

Ethos of the Indian Constitution and Contemporary Challenges

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Abstract: *The Constitution of India is a living document that provides the principles of justice, liberty, equality and fraternity that define the spirit of the Constitution. All these principles generate the ethos of constitutional governance which has become the postulates of sustaining democracy, rule of law and social change in India. The Constitution is, rather, a vital philosophy which adapts to evolving societal demands and still sustains its fundamental commitments to human dignity and inclusive development. Nevertheless, in the modern world, characterized by high rates of technological progress, the reorganization of socio-political relations and the enhancement of globalization, these key principles are faced with new and multidimensional challenges. One of the causes of concern in the field of digital monitoring and information privacy concerns itself is the question of personal autonomy, and emerging definitions of freedom of speech are a pointing out of the conflict between state control and civil liberties. Moreover, the emerging influence of judicial activism raises the power territories of the constitutional organs balance, and an unabated socio-economic disparity still continues to challenge the vision of substantive equality embodied in the Constitution. This paper will critically discuss this historical ethos surrounding the Indian Constitution and how these new challenges are transforming constitutional interpretation and governance. Through the interaction of important judge decisions and emerging law, the paper underscores the need to maintain constitutional morality, provide accountability and encourage a compromise between innovation and fundamental rights. Finally, it suggests a balanced and flexible constitutional method that protects democratic principles and is responsive to the current realities.*

Keywords: Indian Constitution, Constitutional Ethos, Fundamental Rights, Constitutional Morality, Judicial Activism, Freedom of Speech, Right to Privacy, Digital Surveillance, Socio-economic Inequality, Rule of Law

1. Introduction

The manifestation of hope, desire and the general will of the nation, the Constitution of India is not just a legal document, but a deep mirror of the nation and its dreams. As a revolutionizing tool envisioned by the framers, it aims to define an equitable, fair, and inclusive social order based on the ideals of democracy, rule of law, and constitutional supremacy. It is not only a guideline to governance, but a morality guide that directs the State in ensuring justice and defense of individual rights.

The starting point of the Constitution is the Preamble where the ethos of its founding, Justice (social, economic, and political), Liberty, Equality, & Fraternity is concentrated. Such ideals are not ornamental but they are the main philosophy that is used to interpret and apply the provisions of the constitution. The judiciary, especially in the Supreme Court, has over the decades been instrumental in liberalizing the provisions of these values by progressive interpretation in order to make the Constitution alive and dynamic enough to reflect the changing needs of the society.

The rise of principles like basic structure principle and the growth of fundamental rights under Article 21 indicate how constitutional interpretation has adapted to varying conditions and general values have been maintained. The judiciary action has filled such loopholes in the legislative and executive actions in order to fortify the constitutional rule of law.

Nevertheless, the modern world offers a series of multifaceted issues, which challenge the stability and flexibility of these constitutional principles. The abuse of state power, the growth of cases of technological encroachment into personal life, the establishment of digital

governance, and long-standing socio-economic imbalances are all alarming issues of whether the constitutional promises should be achieved in effect or not. Moreover, strains between the rights of individuals and those of the states, especially on matters to do with national security and civil order, make it difficult to exercise constitutional protection.

At this point it is important to go back and critically analyze the ethos of Indian Constitution. It is imperative to learn how these values underpinning it have been at work to remain relevant to its goals in confronting the contemporary issues to eradicate any chance that the Constitution might become irrelevant as a guardian of rights and a provider of justice in a society that is constantly changing.

2. Comprehending the Ethos of the Indian Constitution

The Indian Constitution has an ethos, which means the philosophy and spirit that underlines the interpretation, implementation, and development of the Constitution. It demonstrates a desire to establish a just, inclusive and democratic society founded on the virtues of justice, liberty, equality and fraternity. This ethos is not merely a result of direct text-related provisions, but it is the result of a holistic reading of the Constitution, including its provisions on rights, philosophy of governance, and legal philosophy.¹

The Constitution reflects a tightroak walk between personal liberties and the common good to make sure that State operates within constitutional boundaries and stipulates the social change. This balance is made in place using three

¹ M.P. Jain, Indian Constitutional Law (8th ed. LexisNexis 2018).

pillars:

2.1 Sources of Constitutional Ethos.

(a) Article(a) (Lord Fraser), Fundamental Rights.

Fundamental Rights are central to the constitutional ethos as they ensure key civil and political liberties of the right to equality, freedom of speech and expression, and safeguarding of life and personal liberty, and the protection against arbitrary State interference. These rights are binding and serve to provide the check against the abuse of authority. The judiciary has over time broadened to encompass other rights like privacy, dignity and a clean environment thus enhancing the human rights framework in the Constitution.

(b) Principle Principles of State Policy (Part IV)

The Directive Principles adds to Fundamental Rights by creating an obligation on the State to enhance social and economic good. Even though they cannot be laid down, they have a significant role in influencing the public policy and legislation. They mirror the image of a welfare state that seeks to alleviate inequalities, motivates equal sharing of resources, and social justice. The mutual understanding of Fundamental Rights and Directive Principles has helped to achieve the wider objectives of the Constitution.

Basic Structure Doctrine (c)

The Basic Structure Doctrine is used as a constitutional protection against capricious amendments. It makes sure that the essential characteristics of the Constitution, including democracy, secularism, rule law and judicial independence, are not diminished. This doctrine supports the notion that, although the Constitution has become flexible, its central identity should be sacrosanct.

2.2 Elements of Constitutional Ethos

- 1) Rule of Law: Rule of law is a principle that those who represent the State, as well as individuals, are subject to the law. It allows no arbitrariness and enhances accountability, fairness, and transparency in governance.
- 2) Separation of Powers: The Constitution allocates powers between the legislature, the executive and the judiciary so as to provide institutional balance and avoid the concentration of power. This division provides checks and balances, thus protecting democratic governance.
- 3) Judicial Review: Judicial review gives the judiciary the power to review whether legislative and executive actions are constitutional. It functions as a protector of Fundamental Rights and keeps control of all the actions of the State in agreement with the constitutional principles.
- 4) Constitutional Supremacy: The supremacy of the Constitution means that it is the highest authority. Any laws and government actions are justified by the Constitution and should be in agreement with the provisions of the Constitution.

2.3 Judicial contribution towards developing Constitutional Ethos.

The judiciary has had a revolutionizing influence in engaging the interpretation and elongation of the

Constitution spirit. It has managed to make sure that the values and principles of the constitution are relevant in the shifting socio-political situation through progressive judgments.

- 1) Kesavananda Bharati v/s State of Kerala: This ground breaking case gave rise to the Basic Structure Doctrine which said that Parliament could not be changed in terms of the fundamentals of the Constitution. It assured the constitutional supremacy and safeguarded the defining ethos of core against the temptations of majoritarianism.²
- 2) Maneka Gandhi vs. Union of India: The Court expanded the meaning of the Article 21, adding the notion of due process, which presupposes that any legislation that interferes with life and personal freedom should be fair, just and reasonable.³
- 3) Minerva Mills and Union of India: The Supreme Court stressed the harmony between Fundamental rights and Directive Principles due to which the abolition of this harmony would harm the basic framework of the Constitution.⁴
- 4) State of Tamil Nadu v. I.R. Coelho: The Court determined that legislative acts that are in the Ninth Schedule are not beyond challenge in court however they contravene the fundamental structure thus cementing constitutional supremacy.⁵

2.4 Relationship among Rights, Duty and Governance.

The dynamic nature of relationships between rights and duties also demonstrates the ethos of the Constitution. Whereas Fundamental Rights empower people, Fundamental Duty reminds the citizens of the duty to the society and the country. Likewise, state policies are governed by Directive Principles that make certain that the policies are in line with values of the constitution.

This interdependent structure will provide that the Constitution is not a legal charter but a radically changing tool with the objective of the social justice, economic equality, and political freedom.

3. Recent Instances of Constitutional Ethos

Although the Indian Constitution is imbued with timeless sacra of justice, liberty, equality and fraternity, the changing contemporary realities are gradually putting its ethos to the test. Blistering technological developments, changing political forces, and wide-ranging socio-economic imbalances have brought about complicated issues that need on going constitutional readjustment and judicial alertness. These issues not only bring the utilization of the constitutional values into doubt, but also require the

² Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225 (India).

³ Maneka Gandhi v. Union of India, (1978) 1 SCC 248 (India).

⁴ Minerva Mills Ltd. v. Union of India, (1980) 3 SCC 625 (India).

⁵ I.R. Coelho v. State of Tamil Nadu, (2007) 2 SCC 1 (India).

balancing of the competing interests in a contemporary democratic State.

The right to privacy and digital surveillance is one of the most notable issues and difficulties. The processing and gathering of personal data have become common with increased application of artificial intelligence and big data analytics as well as digital governance. In the case of Justice K.S. Puttaswamy v. Union of India⁶, the Supreme Court clearly acknowledged the right to privacy as the fundamental right enshrined in Article 21, and thus affirmed the autonomy of individuals and their dignity. Nevertheless, in spite of such a historic milestone, there are still fears of mass surveillance, facial recognition systems and unrestrained collection of data by the Government and individuals. This has raised a dire risk to individual freedom, and has brought up some very important concerns about whether current legal regulations are sufficient in ensuring privacy in the online community.

Another acute problem is associated with freedom of speech and expression, which is the foundation of the democratic government. The emergence of social media platforms in the modern digital world has revolutionized the type of discussion that people can have, although it has also brought with it a surge of issues of misinformation, false news and hate language through the internet. Shreya Singhal v. Union of India, the Supreme Court quashed Section 66A of the Information Technology Act on the grounds of being vague and unconstitutional and thus reaffirmed the value of free speech. Still, the question is how to create a fine balance between the necessity to safeguard free speech and the need to satisfy the concerns pertaining to national security, ordered community and harmful content shared online.⁷

Judicial activism dispute and Judicial overreach is also an issue that challenges the constitutional ethos. The judiciary has contributed a revolutionary number of spreading rights and making governments responsible especially through the establishment of Public Interest Litigation (PIL). In S.P. Gupta v. Union of India, a more flexible concept of locus standi was liberalized to bring justice closer to citizens. Although judicial activism in strengthening constitutional government, worries emerge when judicial intervention into the legislature or executive domain is committed, a factor that may upset the principle of separation of government.⁸

Moreover, bringing equality and social justice is still a challenge that is not attained despite the guarantees by the constitution. The substantive equality is yet to be realized due to understanding the undoing of some long-standing problems related to gender inequality, caste discrimination, and economic disparities. The rights to dignity, privacy, and equality were identified in the decision of Navtej Singh Johar v. Union of India where the Supreme Court decriminalized consensual same-sex relationships. The ruling was a step in

the right direction towards inclusivity, but we still have structural inequalities, which show that there is a disparity between constitutional theory and the social reality.⁹

Finally, the issue of federal balance in the relations between Centre and the State has gained even more prominence. The Constitution of India is based on a quasi-federal system, which has a powerful Centre, but there is frequent tension in terms of power and resource distribution. The Supreme Court in the case of State of West Bengal v. Union of India, explained the meaning of Indian federalism and constraints of State sovereignty. More recently, doubters have found reason to debate over cooperative or competitive federalism due to issues with central agencies, financial devolution, and overlapping issues in legislation.¹⁰

To sum it up, these modern issues highlight why a flexible and adaptable constitutional framework is necessary. Although the judiciary still remains in a pivotal position of protecting the values in the Constitution, the cooperation between the legislature, executive and the civil society in conserving the spirit of the Constitution is equally significant. Constitutional governance in India has a bleak future that lies in preserving a delicate balancing act among innovation and rights, authority and accountability, and tradition and transformation.

4. Judicial part in Constitutional Ethos preservation

The Indian judiciary has always been the protector and interpreter of the Constitution and has had a great part to play in safeguarding and promoting its underlying ethos. The courts have achieved this by progressive interpretation and judicial invention to assure the constitutional principles to be dynamic and responsive to evolving needs of the society. By doing so, not only have the fundamental rights been safeguarded but the judiciary has also enforced the rule of law and democratic governance.

The right to life and personal liberty, guaranteed by Article 21 is one of the best contributions made by the judiciary. Article 21 has been judicially-interpreted into a general store of rights initially in a narrow meaning. The Supreme Court in Maneka Gandhi v. Union of India indicated that the process propounded by law should be just, fair and reasonable, thus introducing the substantive due process in the Indian constitutional law. The Court has later extended Article 21 to incorporate many more rights including the right to privacy, the right to a clean environment, the right to education and the right to live with dignity. This broad disposition indicates that the judiciary is driven and devoted in adjusting constitutional guarantees to current human rights provisions.¹¹

⁶ Justice K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1 (India).

⁷ Shreya Singhal v. Union of India, (2015) 5 SCC 1 (India).

⁸ S.P. Gupta v. Union of India, 1981 Supp SCC 87 (India).

⁹ Navtej Singh Johar v. Union of India, (2018) 10 SCC 1 (India).

¹⁰ State of West Bengal v. Union of India, AIR 1963 SC 1241 (India).

¹¹ Maneka Gandhi v. Union of India, (1978) 1 SCC 248 (India).

Another significant contribution is the invention of Public Interest Litigation (PIL) that has transformed access to justice in India. With the judiciary loosening the traditional locus standi requirements, individuals and groups could now take themselves to the courts on behalf of those violated to their rights but placed to do so because they did not have the resources to do so. *S.P. Gupta v. Union of India*, the Supreme Court established the legitimacy of PIL, and thus the legal process has been democratized. PIL has since played a major role in giving solutions to environmental protection, issues, reforms of the prisons, and the rights of the marginalized people. This is a process that underscores ex-post facto role of the judiciary in guaranteeing social justice and accountability.¹²

The judiciary has been instrumental in defending the rights of minorities as well as advancing inclusivity thus strengthening equality and dignity as guaranteed by the constitution. The courts have helped protect the rights of language, religious and sexual minority groups, on the grounds of discrimination and arbitrary state action. An example of such a situation would be the *Navtej Singh Johar vs. Union of India* case, in which the law against consensual same-sex relationships was decriminalized due to the promotion of equality, privacy, and human dignity. These decisions are indicative of the court system in bringing a more inclusive and rights-oriented society.

Moreover, the judiciary has maintained the fundamental format of the Constitution, so that its critical aspects are not watered down by constitutional changes or executive decisions. Using the power of judicial review, the federal courts have ensured a constitutional supremacy and erosion of democratic values. The role is critical towards preserving the equilibrium of power between the three arms of the State.¹³

Essentially the judiciary plays the role of mediating between the ideals in the constitution and their application in practice. It makes the ethos of the Constitution continue to be vibrant and relevant by adapting the Constitution to the challenges of the day. Because, though, this active duty should be held in check to preserve the balance in the institution and not to violate the principle of separation of powers. In the end, the judiciary cannot be ignored in keeping the fervor of the Constitution and keeping it as a living instrument of justice in an ever-evolving society.

5. Requirement to have Balanced Approach

Understanding that the rapidly changing technological, social and political developments demand a very careful and balanced response, it is important to keep the ethos of the Indian Constitution in this situation. The problem is not only how to protect fundamental rights but how to make sure that the process of progress and innovation does not harm the constitutional values. A visionary system must thus balance out conflicts of interests without being at an expense of the

virtues of justice, liberty, equality and fraternity.

The reinforcement of the laws on data protection ought to be among the top priorities. The right to privacy has never been so endangered in an age of mostly digital-based technologies, artificial intelligence, and the amassing of mass data. Strong legal protocols should be put in place to govern the usage, storage and collection of personal information, to be transparent, accountable and with informed consent. Good enforcement strategies are also critical to avoid abuse as well as respect the dignity and autonomy of individuals.

It is likewise vital to affirm judicial independence that is the pillar of constitutional governance. The independent judiciary serves a control over excessive legislative and executive actions and protects basic rights. It is essential to ensure that there is institutional integrity, transparency in appointments and guard against outside influences in the justice systems to ensure that people have confidence in the justice system. Lack of the independence of the judiciary renders the implementation of the constitutional principles very weak.

Another important element of maintaining the constitutional ethos is promotion of constitutional morality. Constitutional morality is not the fostering of its compliance with the text of the Constitution only but also respects its spirit, values and other principles inherent in the Constitution. The values should be internalized by both the State authorities and governments as well as citizens to guarantee that governance is undertaken in a way that promotes or enforces dignity, equality, and democratic accountabilities. Courts have paid more attention to appealing to this concept in order to decide between majoritarian tendencies and rights of individuals.¹⁴

Moreover, the urgent necessity to reconcile innovation and core rights is present. Technological change, though advantageous, does not leave without ethical and legal dilemma, especially in such domains as surveillance, artificial intelligence, and digital platforms. Policies and legislations should promote innovation and economic development and at the same time safeguard civil rights and maintain decency. Such a balance is crucial in order to make sure that technological advances do not displace the constitutional assurances.

Finally, it is essential to improve the population awareness of the constitutional values that are important to maintain dynamic democracy. The citizens are influential in enforcing the Constitution, and their consciousness of rights and responsibilities will make or break constitutional rule. A greater knowledge of constitutional principles can be created through educational efforts, civil movement, and discussion that can enhance the civic involvement and responsibility in democracy.¹⁵

Conclusively, the ethos of the Indian Constitution could be preserved by a balanced approach that incorporates legal

¹² *S.P. Gupta v. Union of India*, 1981 Supp SCC 87 (India)

¹³ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1 (India).

¹⁴ Shoshana Zuboff, *The Age of Surveillance Capitalism* (Profile Books 2019).

¹⁵ M.P. Jain, *Indian Constitutional Law* (8th ed. LexisNexis 2018).

reform, institutional integrity and ethical governance as well as citizen involvement. This is the only way to make sure that the Constitution remains a living document-able to meet the requirements of our modern day with its eternal would to uphold its values and principles.

6. Suggestions and Recommendations

Due to the changing challenges facing the constitutional ethos there is a dire need to focus on a holistic and prospective strategy to reinforce legal, institutional and social strategies. The recommendations below will help in maintaining and strengthening the principles underlying the Indian Constitution besides ensuring that they are well implemented in modern day contexts.

1) Ensuring DPFs and DGFs

As more people depend on digital technologies, there is an immediate need to create a solid and enforceable data protection legislation. Such legislations are supposed to provide transparency in data gathering, informed consent, accountability by both State and private bodies and remedies to violations. Particular care should be taken with the regulation of newer technologies like artificial intelligence and facial recognition to ensure that they are not abused and the right to privacy is preserved.

2) Strengthening Judiciary Independence and Accountability

The constitutional protection of values requires an independent judiciary. It should take actions to promote transparency in judicial appointments, institutional integrity, and safeguard the judiciary against external influences. Mechanisms of judicial accountability should also be strengthened at the same time to retain and protect the confidence of the people as well as prevent a decline in confidence of the justice system.

3) Advancing Constitutional Morality and Ethical Government

The need to develop constitutional morality between the public officials, institutions and the citizens is urgent. The governance is not to be followed to the letter of the law but it must also respond to the spirit of the Constitution. They should include equality, dignity, secularism, and inclusivity in decision making as methods of promoting values through training programs, policy frameworks and judicial pronouncements.

4) Striking a balance between Innovation and Fundamental Rights

Constitutional safeguard should be applied to technological advancement and economic development. Regulation needs to promote innovation, but must not interfere with basic rights. The policies have to discuss such problems as the prejudices of algorithms, digital inequality, and misuse of technology, thus formulating a rights-based form of technology regulation.

5) Improving Access to Justice and Legal Awareness

Access to justice, especially the marginalized and vulnerable groups of the society, should be enhanced. This can be accomplished by strengthening legal assistance systems,

streamlining court processes and encouraging alternative dispute resolution systems. There should also be public awareness, educational campaigns being implemented, which educates citizens on their rights and responsibilities in their constitution.

6) Strengthening Federal Cooperation

In order to reduce tensions between the Centre and the States, there is the need to enhance cooperative federalism by encouraging dialogue between the States and the Centre and evenly allocate resources. More oil, institutional structures like inter-state councils ought to be empowered in order to solve conflicts and enable peaceful rule.

7) Addressing Socio-Economic Inequalities

The State needs to spread its hands onwards to close inequalities by efficient execution of welfare policies, inclusive economic growth, and social justice programs. To achieve substantive equality, it is necessary to bridge the gap between the promise enshrined in the Constitution and ground realities.

8) Promoting Civic Engagement and Democracy

Vital democracy relies on participation of citizens. Accountability can be improved by encouraging civic involvement, empowering democratic institutions and increasing transparency in governance by making sure that constitutional values are enforced by practice.

7. Conclusion

The Indian Constitution ethos remains to be the pillar of the democratic regime to symbolize the long-term values of justice, liberty, equality, and fraternity. The Constitution, as a living document, has proven to be very resilient and adaptable to changing demands of society, establishing and enhancing itself on the basis of judicial and institutional interpretation. This dynamic nature has helped it to navigate through different socio-political developments without jeopardizing its fundamental beliefs.

Nevertheless, the modern scenery is quite challenging in terms of its complexity and multifacetedness. The high rates of technological improvement, growing socio-economic inequalities, and political changes put an ever-growing challenge on the reliability of constitutional protections. The problem of surveillance in the digital realm, the threat to freedom of expression, federal relations, and the existence of structural inequalities underscore the discrepancy between constitutional values and their fulfillment. The challenges require active and careful reaction of all the organs of the State, and civil society.

Here, the functions of the judiciary, the legislature and the executive is paramount in making sure that the constitutional values do not get watered down in the name of development or efficiency in governance. The judiciary especially needs to uphold constitutional morality and safeguard the basic rights and exercise restraint as a way of ensuring the institutional balance is maintained. In the same vein, legislative and policy changes should be in harmony with the constitution to achieve growth that is inclusive and equitable.

After all, the constitutional governance in India holds the key to the future provided that a very delicate balance between constitutional ideals and modern realities is maintained. Innovation and progress cannot go at the cost of the right to fundamental rights and dignity of person as well as democratic accountability. Ability to uphold constitutional morality, institutional integrity and a sense of popular awareness is paramount in a journey to make sure that the Constitution is not only relevant but effective in making the country progress towards justice and equality.

The main strength of the Indian Constitution, in particular, is that it can adjust but at the same time, remain true to itself-it can serve as a beacon of rights and justice and democracy in the ever-changing society.

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