BLOGS

Detailed Notes on Constitutional Morality in India

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Constitutional morality in India refers to the principles and values that underlie the constitution and guide the actions of government and citizens. Read more about the concept in this post!

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Introduction

Within the realm of governance, constitutional morality serves as a guiding principle that upholds integrity and sheds light on the path toward a fair and impartial society.

Constitutional morality, at its essence, involves the commitment to supporting the ideas embedded in a country's Constitution. This commitment promotes the harmonious coexistence of fundamental rights, the rule of law, and the democratic ethos.

Principles of Constitutional Morality

Constitutional morality serves as a fundamental pillar of democracy. The phenomenon in question surpasses the concerns of individual stakeholders. It fosters national cohesion through shared ideals, assuring the ongoing influence of the constitutional framework on the conduct of governance.

This concept entails acknowledging the intrinsic worth of individual rights, adopting the principle of equality, and making decisions that promote the overall welfare of the collective. Similar to how athletes adhere to the regulations of a particular sport to maintain fairness, constitutional morality facilitates the equitable operation of a democratic society.

The Origin of Constitutional Morality

1. The origins of this concept, in the Indian context, can be traced back to the Constitution: As outlined in Articles 12-35, the Fundamental Rights emphasize individuals' liberties, dignity, and equality, serving as the foundation of constitutional morality.

- The Directive Principles of State Policy, as outlined in Articles 36–51 of the Constitution, serve as a framework for the State to promote social and economic fairness, focusing on the socio-economic dimensions of constitutional morality.
- The Preamble of the Constitution delineates the fundamental principles of justice, liberty, equality, and fraternity. On the other hand, the Fundamental Duties underscore the importance of civic responsibilities that align with the principles of constitutional morality.

2. The deliberations and exchanges inside the Constituent Assembly on debates and discussions: The arguments of the Constituent Assembly offer valuable insights into the framers' original intentions, with the perspectives of **Dr. B.R. Ambedkar being particularly prominent**. These deliberations are crucial in shaping the current comprehension of constitutional morality and its importance.

3. The study of constitutional history and framing: Constitutional history encompasses examining constitutions' historical development and construction. **The spirit of constitutional morality is informed by the historical background surrounding the writing of the Constitution**, which includes significant events such as the battle for independence.

The Constituent Assembly's endeavors to construct a fair society that encompasses all individuals are crucial in upholding the fundamental principles of constitutional morality.

4. Using case laws and precedents: In contemporary times, courts have demonstrated a proactive approach to interpreting and preserving constitutional morality. **Numerous court rulings have invalidated oppressive laws (Decriminalising Homosexuality and Adultery, discrimination based on gender in Sabrimala, etc.)**, aligning them with democratic principles and bolstering the concept of constitutional morality.

Dr. Ambedkar and Discussions on Constitutional Morality

Dr. B.R. Ambedkar, who had a broader view of how people in India understand and follow the rules of the Constitution believed that many Indians didn't have a strong sense of "constitutional

morality.”

He thought that even though India has a system of democracy, it’s like a new layer placed on top of something that isn’t naturally democratic.

In a meeting where they were discussing the Constitution, Ambedkar responded to the criticism that a lot of the Constitution was taken from the Government of India Act, 1935, including specific administrative details.

He admitted feeling sorry about including these details in the Constitution from an act that was enacted by and favored the British.

But he explained that in a country where people don’t naturally understand and respect the principles of the Constitution and Constitutional morality, it’s necessary to have these details to make sure the government works according to the spirit of the Constitution and for limiting any scope for abuse of power.

Without these details, the administration might not follow the values of the Constitution, even if the formal structure remains the same.

Ambedkar also said that this sense of “constitutional morality” needs to be developed among the people. He believed that the Constitution should also serve as a tool to teach the Indian population about democratic values.

According to him, many Indians didn’t have a strong democratic mindset. The Constitution was not just a set of rules but also a way to educate people about how a democracy should work.

Importance of Constitutional Morality

The significance of constitutional morality within the governance framework is a matter of great importance. Consider a vessel navigating perilous maritime conditions. The captain depends on a compass as a navigational tool to ensure the secure passage of the vessel. Constitutional morality serves as the guiding principle for a nation’s democratic journey.

The adherence of individuals, encompassing both leaders and citizens, to the ideals delineated in the Constitution safeguards against the potential erosion of democracy resulting from inequitable practices, unbridled authority, and infringements against rights.

The United States serves as a prominent illustration of constitutional morality in practice. The United States Constitution, renowned for its age, is a fundamental pillar of democratic governance. The constitutional framers, through their astuteness, constructed a comprehensive structure that safeguards the rights of individuals, guarantees a division of powers, and imposes constraints on governmental activities.

The enduring nature of the United States Constitution over several centuries serves as a testament to the significant influence of constitutional morality in cultivating a robust democratic system.

Achieving Constitutional Morality Through Judicial Precedents

The Puttaswamy Case

The right to privacy has gained the utmost importance in the era of digitalization. The Indian Supreme Court rendered a significant judgment in the Puttaswamy case, wherein it acknowledged the right to privacy as a fundamental right protected by the Indian Constitution.

The ruling above has shed light on the importance of constitutional morality, as it has served to protect the privacy of individuals from potential infringements by government entities.

The judiciary's dedication to safeguarding constitutional principles serves as a prime illustration of the fundamental nature of constitutional integrity in protecting the rights of individuals within a constantly changing societal context.

Obergefell v. Hodges

The Obergefell v. Hodges case exemplifies the ever-evolving character of constitutional morality. In this instance, the U.S. Supreme Court's verdict legalized same-sex marriage in all states, upholding the constitutional concept of equality.

This pivotal decision demonstrated adherence to constitutional values by demolishing discriminatory obstacles and acknowledging love and commitment without prejudice. The statement emphasizes the significance of constitutional morality in surpassing conventional society's norms and biases, fostering inclusivity, and facilitating societal advancement.

Naz Foundation v. Government of NCT of Delhi (2009)

The constitutionality of Section 377 of the Indian Penal Code, which criminalizes homosexuality, was challenged in this case.

Justice Ajit Prakash Shah introduced the concept of constitutional morality in a manner that is contrary to traditional norms. The court emphasized preserving constitutional values in favor of conventional moral standards.

The court's decision to legalize homosexuality was influenced by constitutional morality, which emphasized protecting individual rights and dignity. This judicial decision even though overruled later established a precedent for giving precedence to constitutional morality in circumstances that involve societal taboos.

Navtej Singh Johar v. Union of India (2018)

The constitutionality of Section 377 was re-examined to decriminalize consenting gay conduct. The Supreme Court ruled that Section 377 violated constitutional morality as it encroached upon individual privacy and autonomy principles.

The court underscored the importance of upholding constitutional morality by recognizing and safeguarding varied sexual orientations and protecting fundamental rights. The ruling rendered by the court represented a divergence from prevailing cultural biases and established a forward-thinking benchmark for the interpretation of constitutional law.

Joseph Shine v. Union of India (2018)

Legal Challenge to the Constitutional Validity of Section 497 of the Indian Penal Code, On Adultery. The Supreme Court invalidated the law because it contravened constitutional morals by perpetuating the notion of women as the possessions of their husbands.

The ruling emphasized the significance of gender equality and personal autonomy per constitutional values. The court's decision to remove discriminatory laws and defend fundamental rights was guided by constitutional morality.

Indian Young Lawyers' Association v. State of Kerala (2018)

The following case concerned a legal dispute regarding prohibiting women of reproductive age from entering the Sabarimala shrine. The court affirmed the primacy of constitutional morality

concerning religious practices.

The court's ruling determined that excluding women violated their fundamental rights and the norms of equality. The verdict acknowledged the dynamic character of constitutional morality, which adjusts itself to the prevailing social ideals.

Government of the NCT of Delhi v. Union of India (2018)

This case dealt with the analysis of the allocation of powers between the elected government of Delhi and the Lieutenant Governor. Former Chief Justice Deepak Misra parallels constitutional morality and the ' basic structure theory.'

The court emphasized that constitutional character is crucial in maintaining a balanced government and upholding democratic principles. The ruling reaffirmed that individuals and officials must carry and abide by constitutional morals.

The aforementioned judicial decisions exemplify the utilization of constitutional morality by the Indian court to undermine prevailing traditions, provide precedence to individual rights and dignity, and foster the development of a legal framework that is both forward-thinking and all-encompassing.

The case above demonstrates how this concept has influenced judicial interpretations and rulings, signifying a deviation from prevailing social conventions in favor of upholding constitutional values.

Addressing Obstacles to Constitutional Morality

Despite numerous cases reasserting the importance of constitutional morality in a democratic society, the journey toward maintaining constitutional morality poses significant difficulties. Instances of power dynamics, entrenched interests, and varying interpretations of the Constitution can occasionally result in departures from the fundamental tenets of justice and fairness.

In such circumstances, preserving constitutional morality is tested, necessitating the active involvement of individuals, legal scholars, and institutions to restore democratic governance.

Instances, where constitutional morality has encountered difficulties, can be subject to reflection. When leaders prioritize their advantages over the nation's welfare, they undermine the

fundamental principles of constitutional integrity.

The loss of democratic standards, the restriction of civil liberties, and the disdain for the rule of law are clear markers of the degradation of constitutional morality. Therefore, the continued dedication to fostering and protecting this fundamental principle is paramount.

Conclusion

Like how a lighthouse serves as a navigational aid for ships, constitutional morality is a guiding principle for a nation, ensuring its safe passage among the challenges posed by power dynamics and societal transformations.

In the contemporary era, as we traverse the intricate terrains of the modern world, the enduring importance of constitutional morality continues unabated. This statement serves as a persuasive appeal, encouraging individuals and leaders to remain steadfast in upholding the principles outlined in their constitutional frameworks.

By adhering to constitutional morality, we reassert our dedication to fairness, equality, and the enduring fundamental tenets that serve as the foundation of a democratic society. By taking this action, we ensure the preservation and continuity of democracy for future generations.