

CONSTITUTIONAL MORALITY AND CONTEMPORARY JUDICIAL DECISIONS IN INDIA

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Abstract

Constitutional morality has emerged as one of the most significant constitutional doctrines in contemporary Indian jurisprudence. It represents a commitment to the values, principles, and aspirations embedded in the Constitution rather than adherence to prevailing social, religious, or majoritarian moral standards. The doctrine has become a powerful judicial tool for protecting fundamental rights, preserving constitutional governance, promoting social justice, and safeguarding the dignity of individuals. In recent decades, the Supreme Court of India has increasingly invoked constitutional morality while adjudicating issues involving equality, liberty, privacy, gender justice, minority rights, secularism, and democratic accountability.

*The concept, originally emphasized by Dr. B. R. Ambedkar during the Constituent Assembly Debates, has acquired renewed relevance in a diverse and pluralistic society where conflicts frequently arise between constitutional values and traditional social norms. Through landmark judgments such as *Kesavananda Bharati v. State of Kerala*, *S.R. Bommai v. Union of India*, *Navtej Singh Johar v. Union of India*, *Indian Young Lawyers Association v. State of Kerala (Sabarimala Case)*, *Joseph Shine v. Union of India*, and *Justice K.S. Puttaswamy v. Union of India*, the Supreme Court has employed constitutional morality to uphold individual autonomy, equality, and human dignity.*

This paper examines the meaning, origin, development, and judicial application of constitutional morality in India. It critically analyzes contemporary judicial decisions that have shaped the doctrine and evaluates its role in strengthening constitutional democracy. The study argues that constitutional morality serves as an essential safeguard against majoritarianism, discrimination, and arbitrary exercise of power while ensuring that constitutional values remain the guiding principles of governance and adjudication.

Keywords: Constitutional Morality, Supreme Court of India, Fundamental Rights, Judicial Activism, Constitutionalism, Equality, Liberty, Dignity, Democracy, Constitutional Governance.

1. Introduction

The Constitution of India is not merely a legal document; it is a transformative charter designed to establish justice, liberty, equality, and fraternity. It embodies the aspirations of a diverse nation committed to democratic governance and social transformation. However, constitutional values often come into conflict with social customs, religious practices, cultural traditions, and political majoritarianism. In such situations, courts are required to determine whether constitutional principles should prevail over prevailing social norms. The doctrine of constitutional morality has emerged as an important constitutional principle for resolving such conflicts. Constitutional morality requires adherence to the values and ideals enshrined in the Constitution rather than the moral beliefs of any particular group or community. It emphasizes

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constitutional supremacy, protection of fundamental rights, respect for diversity, and commitment to democratic governance.

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In recent years, the Supreme Court of India has increasingly relied upon constitutional morality to address issues involving gender equality, LGBTQ+ rights, privacy, secularism, religious freedom, and democratic accountability. The doctrine has become a powerful instrument for promoting constitutional values in a rapidly changing society.

This research paper examines the concept of constitutional morality, its historical foundations, judicial evolution, contemporary applications, criticisms, and future significance in Indian constitutional law.

2. Meaning and Concept of Constitutional Morality

Constitutional morality refers to the principles, values, and ethical commitments embedded in the Constitution that guide the exercise of public power and the interpretation of constitutional provisions.

The doctrine requires:

Respect for constitutional supremacy.

Protection of fundamental rights.

Commitment to democratic governance.

Adherence to rule of law.

Respect for human dignity.

Promotion of equality and social justice.

Constitutional morality differs from social morality. Social morality reflects prevailing societal beliefs and customs, whereas constitutional morality is derived from constitutional values.

The concept recognizes that social practices may sometimes be discriminatory, oppressive, or inconsistent with constitutional guarantees. In such circumstances, constitutional morality must prevail.

3. Historical Origins of Constitutional Morality

The concept of constitutional morality was first articulated by the Greek historian George Grote in his writings on Athenian democracy. He emphasized the importance of citizens respecting constitutional institutions and procedures.

In India, Dr. B. R. Ambedkar introduced the concept during the Constituent Assembly Debates. He observed that constitutional morality is not a natural sentiment but must be cultivated among citizens and public institutions.

Ambedkar emphasized that:

“Constitutional morality is not a natural sentiment. It has to be cultivated.”

According to Ambedkar, constitutional democracy cannot survive merely through constitutional provisions. It requires a commitment to constitutional values by both citizens and state institutions.

4. Constitutional Foundations of Constitutional Morality

Although the Constitution does not explicitly define constitutional morality, several provisions collectively establish its foundation.

Preamble

The Preamble embodies:

Justice

Liberty

Equality

Fraternity

These ideals form the core of constitutional morality.

Fundamental Rights

Part III guarantees rights essential for human dignity and democratic participation.

Directive Principles

Part IV reflects social and economic justice objectives.

Fundamental Duties

Part IVA encourages constitutional responsibility among citizens.

Rule of Law

The Constitution establishes government under law rather than arbitrary power.

These provisions collectively create a constitutional framework based on morality, justice, and democratic values.

5. Constitutional Morality and Constitutionalism

Constitutional morality is closely linked with constitutionalism.

Constitutionalism means:

Limited government.

Separation of powers.

Judicial review.

Protection of rights.

Accountability.

Constitutional morality provides the ethical foundation for constitutionalism.

Without constitutional morality:

Constitutional institutions may become ineffective.

Rights may be undermined.

Democracy may deteriorate into majoritarianism.

Thus, constitutional morality serves as a safeguard against abuse of power.

6. Evolution of Constitutional Morality in Indian Jurisprudence

Initially, Indian courts rarely used the expression “constitutional morality.” However, constitutional principles underlying the doctrine influenced judicial decisions from the early years of constitutional interpretation.

The doctrine gained prominence during the twenty-first century when courts increasingly confronted issues involving:

- Gender discrimination
- Religious practices
- Sexual orientation
- Privacy
- Democratic governance

The Supreme Court began explicitly invoking constitutional morality as a guiding principle for constitutional interpretation.

7. Constitutional Morality and Fundamental Rights

Fundamental Rights constitute the primary source of constitutional morality.

Article 14

Guarantees equality before law.

Article 15

Prohibits discrimination.

Article 19

Protects freedoms essential for democracy.

Article 21

Protects life, liberty, dignity, and autonomy.

Constitutional morality requires courts to interpret these rights broadly and purposively.

The Supreme Court has repeatedly emphasized that constitutional rights cannot be subordinated to social prejudices or popular opinion.

8. Constitutional Morality and the Basic Structure Doctrine

The doctrine of constitutional morality is closely connected with the Basic Structure Doctrine established in:

Kesavananda Bharati v. State of Kerala (1973)

The Supreme Court held that Parliament cannot alter the basic structure of the Constitution.

Elements of basic structure include:

- Rule of law
- Judicial review
- Secularism
- Democracy
- Federalism
- Fundamental rights

Constitutional morality reinforces these principles by ensuring that constitutional values remain protected against political majoritarianism.

9. Constitutional Morality in Contemporary Judicial Decisions

A. Navtej Singh Johar v. Union of India (2018)

One of the most significant applications of constitutional morality occurred in the Navtej Singh Johar case.

The Supreme Court decriminalized consensual same-sex relations by reading down Section 377 of the Indian Penal Code.

The Court held:

Constitutional morality must prevail over social morality.

Individual dignity is protected by the Constitution.

LGBTQ+ persons enjoy equal constitutional protection.

The judgment marked a transformative moment in Indian constitutional law.

B. Joseph Shine v. Union of India (2018)

The Court struck down Section 497 IPC, which criminalized adultery.

The Court observed:

The provision treated women as property.

It violated equality and dignity.

Constitutional morality requires gender justice.

The judgment strengthened women's constitutional status as autonomous individuals.

C. Indian Young Lawyers Association v. State of Kerala (Sabarimala Case)

The Supreme Court examined the exclusion of women from the Sabarimala Temple.

The Court held:

Gender-based exclusion violates equality.

Constitutional morality prevails over discriminatory practices.

The judgment generated significant debate regarding the relationship between religious freedom and constitutional values.

D. Justice K.S. Puttaswamy v. Union of India (2017)

The Court unanimously recognized privacy as a Fundamental Right.

The judgment emphasized:

Individual autonomy.

Human dignity.

Informational privacy.

Constitutional morality was invoked to protect personal liberty against excessive state intrusion.

10. Constitutional Morality and Gender Justice

The Supreme Court has frequently used constitutional morality to advance gender equality.

Vishaka v. State of Rajasthan

The Court framed guidelines against workplace sexual harassment.

Shayara Bano v. Union of India (Triple Talaq Case)

The Court invalidated instant triple talaq.

Joseph Shine Case

Promoted women's dignity and equality.

Constitutional morality has become a powerful tool for dismantling patriarchal structures and promoting substantive equality.

11. Constitutional Morality and Religious Freedom

India is a secular democracy characterized by religious diversity.

Constitutional morality requires balancing:

Religious freedom

Equality

Human dignity

The Court has emphasized that religious practices inconsistent with constitutional values may be subject to constitutional scrutiny.

The challenge lies in respecting religious autonomy while protecting constitutional rights.

12. Constitutional Morality and LGBTQ+ Rights

The Navtej Singh Johar judgment transformed constitutional jurisprudence regarding LGBTQ+ rights.

The Court recognized:

Sexual orientation as an aspect of identity.

Equal dignity for LGBTQ+ individuals.

Freedom from discrimination.

Constitutional morality enabled the Court to reject social prejudices and uphold constitutional values.

The judgment represents one of the strongest affirmations of individual autonomy in Indian constitutional law.

13. Constitutional Morality and Democratic Governance

Constitutional morality is essential for maintaining democratic institutions.

It requires:

Respect for constitutional procedures.

Accountability of public officials.

Transparency in governance.

Protection of opposition voices.

Democracy involves more than periodic elections. It requires adherence to constitutional principles and respect for minority rights.

The Supreme Court has repeatedly emphasized that constitutional morality sustains democratic governance.

14. Constitutional Morality and Judicial Activism

The rise of constitutional morality has strengthened judicial activism.

Advantages include:

Protection of vulnerable groups.

Expansion of rights.

Promotion of social justice.

Preservation of constitutional values.

However, critics argue that excessive reliance on constitutional morality may increase judicial discretion. The challenge is to ensure that constitutional morality remains grounded in constitutional text, structure, and principles.

15. Criticisms of Constitutional Morality

Despite its significance, the doctrine faces several criticisms.

A. Lack of Precise Definition

The concept lacks a universally accepted definition.

B. Judicial Subjectivity

Critics argue that judges may impose personal values.

C. Democratic Concerns

Excessive judicial intervention may undermine democratic decision-making.

D. Uncertain Boundaries

The limits of constitutional morality remain contested.

Nevertheless, supporters contend that constitutional morality is necessary for protecting constitutional democracy against majoritarian excesses.

16. Constitutional Morality and Social Transformation

The Constitution is often described as a transformative document.

Constitutional morality promotes:

Social inclusion.

Equality.

Human dignity.

Democratic participation.

Through constitutional interpretation, courts have challenged discriminatory practices and advanced social reform.

The doctrine serves as a bridge between constitutional ideals and social reality.

17. Comparative Perspective

Many constitutional democracies recognize principles similar to constitutional morality.

South Africa

The Constitutional Court emphasizes dignity, equality, and transformation.

Canada

The Charter of Rights promotes rights-based constitutional interpretation.

United States

Constitutional values influence judicial protection of liberty and equality.

India's approach is distinctive because of its explicit emphasis on social transformation and constitutional morality.

18. Future of Constitutional Morality in India

The relevance of constitutional morality is likely to increase in emerging areas such as:

Artificial Intelligence

Data protection

Digital governance

Privacy

Gender identity

Climate justice

Courts will increasingly confront complex questions requiring a balance between technological progress, democratic governance, and constitutional values.

Constitutional morality will continue to provide an important framework for resolving such conflicts.

Suggestions and Recommendations

- 1. Promote constitutional literacy among citizens.*
- 2. Strengthen constitutional education in universities.*
- 3. Encourage public institutions to uphold constitutional values.*
- 4. Ensure judicial consistency in applying constitutional morality.*
- 5. Protect judicial independence.*
- 6. Strengthen rights-based governance.*
- 7. Promote gender justice and social inclusion.*
- 8. Enhance transparency in public administration.*
- 9. Develop constitutional awareness programs.*
- 10. Foster a culture of constitutional democracy.*

Conclusion

Constitutional morality has emerged as one of the most influential doctrines in contemporary Indian constitutional jurisprudence. Rooted in the vision of Dr. B. R. Ambedkar and grounded in the values of the Constitution, it serves as a guiding principle for protecting rights, preserving democracy, and promoting social transformation. The doctrine ensures that constitutional values prevail over discriminatory customs, majoritarian preferences, and arbitrary exercises of power.

Through landmark decisions such as *Kesavananda Bharati*, *Navtej Singh Johar*, *Joseph Shine*, *Puttaswamy*, and the *Sabarimala* case, the Supreme Court has demonstrated the transformative potential of constitutional morality. These judgments have expanded the scope of equality, liberty, dignity, privacy, and individual autonomy while reinforcing the supremacy of constitutional principles.

Although concerns regarding judicial subjectivity and democratic legitimacy remain relevant, constitutional morality continues to serve as an indispensable safeguard against oppression, discrimination, and constitutional erosion. In a diverse and pluralistic society like India, constitutional morality provides a common framework for balancing competing interests while preserving the foundational values of justice, liberty, equality, and fraternity.

As India confronts new challenges arising from technological innovation, social change, and political transformation, constitutional morality will remain a vital instrument for ensuring that constitutional governance remains faithful to the aspirations of the Constitution and the dignity of every individual.

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