

Private, public and political morality

When people choose a political life, they must follow an ethic distinct from private morality



RAJEEV BHARGAVA

Though related, political, public and private morality are not identical. They may come from the same source, but are distinct. This point has been noted in the Western tradition since at least Machiavelli. But its lineage in India is ancient.

Ethics in three domains

Take, for example, Asoka who spoke of *Dhamma* (ethics) in three distinct domains. First, interpersonal morality. Each of us has special obligations to our children, spouse, parents, teachers and relatives. We have a duty towards those under our special care, including the aged, 'servants', animals and, occasionally, strangers. Asoka distinguished this private ethic from what might be called inter-group morality in public life. Crucial here is harmony between different religious-philosophical groups generated by the exercise of *sayamam* (self-restraint). He particularly emphasised the importance of *vacaguti* — controlling one's tongue to be critical of other groups only if there is good reason to, only on appropriate occasions and always moderately; also, to praise one's own group, only when there is good reason to, only on appropriate occasions and always moderately. Neither hate speech nor speech glorifying oneself was acceptable as part of public morality — a point very relevant in our times.

Asoka then distinguished private and public morality from power-related political morality specifying what rulers and the ruled owe one another. Subjects owe obedience to their king. But the ruler too owed something to his subjects: to ensure *janahita*, the good of all (including all living species), and *janasukham*, happiness not only in this life but also in the afterlife. To achieve this, rulers and their officials must display *damdasamata* and *viyohalasamata* (impartiality in meting out punishment and in politico-legal acts more generally). This sums up the core of Asoka's political morality: a commitment to justice, to impartiality.

What then is the difference between private/public morality and



SHANKER CHAKRAVARTY

political morality? While in one's personal life, in our dealings with those with whom we have close daily encounters such as our family, friends or 'servants', we can't help but be partial, and while in the larger public domain, where we face people with different religio-philosophical sensibilities, we can't entirely escape some degree of partiality to our own world view, the political domain requires the impartial or just use of power for the good of all.

Family, civil society and state

Two thousand years later, the German philosopher Friedrich Hegel made similar points, although in a different way and in an entirely different context. He distinguished three spheres of human life: family, civil society and the state. The family, Hegel claimed, was the smallest community in which its members do not even distinguish themselves from one another. Their identities are fused. A family is bound by emotional ties, by mutual love and affection. Members take pride in each other's achievements and feel a strong sense of shame at the other's wrongdoing. Morality here is guided by unarticulated feelings.

The family is different from another sphere of life that Hegel designated civil society but should more appropriately be called 'market society'. Here, each person acts as an individual with a sharply defined sense of her own interests which are distinct from, compete and may even clash with the interests of others. No one is tied to the other by bonds of love or affection. Since there is no community but only an aggregate of individual interests, there is no commonly held ethic either. Competitive

life is governed by coercive legal rules to regulate the pursuit of self-interest. At best, each individual devises her own personal, subjective moral maxims.

Finally, Hegel spoke of a third domain where people once again see themselves as members of a large political community, as citizens of a state. Citizens in a political community must be bound together neither by feelings nor by self-interest but by a commitment to common values discovered by public reason — values such as political freedom, solidarity, shared traditions and cultural heritage. Morality in this domain requires that we overcome our loyalty to blood relations, not pursue only our private interests, and commit instead to using power grounded in shared principles. Love and hate are largely imposters in this domain where consensus is forged by the use of public reason. Its democratic version requires that, guided by values of openness, equal respect and justice, we deliberate and help each other arrive at impartial laws and public policies, acceptable in principle to everyone in the polity.

Furthermore, those who wield political power must realise that what they do has enduring consequences affecting the lives of an incalculably large number of people. This brings with it enormous public responsibility which derives in no small part from the fact that they have at least temporary legitimacy to use force against ordinary citizens. They have, at their disposal, an apparatus of violence simply unavailable to heads of families or members of civil society. Powerful politicians, therefore, must show great care and sensitivity to the appropriate use of

force and violence.

Private and political morality

One important implication of the difference between private and political morality is this: it is sometimes believed that moral scrupulousness in one's private life automatically guarantees high moral stature in political life. This simply does not follow. Those wielding public power may refuse to enrich themselves, their family or friends, and resist from obtaining sexual favours. But such 'cleanliness' need not entail scrupulous political morality. What use is personal incorruptibility if the politician is partial to or discriminates against one particular community, abandons public reason, smashes dissent to concentrate power in his own hands, makes arbitrary use of force, and lives in the illusion that he is greater than all the institutions that surround him? What if he begins to believe that he alone possesses the truth or knows the good of the entire community? And precisely because of the moral restrictions he has placed on his personal life, feels released from any restriction on the use of power in the political arena? In short, a person who is profoundly moral in his private life may brazenly violate all norms of political morality — undermine justice and public reason. Conversely, it is entirely possible that a person who has morally slipped in his private life (cheated on one's spouse, enriched himself) respects the integrity of public institutions, is acutely sensitive to the moral costs of violence, shows a deep commitment to justice, and upholds reason-based democratic norms.

Don't get me wrong. I am not suggesting that politicians are free to abandon private morality. But we often find comfort in the illusion that there is one simple, seamless morality, reflected equally in private and in public. In fact, most humans are complex moral agents. It would be wonderful if our private and political moralities were perfectly aligned and we achieved the highest moral standards in both. But in a non-ideal world we can only hope that when people choose to lead a life in politics, they will at least follow minimum norms of political morality even as they fail to be scrupulously moral in their private lives.

Rajeev Bhargava is Professor, Centre for the Study of Developing Societies, New Delhi

The Madhava Menon model of legal education

For him law worked best when it worked for the society



SRIRAM PANCHU

Legal education in India can be classified into two categories: the years before and after the advent of N.R. Madhava Menon. Earlier, the study of law was often a default option, when you couldn't get admission to any other course or didn't know what course your life should take. The law degree was a three-year affair following an undergraduate degree. There were a few exceptional teachers and a few exceptional students; for the rest it was pretty much an active engagement with the "guide" books in the run-up to the examinations. Real learning started when you were apprenticed to a senior lawyer.

Menon (1935-2019) shook that up. Responding to an appeal from the Bar Council of India, which was gravely concerned with the steep decline in standards of the profession, Menon accepted the challenge and transformed himself from an academic to an institution-builder. With missionary zeal he established the country's first National Law School in Bangalore in 1987, with an independent university status. He oversaw the building of its campus. He drew in excellent faculty. He carefully designed a five-year law course as the first degree after school, thereby ensuring that only those who were seriously interested in the subject came in, and would emerge well equipped for what the profession needed.

The Menon model

And he succeeded brilliantly. The mix of motivated students and faculty overseen by a Vice Chancellor to whom dedication and discipline came naturally produced results which made the Bar, Bench, law firms and other users sit up and take notice. As his graduates entered the field, it was clear that law had joined the ranks of other professions where much could be expected from an entrant, and the entrant could expect commensurate responsibility, position and compensation. Inevitably this led to the creation of other national law schools which largely followed the Menon model, and whose heads were often Menon trainees.

That one achievement would have been enough to guarantee him a place in any honours listing, but Menon was far from done. Judges too, especially young recruits to the

service, needed training. The National Judicial Academy (NJA) was set up in Bhopal, and the Menon magic of institution-building created another sterling institution from scratch. It became de rigueur to have this on the resume of a judicial officer, and it was a mark of subject expertise to be invited to teach a course. In time this expanded to reach higher levels of the judiciary, especially in new areas of law. Many senior judges received their first exposure to public interest litigation and human rights and environmental issues at the NJA long before these became current coinage — indeed, Menon's endorsement of these outlier subjects was a key reason for sceptics to become adherents. Supreme Court judges also came to teach, learn and, on occasion, receive reprimand for an errant judgment, which took the occupant of the apex court back to his college backbencher days.

The best tribute

More was to come. At the request of the State government, he set up the West Bengal National University of Juridical Sciences, Calcutta, which sought to focus on academics and research. To some extent, this was to alleviate his concern that students from his

first and premier law school had shown a preference for law firms and corporates rather than joining the Bar or NGOs where a rights-based language was at play. For Menon, the law worked best when it worked for society's benefit. True enough, retirement and quieter times did not figure in his list of options. In his sunset years, he created and ran the M.K. Nambar Academy for Continuing Legal Education in Kerala as well as the Menon Institute of Legal Advocacy Training for developing grass-roots capacity to access and use the law for under-privileged sections.

Being the last word on the subject, he was, of course, the first choice when it came to being asked to serve on the Law Commission and other bodies and committees connected with legal education. All these tasks he accepted willingly and gave each one his best. At a personal level he constantly engaged with those working in fields close to his heart. They received his advice, encouragement and valued friendship. He will be missed and mourned by many, especially generations of his students. Perhaps one tribute that would please him would be an introspection if they passed the ultimate Menon test — of using the skills he gave them for the public good, wholly or at least in part.

Sriram Panchu is Senior Advocate, Madras High Court

SINGLE FILE

Living in the panopticon

It's the price we must pay to safely walk on the street, watch a movie in a theatre or shop in the bazaar

UDAY BALAKRISHNAN



REUTERS

China is often pilloried in the West for the deep surveillance of its people. Latest reports indicate that the Chinese state, harnessing artificial intelligence, will soon have enough information to rate all its citizens for good behaviour, making everything from buying a

train ticket to getting a credit card difficult, if not impossible, for those not conforming to rules of conduct set by the state.

It is naive to believe that mass surveillance is special to China or that it is a recent phenomenon. The extent to which the British had spied on Indian society and the systems they developed for that were brought out in detail by the late historian C.A. Bayly in his book, *Empire & Information — Intelligence Gathering and Social Communication in India, 1780-1870*. All countries monitor their citizens. The communist states did it through the 20th century. Anyone sifting through records of Stasi, former East Germany's security agency, would be astonished to note the extent to which the state spied on its citizens.

In the past, surveillance was selective and targeted. India's pre-Independence leaders were relentlessly followed by British intelligence. Little was missed of Subhas Chandra Bose's time in Germany or Mahatma Gandhi's in his ashrams. British agents filed detailed reports on Jawaharlal Nehru's journeys and meetings through Europe.

It is one thing for citizens to be monitored by the state, but it is quite another to be 'spied' upon by the likes of Google, Facebook, Amazon and apps loaded onto cheap Chinese smartphones. Recently I was surprised to read transcripts of every command I had given to my Alexa speaker over the last few years; I am still trying to erase them all.

As one of the largest consumers of data, India is a goldmine for data aggregators. It's the state's duty not to make it easy for aggregators to collect data with impunity. India too needs something as strong as the General Data Protection Regulation, which was adopted by the European Union in 2018, and a willingness to enforce it, to protect the privacy of its citizens.

In the wake of suicide attacks and bombings worldwide, mass surveillance has assumed a new urgency. Almost all countries are going China's way. Today we are all tracked 24x7 across places and devices. Unpleasant as it is, and even as all of us wish to be protected from overzealous governments, we need to get used to living in a global panopticon. It's the price we must pay to safely walk on the street, watch a movie in a theatre or shop in the bazaar.

The writer, a former civil servant, taught public policy and contemporary history at IISc, Bengaluru

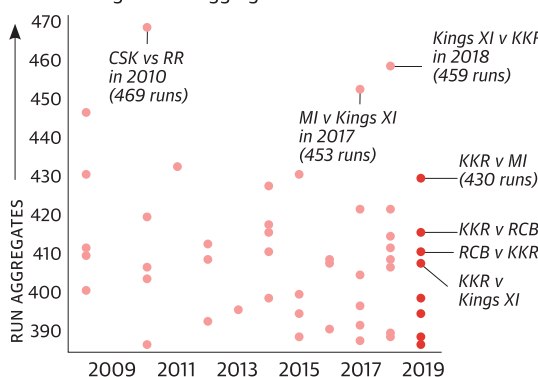


DATA POINT

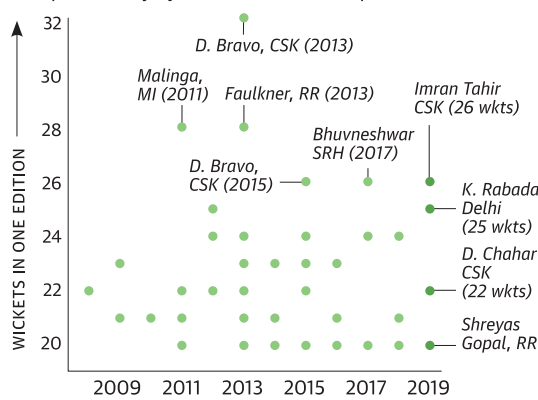
IPL highlights

How the 2019 Indian Premier League compares with past editions of the T20 tournament. By Vignesh Radhakrishnan

Most high-scoring games
The 2019 season recorded eight new entries in the list of 49 all-time highest run aggregates in the IPL



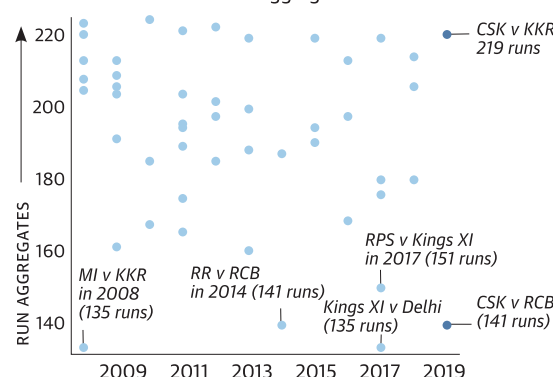
Best bowlers
Imran Tahir's purple cap-winning 26 wicket haul was surpassed only by three bowlers in the past



Source: Cricinfo

A few low scores

The 2019 season recorded only two new entries into the list of 50 all-time lowest run aggregates in the IPL



FROM THE HINDU ARCHIVES

FIFTY YEARS AGO MAY 14, 1969

Race riots in Kuala Lumpur

Unconfirmed reports early to-day [May 13] put the death toll in Kuala Lumpur at more than 50 dead and scores injured after sudden, savage racial clashes between Malays and Chinese tore the Malaysian capital apart. Prime Minister Tunku Abdul Rahman declared a State of Emergency over the City of Kuala Lumpur and police said a curfew has been placed over the whole State of Selangor surrounding Kuala Lumpur. The round-the-clock curfew spread to Penang island, nearby province Wellesley and half a dozen areas in Perak State from 1 a.m. The Tunku, seemingly near tears when he appeared on television, blamed opposition groups for the rampage and said he was grieved by what was happening. He suggested the setting up of multi-racial goodwill committees to try to restore order. A Police spokesman said he could not confirm reports that several Europeans were among those believed killed.

A HUNDRED YEARS AGO MAY 14, 1919.

War Pensions.

In the [House of] Commons [in London], the Labour Minister defending the payment of unemployment donation pointed out that there were a million recipients, including three hundred and fifty thousand members of the forces, 108,000 ex-munitioners and 100,000 cotton operatives, who were unemployed owing to the blockade. Abuses were inevitable, but he was confident that half the complaints lacked foundation. Any frauds which were discovered would be prosecuted relentlessly. Since the Armistice, three million out of four million demobilised soldiers and civilians had been absorbed in industry. This was a remarkable achievement, because it took years to get from warwork to peace work.

POLL CALL

Election Commissioners

Election Commissioners are members of the Election Commission (EC), the constitutional body tasked with ensuring the conduct of free and fair elections. They are usually retired civil servants, and are appointed by the President. The EC was helmed by a single Chief Election Commissioner (CEC) since the body was set up in 1950. In 1989, two more Election Commissioners were appointed but their tenure ended in 1990. Thereafter, in 1993, two Election Commissioners were again appointed. Since then the EC has been a three-member panel. The tenure of the CEC and Election Commissioners lasts six years, or up to the time they attain the age of 65, whichever is earlier. They receive the same pay as a judge of the Supreme Court. Their decisions are taken by a majority vote.

MORE ON THE WEB

This TN police constable makes time to teach Silambam to children

<http://bit.ly/SilambamVideo>

CM YK A CH-CHE