sacred and cannot be changed even by a constitutional amendment. This case was crucial in demonstrating the Constitution's supremacy and the significance of safeguarding its essential ideals and principles. The Court declared that the Constitution is a living organism that changes through time and that Parliament's ability to alter the Constitution is subject to the norm of constitutional morality.

The Supreme Court overturned Section 377 of the Indian Penal Code, which criminalized homosexuality, in *Navtej Singh Johar v. Union of India* (2018)². The Court ruled that the provision breached people's fundamental rights and contradicted constitutional morality principles, which compelled the state to respect the dignity and autonomy of all individuals. The Court ruled that constitutional morality necessitates balancing individual rights protection and social welfare promotion and that the state cannot force its moral ideas on people.

The Supreme Court recognized the right to privacy as a fundamental right under the Constitution in the *Puttaswamy* decision (2017)³. The Court determined that privacy is an essential component of human liberty and is vital to an individual's dignity and autonomy. The Court emphasized that constitutional morality demands that individual rights be protected from state intervention and that the government respect individuals' privacy.

¹ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

² *Navtej Singh Johar v UOI*, (2018) 10 SCC 1.

³ *K Puttaswamy v. Union of India*, (2017) 10 SCC 1.

Finally, the Supreme Court of India has played an essential role in establishing and defending constitutional morality in India. The Court has recognized the importance of safeguarding the Constitution's principles and values, such as protecting fundamental rights, the rule of law, and developing social welfare. The Court has emphasized the need for accountability and openness in government, and it has played an essential role in safeguarding the judiciary's independence. The Supreme Court's decisions on constitutional morality have helped to reinforce India's democratic and secular fabric, as well as to protect the ideals of justice, equality, and fraternity.

COMPARISON BETWEEN CONSTITUTIONAL MORALITY IN INDIA AND UK

Constitutional morality in India focuses on preserving and honouring the ideals and principles outlined in the Constitution. It incorporates the belief that any law or action must be in accordance with constitutional tenets and that each citizen and public servant should put the Constitution before their own personal or political motives. By its rulings, the Supreme Court of India has emphasised the significance of constitutional morality in upholding the Constitution's credibility, defending human rights, and upholding the rule of law. In discussions on topics like the right to privacy, freedom of speech and expression, and the right to equality, constitutional morality occurs as an important factor to take any decisions regarding these rights.

Comparatively to India, the UK's definition of constitutional morality is rather unclear. Rather, the nation's unwritten constitution has evolved over the years to include constitutional ideas and norms. Many people believe that the UK constitution is a synthesis of statutory law, legal precedent, and constitutional traditions. The British legal framework prioritizes the idea of the rule of law and the premise of parliamentary authority, even though there is no express mention of constitutional morality. The connection that exists between the rule of law and the political climate in the UK, especially considering Brexit and the issue regarding the prorogation of Parliament, has come under increased scrutiny in the past few years.

In India, the concept of constitutional morality is still developing as a whole, in contrast to the UK, which has an extended record of developing its constitutional norms and values. The dedication of both nations to supporting the rule of law and making sure that their individual Constitutions are

upheld and preserved, nonetheless, unites them. Although in the UK, disputes over constitutional concepts frequently centre around enduring norms and customs, in India, the Constitution's clear acknowledgment of constitutional morality has given rise to further in-depth debates and conversations over its significance and consequences. Despite their disparities, India, and the UK both have continual difficulties preserving the integrity of their respective constitutions and defending the guiding values that underpin them.

SABARIMALA CASE ON CONSTITUTIONAL MORALITY

The Sabarimala case is a landmark decision emphasizing constitutional morality's significance in India. The issue concerns prohibiting women of menstrual age from entering the Sabarimala temple, a prominent Hindu site in Kerala. The temple leaders stated that the prohibition was necessary to maintain the temple's cleanliness and purity and that it was founded on age-old tradition and custom. However, the ban was challenged by a group of female activists who claimed that it infringed on women's fundamental rights and breached the Constitution's values of equality and non-discrimination.

The Supreme Court of India ruled in the Sabarimala case (*Indian Young Lawyers Association v. State of Kerala*, 2018)⁴ that the ban on women of menstruating age entering the Sabarimala temple was unconstitutional and violated the Constitution's principles of equality and non-discrimination. The Court ruled that excluding women from visiting the temple constituted sex discrimination that maintained patriarchal assumptions and gender prejudices. According to the Court, constitutional morality entails abolishing discrimination and promoting equality and social justice.

Sabarimala is noteworthy for several reasons. For starters, it emphasized the significance of the constitutional character in India and its role in defending citizens' fundamental rights. The Court ruled that constitutional morality necessitates preserving individual rights against the tyranny of tradition and custom and that tradition and custom must give way to the Constitution's inherent values of justice, equality, and fraternity. The Court emphasized that constitutional morality necessitates a balance of tradition and modernity, and that the Constitution is not a static text that changes in response to changing times and circumstances.

⁴ *Indian Young Lawyers Association v. State of Kerala*, (2018) 5 SCC 725.

Second, the Sabarimala case demonstrated the significance of gender equality and women's rights in India. The Court ruled that excluding women from entering the temple constituted discrimination that maintained gender stereotypes and prejudices. The Court emphasized that the Constitution provides equality and non-discrimination to all citizens, regardless of gender, and that gender justice is a fundamental component of constitutional morality.

Finally, the Sabarimala case highlights India's judiciary's responsibility to protect constitutional morality. Specific segments of society, notably temple officials and conservative organizations, publicly contested and criticized the Court's decision in the case. However, the Court remained steadfast in preserving constitutional principles and defending individuals' fundamental rights. The Sabarimala decision highlighted the judiciary's independence, impartiality, and dedication to justice and constitutional morality.

The Sabarimala case represents a significant step in India's march toward constitutional morality and gender justice. The case emphasized respecting the Constitution's ideals of justice, equality, and fraternity and the judiciary's duty to defend people's fundamental rights. The lawsuit also highlighted the need to balance tradition and modernity, eradicate prejudice, and foster social justice in India.

CONCLUSION

The core of the Constitution is that it was enacted with the people's will to rule them in mind. But this is not a goal, it is only a means to an end, which is Justice in its most entire meaning. A study of the Constitution needs to be more comprehensive to grasp the significance of Constitutional Morality. There is a need to comprehend the fundamental core of Constitutionalism as it pertains to granting legitimacy to a democratic government. This is far more crucial than a written Constitution. It establishes the notion of judicial control, which has helped India develop landmark precedents involving gender equality and other issues. To summarize all the facts above, Constitutional Morality is an attitude that responsible citizens must cultivate in their thinking since sustaining the spirit of constitutional morality is also the obligation of individuals.