



"Judicial Trends on Constitutional Morality: National and International Perspectives"

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Abstract:

Constitutional morality has become an important idea in modern constitutional law. It means that the Constitution should be interpreted and applied according to its basic values rather than according to changing social morality, religious beliefs, popular opinion, or the wishes of a temporary majority. The Indian Supreme Court has increasingly used constitutional morality while dealing with questions of personal liberty, privacy, gender equality, sexual orientation, religious practices and the conduct of constitutional authorities. This article studies the development of constitutional morality in India and compares it with approaches followed in the United States, Australia, Germany, France and Japan. The comparison shows that most of these countries do not use the exact expression "constitutional morality" as an independent legal doctrine. However, similar constitutional ideas appear through concepts such as dignity, equality, substantive due process, Charter values, proportionality, rule of law, constitutional identity, institutional integrity, fraternity, public order and protection of minorities.

The article argues that India is distinctive mainly because the Supreme Court has expressly used the language of constitutional morality across both individual-rights cases and questions of institutional governance. At the same time, the doctrine has important limitations. Its meaning is not always clearly defined, and excessive reliance on an open-ended moral standard may increase judicial discretion. The article therefore suggests that constitutional morality should be connected with constitutional text, fundamental rights and established principles of proportionality and reasonableness. The comparative study demonstrates that the basic idea behind constitutional morality is international, but its explicit and broad judicial formulation is particularly significant in Indian constitutional jurisprudence.

Keywords:

Constitutional Morality, Constitutionalism, Fundamental Rights, Dignity, Equality, Rule of Law, Judicial Review, Comparative Constitutional Law, Indian Constitution.

Introduction:

सर्वे भवन्तु सुखिनः

सर्वे सन्तु निरामयाः ।

सर्वे भद्राणि पश्यन्तु

मा कश्चिद्दुःखभाग्यभवेत् ॥

Meaning: “May all be happy; may all be free from illness; may all see what is auspicious; may no one suffer”. In India, these values include liberty, equality, dignity, fraternity, justice, secularism, democracy and the rule of law. Although constitutional morality is a modern constitutional-law concept, some of the values associated with it have deep roots in the Indian philosophical tradition. Ancient Indian texts and the writings of the Bhakti and Saint Tradition contain ideas concerning equality, pluralism, duty, compassion, tolerance and the welfare of all. A Constitution is not merely a legal document. It is also a statement of the values according to which a democratic society is expected to function. A Constitution protects individuals from arbitrary power, protects minorities from majoritarian pressure and creates institutions that must operate within legal limits. The idea of constitutional morality arises from this understanding. It asks a simple but important question: Should constitutional rights depend upon what the majority considers morally acceptable? The answer provided by modern constitutionalism is generally no.

A constitutional democracy is different from ordinary majoritarian democracy. A majority may make laws, elect governments and determine public policy, but it cannot normally remove the basic rights guaranteed by the Constitution. Dr. B.R. Ambedkar gave the concept an important place in the Constituent Assembly debates. He stated:

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

Dr. B.R. Ambedkar connected constitutional morality with the peaceful working of democratic government and warned that the form of administration could undermine the spirit of the Constitution. Dr. B.R. Ambedkar's statement is important because constitutional morality was originally connected not merely with judicial decisions but with the behavior of citizens, legislators and public officials. It required respect for constitutional institutions and constitutional limitations. In recent Indian jurisprudence, however, constitutional morality has developed into a significant judicial principle. The Supreme Court

has used it while deciding questions involving sexual orientation, privacy, gender equality, religious practices, institutional governance and public office. Scholarly research also identifies two important dimensions of Indian constitutional morality: one dealing with the interpretation and protection of fundamental rights, and dealing with ethical constitutional conduct by political and institutional actors. The important issue, therefore, is whether constitutional morality is uniquely Indian or whether it is part of a larger global movement in constitutional adjudication.

Meaning and Concept of Constitutional Morality:

Constitutional morality may broadly be understood as fidelity to the values, structure and spirit of the Constitution. It is different from ordinary morality. Ordinary morality is influenced by: religion, culture, family traditions, social customs, and community practices, public opinion and changing social attitudes. Constitutional morality is based primarily on constitutional supremacy, liberty, equality, dignity, fraternity, justice, rule of law, secularism, democracy, individual autonomy, minority protection and institutional accountability. Thus, a practice may be socially accepted but constitutionally invalid. Conversely, conduct that a section of society considers immoral may still be protected by the Constitution. The basic idea can be expressed in the following proposition:

“Majority morality may change with society, but constitutional rights cannot depend merely upon majority preference”.

This is particularly important in cases involving minorities and unpopular groups. If constitutional rights were dependent upon popular approval, the very purpose of fundamental rights would be weakened. André Bételle has argued that constitutional morality is essential for the effective functioning of constitutional government and that, without it, the operation of the Constitution may become arbitrary, erratic and capricious..

Constitutional Morality and the Indian Constitution:

Although the Indian Constitution does not expressly define “constitutional morality,” the concept is deeply embedded in its text, structure and underlying philosophy. It emerges from the constitutional commitment to justice, liberty, equality and fraternity, as articulated in the Preamble, and is reflected in several fundamental rights and institutional principles. Its constitutional foundations include Articles 14 and 15, which guarantee equality and prohibit discrimination; Article 19, which protects fundamental freedoms; Article 21, which safeguards life, liberty and dignity; and Articles 25 and 26, which protect

freedom of religion. At the structural level, constitutional morality is reinforced by constitutional supremacy, the rule of law, separation of powers, federalism and institutional independence. Constitutional morality, therefore, is not merely obedience to the letter of the Constitution. It requires constitutional authorities to uphold the values and spirit underlying the constitutional order. However, it should not be interpreted as conferring an unrestricted power on judges to determine what is morally desirable. Judicial interpretation must remain anchored in the constitutional text, structure, values and democratic framework.

The Supreme Court has consequently understood constitutional morality as extending beyond the formal observance of constitutional provisions to encompass values such as pluralism, inclusion, equality and individual dignity. Thus, constitutional morality serves as a bridge between constitutional text and constitutional values. It ensures that constitutional governance is not reduced to mechanical compliance with legal provisions, but remains faithful to the transformative vision of the Constitution.

Development of Constitutional Morality in India:

One of the most important developments in India has been the use of constitutional morality to protect individual rights and personal choices from social prejudice and majoritarian views. The Supreme Court has increasingly held that constitutional rights cannot be denied simply because certain choices or practices are not accepted by society.

1. Navtej Singh Johar v. Union of India (2018):

The Supreme Court decriminalised consensual same-sex relations between adults. The Court gave greater importance to the constitutional values of dignity, equality, liberty, privacy and individual autonomy than to social disapproval of homosexuality. The case established that constitutional rights must protect individuals even when their choices are unpopular or disapproved of by sections of society.

2. Joseph Shine v. Union of India (2018):

The Supreme Court struck down the law that criminalised adultery. The Court examined the law in light of equality, dignity and individual autonomy. It also rejected the traditional and patriarchal view of marriage under which women were treated as being under the control of their husbands. The judgment shows how constitutional morality can be used to challenge discriminatory social norms.

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

The Supreme Court recognised privacy as a fundamental right. It linked privacy with dignity, individual autonomy, bodily integrity and personal choice. Although the case was not directly about constitutional morality, its emphasis on individual dignity and autonomy provided an important foundation for the later development of rights-based constitutional morality.

4. **Indian Young Lawyers Association v. State of Kerala (2018):**

In the Sabarimala case, the Supreme Court considered the practice of excluding women of a particular age group from entering the Sabarimala temple. The majority used constitutional morality as an important standard for examining the conflict between religious practices and constitutional values, particularly equality and non-discrimination. The Court held that public morality cannot be used as a means to justify discrimination and that social or religious practices must be consistent with constitutional values.

Overall, these cases show that constitutional morality has developed as an important means of protecting individual dignity, equality, liberty, privacy and autonomy, even when individual rights come into conflict with social prejudice, traditional practices or majority opinion.

Constitutional Morality and Institutional Governance:

Constitutional morality in India is not limited to individual rights.

Constitutional morality in India is not limited to protecting individual rights. It also guides the functioning of constitutional institutions and public authorities. It requires those who exercise public power to act according to constitutional principles, democratic values and the limits placed on them by the Constitution.

1. **Government of NCT of Delhi v. Union of India (2018):**

In this case, the Supreme Court connected constitutional morality with constitutional governance, federalism, institutional cooperation and mutual respect between constitutional authorities. The Court explained that constitutional morality requires not only citizens but also constitutional functionaries and institutions to follow constitutional principles. Thus, constitutional morality is not merely a shield that protects citizens; it is also a discipline that guides institutions in the exercise of public power.

2. **Manoj Narula v. Union of India (2014):**

In this case, the Supreme Court connected constitutional morality with the **standards of constitutional conduct expected from persons holding high public offices**. It emphasised the need for those exercising public power to act responsibly and in accordance with constitutional values.

Therefore, the institutional dimension of constitutional morality requires:

- Institutional discipline – institutions must function within their constitutional limits.
- Propriety – public authorities must maintain proper and ethical standards of conduct.
- Accountability – those exercising public power must remain answerable for their actions.
- Constitutional loyalty – public authorities must remain committed to constitutional principles.
- Respect for democratic institutions – constitutional authorities must respect the roles and powers of other democratic institutions.
- Responsible exercise of public power – power must be exercised carefully and for constitutional purposes.

This institutional dimension makes the Indian understanding of constitutional morality particularly significant from a comparative constitutional perspective, as it applies constitutional morality not only to the protection of individuals but also to the conduct of institutions and public officials.

Constitutional Morality in the United States:

Unlike India, the United States does not generally use “constitutional morality” as a formal constitutional doctrine. However, similar ideas are developed through constitutional principles such as the Fourteenth Amendment, substantive due process and equal protection. These principles protect individual liberty, equality, privacy and dignity from unjustified government interference.

1. Lawrence v. Texas (2003)

In *Lawrence v. Texas*, the U.S. Supreme Court struck down laws that criminalised consensual same-sex intimacy between adults.

The Court rejected the idea that mere moral disapproval is sufficient to criminalise private and consensual conduct. The decision is closely comparable to *Navtej Singh Johar v. Union of India*, where the Indian Supreme Court also gave importance to individual liberty and dignity over social disapproval.

2. Obergefell v. Hodges (2015)

In *Obergefell v. Hodges*, the Supreme Court recognised the constitutional right of same-sex couples to marry.

The Court placed importance on individual dignity, personal choice and equality and rejected traditional restrictions that denied same-sex couples the right to marry. The case reflects the principle that constitutional rights cannot be denied simply because a particular relationship is not accepted by traditional social views.

3. *Romer v. Evans* (1996)

In *Romer v. Evans*, the Supreme Court struck down a law that specifically discriminated against LGBTQ persons.

The Court held that a mere desire to harm or disadvantage an unpopular group cannot be treated as a legitimate governmental interest. The decision therefore strengthened the constitutional protection against discriminatory laws based on prejudice.

4. *Griswold v. Connecticut* (1965)

In *Griswold v. Connecticut*, the Supreme Court recognised constitutional protection for marital privacy and struck down a law that prohibited married couples from using contraceptives.

The case was important in developing the constitutional idea of privacy and personal decision-making in intimate matters. It later contributed to the broader development of privacy and liberty rights in the United States.

5. *Epperson v. Arkansas* (1968)

In *Epperson v. Arkansas*, the Supreme Court held that public education could not be controlled simply to promote a particular religious belief or viewpoint.

The decision reflected the constitutional principle of religious freedom and separation between government authority and religious preference. It showed that the government cannot use its public power to impose a particular religious view through education.

American Position:

The United States, therefore, does not have a separate doctrine formally known as “constitutional morality.” Instead, similar constitutional objectives are achieved through established principles such as: Liberty, Privacy, Equality, Due process, Equal protection, and Religious freedom.

○ Protection against government discrimination and animus

These principles allow the U.S. Supreme Court to protect individuals from laws based on unjustified moral disapproval, discrimination, prejudice or excessive government interference in personal choices. The American approach shows that constitutional morality need not exist as a formally named doctrine to perform a similar function. While India expressly uses the concept of constitutional morality to uphold constitutional values against social prejudice and majoritarian views, the United States generally achieves similar results through liberty, privacy, equality, due process, equal protection and religious freedom. Thus, the function is broadly similar, but the constitutional language and legal framework are different.

In both systems, however, the central idea is that individual constitutional rights should not be denied merely because certain choices or identities are unpopular or opposed by traditional social morality.

Constitutional Morality in Australia:

1. Australia provides an important alternative model for understanding constitutional values. Unlike India, Canada and South Africa, the Australian Constitution does not contain a broad Bill of Rights. Instead, the High Court of Australia has traditionally focused on constitutional text, constitutional structure, separation of powers and legalism. The Australian approach shows that constitutional values can be protected without relying on a broad or open-ended doctrine of constitutional morality.

1. Australian Communist Party v Commonwealth (1951)

In *Australian Communist Party v Commonwealth*, the High Court struck down the Communist Party Dissolution Act. The Court reinforced the principle that Parliament cannot simply declare certain facts and thereby automatically create constitutional power for itself. The Constitution remains superior to ordinary legislation, and Parliament must act within constitutional limits. Justice Dixon famously described the rule of law as an “assumption” underlying the Constitution. This statement has become an important part of Australian constitutional thinking.

2. Kable v Director of Public Prosecutions (NSW) (1996)

In *Kable v Director of Public Prosecutions (NSW)*, the High Court developed the principle of institutional integrity. The Court held that State legislation cannot give courts functions or powers in a way that damages their essential judicial character. The case therefore protects the independence and proper functioning of courts as constitutional institutions.

3. Plaintiff S157/2002 v Commonwealth (2003)

In *Plaintiff S157/2002 v Commonwealth*, the High Court protected the power of judicial review. The Court held that Parliament could not completely remove judicial supervision over executive action. This decision reinforced the rule of law and ensured that government authorities remain subject to legal and constitutional limits.

4. Lange v Australian Broadcasting Corporation (1997)

In *Lange v Australian Broadcasting Corporation*, the High Court recognised an implied freedom of political communication. This freedom was derived from the constitutional system of representative and responsible government. The case shows how constitutional freedoms can arise from the structure and principles of the Constitution, even when they are not expressly written as individual rights.

5. Williams v Commonwealth (No 1) (2012)

In *Williams v Commonwealth (No 1)*, the High Court placed limits on the executive government's power to spend public money. The Court emphasized the importance of parliamentary control over public expenditure. This reflects the principle that executive power must remain within constitutional limits and cannot operate independently of Parliament.

Australian Position:

Australia therefore demonstrates that constitutional values can be protected without adopting a broad and open-ended doctrine of constitutional morality. The Australian constitutional model mainly relies on: Constitutional text, Constitutional structure, Separation of powers, judicial review, Institutional integrity and Rule of law. The Australian approach places greater emphasis on identifiable legal and constitutional principles rather than allowing courts to rely broadly on changing ideas of morality. The Australian experience provides an important comparative lesson for India. It shows that constitutional values do not necessarily require a separate doctrine of constitutional morality. They can be protected through the Constitution's text, structure, and separation of powers, judicial review, institutional integrity and rule of law. At the same time, the Australian model demonstrates the importance of keeping constitutional interpretation connected to clear and identifiable legal principles. For India, this provides a useful caution that while constitutional morality can play an important role in protecting rights and democratic values, its use should remain grounded in the text, structure and fundamental principles of the Constitution rather than becoming an unlimited source of judicial power.

Constitutional Morality in Germany:

Germany provides perhaps the clearest example of constitutional values being deeply connected with constitutional law. The German Constitution, known as the Basic Law (Grundgesetz), gives the highest importance to human dignity under Article 1 and protects fundamental rights under Article 1 and the following provisions. Three important concepts are particularly relevant to understanding the German approach: Sittengesetz – moral law; Objektive Wertordnung – objective order of constitutional values; and Streitbare Demokratie – militant or defensive democracy.

1. Elfes Case, BVerfGE 6, 32 (1957)

In the *Elfes Case*, the Federal Constitutional Court examined Article 2(1) of the Basic Law and the limitations on individual freedom. The case showed that “moral law” cannot simply mean whatever the

government or the majority considers morally acceptable. Any restriction on individual freedom must have a proper constitutional basis.

2. Lüth Case, BVerfGE 7, 198 (1958)

The *Lüth Case* is one of the most important decisions of the German Federal Constitutional Court. The Court developed the idea of an objective order of constitutional values. According to this principle, fundamental rights do not merely protect individuals against the State; they also influence the interpretation and application of ordinary laws. Therefore, constitutional values can also have an effect on private relationships and private law, and are not limited to the traditional relationship between the citizen and the State.

3. SRP and KPD Party-Ban Cases

In the SRP and KPD party-ban cases, the Court developed the concept of militant or defensive democracy. According to this principle, democracy has the right to protect itself against organisations that seek to destroy the free and democratic constitutional order. Therefore, democratic freedom does not require the State to remain completely passive towards movements that aim to abolish constitutional democracy itself.

4. Abortion I, BVerfGE 39, 1 (1975)

In the *Abortion I* case, the Court held that the Constitution places a positive duty on the State to protect human life. The decision is significant because it shows that constitutional rights may not only require the State to refrain from interfering with individuals; they may also require the State to take positive steps to protect important constitutional values, such as human life.

5. Assisted Suicide Case, 2 BvR 2347/15 (2020)

In the *Assisted Suicide Case*, the Federal Constitutional Court recognised a constitutional right to a self-determined death. The Court placed strong emphasis on personal autonomy and human dignity. The decision demonstrates that constitutional protection of human dignity can also include an individual's right to make deeply personal decisions concerning their own life.

German Position:

Germany therefore demonstrates a highly structured approach to constitutional values. Moral and constitutional values are closely connected with: Human dignity, Constitutional text, Fundamental rights, Proportionality and Constitutional identity. The German model shows that constitutional values can play a strong role in judicial interpretation, but they remain closely connected to clearly recognised constitutional principles and rights. The German experience demonstrates a strong and structured

relationship between constitutional law and constitutional values. Concepts such as *Sittengesetz*, the objective order of values and militant democracy allow the Constitution to respond to questions of morality, individual freedom and the protection of democracy. At the same time, these values are firmly linked to human dignity, fundamental rights, constitutional text and proportionality. Unlike an unrestricted concept of morality, the German approach provides a clear constitutional framework within which values are applied. Thus, Germany shows that constitutional morality can be powerful and flexible while still remaining legally structured and constitutionally grounded.

Constitutional Morality in France:

France does not generally use “constitutional morality” as a separate judicial doctrine. Instead, constitutional values are derived from what is known as the *bloc de constitutionnalité*, or the constitutional block. It includes the French Constitution, the Declaration of the Rights of Man and of the Citizen, and other constitutional texts and principles. Important constitutional values in France include: Human dignity, Equality, Fraternity, Public order, Political integrity and Protection of fundamental rights.

1. Decision No. 94-343/344 DC (1994)

In this decision, the Constitutional Council recognised the constitutional importance of protecting human dignity, particularly in the context of bioethics. The decision showed that human dignity can serve as an important constitutional value when the State regulates matters involving the human body, medical practices and biological developments.

2. Decision No. 2013-669 DC (2013)

In this decision, the Constitutional Council examined legislation relating to same-sex marriage. The Council upheld the constitutional framework that allowed marriage to be extended to same-sex couples. The decision demonstrates how constitutional review can address questions involving equality, individual rights and changing social conditions.

3. Decision No. 2017-752/753 DC (2017)

The Constitutional Council reviewed legislation concerning confidence in political life, including restrictions on the employment of family members by elected public representatives.

The decision demonstrates the relationship between constitutional review and public integrity. It reflects the principle that public officials must exercise their positions in a manner that maintains public confidence and avoids conflicts of interest or misuse of public office.

4. Decision No. 2018-717/718 QPC (2018)

In this decision, the Constitutional Council recognised fraternity as a constitutional principle in the context of providing humanitarian assistance to migrants. The decision was significant because it showed that the constitutional principle of fraternity could protect individuals who provide humanitarian assistance, even when that assistance involves migrants.

French Position:

France therefore demonstrates that constitutional morality can exist in substance even when the term itself is not used as a general judicial doctrine. Constitutional values such as human dignity, equality, fraternity, public integrity and protection of fundamental rights perform functions that are similar to aspects of constitutional morality. The French approach is therefore based more on recognised constitutional principles and texts than on a broad, independently defined doctrine of constitutional morality. The French experience shows that constitutional values can guide constitutional interpretation without being formally described as “constitutional morality.” Through the *bloc de constitutionnalité*, the French constitutional system protects values such as human dignity, equality, fraternity, fundamental rights and public integrity. The decisions concerning bioethics, same-sex marriage, political integrity and humanitarian assistance demonstrate how these values can respond to important social and political questions. Thus, France provides another comparative model in which constitutional morality operates indirectly through established constitutional principles and texts rather than as a separate and open-ended judicial doctrine.

Constitutional Morality in Japan:

Japan does not use “constitutional morality” as an independent judicial doctrine. However, similar constitutional values are developed mainly through Articles 13, 14 and 24 of the Japanese Constitution. These provisions protect: Dignity of the individual, Pursuit of happiness, Equality, Equality within the family, Personal autonomy.

1. Parricide Case, Grand Bench, 4 April 1973

In the **Parricide Case**, the Supreme Court struck down a special provision that imposed a much harsher punishment for killing one's parents. The decision showed that traditional ideas of filial duty cannot justify unequal criminal punishment. In other words, social or family traditions cannot override the constitutional principle of equality.

2. Nationality Act Case, 4 June 2008

In the **Nationality Act Case**, the Supreme Court found unconstitutional discrimination based on the marital status of the parents in determining nationality. The decision strengthened the principle that a person's

legal rights should not depend on an unreasonable distinction based on the circumstances of their birth or their parents' marital status.

3. Illegitimate Children Inheritance Case, 4 September 2013

The Supreme Court struck down the rule that gave unequal inheritance rights to children born outside marriage. The decision was important because it showed that traditional ideas about family and marriage cannot justify discrimination against children. Constitutional equality must apply regardless of the circumstances of a child's birth.

4. Transgender Sterilisation Case, 25 October 2023

In the Transgender Sterilisation Case, the Supreme Court ruled unconstitutional the compulsory sterilisation requirement connected with legal gender recognition. The judgment strongly protected bodily integrity, personal autonomy and individual dignity. It demonstrated the importance of allowing individuals to make important decisions about their own bodies and identity.

5. Tsu Groundbreaking Ceremony Case, 13 July 1977

In the Tsu Groundbreaking Ceremony Case, the Supreme Court examined State involvement in a Shinto religious ceremony. The Court developed an approach based on the purpose and effect of the State's involvement while applying the constitutional separation of religion and State. The case shows how constitutional principles can be used to balance religious practices with the requirement of State neutrality.

Japanese Position:

Japan therefore protects constitutional values mainly through specific constitutional rights and principles rather than through a broad doctrine called “constitutional morality.” Its approach gives importance to equality, individual dignity, personal autonomy, family equality and religious neutrality.

The Japanese experience shows that constitutional morality can operate indirectly through specific constitutional rights and principles. Japanese courts have used equality, dignity, autonomy and religious neutrality to challenge discriminatory laws and traditional social practices. However, Japan does not recognise constitutional morality as a separate and broad judicial doctrine. Thus, Japan provides a model in which constitutional values remain closely connected to specific constitutional provisions, particularly Articles 13, 14 and 24.

Comparative Analysis of Constitutional Morality:

The comparative study of India, the United States, Australia, Germany, France and Japan shows that the protection of constitutional values is a common feature of modern constitutionalism, although the

terminology and legal methods differ from country to country. India is distinctive because the Supreme Court expressly uses the concept of “constitutional morality” as a recurring principle to protect individual liberty, dignity, equality, minority rights and constitutional governance. It is used to ensure that constitutional values prevail over social prejudice, traditional morality and majoritarian preferences. The United States achieves similar objectives mainly through substantive due process, equal protection, liberty, privacy and protection against governmental discrimination or animus. These principles protect personal autonomy, intimate decision-making, equality and individual dignity from unjustified government interference. Australia adopts a more restrained and structural approach, relying on the rule of law, constitutional supremacy, separation of powers, judicial review, institutional integrity and implied constitutional freedoms. Its constitutional system demonstrates that important constitutional values can be protected without relying on a broad and open-ended doctrine of constitutional morality. Germany provides a highly structured values-based model in which human dignity, fundamental rights, proportionality and the objective order of constitutional values play a central role. Its constitutional framework demonstrates how fundamental rights and constitutional values can influence both individual liberty and the protection of the democratic constitutional order. France similarly does not employ constitutional morality as an independent doctrine but protects constitutional values through the *bloc de constitutionnalité*, including human dignity, equality, fraternity, fundamental rights and public integrity. Japan also relies on specific constitutional guarantees, particularly individual dignity, equality, personal autonomy and family equality. Its constitutional approach demonstrates that traditional social practices cannot prevail where they conflict with constitutional principles of equality, dignity, autonomy and religious neutrality.

Conclusion:

The comparison reveals that constitutional morality is not concerned with a uniquely Indian set of values; rather, it represents one method of protecting values that are widely recognised across modern constitutional democracies. There are broadly two approaches: the explicit approach, represented most clearly by India and, in a related manner, the functional-equivalent approach, followed by countries such as the United States, Australia, Germany, France and Japan, where similar objectives are achieved through specific doctrines such as due process, equal protection, liberty, proportionality, human dignity, rule of law, institutional integrity, constitutional structure, equality and personal autonomy. Thus, the principal difference lies not in the values being protected, but in the constitutional language, institutional

framework and judicial methodology used to protect them. Across these systems, the common objective is to prevent governmental power, social prejudice and majoritarian preferences from unjustifiably undermining dignity, equality, liberty, minority rights, democracy and the rule of law. Therefore, constitutional morality should not be understood as an entirely new or exclusively Indian idea. It may instead be understood as one expression of a broader global tradition of value-based constitutionalism, in which constitutional principles ensure that public power remains consistent with fundamental constitutional commitments. India represents one of the more explicit forms of this approach, while the United States, Australia, Germany, France and Japan demonstrate that similar constitutional objectives can be achieved through established legal doctrines, rights and constitutional structures.

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