

Corporate Ethics and Constitutional Morality – Beyond Legal Compliance

By

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Introduction

In recent decades, India has witnessed rapid economic growth and the rise of powerful corporations. With this rise comes an equally important responsibility: businesses must not only obey the law but also act in ways that uphold the values of society. Legal compliance is the minimum expectation from companies. But is it enough? The increasing call for corporate ethics and constitutional morality shows that the real measure of a corporation lies not only in its profits, but in how it treats its employees, consumers, shareholders, and the larger community.

Corporate Ethics: Beyond Profit Motives

Corporate ethics refers to the moral values and principles that guide business decisions. Law is enforced by outside agencies relating to the State whereas ethics are internal code of conduct the corporates follow to demonstrate their ethical behaviour to society. This is required for companies not only to make believe the public about their ethical conduct in public sphere but also it is a tool for Social Marketing. Therefore, it is always better for the corporates to create and follow their own ethics rather than merely complying with legal provisions relating to Corporate Social Responsibility under the Companies Act, 2013.

This is because while companies may follow the letter of the law, unethical practices such as exploitative labour, environmental degradation, or misleading advertisements can still harm society. It will carry an impact on their image which goes against their advertising efforts.

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Justice Krishna Iyer (in his book *Justice at Cross Roads*, p.105) considers PIL as a product of creative judicial engineering. The expression “Judicial activism” signifies the anxiety of courts to find out appropriate remedy to the aggrieved by formulating a new rule to settle the conflicting questions in the event of lawlessness or uncertain laws. The Judicial Activism in India can be witnessed with reference to the review power of the Supreme Court under Article 32 and High Courts under Article 226 of the Constitution particularly in Public Interest Litigation.

In short, ethics fills the gap between what the law permits and what society expects. However, finding remedies in Courts of Record through Public Interest Litigations still falls short of Constitutional morality because morality is something that corporates should imbibe from within, it is not something that is imposed on corporates by outside agencies.

Constitutional Morality: The Indian Dimension

The idea of constitutional morality in India traces back to Dr. B.R. Ambedkar, who argued that democracy in India would survive only if guided by constitutional morality rather than blind majority rule or arbitrary power. Constitutional morality means adherence to the spirit of the Constitution—values like justice, liberty, equality, dignity, and fraternity—rather than mere technical compliance with its text.

The Supreme Court has invoked constitutional morality in several landmark cases indicating good deal of judicial activism inspiring the cause of environmental protection.

In the modern corporate world, ethics cannot be confined to profit-making or mere compliance with statutory regulations. The Constitution of India, with its emphasis on justice, equality, and dignity, provides a higher moral foundation which corporations must internalize. Constitutional morality demands that corporate functioning must respect not only legal obligations but also broader principles of fairness, sustainability, and the right to life under Article 21.

While legal compliance ensures that corporations follow environmental and labour laws, constitutional morality goes further, requiring them to act in a manner consistent with the values of human dignity and protection of natural resources. Judicial activism in India has played a crucial role in ensuring that corporate activities remain aligned with these higher ideals.

Judicial Activism and Constitutional Morality in Environmental Law

The Supreme Court of India has repeatedly expanded the scope of Article 21 (Right to Life) to include the right to a healthy environment, thereby enforcing ethical responsibilities upon corporations. Several landmark cases illustrate this constitutional expansion:

The Court evolved the doctrine of Absolute Liability for hazardous industries, holding that corporations cannot escape responsibility for environmental harm. This judgment reflects constitutional morality by prioritizing human safety over industrial profit.²

The Supreme Court directed tanneries discharging effluents into the Ganga to be shut down. The Court emphasized that corporate functioning must respect the right to clean water and environment as an extension of Article 21.³

The Court applied the Polluter Pays Principle, holding industries financially accountable for the damage caused. This went beyond statutory law, reinforcing corporate ethical duties towards society.⁴

The Supreme Court introduced the Precautionary Principle and Sustainable Development as part of Indian law, requiring corporations to prevent harm even before it occurs. This reflects a constitutional morality of anticipating risks rather than waiting for disasters.⁵

The Court invoked the Public Trust Doctrine, holding that natural resources cannot be converted into private property for corporate gain. This doctrine elevates environmental protection to a matter of constitutional obligation.⁶

Beyond Legal Compliance: The Way Forward

Corporate Ethics requires companies to recognize their responsibility towards society, workers, and the environment without having to comply with constitutional provisions coercively imposed by organs of State. They must evolve their own code of conduct based on various

² 1. M.C. Mehta v. Union of India (Oleum Gas Leak case) **AIR 1987 SC 1086.**

³ 2. M.C. Mehta v. Union of India (Ganga Pollution case) **AIR 1988 SC 1115.**

⁴ Indian Council for Enviro-Legal Action v. Union of India **AIR 1996 SC 1446.**

⁵ Vellore Citizens' Welfare Forum v. Union of India **AIR 1996 SC 2715.**

⁶ M.C. Mehta v. Kamal Nath (1997) **1 SCC 388.**

aspirational rulings given by the Hon'ble Supreme Court expanding the scope of Article 21 of the Constitution to include the right to wholesome environment.

Constitutional Morality demands that corporations act in line with constitutional values, not merely act within the boundaries of statutory law to satisfy the legal norms imposed by State and the Law.

The judiciary, through expansive interpretation of Article 21, has made it clear that corporations must internalize ethics as part of their functioning — pollution, exploitation, and unsustainable practices are violations not just of statutes but of constitutional principles.

Corporate governance in India is no longer confined to meeting regulatory checklists. Judicial activism has demonstrated that constitutional morality demands higher standards — prioritizing human dignity, ecological balance, and intergenerational equity. Thus, corporations must evolve from being legally compliant entities to ethically responsible institutions committed to sustainable growth.

These cases show that constitutional morality demands sensitivity to dignity, equality, and fairness, even where the law is silent or society resists change.

Why legal compliance is not enough

Laws are often reactive, created after damage is done. For example, environmental regulations may come only after widespread pollution. Labour laws may not capture all dimensions of worker exploitation in the gig economy. Merely following existing rules may allow corporations to bypass accountability through technicalities.

Corporate scandals across the world—Enron, Lehman Brothers, Volkswagen emissions—illustrate how corporations that complied “on paper” still engaged in unethical or unconstitutional practices. In India, cases like the Bhopal Gas Tragedy remind us that businesses must anticipate their broader social responsibilities, not wait for courts to direct them.

Thus, corporate responsibility requires voluntary ethical conduct, inspired by constitutional values.

The Way Forward: Embedding Constitutional Morality in Corporate Culture

1. *Ethics Education in Boardrooms* – Corporate leaders must be trained to recognize that profit without ethics erodes long-term sustainability. If one Corporate thinks that we are the only corporate causing damage to environment for the sake of profits then when every corporate falls in line with this thinking, the Mother Nature will swallow the entire humanity. The signals are already vivid.
2. *Stronger CSR Implementation* – CSR should not be treated as charity but as a constitutional duty toward social justice.
3. *Transparency and Whistleblower Protection* – A culture of openness, protected by law, ensures accountability. Working closely with NGOs working for environment protection.
4. *Sustainable Practices* – Respect for future generations reflects constitutional morality of justice between present and future citizens. (Inter-generational Equity)

Indian Corporates that followed Corporate ethics as part of their Internal Code of Conduct

The following are a few Indian corporates that have successfully implemented corporate ethics and sustainability codes of conduct, especially in the area of environmental protection:

1. *Tata Group* – Through Tata Sustainability Group, they focus on reducing carbon footprint, water conservation, waste recycling, and green buildings. Tata Steel and Tata Power have adopted renewable energy and biodiversity restoration projects.
2. *Infosys* – The company became carbon neutral ahead of schedule, invests in renewable energy, and has implemented energy-efficient “green campuses.”
3. *Wipro* – Adopted the Wipro EcoEye program to reduce emissions, promote e-waste recycling, and improve water stewardship.
4. *ITC Limited* – Practices “triple bottom line” philosophy. ITC is water positive, carbon positive, and solid waste recycling positive for several years, with extensive afforestation and watershed programs.

5. *Mahindra & Mahindra* – Launched “Mahindra Hariyali” initiative for tree plantation, is working toward carbon neutrality, and invests in electric mobility solutions.

6. *Hindustan Unilever Limited (HUL)* – Adopted Unilever Sustainable Living Plan to cut emissions, reduce water usage, and shift to eco-friendly packaging.

Conclusion

The Indian Constitution is not just a legal document; it is a moral guide to how power—whether political or economic—must be exercised. Corporations today wield immense power, sometimes more than governments. With this power comes responsibility. Legal compliance is only the floor, not the ceiling. To truly serve society, corporations must rise to the higher calling of ethics guided by constitutional morality.

A company that respects not only the law but also the dignity, equality, and welfare of people demonstrates that profit and morality can co-exist. Such corporations become not just engines of economic growth but also partners in nation-building.