Constitutional Morality and Democratic Values

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Abstract

This paper investigates the institutional and normative underpinnings of Indian democracy and constitutional morality. First, it examines how the ethical-political traditions of Buddhism and Jainism, as well as the governance traditions of ancient India, particularly those of Kautilya (through the Arthaśāstra), relate to modern governance situations. It also creates connections between contemporary governance methods in India and traditional ethical standards (e.g., pluralism, non-violence, welfare-oriented rule, and official honesty). Third, it offers a thorough examination of B. R. Ambedkar's landmark address to the Indian Constituent Assembly on November 25, 1949, emphasizing his cautions about fundamental morality, social and economic inequity, and democratic governance. Fourth, the study explores India's notion of constitutional morality, emphasizing how people behave as well as how constitutional institutions and other entitiesFirst, it examines how the ethical-political traditions of Buddhism and Jainism, as well as the governance traditions of ancient India, particularly those of Kautilya (through the Arthaśāstra), relate to modern governance situations. It also creates connections between contemporary governance methods in India and traditional ethical standards.

Keywords: Constitutional Morality; Democratic Values; Kautilya's Arthaśāstra; Buddhist Political Ethics; Jain Ethical Tradition; Indian Governance; Institutional Integrity; Welfare State; Pluralism; Civic Ethics.

Introduction

India's democratic administration rests on the underlying moral and ethical foundations of society and the state, not just on the structure of its institutions and legal frameworks. The idea of constitutional morality challenges us to see behind formal frameworks and consider how people, organizations, and society as a whole absorb and uphold the principles found in our Constitution. The treatise of Kautilya, the moral-political traditions of Buddhism and Jainism, and socio-ethical discourses that emphasize welfare, non-violence, integrity, pluralism, and the rule of law are only a few examples of India's rich intellectual heritage in governance philosophy. This essay is organized around four main goals: (1) to evaluate the applicability of Buddhist, Jain, Kautilya, and other governing systems in the current setting; (2) to create connectionsIndia's democratic administration rests on the underlying moral and ethical foundations of society and the state, not just on the structure of its institutions and legal frameworks. The idea of constitutional morality challenges us to see behind formal frameworks and consider how people, organizations, and society as a whole absorb and uphold the principles found in our Constitution. The treatise of Kautilya, the moral-political traditions of Buddhism and Jainism, and socio-ethical discourses that emphasize welfare, non-violence, integrity, pluralism, and the rule of law are only a few examples of India's rich intellectual heritage in governance philosophy. The paper concludes by discussing how these strands may strengthen India's democratic future.

I. Ancient Indian Governance Traditions and Their Relevance

Kautilya's View on Governance

Kautilya (also called Chanakya or Vishnugupta) is credited with writing the Arthaśāstra, which is still regarded as one of the most extensive texts on ancient Indian politics, economics, and government. The "saptanga" idea of state is explained by Kautilya. It consists of the following: the ruler (swami), the ministers (amatya), the region and people (janapada), the fortified capital (durga), the treasury (kosa), the army/policy (bala/danda), and allies (mitra). The āmatya-sampat—

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capacity, integrity, memory, health, philanthropy, freedom from anger, discipline, and agility in deliberation—should be demonstrated by ministers, he emphasizes. Under Kautilya's plan, the ruler's legitimacy is drawn from dharma-based rule, together with artha (wealth) and danda (policy/power). Governance is not just about power, but also about welfare and moral-ethical behavior. Despite the significant differences between the monarchical and modern democratic states, many normative lessons are still applicable: Choosing and taking responsibilityKautilya (also called Chanakya or Vishnugupta) is credited with writing the Arthaśāstra, which is still regarded as one of the most extensive texts on ancient Indian politics, economics, and government. The "saptanga" idea of state is explained by Kautilya. It consists of the following: the ruler (swami), the ministers (amatya), the region and people (janapada), the fortified capital (durga), the treasury (kosa), the army/policy (bala/danda), and allies (mitra). The āmatya-sampat—capacity, integrity, memory, health, philanthropy, freedom from anger, discipline, and agility in deliberation—should be demonstrated by ministers, he emphasizes.

Buddhist Ethical-Political Traditions

In India, moral leadership, equality, non-violence, and ethical behavior (śīla) are highly valued in the Buddhist tradition. In Buddhist political ethics, the idea of the cakravartin, or universal ruler, or dharma-rāja, or virtuous monarch, who is in accordance with the Dharma, is found. Early ideas of the social compact are also found in Buddhist political philosophy, such as the notion that a state is established by the appointment of a ruler (mahasammata) as opposed to by divine consent. Compassion, non-violence, an individual's internal moral discipline, and the dignity of all sentient beings are also emphasized in Buddhist ethics. In the framework of contemporary governance, these insights offer normative resources, such as the focus on non-violence in public policy, equality, dignity, consent/legitimacy, and moral leadership. The Buddhist focusIn Buddhist political ethics, the idea of the cakravartin, or universal ruler, or dharma-rāja, or virtuous monarch, who is in accordance with the Dharma, is found. Early ideas of the social compact are also found

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Jain Ethical-Governance Traditions

One of the oldest theological and ethical traditions in India, Jainism places a strong focus on the following fundamental ethical principles: discipline (brahmacharya), non-violence (ahiṃsā), truthfulness (satya), non-stealing (asteya), and non-possession or austerity (aparigraha). Although Jainism lacks a comprehensive political treatise like Kautilya, its ethical framework—individual moral discipline, reverence for life, plurality (anekāntavāda: the multiplicity of opinions), and non-possessiveness—is extremely relevant for government. In terms of governance, these normative markers are: avoiding rent-seeking or accumulation by public office; transparency; humility in public service; minimal harm in public policy; and respect for variety of viewpoints. The Jain normative ethos offers abundant advice for moral behavior of individuals and institutions as India negotiates the challenges of public ethics and governance.

Other Indian Traditions

Other Indian political-ethical traditions, including the Nītisūtras, Nītisāraof Kāmandakīya, later commentary traditions in the Dharmashāstras, and virtue ethics of medieval and contemporary philosophers, offer other normative latitudes outside the Kautilya, Buddhist, and Jain traditions. Although they are not covered in detail here, these are components of the larger framework of Indian governance theory, such as the focus on duty (dharma), just rule, official virtue, and welfare orientation. These traditions highlight how moral and ethical considerations have always played a significant role in Indian government theory, which has never been solely power-centric.

Relevance and Synthesis

The welfare (yogakshema) of people, the integrity of officials, institutional responsibility, non-violence and minimal harm, pluralism and respect for other points of view, moral leadership, and

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legitimacy by consent are some of the overlapping ethical orientations that arise when various traditions are synthesized.Although they are not covered in detail here, these are components of the larger framework of Indian governance theory, such as the focus on duty (dharma), just rule, official virtue, and welfare orientation. These traditions highlight how moral and ethical considerations have always played a significant role in Indian government theory, which has never been solely power-centric. These traditions highlight how moral and ethical considerations have always played a significant role in Indian government theory, which has never been solely power-centric.

II. Linking Ancient Ethical Norms and Contemporary Governance Practices

Amidst ongoing debates on institutional independence, the rule of law, and ethical governance, constitutional morality in India has garnered renewed attention, highlighting its crucial role in shaping democratic conduct and upholding constitutional values.

What is Constitutional Morality?

It is defined as "supreme reverence for the fundamental forms of the Constitution," ensuring both obedience to legitimate authority and the freedom of expression and dissent. It is not merely limited to adhering to the letter of the Constitution but also reflects fidelity to its spirit.

The concept of constitutional morality was introduced by British historian George Grote, who emphasized the balance between liberty and discipline—where citizens, while respecting constitutional authority, also retain the right to openly criticize those in power.

Pillars of Constitutional Morality:

Dr. Bhimrao Ambedkar's Views on Constitutional Morality: Dr. B.R. Ambedkar, referencing Grote's concept, emphasized the importance of cultivating a deep reverence for constitutional processes.

Ambedkar stated that—"Constitutional morality is not a natural sentiment—it has to be cultivated."

Constitutional Values and Rights: Upholding justice, liberty, equality, fraternity, secularism, and the protection of fundamental rights.

Rule of Law and Accountability: Ensuring that all, including those in power, are bound by the law through checks and balances and democratic participation.

Ethical and Transparent Governance: Promoting integrity, accountability, and transparency in public affairs.

How has the judiciary applied constitutional morality to advance social reform in India?

Protection of Privacy and Human Dignity: In Justice K.S. Puttaswamy (Retd.) v. Union of India (2017), the Supreme Court recognized the right to privacy as a fundamental right.

The Court clarified that dignity, autonomy, and freedom are all fundamental elements of constitutional morality.

Protection of Constitutional Values: In Kesavananda Bharati v. State of Kerala (1973), the Supreme Court established the Basic Structure Doctrine, ensuring that Parliament cannot alter the fundamental democratic and secular features of the Constitution.

LGBTQ+ Rights: In Naz Foundation v. NCT of Delhi (2009) and later in Navtej Singh Johar v. Union of India (2018), the Supreme Court held that constitutional morality should prevail over social prejudices and decriminalized consensual homosexual relations.

Gender Equality and Religious Reforms: In Indian Young Lawyers Association v. State of Kerala (Sabarimala, 2018), the Supreme Court struck down the ban on women's entry into the Sabarimala temple, stating that gender equality and freedom transcend discriminatory religious practices.

Gender Equality and Marital Reforms: In Joseph Shine v. Union of India (2018), the Court decriminalized adultery by striking down Section 497 of the IPC, reestablishing gender equality and recognizing women's autonomy in marriage.

Challenges facing Constitutional Morality in India

Political Interference: Growing political influence on constitutional and legislative institutions has become a cause for concern. Last 75 year events, such as the Court's decision on the role of the Governor in assent to state bills, highlight the tension between institutional autonomy and political interference.

Judicial Activism vs. Restraint: While cases like Vishaka v. State of Rajasthan (1997) demonstrate that judicial activism can promote rights, excessive judicial interference risks upsetting the separation of powers.

Weak enforcement: Delays in implementing key decisions, such as the Vineet Narain (1998) judgment on institutional accountability, and a lack of awareness of rights undermine the effectiveness of constitutional morality.

Social resistance: Deeply entrenched caste systems, gender discrimination, and religious fundamentalism—such as in matters of temple entry or inter-caste marriage—continue to hinder the equality and fraternity envisioned by the Constitution.

Public Institutions Uphold Constitutional Morality

Institutions involved in governance, investigation, and oversight (the Election Commission, the CBI, and the NIA) should function autonomously and free from political interference to protect constitutional values and public trust. Simplifying legal processes, reducing judicial backlogs, and making legal aid accessible are essential to ensure equality before the law. Public officials should set an example of integrity, accountability, and adherence to constitutional principles. Educating citizens, especially the youth, about constitutional rights and duties helps develop a constitutional culture.

The Indian Constitution emerged from colonial rule, the independence struggle, and various political, moral, and intellectual traditions. It drew inspiration from Enlightenment principles, Indian philosophy, and comparative constitutionalism, reflecting diverse views on justice, liberty, equality, and brotherhood. Developed through the Constituent Assembly, it aims to rectify

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historical injustices and lays the foundation for a democratic, inclusive, and pluralistic society. The Constitution is characterized as a dynamic, organic, and living document, embodying both historical context and a vision for the future.Constitutional Morality in the Adjudication of Fundamental Rights.

The earliest invocation of constitutional morality by the Supreme Court was perhaps in the Kesavananda Bharati case in 1973. Three judges referred to it—Justice A.N. Ray in his dissent and Justices H.R. Khanna and P. Jagmohan Reddy expressed their agreement—although these references were brief and beyond the scope of their arguments. It was also mentioned in the S.P. Gupta v. Union of India case, where Justice Venkataramiah agreed with Dicey's concept of constitutional morality, which is co-extensive with constitutional conventions.

In 2014, the Delhi High Court, for the first time, used constitutional morality in a specific and concrete sense in the Naz Foundation case, which challenged Section 377 of the Indian Penal Code, which criminalized homosexuality. Chief Justice A.P. Shah rejected the state's argument that "popular morality" is a valid justification for restricting fundamental rights under Article 21 because it is based on "changing and subservient notions of right and wrong." Conversely, only "constitutional morality" stemming from "constitutional values" could withstand the test of affecting the state's interest. The Court stated that this "aspect of constitutional morality" was "strongly emphasized" by Dr. Ambedkar before the Constituent Assembly, citing Grote.

Where is this morality found in the Constitution? Justice A.P. Shah, citing Granville Austin, stated that the Indian Constitution is first and foremost a social document whose provisions were intended to further the goals of a "social revolution." He stated that the "core of the commitments to social revolution" is enshrined in Part III (Fundamental Rights) and Part IV (Directive Principles of State Policy) of the Constitution. The Court held that Section 377 of the Indian Penal Code, 1860, insofar as it criminalizes consensual sexual acts between adults in private, violates Articles 21, 14, and 15 of the Constitution (Subramanium Gopal, https://www-scobserver-in).

Relevantly, the Court's conception of morality was an objective standard, one that could be ascertained through continuous engagement with the Constitution and its values. Unlike the "changing and subservient notions" of public morality, constitutional morality was rooted in the text and context of the Constitution. This distinction is crucial because it enables courts to act as a counterweight to majoritarian impulses and social biases. This is a non-interventionist constitutional reform. This is the duty of the court as the guardian of the Constitution.

It is essential to recognize that attributing the concept of constitutional morality to Dr. Ambedkar aligns with a well-established interpretive approach used by courts. This approach, rooted in identity and values, is consistent with Dworkin's principles, emphasizing moral reasoning and coherence in constitutional adjudication. By considering the Constitution's text alongside its historical context, principles, and social values, this method assists courts in addressing complex legal issues in a context-sensitive and justified manner.

Constitutional Morality in the Structure of Political Institutions

Constitutional morality serves as a crucial interpretative tool in adjudicating fundamental rights and resolving institutional disputes within political frameworks. It upholds the separation of powers and embodies a moral guideline for state institutions to avoid overstepping their constitutional bounds. An illustrative case is State (NCT of Delhi) v. Union of India, where the court ruled that the Lieutenant Governor cannot interfere with the Chief Minister's decisions except on narrow constitutional grounds, emphasizing that broad interpretations would violate cooperative federalism and representative governance, foundational aspects of constitutional moralityThe Court has also invoked constitutional morality in the Manoj Narula case to interpret Article 75(1) of the Constitution and concluded that it was a "constitutional expectation" that the Prime Minister would not appoint a person with a serious criminal background to the Council of Ministers. Apart from imposing responsibilities on political institutions and offices, the Court has also invoked this principle as a political ideal for citizens to strive towards ideas such as "responsible participation" and "internalizing the values   of the Constitution".

The Court referenced constitutional morality in the Manoj Narula case to assert that Article 75(1) requires the Prime Minister to avoid appointing individuals with serious criminal backgrounds to the Council of Ministers. This principle encourages responsible participation among citizens and emphasizes internalizing constitutional values. In the State of Tamil Nadu v. Governor of Tamil Nadu case, the Supreme Court concluded that the Governor lacks discretion under Article 200 to veto bills from the State Legislative Assembly, implying that constitutional authorities should adhere to constitutional values, even without expressly mentioning constitutional morality

Welfare-focused Governance: Historical to Contemporary

Kautilya's belief that the wellbeing of subjects (janapada) should be the ultimate goal of governance is in line with India's current constitutional obligations. This approach is reflected in the Indian state's constitutional duties under Article 21 (right to life and dignity), the Directive Principles of State Policy (social and economic fairness), and a number of welfare programs. Thus, modern governance resonates with the old ethical ideal of welfare-oriented governing. Social protection programs, transparency initiatives, e-governance, public service delivery reforms, audit and accountability procedures, and other contemporary governance practices in India can all be considered institutional expressions of that welfare mindset. The disparity is still wide, though, as seen by institutional inefficiencies, elite capture, corruption, and exclusion, which show that the welfare ideal is frequently only partially realized rather than fully realized.

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III. The Speech by Dr. B. R. Ambedkar on November 25, 1949

Dr. B.R. Ambedkar's admonition that "constitutional morality is not a natural sentiment—it has to be cultivated" remains highly relevant today. For India's democracy to flourish effectively, it is essential that both citizens and leaders imbibe the spirit of the Constitution. When constitutional morality guides governance and public life, the Constitution ceases to be a mere legal document but becomes a living manifesto of justice, liberty, equality, and fraternity, applicable to all Indians.

The Indian Constitution, governing the world's most diverse democracy, is a validation of its commitment to upholding the freedoms and rights of all citizens, irrespective of caste, religion, gender, or other identities. Dr. B.R. Ambedkar, the chief architect of this visionary document, envisioned Constitutional Morality as the cornerstone for a successful democracy. Ambedkar argued that Constitutional Morality, rooted in the values of dignity, equality, and liberty, is essential for maintaining the balance between the rule of law and political power, thereby preventing authoritarianism. Without this moral foundation, even a meticulously crafted Constitution risks becoming an instrument of unfair and arbitrary governance.

A day before the Constitution was ratified, on November 25, 1949, Dr. B. R. Ambedkar gave the final address to the Constituent Assembly of India

(eParlimentary+3csja.gov.in+3oldror.lbp.world+3). He reviewed the Assembly's work, the drafting process, the number of sessions, and the amendments in that speech before turning to future cautions, such as the need for constitutional morality at all levels, social and economic inequality, and the possibility that the Constitution will be undermined by values neglect rather than overt violence. The speech is regarded by scholars as one of the founding declarations of Indian constitutional morality (Mehta P. B. india-seminar.com).

How social and political equality are related. Ambedkar noted that althoughA day before the Constitution was ratified, on November 25, 1949, Dr. B. R. Ambedkar gave the final address to the Constituent Assembly of India (eParlimentary+3csja.gov.in+3oldror.lbp.world+3). He reviewed the Assembly's work, the drafting process, the number of sessions, and the amendments in that speech before turning to future cautions, such as the need for constitutional morality at all levels, social and economic inequality, and the possibility that the Constitution will be undermined by values neglect rather than overt violence. The speech is regarded by scholars as one of the founding declarations of Indian constitutional morality (Mehta P. B. india-seminar.com).

Relevance for Contemporary Governance:

Ambedkar's speech remains remarkably relevant. Today, India grapples with issues such as widening socio-economic inequality, populism, erosion of institutional autonomy, majoritarian pressures, and weakening of public ethics. Ambedkar's warnings about social democracy, method over ends, and constitutional morality speak directly to these concerns. His normative vision thus aligns with the earlier ethical traditions (ancient Indian governance thought) and points the way toward a more morally grounded democratic polity.

IV. Indian Constitutional Morality, Institutional Behaviour and Democratic Values:

Concept of Constitutional Morality

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In the Indian context, constitutional morality refers to adherence not only to the letter of the Constitution but to its spirit — principles of justice, liberty, equality, fraternity, secularism, rule of law and dignity of the individual. Courts in India have used the term to demand that power be exercised within the constitutional scheme and that institutions and individuals internalise constitutional values. For example, studies highlight that "constitutional morality … must be cultivated, it is not a natural sentiment". Importantly, constitutional morality also means that governance must be responsive, accountable and respectful of rights and pluralism.

Conduct of People, Constitutional Organizations, and Other Organizations

People: Citizens and public employees must internalize values like tolerance, respect for others' rights, civic duty, and integrity in both their public and private lives in order to uphold constitutional morality. This is supported by ancient ethical traditions, such as the Buddhist and Jain emphasis on self-discipline, respect for others, and non-violence, as well as the Kautilya emphasis on ministers' competence, integrity, and philanthropic orientation. India has a mixed record in practice. Strong civil society, activism, public interest litigation, and media scrutiny are present on the one hand; corruption, caste/communal bias, financial and physical abuse, populist short cuts, and the decline of civic virtue are still present on the other.

Constitutional institutions: The legislative, executive branch, judiciary, and independent institutions (such as the Election Commission, Comptroller & Auditor General, and anti-corruption agencies) must all function with honesty, independence, responsibility, openness, and commitment toPeople: Citizens and public employees must internalize values like tolerance, respect for others' rights, civic duty, and integrity in both their public and private lives in order to uphold constitutional morality. This is supported by ancient ethical traditions, such as the Buddhist and Jain emphasis on self-discipline, respect for others, and non-violence, as well as the Kautilya emphasis on ministers' competence, integrity, and philanthropic orientation.

Other Institutions: India has a mixed record in practice. Strong civil society, activism, public interest litigation, and media scrutiny are present on the one hand; corruption, caste/communal bias, financial and physical abuse, populist short cuts, and the decline of civic virtue are still present on the other.

Conclusion

This analysis concludes that the Arthaśāstra of Kautilya, Buddhist moral-political thinking, and the Jain ethical tradition are among the ancient Indian governance traditions that still have a great deal of normative significance for modern Indian governance. Welfare-oriented governance, official honesty, institutional accountability, non-violence, pluralism, and moral leadership are some of the normative ideals that these traditions offer. They aid in framing how India could strengthen democratic norms and constitutional morality when connected to contemporary governance practices.

A thorough examination of Ambedkar's speech from November 25, 1949, shows how the main drafter of the Indian Constitution expressed the importance of social democracy, constitutional morality, means over aims, and institutional integrity. His cautions are still relevant given India's current problems.

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