

Executive Authority On Constitutional Morality In India: A Critical Study.

Anuja Shivraj Rane¹, Dr. Deepashri S. Choudhari²

Abstract

All authorities established by the Constitution are meant to be devoted to the Constitution and not to a political party's affiliation. The concept of constitutional morality is losing its key component, which is to uphold the Constitution and any laws passed in accordance with it. We shall understand the role and duty of an executive authority namely the Governor under this manuscript. The state's designated governor is expected not to abuse their position by failing to carry out their duties. The Governor is arbitrarily using their power since they have immunity from accountability to everyone except the President. It is time, the Governor be subjected to checks and balances and held accountable for their actions. We may try to understand and distinguish between political morality, political parties' affiliation and constitutional morality. To maintain the essence of constitutional morality, the recommendation provided by the Sarkaria Commission & Punchhi Commission must be executed. We will be undertaking doctrinal research to understand how the Governor's actions as the Executive authority affect the concept of constitutional morality.

Keywords- Constitutional morality, Executive Authority, Governor, Political Party affiliation, Political Morality.

Introduction

The Constitution was written by India's founding fathers and mothers, who also outlined the nation's ideals and the institutions and procedures for accomplishing them. The ideals were a democratic and just society, as well as national integrity and unification. On independence, in August 1947 the Government of India became a Dominion Government and remained so until India became a republic with the adoption of the Constitution on 26 January 1950. The Indian National Congress had to fight hard and adopt a strong decision-making process to form the government of India. A similar thing happened when they refused to adopt the 1933 White Paper since it did not reflect Indians' wishes. They concluded that a constitution drafted by a Constituent Assembly chosen through adult franchise or suffrage is the greatest alternative to the white paper.

¹Research Scholar, Amity Law School, Amity University Maharashtra, India, Email: anujasrane.asr@gmail.com

²Assistant Professor, Amity Law School, Amity University Maharashtra, India.

The members of the Constituent Assembly were committed to framing a democratic setup through a written constitution for India, and the constitution was clear that this democracy should be expressed directly and create a responsible government. The Assembly had to find the answer in the context of the past, present and future concerning Indian familiarity with the cabinet form of government. The Assembly chose a modified version of the British cabinet system. India was to have a President, indirectly elected for a term of five years, who would be the constitutional head of the state. This constitutional head of the state was considered the nominal head of the Executive. The other executive mentioned under the constitution are the Attorney General and the Governors. (Austin, 2018)

The Founding fathers of the Indian constitution have taken the provision of the appointment of a Governor from the constitutional provision of Canada. The Governor is to be appointed by the President on the advice of the Prime Minister. The members of the assembly have widely debated the appointment of a Governor. Some members of the assembly have given different suggestions on the mode of selection of a Governor. The members of the assembly believed that the Governor need not be from the same province. There was one such member who felt that there is no need for a Governor, instead the Commissioner of a division must be considered under the administrative superintendence. Then there was another opinion that a Governor from each state must be appointed to maintain the self-respect of each and every province.

But finally, after analysing the views of great constitutional experts, politicians, statesmen, and jurists that the President must be provided with the power to appoint the Governor. This matter was discussed at length in the Assembly, many of the discussing members later became Governors and Chief Ministers. These individuals represented various political viewpoints and ideologies and came from various socioeconomic strata of the nation. After much deliberation, the Drafting Committee decided to adopt the appointment of the Governor under Article 155 of the current constitution.

Before coming down to the method of appointment, the suggestion of election was opposed in the assembly and the merits of appointment by the President were highlighted. Even the view and the suggestions that the President should appoint the Governor from a panel of names were opposed by saying that the interest of the country would be affected because the panel of names leads to restricting the choice of the President. Because the panel of names would be suggested by the

Legislature, it gives power to the hands of the Legislature. The assembly has emphasized that the President should be free from the legislature. They have further considered that the governor who is appointed by the President should not be of the same state/province in which he has worked.

The assembly agreed with respect to the appointment of Governor shall be done by the President of India by the constitution. The founding fathers of the constitution stated that the Governor of a state should be appointed by the executive like in other quasi-federal states Canada and Australia. The Governor of a state is appointed by the President of India. He is a nominee of the central government, who is having prescribed qualifications by the constitution. (LOK SABHA SECRETARIAT, 2014)

The Qualification is as under –

- A person to be eligible for appointment as Governor should be the citizen of India and have completed an age of 35 years (Article 157).
- The Governor shall not be a member of the Legislature or Parliament; shall not hold any office of profit, and shall be entitled to remunerations and allowances. (Article 158). (Jain, Pal, & Pal, 2010)

In Hargovind v. Raghukul(1979 AIR 1109), further qualifications were laid to have an unbiased governor. But these conditions were not even considered as guidelines and were ignored. The following are the guidelines:

1. No Governor should belong to any political party or have partisan feelings.
2. The president should appoint a person who can maintain the integrity of the country.
3. No person who has been a minister or a chief minister either in the union or in the state should be appointed as Governor.
4. No civil servant who is in service or is superannuated and has been dragged into a political controversy of national importance should be appointed as Governor.
5. A person to be appointed as Governor should have a fair and working knowledge of the Constitution of India,
6. A person who has been in civil service or active national politics should not be appointed as Governor and the choice must fall on persons who are social workers, jurists, economists, educationists, political thinkers (not activists), lawyers and retired High Court and Supreme Court judges. (Hargovind v. Raghukul, 1979)

The above guidelines would have help us to maintain the constitutional morality of the Constitution of India. But the guidelines were not given importance and hence the following three political

party affiliation controversy with respect to the Governor happened in India

Case Study 1 –

The governor dismissed the 19-month-old T.D.P. cabinet led by chief minister N.T. Rama Rao on 15th August 1984, in an impulsive and undemocratic move, claimed that he had been reduced to a minority because of division and defection within the ruling party. The leader of the defectors, Mr N. Bhaskara Rao, went to the governor and asserted his claim to establish the ministry. The Congress party pledged assistance if Bhaskara Rao was given the opportunity to form the government. According to information provided by the leader of the ruling party's splinter group, Governor Ramlal requested N.T. Rama Rao's resignation since, in his view, he had lost the majority. Just before Bhaskara Rao was sworn in as chief minister, the governor fired the chief minister for refusing to quit. N.T. Rama Rao travelled to Raj Bhavan with his supporters to let the Governor know that he still had the backing of the majority and was ready to demonstrate that support on the assembly floor within 48 hours.

The Governor didn't give him even 48 hours to demonstrate his majority on the assembly floor. a single hand. He allowed Bhaskara Rao a lengthy one-month term to demonstrate his majority, while Rama Rao paraded his 161 followers in front of the Indian president. among the 91 MLAs that endorsed Bhaskara Rao. Along with Rama Rao, 35 people were present before the president.

In the interim period, Ramlal, the current governor, submitted his letter of resignation, and Shankar Dayal Sharma was chosen to take his place. The Governor fired Bhaskara Rao and asked Rama Rao back to form the administration when he failed to demonstrate his majority within a month. He had been given a month to demonstrate his majority, but he did it far sooner than that, in just four days. The argument claimed that Ramlal, the governor, had arbitrarily and undemocratically used his discretionary power.

Even worse, he disregarded the Governor's Committee report's recommendation that the majority of the ministry undergo routine testing on the House floor. His oversight was not attempting to find out who the supporters of Bhaskara Rao were. He ought to have personally confirmed whether the 91 M.L.As who were present had withdrawn their support for Rama Rao by calling each one of them. (THE HINDU NET DESK. , 2017)

Case Study 2 –

Unwanted political situations were experienced in the Goa Assembly during the latter days of July 1998. Ten members of the Congress Party, led by the then-Deputy Chief Minister Dr Wilfred De Souza, broke away to form the Goa Rajeev Congress to challenge the one-man rule. Pratap Singh Rane, whose ministry was downgraded to minority, is the one-man show. The Governor, J.F.R. Jacob, gave him 90 minutes to demonstrate his majority on the floor. A few Goa Rajeev Congress members were forbidden from participating in the motion of no confidence by the assembly's speaker, who supported Rane.

Finally, he declared that Rane had gained his trust. However, the Governor disapproved of how the assembly was doing its business and exercised his discretion to dissolve the Rane government under Article 164. De-Souza, who claimed the backing of 3 M.L.As from the B.J.P., 8 members of the Maharashtrawadi Gomanthak Party, and 1 independent, put the ministry under his leadership.

The Governor, according to the Congress Party, behaved arbitrarily. He denied Rane, the then-chief minister, any opportunity to organise his followers to demonstrate his majority in the legislature to appoint the De-Souza cabinet. The Governor's partisan mindset is evident by just giving himself 90 minutes to demonstrate his majority. The Governor also brutally demanded that the no-confidence motion be put on hold for 90 minutes while no other business was being conducted. The Governor came to the opinion that the assembly's proceedings were not handled fairly.

The Assembly records pertaining to the no-confidence resolution that was presented against the chief minister must be reviewed by the governor before he may exercise his discretion to dismiss the Rane ministry. To determine whether the chief minister has a majority in the house or not, the governor may also call a special session of the house. But he disregarded this protocol. The Governor responded hastily and even disregarded the Supreme Court's directive in the Bommai case to order the floor test to determine whether or not the chief minister had the support of the majority. The Governor unjustly fired the Rane ministry by disregarding these constitutional requirements.

By exercising his discretionary powers when the assembly is in session, the Goa Governor has blatantly breached constitutional restrictions. When the assembly is not in session, he typically has to utilise his authority. The Goa Governor also made the serious error of not providing Rane adequate time to establish his majority in the legislature, as opposed to DeSouza, who was allowed 21 days.(Shri

Pratapsing Raojirao Rane v. The Governor Of Goa & Others, 1998) This action indicates the Governor has done all this activity to satisfy the B.J.P. lead coalition government at the Centre or we can say to support the political party's agendas, ideologies or political parties affiliation.

Case Study 3 –

The then-Governor, Mr Bhagat Singh Koshyari, first received a letter from 34 Members of the Legislative Assembly (MLAs) from the government side, claiming that the security provided to them and their families was unlawfully withdrawn by the state government, during the political developments in the state of Maharashtra on 25 June 2022. They said that this was done to coerce them against their choice into continuing to support the Maha Vikas Aghadi coalition. (Modak & Deshpande, 2023) The Maha Vikas Aghadi coalition was a three-party alliance, wherein Shivsena, NCP and Congress had joined hands to form the Government in Maharashtra. (Express Web Desk, 2019) The letter also communicated a resolution passed by 34 MLAs led by Mr Eknath Shinde of the Shiv Sena, which claimed that there was a great deal of anger among Sena's cadre and party members about the party's decision to create an alliance with the NCP and Congress.

Further, on 28th June 2022 the then Leader of Opposition Mr Devendra Fadnavis, communicated to the then Governor, Mr Bhagat Singh Koshyari through a letter stating that the then Chief Minister Mr Uddhav Thackeray did not enjoy a majority on the floor of the House and hence sought for a floor test. Similar letters were written by seven independent MLAs to Mr Bhagat Singh Koshyari, following which he wrote to Mr Uddhav Thackeray on the same day to prove his majority by convening a special session of the Vidhan Sabha on 30th June 2022. The Thackeray-led group had approached the Supreme Court to seek a stay on the floor test but after the court directed for the floor test to continue, Mr Uddhav Thackeray resigned on 29th June 2022.

The Supreme Court was approached with a Six Writ Petition to seek relief for various other issues related to the floor test and the formation of the new government. Two of the issues which were sought against the Governor are as follows –

- Quash the decision of the Governor dated 30th June 2022 inviting Mr. Eknath Shinde to take oath as the Chief Minister of Maharashtra, and form the Government;
- Set aside the communication dated 28th June 2022 sent by the Governor to Mr Uddhav Thackeray as well as to the Secretary, Maharashtra Legislative Assembly. (Modak & Deshpande, 2023)

The following was the observation by the supreme court on the above-mentioned two issues.

The Resolution communicated to the Governor had not intimated that the unhappy MLAs had planned to stop supporting the then Chief Minister. The court stated that communication expressing discontent on the part of some MLAs is not sufficient for the Governor to call for a floor test, adding further that there is a marked difference between a party not supporting a government and individuals within a party expressing discontent with their party's leadership and functioning.

The court moreover noted that none of the opposition party representatives attempted to submit a notice of a resolution of no confidence. A floor test is not necessary as a result of certain MLAs' desire that the Chief Minister be instructed to demonstrate his majority on his own. The Supreme Court also questioned the justification given by the Governor with respect to the support of the House has nothing to do with the MLAs' lack of protection. In reality, the court considered this reason for calling a floor test to be an extraneous reason in nature.

Party divisions within the Shiv Sena are what led to the current crisis in Maharashtra. The floor test, however, cannot be employed as a means of resolving intra- or internal-party conflicts. A political party's internal disputes and dissent must be settled under the remedies outlined in the party constitution or by any other means the party deems appropriate. There is a clear distinction between a party refusing to support a government and party members publicly criticising the party's leadership and methods of operation.

Hence the Governor was not justified in calling upon Mr Thackeray to prove his majority on the floor of the House because he did not have reasons based on objective material before him, to conclude that Mr Thackeray had lost the confidence of the House. However, the status quo ante cannot be restored because Mr Thackeray did not face the floor test and tendered his resignation; hence the Governor was justified in inviting Mr Shinde to form the government. (Subhash Desai v. Principal Secretary, Governor of Maharashtra & Ors., 2023)

The above stated three case studies are stating about the Party divisions. The floor test, however, cannot be employed as a means of resolving intra- or internal-party conflicts. A political party's internal disputes and dissent must be settled by the remedies outlined in the party constitution or by any other means the party deems appropriate. Therefore, one has to comprehend the concepts of political party and political morality.

Political Morality –

Edmund Burke defined a political party, *“ideologically, as a body of men and women united on the basis of their shared political ideas so as to promote the national interest.”*,

Some other authors have described it as a hierarchical political organisation that nominates its candidates to elect them as statesmen to the legislature. Further, he tried to describe political parties with the help of the functions and roles these parties commit. Political parties can be inclusive of all types of interests regardless of class, gender, religion, profession, or colour, but others might be exclusive, elitist, religiously or ideologically motivated.

Political parties first appeared in contemporary Europe when the political elite could no longer maintain legitimacy in the political system without the backing of the general populace. However, via their independence campaigns and post-colonial modernising initiatives, European colonies' political parties gave rise to a large number of political parties. While parties were viewed as anti-democratic in political theory, they were viewed as constitutional externalities in the constitutions of the eighteenth century. Despite forming the cornerstones of modern politics, some of the constitutions created in the eighteenth and nineteenth centuries did not specifically include political parties. (Mito, 2010)

However, the word legislative parties/political parties have been construed and specified in the Tenth Schedule of the Indian Constitution. The Tenth Schedule to the Constitution was inserted vide (Fifty-Second Amendment) Act of 1985, and the Statement of Objects and Reasons said that this amendment was made to prevent political defections driven by the allure of power or other comparable factors that jeopardise the foundations of our democracy. The suggested solution was to bar any member of the House who had defected from serving in either the House of Parliament or the State Legislature. (Kaushik, 2020) To avoid defection or to gain any personal privileges/benefits. Every individual in the House of Parliament or the State Legislature is required to follow political morality irrespective of their parties.

Political morality is the activity of applying moral standards to political action as well as the study of that practice. (Mito, 2010) The other factors such as the culture, with the special consideration for the morals and the group identity are also considered. This means that the various political forms are, in great extent, created through the morals

prevailing in a given community. Actors in politics are obligated to uphold the current standards of public morality. They should take into account the moral standards upheld by the culture in question while taking decisions. Therefore, political players are held to a high standard of culture, integrity, and accountability. Thus, it might be claimed that morality imposes a certain code of conduct on the political elite. As a result, politics and morality are related. Political morality, which establishes the parameters for behaviour in the political domain, is the counterpart of morality. (Paulina MENDELUK, 2018) The other factors that affect political morality are as under –

The majority of politicians, whether in office or not, consistently engage in misinformation and destructive politics to seize control by whatever means necessary to give benefit to the political party they belong to. They are more concerned with their political advantage than political morals and ethics. The actual democratic nature of the Indian polity has been corroded by the degeneration of the electoral system, which is likely to be outside of the democratic framework as a result of the immoral and unlawful activities utilised to win elections.

To some extent, if the leaders are loyal to the political morality and ethics such unwanted discrepancies may not be regenerated in Indian polity. Hence absolute morality and ethics may be difficult to uphold when politicians are looking for ways to gain power. However, they should act as much as they can in the cause of a strong democracy. Money power has predominated the Indian electoral scene and affected other systems. Even physical strength is heavily influenced by a candidate's financial clout. Therefore, from a financial standpoint is where the origin of the various bad activities that occur in society. Although money and power are housed in the same compartment and that compartment is strengthened by money.

It is well known that many politicians, including famous national leaders, have utilised illicit money and maintained accounts abroad. According to the political party, financial strength impacts a candidate's chances for an election ticket and even for a cabinet position during the formation of a government. The intense focus of those who are elected at great expense often results in immoral and unethical behaviour. This unethical behaviour of the politician leads them to look after their selfish motives or own interests even at the expense of the national interest, constitutional bodies are found to be growing more and more helpless in the face of blows punched at them. Such factors have tarnished India's political ethics and morals. India has a problem with unethical politics. The politicisation of crimes and

the criminalization of politics is thus traits that are increasingly present in Indian politics.

For political advantage, bureaucrats have been subject to numerous pressures and threats from a variety of sources. Conditionally accepting the incorrect guidance or instructions for their prospects, bureaucrats eventually became politicised. All democratic institutions are impacted by the politicisation of bureaucrats, who are forced to act in accordance with political preferences

Political morality and ethics are superseded by coercive power or towards the political party's affiliation. The political party in power abuses its position of authority and turned several unlawful activities against its opponents, with little regard for morals. Politicians have always sought to lead them astray for their purposes. Legislators should not indulge in any kind of immoral practices that often affect the political ethics that they are lawmakers more over the representative of the people and the country should always be in mind. They have to be ideal legislators to supervise their followers.

Logically those legislators who have a strong commitment to a strict principle could control bureaucrats and the masses. A good impression of them can give an immense contribution to boost up morality and ethics in every sphere of activities in life. On the other hand, no one can preserve absolute morality and ethics but the politician is the leader of the nation which means the leader of the people they are supposed to maintain morality and ethics as far as possible.

So only in the state where political morality and ethics are maintained, it can be possible to check the ever-growing unethical and authoritarianism. Hence, for saving mankind from apathy, stigma and numerous undemocratic processes it is essential to reconsider the perspective of political morality instead of political party morality. In a democratic setup both as ruler and ruled is of utmost importance to maintain honesty and sincerity. (Singh, 2008) The same is expected from the governor as he/she is not appointed for the benefit of the political party, but they are the representative under the Executive to uphold the principle of Constitutional Morality.

Constitutional Morality -

The idea of Constitutional Morality was borrowed from George Grote's History of Greece. The historian notes that it was important at the time to instil in the populace the uncommon and challenging attitude he called constitutional morality to force it upon the prominent persons while examining the situation of the Athens Democracy under

Kleisthenes' reign. He demonstrates that self-imposed restriction is the core of this attitude, that few sentiments are harder to generate in a community, and that its diffusion—across all classes, not just the majority—is a necessary prerequisite for a government that is simultaneously free, stable, and peaceful. Anyone who has thought about Athens' history is aware that the Grecian Democracy was finally defeated not by the spears of conquerors but rather by her own citizens' contempt for constitutional virtue. (Guthrie, 1912)

The same can be co-related with the current Indian condition because India is not originally a democratic country, Indians have accepted and given themselves a written Constitution after the prolonged procedure. We can see at times, there is resentment against constitutional constraints, which takes many different shapes and guises. In particular, there is resentment toward the court's actions in defending the individual and the minority against unlawful laws that benefit one class at the expense of another. The underlying attitude is frequently one of irritation with any rule of law, no matter how it is expressed or how it is masked by claims of social change or social fairness. This debate is limited to the constitutional morality issue raised by the current uprising against the use of the judicial branch of the state as provided in our constitutions. Other important and fascinating factors that have not yet been taken into account include the movement to recall judges and court rulings as well as the growing trend among legislatures and executive branches to defer to the courts when it comes to constitutional questions, leaving judges with the sole responsibility and frequently the stigma and unpopularity of upholding constitutional restraints.

Ambedkar used the phrase for the first time in the context of India on November 4, 1948, during a discussion in the constitutional assembly to make a resolution requesting that the Constituent Assembly take the draught constitution presented by the drafting committee into consideration. Ambedkar highlighted the idea while reiterating Grote's explanation of constitutional morality. Greek historian George Grote was cited by him when he said:

"By constitutional morality., Grote meant... a paramount reverence for thee forms of the constitution, enforcing obedience to authority and acting under and within these forms, yet combined with the habit of open speech, of action subject only to definite legal control, and unrestrained censure of those very authorities as to all their public acts combined, too with perfect confidence in the bosom of every citizen amidst the bitterness of party contest that the forms of the constitution will not be less sacred in the eyes of his opponents than his own.

The reason for emphasizing constitutional morality during the formation debate of the Indian Constitution was that the principle was new and not a “natural sentiment” and that it was extremely difficult to “*establish and diffuse [it] among a community*”, considering the then situation of India, as we have gone through the partition. (LOK SABHA SECRETARIAT , 2014) When Dr Ambedkar made his reliance on constitutional morality, he felt the following essence of the principle of Constitutional Morality must be taken by the Indian population-

- (i) Every citizen will uphold the Constitution.
- (ii) All citizens would submit to authorities working in accordance with the Constitution.
- (iii) Every citizen would be allowed to criticise public officials or authorities who are carrying out their constitutionally mandated duty without restraint.
- (iv) Public servants would be required to follow the Constitution's guidelines
- (v) Aspirants to political office would uphold the Constitution and be certain that their rivals would do the same.
- (vi) Every person is also required to accept the coexistence of freedom and self-imposed restraint. (Chandrachud, 2020)

Constitutional morality in its strictest sense of the term implies strict and complete adherence to the constitutional principles as enshrined in various segments of the document. When a country is endowed with a constitution, there is an accompanying promise which stipulates that every member of the country right from its citizens to the high constitutional functionaries must idolize the constitutional fundamentals. This duty imposed by the Constitution stems from the fact that the Constitution is the indispensable foundational base that functions as the guiding force to protect and ensure that the democratic setup promised to the citizenry remains unperturbed.

The constitutional functionaries owe a greater degree of responsibility towards this eloquent instrument for it is from this document that they derive their power and authority and, as a natural corollary, they must ensure that they cultivate and develop a spirit of constitutionalism where every action taken by them is governed by and is in strict conformity with the basic tenets of the Constitution. Constitutional morality nowadays primarily refers to the spirit or core of the Constitution as well as the antithesis of popular morality. (Chandrachud, 2020)

In an atmosphere of hope and optimism, the Constitution was ratified. With an intention of commitment to the future of a young nation, the

Constituent Assembly's members headed the constitutional initiative. Granville Austin writes that "India's founding fathers and mothers" created both the nation's aspirations and the structures and mechanisms for accomplishing them in the Constitution." (Austin, 2018)

Constitutional morality, appositely understood, means morality that has inherent elements in the constitutional norms and the conscience of the Constitution. Any act to garner justification must possess the potential to be in harmony with the constitutional impulse. To realize our constitutional vision, it is indispensable that all citizens and high functionaries in particular inculcate a spirit of constitutional morality which negates the idea of concentration of power in the hands of a few. These ideals were "*national unity and integrity and a democratic and equitable society*". The Constitution was designed "*to break the shackles of traditional social hierarchies and to usher in a new era of freedom, equality, and justice*". All this was to be achieved through a democratic spirit using constitutional and democratic institutions. (Austin, 2018)

But during the time of emergency of 1957-77 in India, the essence of the constitution was misused by the executive wing of the state by having autonomy or power of being in the majority. The circumstances leading up to and following it made it abundantly evident how anarchy and the abuse of power are two forces that prey on the flaws in constitutional morality. The prime minister lost her cool and proclaimed a state of emergency as political unrest grew. The purpose of the Emergency was to put an end to the unrest through stern executive action and to ensure that the legislature and the judiciary would follow the executive's orders. The process by which the centre of decision-making transferred from the Prime Minister's Office to the Prime Minister's House has been documented by P N Dhar, who was then the Prime Minister's senior secretary.

Starting from the prime minister's residence, the authority started to be acted upon with little regard for constitutional morality or propriety. Sanjay Gandhi, her younger son, made decisions that confused and alarmed ministers, lawmakers, and judges from his advantageous position in the prime minister's residence, even though he had no constitutional authority of any kind. Many of them provided a far greater display of obedience than was necessary, exposing to the world at large the weakness of constitutional values at the top of the political system. (Béteille, 2008) Hence to tackle this kind of situation, the Constitution envisaged the existence of a responsible and representative government. The same arbitrary use of power could

also be seen in above mentioned three case study where the governor has arbitrarily used their position for the benefit or the satisfaction of political party morality instead of the Political morality or Constitutional morality.

Due to the mere apprehension of the founding father of the misuse of power provisions regarding the administration of democracy were already there incorporated, in detail, into the Constitution, but still India has faced the above situation. Dr. B. R. Ambedkar during the formation of the constitution made an emotional plea that the core values of Indian democracy, to be protected and sustained, ought to be guided by the presence of constitutional morality.

The virtue of politeness has also been highlighted by Andre Beteille as a crucial element of constitutional morality. In public life, it urges tolerance, temperance, and mutual understanding. A moderating force that works against the excesses of ideological politics is civility. It limits how individuals in positions of power exercise their authority, as well as how those who lack power but want it can obstruct and use violence. An essential requirement for the efficient running of governmental offices is civility. (Béteille, 2008)

The wording of the Constitution might not be sufficient to safeguard its democratic qualities if the moral principles outlined in it were not respected at all. It is essential to determine, what the Constitutional text is trying to communicate, to its achievable range and to fully comprehend what constitutional morality represents. Political scholar Rajeev Bhargava underlines the necessity to identify the moral principles ingrained in the Constitution and to acknowledge the public morality within it. The Constitution was created with public morals in mind; therefore, its interpretation is open to debate. It's time to acknowledge these interpretations and discuss them. (Bhargava, 2008) While having the discussion it is pertinent to note that constitutional morality is not limited to the fundamental provisions of the Constitution. It stands for the constitutional culture that each person in a democracy must adapt. Liberal principles, which guided the drafting of the Indian Constitution and established expectations for the polity, are the main features of constitutional morality. (Mehta, 2003)

It's important to remember that people are fallible, that they occasionally overlook long-term benefits, and that they occasionally give in to temptations that give them pleasure now but hurt them later. People occasionally adopt the mob mentality and make snap decisions, only to later regret them. Constitutions shield citizens from

falling prey to the whims and fancies of the moment by providing a framework of legislation derived from decades of collective experience and wisdom. Constitutions anticipate the excessive mercurial nature of everyday politics and work to correct it. They elevate some aspects of the political process above the difficulty of conventional politics. (Mehta, 2003)

To strengthen the spirit of the Constitution, the principle of constitutional morality will help in filling the gaps in the Constitution. Governmental structures can be established by a constitution, but how these structures function depends on the fundamental principles of the constitution. Constitutional morality serves as a guiding foundation for resolving constitutional disputes with the goal of preventing the past from tearing the nation apart.

Constitutional morality offers a moral framework for executing governmental operations. It outlines standards for institutions to adhere to as well as behaviour that will uphold the Constitution's spirit in addition to its letter. The reality may not match up to our expectations. However, a sense of constitutional morality derived from the principles of that Constitution enables us to hold our institutions and those in charge of their futures accountable. As a result, constitutional morality must guide constitutional interpretation. (Government of NCT of Delhi v. Union of India (UOI) and Ors., 2018)

To fortify the essence of constitutional morality concerning above mentioned three case studies where the Executive Wing i.e. the Governor of the Democratic Setup is coming into controversy we can take the help of the recommendation given by the Sarkaria Commission and Punchhi Commission. Justice R. S. Sarkaria was appointed to this commission to look into the issues relating to reviewing and examining the operation of the current agreements between the union and states regarding powers, functions, and responsibilities in all spheres and recommend any necessary changes or other actions. The commission addressed the "Role of the Governor" and "Reservation of Bills by Governors for President's Consideration, and Promulgation of Ordinances" in its report that was submitted in the years 1987–1988. The three primary features of the governor's duty were then highlighted by the commission after first examining the historical context of the institution of the governor, the constitutional provisions pertaining to the governor, and the scope of these provisions. The three aspects are as follows:

- (a) functioning as the constitutional head of the state under a parliamentary democracy system in normal times;

- (b) serving as a crucial intermediary between the union government and the state government, and
- (c) acting as an agent of the union government in a few particular areas during normal times. (e.g.,) article 239 (2) in which the President may appoint the Governor of a State as the administrator of an adjoining Union territory, and where a Governor is so appointed, he shall exercise his functions as such administrator independently of his Council of Ministers

Constitution Of India- Administration of Union Territories and in a number of areas during abnormal situations (e.g.,) article 356 is the provision in case of failure of constitutional machinery in States.

The Governor was not regarded by the constitution as a central government agent. Making reports as required by Article 356 does not turn a governor become an agent of the federal government. As required by his oath, which commits him to "preserve, safeguard, and defend the constitution" and to "devote himself to the service of the well-being of the people" of that state, the governor is required to provide such a report. It is his responsibility to inform the president of any scenario in which he is honestly convinced that the state's governance cannot be maintained in line with the requirements of the constitution. This is something he performs in his capacity as the state's governor and the state's best interests, not as "the agent of the centre." However, due to their behaviour and actions over the past few decades or as per above mentioned case study, a few have come to be known as agents.

The Sarkaria Commission noted the criticism of the governor's position and outlined the situations in which the governor must exercise his discretion. According to the commission, the governor is supposed to exercise his judgement in the following situations:

- In choosing the chief minister.
- In testing the majority of the government in office
- In the matter of dismissal of a chief minister
- In dissolving the legislative assembly
- In recommending President's rule
- In reserving Bills for the president's consideration.

The commission then moved on to talk about how governors are chosen, how long they serve, whether they can run for other posts once their term is up, and what retirement benefits are available to them. The commission then reviewed the need for such discretionary powers as well as the areas in which the Governor must exercise his or

her judgement. The commission then presented its recommendations. (Sarkaria, 1988)

The committee noted that establishing such rules is a challenging endeavour and that they should develop over time while incorporating recognised norms. The commission drew attention to the fact that the Administrative Reforms Commission study team on centre-state relations (1967) stressed the need for the formulation of a national policy to which the union and states would both subscribe, which acknowledged the role of the Governor and directed the union's responses. The Commission thought that such a national policy shall provide the implications of the Governor's role in the form of convention and practices, keeping in view, the National objectives of defending the constitution and the protection of democracy to protect constitutional morality. However, the government of India did not accept these recommendations saying that the matter should best be left to the convention which may be established or which may be evolved on that behalf in this state of affairs. The Sakaria Commission provided certain recommendations regarding the institution of, in brief, are as follows:

The person to be appointed as a Governor:

1. Should be a distinguished person
2. Must be a person from outside the state.
3. Must not have participated in active politics at least for a certain period before he is appointed the Governor.
4. He should be a person who is not too intimately connected with the local politics of the state where he is going to be appointed as the Governor.
5. He should be appointed in consultation with the chief minister of the State, the Vice-President of India and the Speaker of the Lok Sabha.
6. If any action is to be taken against him, he must be given a reasonable opportunity to defend himself against the reasons why he is being sought to be removed from office. His term in office must be guaranteed and should not be disturbed unless there are exceptionally compelling reasons. In the event that the Governor is fired or resigns, the administration is required to present a report outlining the events that led to the dismissal or resignation, as applicable, to both chambers of parliament.
7. After quitting his office, the person appointed as Governor should not be eligible for any other appointment or office of profit under the Union or a state government except for a second term as Governor or election as vice-president or president of India, as the case may be, and

8. At the end of his tenure, reasonable post-retirement benefits should be provided.

Still, the recommendation was not followed hence again Punnchi Commission was set up, under Madan Mohan Punchhi, better known as M.M. Punchhi was the 28th Chief Justice of India. After his retirement, Mr Punchhi was appointed as the Chairman of the Centre-State Relations Commission in the year 2007 by the Government of India. This Commission dealt with matters involving Centre-State relations and was popularly known as the Punchhi Commission, provided with the following recommendations –

- The incumbent should abstain from active politics for two years prior to his appointment, even at the municipal level.
- A committee should be established and given the responsibility of selecting governor;
- The Chief Minister of the State should have a voice in the selection process.
The Prime Minister, the Home Minister, the Speaker of the Lok Sabha, and the affected State's Chief Minister may all be members of this committee.
- The Constitution's omission of the doctrine of pleasure.
- The appointment should be of five years.
- The State Legislature must pass a resolution to dismiss the governor.
- The State Legislature's recommendation of a clause allowing for the impeachment of the Governor.
- The governor's authority to authorise the prosecution of ministers in defiance of state government counsel.
- The Commission further suggested that the practise of designating governors as university chancellors be discontinued. (PUNNCHI, 2010)

If we try to follow the above-mentioned recommendation provided by the Commissions, we may take a step to building a strong administrative institution which support the essence of constitutional morality. These recommendations are to help and safeguard the democratic set up of the Indian Government against the notorious political party affiliation adhered by the Executive wing in the Indian Democracy.

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