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Q11

"Constitutional morality is the fulcrum which acts as an essential check upon the high functionaries and citizens alike..."In view of the above observation of the Supreme Court, explain the concept of constitutional morality and its application to ensure balance between judicial independence and judicial accountability in India.

UPSC Civil Services Mains 2025 · GS II · 15 marks · Executive and Judiciary

Structure, organization and functioning of the Executive and the Judiciary - Ministries and Departments of the Government; pressure groups and formal/informal associations and their role in the Polity.

Core demand of the question

- Define constitutional morality from **Ambedkar** and the Supreme Court's recent use
- Show it as a check on high functionaries and on citizens
- Apply it to judicial independence and judicial accountability
- Use NJAC, **in-house procedure**, impeachment and live-streaming as the field

Revision summary

Ambedkar treated constitutional morality as cultivated respect for constitutional forms in an unequal society.

The Court has used it in Manoj Narula, NCT of Delhi, Navtej Johar and Sabarimala as process plus dignity against convenience.

It checks both high office and majoritarian citizens.

Judicial independence (tenure, collegium, basic structure) is one application; accountability (impeachment, in-house, Veeraswami, open reasons) is the other.

NJAC 2015 protected independence; unexplained collegium power still fails the same morality if it will not give reasons.

Introduction

Constitutional morality is the habit of obeying the Constitution's **means**, not only its **results**. **B. R. Ambedkar**, in the Constituent Assembly, said that India had equality in politics and inequality in social life, and that constitutional morality - respect for the forms of the Constitution - would have to be cultivated. The Supreme Court has taken that phrase into judgments on rights, federalism and the bar. It is a check on Prime Ministers and on Chief Justices alike, and on crowds that would skip procedure.

Body**The concept**

In **Manoj Narula v. Union of India**, **Government of NCT of Delhi v. Union of India**, **Navtej Singh Johar**, and **Indian Young Lawyers Association** (Sabarimala), the Court treated constitutional morality as **reason, dignity, equality and institutional process** against majoritarian or official convenience. It is not the judge's private ethics. It is the **public morality of the document**: **Articles 14, 19, 21**, federal courtesy, and the separation of powers.

High functionaries are checked when they are told that a majority in the House still cannot smash the basic structure, that a Governor is not a viceroy, that a Speaker's defection clock is not a toy. Citizens are checked when religious passion, street veto or "hurt sentiment" cannot erase another's rights. The same fulcrum therefore presses **upward and sideways**.

Independence and accountability of the judiciary

- **Independence is itself a piece of constitutional morality**: **Articles 124-147**, security of tenure, salaries charged on the Consolidated Fund, power to punish contempt, and the **collegium** after the Second and Third Judges cases. Without independence, morality in the rest of the State has no forum.

Accountability is the other half. A judiciary that is only independent can become a **guild**. Constitutional morality here means:

- **Impeachment** (**Articles 124(4) and 218**) as the democratic extreme, used rarely because the bar is high, not because judges are angels.
- The **in-house procedure** and the **Restatement of Values of Judicial Life** (1999) for conduct short of impeachment - opaque, but an admission that peers must judge peers.
- **K. Veeraswami** on criminal process against a judge, with presidential consultation.
- **NJAC (99th Amendment)** struck down in **Supreme Court Advocates-on-Record Association (2015)**: the Court held that executive-heavy appointment would wound independence. Critics fairly say the Court used morality to **shield the guild from a representative commission**. Constitutional morality does not end the argument; it **raises the burden** on any new design to protect both halves.
- **Live-streaming** (Swapnil Tripathi), **asset disclosure**, reasoned recusals, and a complaints mechanism that is not only a secret letter to the CJI.

Balance is not 50 percent politics in every appointment. It is **appointment that is not a ministry's list**, plus **discipline that is not a closed shop**. A Judicial Complaints Authority with a judicial majority and a public annual report would sit inside constitutional morality better than either NJAC's original executive tilt or a collegium that never explains a transfer.

The Court's own observation in the question is therefore double-edged. If constitutional morality binds the citizen's riot and the minister's ordinance, it also binds the judge's unexplained collegium minute.

Flow diagram

Constitutional morality -> High functionaries
 Constitutional morality -> Citizens
 Constitutional morality -> Judges
 Judges -> Independence
 Judges -> Impeachment in-house reasons

Conclusion

Constitutional morality is cultivated respect for constitutional form and equal dignity. It checks office-holders and mobilised citizens. For the judiciary it demands independence from the executive and accountability to the Constitution's own standards - not a choice between a fortress and a ministry.

Facts & figures

Ambekar on constitutional morality

Warned that Indians must learn to respect constitutional forms; social democracy would not arrive by text alone.

NJAC judgment, 2015

Struck down the 99th **Amendment and the NJAC Act** as damaging judicial independence in appointments.

In-house procedure

Peer-inquiry mechanism for allegations against judges, short of parliamentary impeachment.

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