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Ethical Governance and Constitutional Morality in the Exercise of State Power in India

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Abstract - Democratic governance is not sustained by constitutional rules alone but by the ethical manner in which political power is exercised. In the Indian context, where state authority operates through complex constitutional institutions, the question of how power is used becomes as significant as the legality of its use. This paper examines the normative relationship between ethicalgovernance, constitutional morality, and the exercise of state power in India, situating the analysis within broader debates on democratic legitimacy and constitutionalism.

Adopting a theoretical and institutional approach, the study draws upon classical and contemporary political theory alongside constitutional interpretation and institutional practice in India. It analyses how ethical governance is expected to function through restraint, accountability, and fidelity to constitutional values in the exercise of executive, legislative, judicial, and administrative power. Particular attention is paid to moments of democratic strain—such as majoritarian politics, centralisation of authority, and the governance of dissent—where the tension between constitutional morality and the assertion of state power becomes most visible.

The paper explores the evolving role of constitutional morality in Indian constitutional discourse, especially in judicial reasoning and debates on democratic governance. It argues that constitutional morality operates as a mediating ethical principle between popular sovereignty and constitutional restraint, ensuring that the exercise of power remains aligned with foundational values such as equality, liberty, accountability, and the rule of law. The study further contends that the erosion of constitutional morality, even when state action is supported by electoral legitimacy, weakens the normative foundations of democratic authority.

The paper concludes that ethical governance in India cannot be secured through institutional design or electoral mandate alone. It requires a sustained commitment to constitutional morality as a practical ethical framework capable of constraining state power and preserving democratic legitimacy in contemporary Indian democracy.

Keywords: Ethical Governance; Constitutional Morality; State Power; Constitutionalism; Democratic Legitimacy.

Introduction - The exercise of state power lies at the heart of democratic governance, shaping the relationship between authority, law, and citizens. In constitutional democracies, power is not merely a question of institutional capacity or electoral mandate; it is also a moral and normative enterprise. The legitimacy of governance depends not only on what the state is legally authorised to do but also on how power is exercised in accordance with constitutional values. In this context, the concept of ethical governance assumes central importance, particularly in societies where democratic institutions operate under conditions of political contestation, social diversity, and unequal power relations.[1]

India presents a particularly significant context for examining the ethical dimensions of state power. As a constitutional democracy founded on the principles of liberty, equality, justice, and fraternity, the Indian state derives its authority from a written Constitution that seeks to balance popular sovereignty with constitutional restraint. While the Constitution provides a detailed legal framework for governance, its effective functioning depends upon adherence to what has come to be described as constitutional morality—a commitment to the spirit, values, and ethical foundations of the constitutional order. Constitutional morality, as articulated in constitutional discourse, demands that public power be exercised with restraint, fairness, and respect for democratic norms, even in situations where the law permits broader discretionary authority.

In contemporary Indian politics, debates surrounding the exercise of state power have increasingly foregrounded questions of ethics, legitimacy, and constitutional conduct. Issues such as the centralisation of authority, the governance of dissent, majoritarian decision-making, and the role of constitutional institutions have raised concerns about the erosion of normative constraints on power. These

developments highlight the tension between electoral legitimacy and constitutional morality, and underscore the need to examine how ethical governance can be sustained within democratic institutions. The invocation of constitutional morality by courts and scholars reflects an attempt to reaffirm constitutional values in the face of political practices that may be legally defensible but ethically questionable.

This paper seeks to analyse the relationship between ethical governance and constitutional morality in the exercise of state power in India. It argues that constitutional morality functions as a critical normative framework that mediates between legal authority and democratic legitimacy. By examining the theoretical foundations of ethical governance alongside institutional practices in India, the study aims to demonstrate that democratic governance cannot be reduced to procedural legality or popular mandate alone. Instead, the enduring legitimacy of state power depends upon a sustained commitment to constitutional morality as an ethical guide for the exercise of authority in a plural and democratic society.

Conceptual and Theoretical Framework: The analysis of ethical governance and constitutional morality in the exercise of state power requires a clear conceptual and theoretical grounding. At its core, state power refers to the capacity of political institutions to make binding decisions, enforce laws, and regulate social life through authority and, where necessary, coercion. In democratic theory, state power is considered legitimate not merely because it exists, but because it is exercised within a framework of consent, accountability, and normative restraint.[2]Classical political theorists have emphasized that unchecked power, even when legally sanctioned, risks degenerating into domination rather than authority.

Ethical governance provides the normative lens through which the exercise of state power can be evaluated. It refers to governance practices guided by moral principles such as fairness, responsibility, transparency, and respect for rights. Ethical governance goes beyond administrative efficiency or legal compliance; it demands that decision-making processes reflect constitutional values and democratic obligations. From a theoretical perspective, ethical governance draws upon liberal constitutionalism, which views power as legitimate only when constrained by law and moral norms, and deliberative democratic theory, which emphasizes justification, reason-giving, and public accountability.

The concept of constitutional moralityoccupies a central place in this framework. Originating in constitutional thought and later articulated in Indian constitutional discourse, constitutional morality refers to fidelity to the spirit and values of the Constitution rather than mere adherence to its text.[3] It embodies principles such as equality before law, respect for individual dignity, institutional integrity, and restraint in the use of power. Constitutional morality functions as a normative guide for institutions, requiring them to act in ways that sustain democratic trust and constitutional balance, even in politically contentious situations.

The theoretical framework of this study thus links state power, ethical governance, and constitutional morality through the concept of legitimacy. Drawing on Max Weber's notion of legitimate authority and constitutional theories of democracy, the framework treats constitutional morality as an ethical constraint that mediates between popular sovereignty and institutional authority. This approach enables an evaluation of governance not only in terms of legality and effectiveness but also in terms of its moral and democratic justification within the Indian constitutional context.

Constitutional Morality in the Indian Constitutional Framework: The concept of constitutional morality occupies a central position in the Indian constitutional framework, serving as an ethical guide for the exercise of public power. While the Constitution of India provides a detailed legal and institutional structure for governance, its democratic functioning depends not merely on compliance with constitutional provisions but on adherence to the underlying values and spirit of the Constitution. Constitutional morality refers to this deeper commitment to constitutional principles such as liberty, equality, justice, dignity, and fraternity, which must inform the conduct of state institutions.

In the Indian context, constitutional morality has its intellectual roots in the Constituent Assembly Debates, particularly in the ideas of B. R. Ambedkar, who emphasized that constitutional democracy requires not only constitutional forms but also constitutional behaviour. Ambedkar cautioned that even the best-designed Constitution could fail if those in power did not respect its moral foundations. Thus, constitutional morality was envisaged as a safeguard against arbitrary use of power and majoritarian excess.[4] Within the constitutional framework, constitutional morality operates as a normative principle that shapes the interpretation and application of constitutional provisions. It demands restraint in the exercise of executive authority, responsibility in legislative action, independence in judicial functioning, and neutrality in administrative conduct. For instance, while Parliament possesses wide law-making powers, constitutional morality requires that such power be exercised without undermining fundamental rights or the federal balance. Similarly, executive discretion, though legally permitted, must be guided by fairness, non-discrimination, and accountability.

In recent years, constitutional morality has gained prominence through judicial interpretation, where courts have invoked it to uphold constitutional values in complex and sensitive cases. It has been used to emphasize individual dignity, protect minority rights, and reinforce institutional integrity.[5]This reflects an understanding that constitutional morality acts as a bridge between written law

and democratic ethics, ensuring that constitutional provisions are not interpreted narrowly or mechanically.

The Indian constitutional framework thus treats constitutional morality as both a limiting and enabling principle: limiting state power by imposing ethical constraints, and enabling democracy by preserving constitutional values in changing political circumstances. Its significance lies in ensuring that the exercise of state power remains aligned with the foundational vision of the Constitution, even when political pressures or popular mandates push in contrary directions.

Table: 1 (see in last page)

Exercise of State Power in India: Institutional Analysis: The exercise of state power in India is structured through a complex network of constitutional institutions, each vested with distinct functions and authority. The Indian Constitution seeks to prevent the concentration of power by distributing it among the legislature, executive, judiciary, and administrative apparatus, while simultaneously embedding normative restraints through constitutional principles.[6] An institutional analysis of state power, therefore, requires attention not only to formal powers but also to how these institutions operate in practice within a democratic framework.

The legislature exercises state power primarily through law-making, budgetary control, and political oversight of the executive. Parliament and State Legislatures possess wide authority to enact laws reflecting popular will. However, legislative power in India is not absolute. Constitutional limits, particularly Fundamental Rights and the federal division of powers, restrict legislative action. For instance, laws passed by legislative majorities are subject to judicial scrutiny when they infringe upon equality, liberty, or due process. This demonstrates that legislative authority, though democratically derived, is constitutionally constrained to prevent majoritarian excess.

The executive represents the most visible and immediate form of state power, as it is responsible for policy formulation, administration, and enforcement of laws. In India's parliamentary system, executive authority is exercised in the name of the President but effectively rests with the Council of Ministers. Executive discretion is extensive, particularly in matters of public order, welfare delivery, and regulatory governance. Yet, constitutional principles such as non-arbitrariness, proportionality, and accountability impose ethical and legal limits on executive action. Instances of judicial review of executive decisions highlight the expectation that power be exercised reasonably and in good faith.[7]

The judiciary plays a central role in regulating the exercise of state power through constitutional interpretation and judicial review. Courts function as guardians of the Constitution, ensuring that legislative and executive actions conform to constitutional values. Through doctrines such as judicial review and basic structure, the judiciary has asserted its authority to invalidate actions that undermine constitutional identity. Judicial interventions in matters concerning civil liberties, federal balance, and institutional autonomy illustrate how judicial power operates as a counterweight to other branches of the state.

The bureaucracy and administrative institutions constitute the operational backbone of state power. Civil servants exercise delegated authority in implementing policies and delivering public services. Although administrative power is essential for governance, it carries risks of arbitrariness and abuse.[8]Constitutional safeguards, service rules, and principles of administrative law aim to ensure neutrality, fairness, and accountability in bureaucratic functioning.

Taken together, the exercise of state power in India reflects a constitutional design that combines authority with restraint. Institutional checks, legal accountability, and ethical expectations collectively seek to ensure that power is exercised not merely effectively, but legitimately, in accordance with democratic and constitutional principles.

Challenges to Ethical Governance in Contemporary India: Ethical governance in India faces significant challenges arising from the growing tension between constitutional norms and contemporary political practices. While the constitutional framework provides strong safeguards for accountable and value-based governance, the actual exercise of state power often reveals a gap between constitutional ideals and institutional conduct.[9]This gap has become more pronounced in recent years due to structural, political, and institutional pressures.

One major challenge is the expansion of executive dominance within the parliamentary system. Increasing centralisation of decision-making and reliance on executive discretion tend to weaken collective responsibility, legislative oversight, and institutional transparency. When executive authority operates with limited deliberation or accountability, ethical governance is reduced to procedural compliance rather than principled conduct.

A second challenge arises from majoritarian political logic, where electoral mandates are frequently invoked to justify far-reaching exercises of state power. While democratic legitimacy flows from popular support, ethical governance requires restraint and respect for constitutional limits, particularly concerning minority rights and dissent. The tendency to equate numerical majority with moral authority risks undermining constitutional morality and pluralism.

The regulation of dissent and civil liberties presents another critical concern. Use of legal and administrative instruments to control protest, speech, and political opposition raises ethical questions about proportionality and democratic tolerance. Even when such actions are legally sanctioned, they may fall short of constitutional expectations regarding liberty and accountability.

Institutional autonomy has also come under strain. Weakening of independent institutions, including oversight bodies and regulatory agencies, erodes ethical governance by reducing checks on state power. When institutions are perceived as partisan or compliant, public trust in democratic governance diminishes.[10]

Finally, ethical governance is challenged by the gap between legality and legitimacy. Actions that are legally defensible may still violate constitutional morality if they disregard fairness, transparency, or democratic restraint. This disjunction underscores the central problem facing contemporary Indian democracy: sustaining ethical governance requires not only adherence to law but also a continuous commitment to constitutional values in the exercise of state power.

Ethical Governance and Democratic Legitimacy: Democratic legitimacy rests not only on electoral authorization but also on the ethical quality of governance exercised by those in power. In a constitutional democracy like India, the legitimacy of the state is sustained when political authority is exercised in a manner consistent with constitutional values, democratic norms, and public reason. Ethical governance thus functions as a crucial link between state poweranddemocratic legitimacy, ensuring that authority is accepted not merely because it is lawful or electorally sanctioned, but because it is perceived as just, fair, and restrained.

Ethical governance enhances democratic legitimacy by embedding accountability,transparency, and moral responsibility within institutional practices. Elections provide governments with formal legitimacy, but this legitimacy remains fragile if governance practices violate constitutional principles or undermine public trust. When executive decisions lack transparency, when legislative processes bypass deliberation, or when administrative actions appear arbitrary, democratic legitimacy is weakened even if such actions are legally valid. Ethical governance, therefore, requires continuous justification of power through reasoned decision-making and respect for constitutional norms.

In the Indian context, democratic legitimacy is particularly sensitive due to social diversity, historical inequalities, and asymmetries of power. Ethical governance plays a vital role in mediating these complexities by ensuring that governance does not become a mere expression of majority will. Respect for minority rights, protection of civil liberties, and adherence to the rule of law are essential components of legitimacy. Constitutional morality reinforces this ethical dimension by reminding institutions that democratic authority is constrained by values embedded in the constitutional order.

The relationship between ethical governance and legitimacy is also evident in public trust toward institutions. When governance is perceived as ethical, impartial, and principled, citizens are more likely to comply with laws and accept political outcomes, even adverse ones. Conversely, erosion of ethical standards—through politicisation of institutions or excessive use of coercive power—generates democratic disaffection and weakens consent.[11]

Thus, democratic legitimacy in India cannot be sustained through electoral procedures alone. It depends fundamentally on ethical governance grounded in constitutional morality, which ensures that the exercise of state power remains both democratically authorized and normatively justified.

Conclusion: This study has examined the relationship between ethical governance, constitutional morality, and the exercise of state power in India, highlighting the normative foundations of democratic authority. It has argued that constitutional democracy cannot be sustained through legality, institutional design, or electoral mandate alone. Rather, the legitimacy of state power depends upon the ethical manner in which authority is exercised within constitutional limits. Constitutional morality emerges as a crucial normative framework that guides institutions to act with restraint, accountability, and fidelity to constitutional values. The analysis demonstrates that when state power is exercised without regard to ethical governance, democratic legitimacy is weakened even if actions remain formally lawful. Conversely, adherence to constitutional morality strengthens public trust and institutional credibility. In the contemporary Indian context, marked by political contestation and institutional stress, reinforcing ethical governance is essential for preserving the democratic character of the state. Ultimately, constitutional morality must function not as a rhetorical ideal but as a lived constitutional practice that continually disciplines power and sustains democratic legitimacy.

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Table 1: Constitutional Morality in the Indian Constitutional Framework

Institutional Sphere	Constitutional Basis	Nature of State Power	Role of Constitutional Morality	Illustrative Indian Examples
Legislature	Articles 107–111, 245	Law-making and policy authority	Acts as a normative restraint on majoritarian legislation; ensures laws respect fundamental rights and constitutional values	Limits on laws affecting free speech, equality, or minority rights despite numerical majority
Executive	Articles 73–75, 162–164	Policy formulation, administration, and coercive authority	Requires fairness, proportionality, and non-arbitrariness in decision-making	Exercise of executive discretion in public order, welfare delivery, and administrative actions
Judiciary	Articles 124–147, 226	Constitutional interpretation and judicial review	Interprets the Constitution in light of its spirit, not merely textual literalism	Use of constitutional morality to uphold dignity, equality, and personal liberty
Federal Structure	Articles 1–4, 245–263	Distribution of power between Centre and States	Promotes cooperative federalism and respect for constitutional boundaries	Avoidance of arbitrary central intervention in state subjects
Fundamental Rights	Part III (Articles 12–35)	Protection of individual freedoms	Ensures rights are interpreted substantively, not formally	Expansion of rights jurisprudence beyond narrow legalism
Democratic Process	Articles 324–329	Electoral and representative authority	Upholds fairness, neutrality, and democratic integrity	Ethical conduct of elections and limits on misuse of state machinery
Emergency Powers	Articles 352–360	Extraordinary concentration of power	Demands exceptional restraint and proportionality	Judicial scrutiny of emergency measures
Public Administration	Articles 309–311	Bureaucratic authority and discretion	Ensures neutrality, accountability, and rule-based governance	Protection against arbitrary transfers, dismissals, and administrative bias
Minority Protection	Articles 29–30	Cultural and educational autonomy	Prevents homogenisation and majoritarian dominance	Safeguarding minority institutions and identities
Constitutional Amendments	Article 368	Constituent power of Parliament	Ensures amendments do not destroy constitutional identity	Application of the Basic Structure doctrine

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