

## Constitutional Morality in India: A Pillar of Justice and Democratic Values

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**Abstract:** *The Indian Constitution's laws and principles, such as the "basic structure," "arbitrariness," and "manifest arbitrariness," represent the judiciary's role in interpreting and defining constitutional principles. Constitutional morality, while not explicitly acknowledged at first, has grown as a key concept highlighting dedication to values such as justice, equality, liberty, and fraternity. It directs judicial decisions to be consistent with the spirit of the Constitution, promoting social justice, upholding fundamental rights, and preserving public trust. Landmark cases, such as Navtej Singh Johar vs. Union of India (2018), demonstrate its importance in putting human dignity ahead of societal prejudices. Despite difficulties such as political meddling and case backlogs, constitutional morality and judicial ideals are still essential for providing fairness, inclusion, and the continued relevance of justice in India.*

**Keywords:** Constitutional Morality, Democracy and Justice, Fundamental Rights, Judicial Review & Equality and Liberty

### 1. Introduction

George Grote's analysis of constitutional morality, which has its roots in Greek history, places a strong emphasis on plurality, self-control, and devotion to constitutional norms. This idea was later taken up and developed by Dr. B.R. Ambedkar when he was writing the Indian Constitution. It sets itself apart from social morality by emphasizing inclusive and democratic constitutional ideals, which provide as the foundation for historic court rulings on issues like privacy, gender equality, and the decriminalization of same-sex partnerships. Its significance in interpreting rights and defending individual liberties is highlighted by its expanding application in Indian courts. [1]

#### 1.1 The Concept of Constitutional Morality

Constitutional morality is the dedication to the fundamental principles and values stated in the Indian Constitution. It emphasizes the significance of sustaining the ideas of justice, equality, liberty, and fraternity that serve as the cornerstone of the Constitution. This concept advocates for interpreting legislation in ways that are consistent with the spirit of the Constitution. In India, constitutional morality ensures that laws are enforced with utmost regard for these essential principles. It provides a framework for the government, judiciary, and citizens, promoting the rule of law and protecting individual rights. [2]

#### 1.2 Meaning of Constitutional Morality

A dedication to respecting the key principles of the Indian Constitution—justice, liberty, equality, fraternity, secularism, and the rule of law—is referred to as constitutional morality. It acts as a framework to make sure that the government's and people's activities are in line with the principles and spirit of the Constitution, not just its textual requirements.

Constitutional morality is more abstract than statutory laws, which are tangible and binding. It demands that the principles of the Constitution be deeply respected, even when they go against accepted societal mores, ideologies, or customs. Protecting individual rights and maintaining the integrity of democracy are the ultimate objectives.

The concept of constitutional morality places an extreme value on preserving freedom, respecting the supremacy of the Constitution and the rule of law, and restricting the authority of the government to defend citizens' rights. It calls for actual commitment, such as making sure that fair elections are held in difficult situations, discourages arbitrary behavior, and demands conformity to constitutional principles. It ensures that governance reflects the

values of the Constitution for the benefit of all citizens while fostering a varied and inclusive society. By encouraging harmony and fraternity among India's diverse populace, constitutional morality also seeks to eradicate inequity, uphold rights, and fortify democracy, guaranteeing a fair and inclusive society. [3]

In the Indian Constitution, the phrase "Constitutional Morality" is not used specifically. But clauses that deal with freedoms of expression and religion, such as Articles 19(2), 19(4), 25(1), and 26, reflect the idea. Although it isn't mentioned explicitly, the Supreme Court applies this idea to interpret laws and make sure they uphold the fundamental principles of the Constitution, defending justice and individual rights.

### 1.3 Constitution morality and its importance

The idea of constitutional morality is praised as revolutionary and essential to upholding democratic values in a multicultural society. It challenges both the public and the government while adjusting to societal shifts and maintaining the rule of law. It encourages cooperation and solidarity among interested parties, motivating them to cooperate in pursuit of constitutional objectives. As demonstrated by the repeal of Sati and the expansion of widows' rights in India, it can be used to reinterpret antiquated rules and promote constructive social change. Constitutional morality welcomes variety, promoting inclusion and safeguarding the rights of minorities in a multicultural nation like India. Additionally, it promotes working inside the system to solve inequalities rather than urging people to leave it in protest. This fosters active engagement in governance.

## 2. Constitutional Morality in Indian Judiciary

Constitutional morality is the dedication to the fundamental principles of the Constitution that drive democratic governance and social justice, such as equality, liberty, and justice. In the Indian court, it is critical to interpreting and upholding the rule of law in accordance with these constitutional values. Dr. B.R. Ambedkar popularized the concept, emphasizing that both individuals and organizations must align their actions with constitutional principles, even if they contradict traditional or societal norms. Ambedkar contended that constitutional morality is critical to safeguarding democracy and ensuring that the Constitution is more than just a document, but a living, functioning reality. [4]

### 2.1 Significant Cases and Judgments on Constitutional Morality

(i) **Kesavananda Bharati v. State of Kerala (1973)** [5]: The principle of basic structure was put forward by this seminal case, which highlighted the need of protecting the Constitution's core elements from arbitrary changes.

**Facts:** The leader of Kerala's Edneer Mutt, Swami Kesavananda Bharati, contested the Kerala Land Reforms Act on the grounds that it violated his fundamental rights, namely his property rights under Article 19(1)(f) and Article 31.

**Judgement:** The 13-judge bench decided that Parliament has broad rights to amend the Constitution under Article 368, but cannot change its fundamental structure. The court defined secularism, federalism, and judicial review as fundamental to the Constitution's identity.

**Role of Constitutional Morality:** The court recognized the importance of constitutional morality, which requires institutions to uphold the Constitution's essential principles and preserve democracy and the rule of law.

(ii) **Navtej Singh Johar v. Union of India (2018)** [6]

This lawsuit decriminalized homosexuality in India, overturning portions of Section 377 of the Indian Penal Code (IPC).

**Facts:** Petitioners, including famous LGBTQ+ campaigners, questioned the legitimacy of Section 377, which prohibited consensual same-sex relationships.

**Judgment:** The Supreme Court decided that criminalizing consensual sexual actions between adults violates Articles 14 (equality under the law), 15 (discrimination), 19 (freedom of expression), and 21 (right to life and personal liberty).

**The role of constitutional morality**, according to Justice Indu Malhotra, is to promote an inclusive society that upholds each person's rights, even when those rights conflict with majoritarian social norms. The ruling upheld the requirement that judicial interpretations be guided by constitutional morality rather than societal morality, which may have its roots in prejudice.

(iii) **Indian Young Lawyers Association v. State of Kerala (2018)** [7]

Commonly referred to as the *Sabarimala Case*, this judgment allowed the entry of women of menstruating age into the Sabarimala temple in Kerala.

**Facts:** A petition was submitted to challenge the discriminatory practice of banning women aged 10-50 from attending Sabarimala temple, citing Articles 14, 15, and 25.

**Judgment:** The court found the practice illegal and declared that religious customs must align with constitutional norms. It stressed that rights under Article 25 (religious freedom) are subject to Articles 14 (equality) and 21 (dignity).

**Role of Constitutional Morality:** Chief Justice Dipak Misra noted that in order to ensure that actions that infringe upon equality and dignity are deemed unlawful, constitutional morality necessitates the balancing of fundamental rights with religious freedoms. According to Justice Chandrachud, it is against constitutional norms to deny women access on the basis of biological considerations.

(iv) **Joseph Shine v. Union of India (2018) [8]**

This case decriminalized adultery by striking down Section 497 of the IPC.

**Facts:** Joseph Shine, the petitioner, contested Section 497, which viewed women as nothing more than property and classified adultery as a crime punishable only by men.

**The verdict:** The court ruled that Section 497 was unconstitutional and outdated since it infringed upon Articles 14, 15, and 21. Instead than seeing marriage as a contractual institution with patriarchal ideas, it saw it as an equal partnership.

**Role of Constitutional Morality:** The ruling rejected legislation based on patriarchal morality and placed an emphasis on the values of equality, autonomy, and dignity. According to the court, laws must take into account changing societal standards in order to be morally consistent with the constitution.

(v) **Shayara Bano v. Union of India (2017) [9]**

This case declared the practice of *triple talaq* (instant divorce) among Muslims unconstitutional.

**Facts:** Triple talaq victim Shayara Bano argued that the procedure violated Articles 14, 15, 21, and 25 because it was discriminatory.

**Judgment:** By a ratio of 3:2, a five-judge bench ruled that the practice of triple talaq was unlawful. The court determined that the practice had no foundation in Islamic law and infringed against the fundamental rights of Muslim women.

**Role of Constitutional Morality:** The court argued that religious activities may not violate justice, gender equality, or individual dignity by citing constitutional morality. It declared that in cases when personal laws and the Constitution clash, the Constitution must take precedence.

(vi) **Central Board of Dawoodi Bohra Community v. State of Maharashtra, (2023): [10]**

The Supreme Court reviewed whether the religious head of the Dawoodi Bohra community was authorized by Article 26(b) of the Constitution to excommunicate members. The court looked at whether these actions were consistent with the morals of the constitution, which supports equality, liberty, and fraternity.

**Key Points:**

- An excommunicated person is denied access to common resources such as property and burial grounds, resulting in social ostracism and, practically, civil death in the society.
- Constitutional morality prioritizes human dignity, liberty, and equality.
- Violations of these values will not be condoned, even under the pretense of religious freedom.
- The precedent established in *Sardar Syedna Taher Saifuddin Saheb v. State of Bombay (1962)*, which supported the ability to excommunicate, requires reconsideration.
- The court stated that religious rights under Article 26(b) are subject to morality, which should be consistent with constitutional values.
- The case was submitted to a larger bench to determine whether the exclusionary practice of excommunication is constitutionally permissible.

(vii) **Manoj Narula v. Union of India, 2014 (SCC OnLine SC 640):** In this decision, the Supreme Court explored the concept of constitutional morality and its critical significance in democratic governance, emphasizing that it is a principle that must be developed in order to practice good governance and adhere to constitutional norms.

**Related Key Points:**

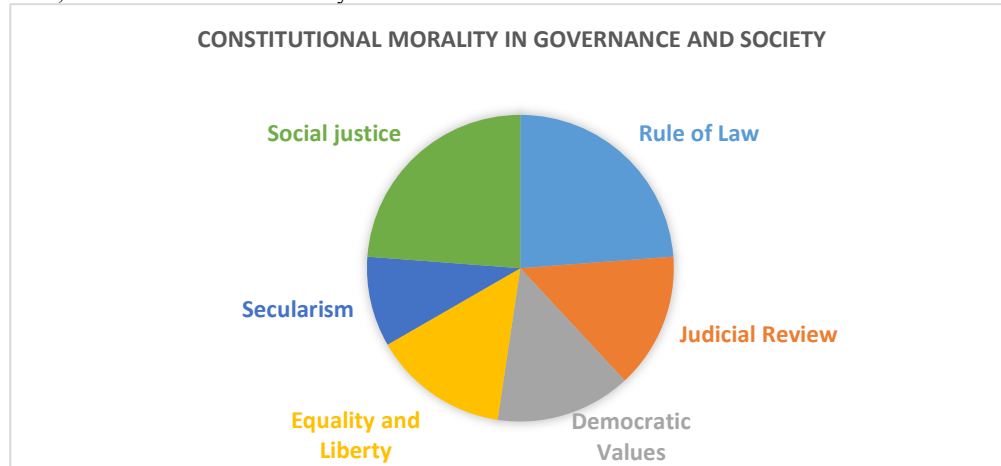
- Dedication to appropriateness, discipline, and orderliness in administration is necessary for constitutional morality. It guarantees the efficient operation of constitutional systems and serves as the cornerstone of good government.
- For government to continue to be in line with the values of justice, equality, and the general benefit, democracy depends on constitutional morality. It is expected of high constitutional functionaries to adhere to these principles in order to rectify systemic issues.
- The Court highlighted that although an individual is deemed innocent unless proven guilty of a crime, this presumption of innocence is not the same as being eligible to hold public office.
- Because it compromises the integrity of constitutional morality and public confidence, the framing of accusations in a criminal case has substantial ramifications and makes it improper for anyone facing serious charges to hold ministerial positions.

Because of these cases, constitutional morality has become an essential concept that keeps the Constitution flexible enough to adapt to changing social norms. It is used as a tool to reinforce the values of justice, equality, and dignity by bringing laws, norms, and practices into line with fundamental rights. To preserve constitutional ideals and respect plurality, its implementation necessitates a careful balancing act.

**3. Constitutional Morality in Governance and Society**

Constitutional morality is a fundamental idea that influences administration and society. It refers to a dedication to the ideals enshrined in the Constitution, not just in terms of legal compliance, but also as a moral and ethical

guidepost for governance. Constitutional morality goes beyond procedural legislation to govern the actions and values of public officials, institutions, and citizens in a democracy.



Constitutional morality ensures governance and societal actions align with fundamental constitutional principles. The **Rule of Law** (20%) [11], guarantees accountability and equality, as seen in *Maneka Gandhi v. Union of India* (1978). **Judicial Review** (15%) [12], protects constitutional supremacy, upheld in *Kesavananda Bharati v. State of Kerala* (1973). **Social Justice** (25%) [13], addresses inequality through inclusivity, exemplified by *Indra Sawhney v. Union of India* (1992). **Democratic Values** (15%) [14] emphasize participation and transparency, highlighted in *People's Union for Civil Liberties v. Union of India* (2003). **Equality and Liberty** (15%) [15] secure dignity and non-discrimination, reaffirmed in *Navtej Singh Johar v. Union of India* (2018). Lastly, **Secularism** (10%) [16], separates religion from governance, pivotal in *S.R. Bommai v. Union of India* (1994).

**3.1 Constitutional Morality in Governance:** Constitutional morality in governance requires public workers to operate in the public interest, abiding by constitutional principles rather than their own political influence or personal prejudices. It promotes inclusive, responsible, and transparent governance.

- **The separation of powers** among the legislative, executive, and judicial branches is a fundamental component of constitutional morality. This ensures that no branch has undue influence over the others and that power is used within the bounds of the constitution.
- **Judicial Oversight:** The Supreme Court in particular has played a significant role in maintaining the morality of the constitution. The Court stressed in seminal judgments like *Keshavananda Bharati v. State of Kerala* (1973) that the legislature cannot change the "basic structure" of the Constitution, including its moral precepts.
- **Rule of Law:** A key component of constitutional morality, the rule of law provides that all citizens, including public servants, are subject to the law and that it be implemented equitably and equally.

**3.2 Fundamental Rights and Constitutional Morality** A key component of constitutional morality is the defense of fundamental rights. These rights make sure that people's equality, liberty, and dignity are upheld and that they are not vulnerable to capricious state action.

- **Right to Equality:** Article 14 guarantees equal treatment under the law for all citizens. Here, societal hierarchies and discrimination on the basis of caste, religion, gender, or race must be abolished in the name of constitutional morality.
- **Right to Freedom:** The fundamental liberties required for an individual's self-determination and dignity are outlined in Articles 19–22. The state must uphold and defend these liberties in accordance with constitutional morality.
- **Right to Life and Liberty:** Article 21 places a strong emphasis on the right to life and personal liberty, which courts have construed to encompass a variety of liberties like the right to privacy, the right to an education, and the right to live in dignity.

**3.3 Constitutional Morality Challenges:** Even if India's Constitution upholds constitutional morality, modern society and administration pose difficulties for it. These consist of:

- **Political Polarization:** The emergence of intellectual differences and political polarization has frequently resulted in acts that compromise constitutional principles. The moral foundation of the Constitution is weakened, for example, by efforts to suppress dissent, control judicial nominations, or neglect the rights of minorities.

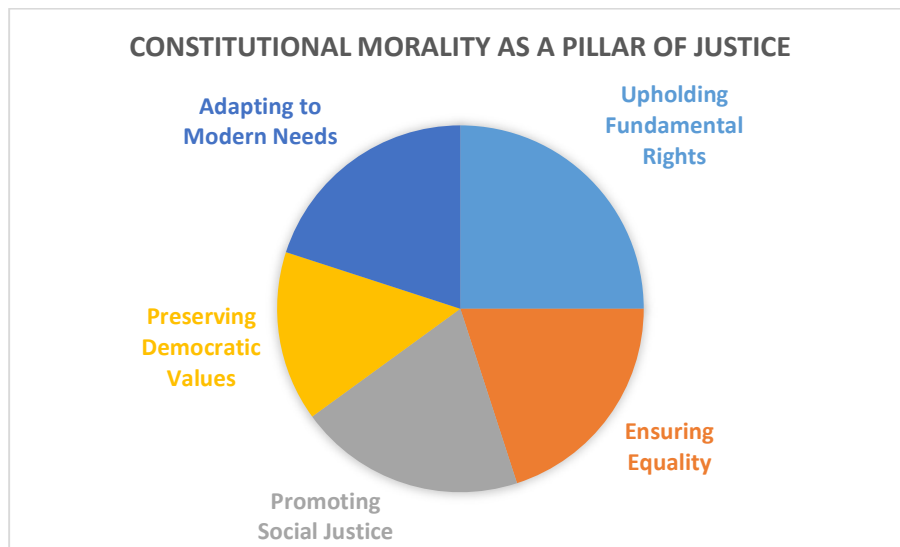
- **Socio-Economic Disparities:** India experiences severe socio-economic disparity, exclusion, and discrimination despite constitutional safeguards, which makes it difficult to realize the aspirations of the constitution.
- **Judicial Independence:** Courts' ability to enforce constitutional morals is undermined when their independence is threatened, whether by political pressure or executive meddling.

**3.4 Constitutional Morality in Society:** A culture of respect for human dignity, diversity, and constitutional ideals is established in society by constitutional morality. It guarantees that people participate in democratic processes in a responsible manner and promotes social cohesiveness.

- **Civic responsibility and public consciousness:** People need to understand their constitutional rights and obligations. They are guided by constitutional morality to appreciate diversity and maintain democratic values while participating in responsible democratic behaviours.
- **Social Justice:** The state's efforts to achieve social justice are guaranteed by constitutional morality. For historically underrepresented groups like Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs), it highlights the significance of affirmative action.
- **Protection of Minorities:** Constitutional morality protects minority rights, guaranteeing that decisions and policies do not discriminate against minority groups based on their culture, religion, or language.

#### 4. Constitutional Morality as a Pillar of Justice

Beyond merely following the law, constitutional morality is the observance of the ideals, principles, and spirit embodied in the Constitution. It guarantees that justice, equality, and fairness guide the State's actions and plays a crucial part in forming the legislative and judicial systems. The Indian Constitution is a moral code that seeks to uphold social justice and safeguard individual liberties in addition to being a legal instrument. In this sense, constitutional morality is essential to guaranteeing that the rule of law functions in a way that is compatible with democratic values and the defence of human dignity.



Constitutional morality in India ensures justice by focusing on five key components, each with a distinct emphasis. The pie chart displays Constitutional Morality's varied role as a foundation of justice in India, highlighting its significance in establishing a just and equitable society. It focuses on five crucial aspects: **Upholding Fundamental Rights (25%)** [17] secures individual liberty and dignity through judgments like **Kesavananda Bharati (1973)**, which introduced the "Basic Structure Doctrine," and **Maneka Gandhi (1978)**, which expanded the scope of personal liberty. **Ensuring Equality (20%)** [18], tackles systemic discrimination, with cases like **Navtej Singh Johar (2018)** decriminalizing homosexuality, showcasing the evolution of societal values. **Promoting Social Justice (20%)** [19] addresses structural inequities, validated by policies like reservations, upheld in **Indira Sawhney (1992)**. **Preserving Democratic Values (15%)** [20] safeguards India's secular and federal framework, reinforced in **S.R. Bommai (1994)**, while **Adapting to Modern Needs (20%)** [21] reflects evolving norms, evident in judgments like **Shayara Bano (2017)** on gender justice and **M.C. Mehta (1986)** on environmental rights. Together, these pillars ensure the Constitution remains a dynamic and just foundation for governance.

**4.1 The Role of Constitutional Morality in Ensuring Justice and Equality:** In India, constitutional morality serves as the framework for achieving equality and substantive justice. It provides that every move made by the government, legislature, and courts is consistent with the fundamental principles of the constitution. Numerous of

variables highlight how constitutional morality supports equality and justice.

- **Ensuring the Protection of Rights:** Maintaining the protection of individual rights depends heavily on constitutional morality. By assuring that the rights of even marginalized or unpopular groups are upheld, it acts as a protection against majoritarianism and authoritarianism. The Indian Constitution aspires to a form of government founded on the values of equality, fairness, and liberty, all of which are upheld by constitutional morality.
- **Dynamic Interpretation of the Constitution:** Constitutional morality requires that the Constitution be interpreted in a way that changes with the times to reflect current concerns and social mores. This method guarantees that justice is both substantive and procedural. For example, the Supreme Court broadened the definition of the right to life under Article 21 in the *Maneka Gandhi v. Union of India* (1978) case, concluding that it encompasses the right to live with dignity, which is necessary to attain substantive equality.
- **Encouraging Social Justice:** Constitutional morality makes sure that laws and regulations uphold the values of justice and equality, especially for the most disadvantaged members of society. For example, the affirmative action principle, which is expressed in Articles 15 and 16, seeks to empower and improve historically underprivileged communities in order to advance social justice.
- **Promoting Tolerance and plurality:** As part of its goal for a just society, the Indian Constitution encourages tolerance and plurality. Respect for many cultural, religious, and social customs is encouraged by constitutional morality. It upholds the notion that all citizens, regardless of their background, should be treated equally and that the state shouldn't impose any certain philosophy or religious system.

#### 4.2 Role of the Supreme Court in Upholding Constitutional Morality to Protect Individual Rights and Social Justice

An important part in preserving constitutional morality is the Supreme Court of India. The Court's rulings guarantee that laws, regulations, and governmental activities follow the moral standards set out in the Constitution. Here are some examples of how the Supreme Court has supported constitutional morality:

- **Judicial Review and Constitutional Interpretation:** To determine whether laws and government actions are consistent with constitutional values, the Supreme Court has regularly used judicial review. In the 1973 case of *Kesavananda Bharati v. State of Kerala*, the Court adopted the "basic structure doctrine," holding that any constitutional modification that changed the fundamental framework of the document would be illegal. Because it guarantees that the fundamental tenets of the Constitution are unassailable, this notion is a clear example of constitutional morality. [22]
- **Extending the Scope of Fundamental Rights:** The Supreme Court's interpretation of fundamental rights to safeguard individual liberties has been a crucial part of maintaining constitutional morality. Section 377 of the Indian Penal Code, which made consenting same-sex relationships illegal, was decriminalized by the Court in *Navtej Singh Johar v. Union of India* (2018). A major step toward defending individual rights and safeguarding social justice was taken when the Court ruled that the clause infringing against the fundamental right to privacy and dignity guaranteed by Articles 14, 15, and 21 of the Constitution.
- **Countering Majoritarianism:** The Supreme Court has played an important part in preventing the State from acting in a way that would compromise constitutional ideals by reflecting a majoritarian perspective. For instance, the Court upheld the balance between constitutional ideals and state activities in the *Indira Gandhi v. Raj Narain* (1975) case, reaffirming that neither political power nor the administration may compromise the moral foundation of the Constitution. [23]
- **Promotion of Gender Justice:** By interpreting constitutional morals to promote gender justice, the Court has also served as a guardian of gender equality. In *Vishakha v. State of Rajasthan* (1997), the Supreme Court expanded the application of Article 21 to safeguard women's equality and dignity at work by establishing rules for avoiding sexual harassment in the workplace. This case exemplifies the Court's responsibility to interpret the Constitution in a way that takes into account current ethical considerations about gender equality.
- **Preserving the Right to Privacy:** The Supreme Court acknowledged the right to privacy as a fundamental right under Article 21 of the Constitution in the 2017 case of *Puttaswamy v. Union of India*. By defending people's privacy and dignity from capricious state interference—a crucial step in preserving individual liberty in a contemporary democratic society—this historic ruling upheld the notion of constitutional morality.
- **Maintaining Religious Tolerance and Secularism:** The Court has also been instrumental in keeping the State secular and religiously neutral. The Supreme Court underlined in *S.R. Bommai v. Union of India* (1994) that secularism is a fundamental aspect of the Constitution and ought to be respected by all branches of government. By guaranteeing that the State does not discriminate

against any religion and treats every citizen equally, irrespective of their religious affiliations, this is in line with constitutional morality. [24]

### 5. Constitutional Morality and Democratic Values

India's democracy is based on constitutional morality, which directs government to preserve justice, liberty, equality, and brotherhood as core principles. It emphasizes moral duties to defend individual rights, uphold social fairness, and preserve plurality and secularism, going beyond legal interpretations. It protects democracy's fundamental tenets by striking a balance between governmental authority and individual liberties, as demonstrated in cases such as *K.S. Puttaswamy v. Union of India* (right to privacy) and *S.R. Bommai v. Union of India* (secularism). Furthermore, it strengthens checks and balances, as demonstrated by the *Kesavananda Bharati* case, which maintained the basic structural concept and guaranteed the Constitution's integrity and resilience in the face of adversity.

There are some significant facts about this:

- Upholding the principles of justice, liberty, equality, and fraternity requires constitutional morality, which makes sure that government functions within the moral parameters set forth in the Constitution.
- Constitutional morality upholds the government's right to protect the public's welfare and security while ensuring that individual liberties are not violated. It fosters social justice through affirmative action, encourages pluralism by appreciating India's diverse society, and protects secularism by guaranteeing the state's neutrality in religious matters.
- In order to maintain democratic integrity, constitutional morality upholds the system of checks and balances, which makes sure that no branch of government can go beyond its bounds.
- Through judicial review, the judiciary interprets constitutional morality and makes sure that laws and acts are in line with

### 6. Conclusion

In India's democracy, constitutional morality is a fundamental principle that directs the judiciary, government, and social behaviour to conform to the principles of equality, justice, liberty, and fraternity that are enshrined in the Constitution. By promoting inclusivity, social justice, and the defence of individual rights while upholding the democratic balance between the power of the state and individual liberties, it goes beyond legislative frameworks. Significant rulings such as *Shayara Bano* (abolition of triple talaq), *Navtej Singh Johar* (decriminalization of homosexuality), and *Kesavananda Bharati* (basic structure) highlight its function in addressing changing social norms and upholding justice.

Constitutional morality continues to be a dynamic force that ensures democracy's durability, equity, and ethical governance, despite issues like political meddling, socioeconomic inequality, and court delays. India protects its pluralistic identity and guarantees a fair and inclusive society for all of its citizens by upholding this ideal.

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- [13] Article 38, Constitution of India & *Indra Sawhney v. Union of India*, AIR 1993 SC 477. Upheld reservations for socially and economically backward classes, addressing historical injustices.
- [14] Articles 19 and 21, Constitution of India & *People's Union for Civil Liberties v. Union of India*, AIR 2003 SC 2363. Underscored the importance of transparency in electoral processes
- [15] Articles 14–18, Constitution of India & *Navtej Singh Johar v. Union of India*, AIR 2018 SC 4321. decriminalized homosexuality, reaffirming individual liberty and equality.

- [16] Articles 25–28, Constitution of India & S.R. Bommai v. Union of India, AIR 1994 SC 1918. Emphasized secularism as a basic feature of the Constitution, pivotal for maintaining national integrity.
- [17] *Kesavananda Bharati vs. State of Kerala*, AIR 1973 SC 1461. And *Maneka Gandhi vs. Union of India*, AIR 1978 SC 597.
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