

# CONSTITUTIONAL MORALITY AND THE JUDICIAL DECONSTRUCTION OF GENDER ROLES: CAN LAW TRANSFORM CULTURE IN INDIA?

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## Abstract:

This study explores how the “Doctrine of Constitutional Morality” can be used to dismantle long-standing gender roles in the Indian socio-legal system. Even though the Indian Constitution guarantees equality, the lived reality of millions is still governed by what Dr. B.R. Ambedkar called “public morality,” which is a set of conventional, often patriarchal social norms. Analysing the recent judicial transition from symbolic pronouncements to institutionalised reforms is the aim of this study. The researcher aims to show that law does not simply follow culture rather, it must swiftly “de-learn” cultural biases in order to ensure justice by analysing foundational cases alongside significant 2024-2025 rulings, such as *Jane Kaushik v. Union of India* (2025). The study concludes by suggesting that in order for law to truly transform culture, it must transcend the courtroom and enter the “clinical training” of the decision-makers themselves, bridging the gap between the implementation at the grassroots level and the constitutional vision.

**Keywords:** Constitutional Morality, Gender Justice, Transformative Constitutionalism, Judicial Deconstruction, Socio-Cultural Barriers

## 1.1. Introduction

In the context of the Indian Constitution and societal morality, several important considerations arise. The first is the idea of the Constitution as a living document one that evolves in response to changing social realities. The second is the persistence of social non-acceptance, which often seeks to preserve established traditions and inherited norms. This debate creates a continuing friction between constitutional progress and social resistance. Yet, this friction is not accidental. As scholars of transformative constitutionalism argue, the Indian Constitution was deliberately designed to reshape social structures rather than merely regulate political institutions (Bhatia, 2019).

Morality itself is subjective and varies across individuals and communities. Social morality generally reflects what a majority considers right or wrong within a given cultural setting. Constitutional morality, however, draws its authority not from popular opinion but from normative constitutional commitments such as liberty, equality, dignity, and fraternity (India, 1949). Dr. B.R. Ambedkar stated that political democracy without social

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democracy would remain fragile, emphasising that constitutional morality must guide the functioning of institutions and citizens alike (India, 1949).

The friction between social and constitutional morality becomes visible in everyday life. When individuals from different castes decide to marry, families may resist based on traditional hierarchies. However, constitutional jurisprudence recognises the right to choose one's partner as an aspect of personal liberty and dignity (Shafin Jahan vs Asokan K.M., 2018). Similarly, a woman from a rural background who wishes to work and become financially independent may face opposition grounded in prevailing community beliefs. While "popular morality" may discourage her participation in public life, constitutional guarantees protect her freedom to practise any profession under Article 19(1)(g). The gap between social acceptance and constitutional protection therefore produces visible tensions.

This debate is particularly significant in matters concerning gender roles. Patriarchal structures often define women through expectations of sacrifice, obedience, and domestic responsibility. Feminist constitutional theory has long argued that formal declarations of equality are insufficient if underlying social hierarchies remain intact (MacKinnon, 1989). Law may proclaim equal rights, yet deeply embedded norms continue to shape lived experiences. In India, personal laws and customary practices historically reinforced gendered expectations even after constitutional guarantees of equality were adopted.

The judiciary plays a critical mediating role in this landscape. Through judicial review, courts increasingly engage not only in interpretation but in re-evaluation of entrenched legal and social assumptions. In *Navtej Singh Johar v. Union of India*, the Supreme Court explicitly held that constitutional morality must prevail over majoritarian morality when fundamental rights are at stake. That decision signalled that social disapproval cannot justify the denial of dignity or autonomy (*Navtej Singh Johar vs Union Of India*, 2018). Similarly, in *Joseph Shine v. Union of India*, the Court decriminalised adultery and rejected the notion that a woman is the property of her husband, directly confronting patriarchal legal structures (*Joseph Shine vs Union Of India*, 2018).

Yet an essential question remains – can law transform the social structure of society? The answer may be affirmative, but transformation through law is inevitably gradual. Social change encounters resistance shaped by generational conditioning, adherence to outdated traditions, limited awareness, and deeply internalised patriarchal beliefs. Individuals who seek divorce, enter inter caste marriages, or assert unconventional gender roles may still face social stigma even though their actions are constitutionally protected. This reveals a critical gap between judicial articulation and social internalisation.

The dilemma therefore is not whether the Constitution possesses transformative power, but whether society is prepared to absorb that transformation. If social acceptance lags behind constitutional recognition, should courts delay intervention? Or must constitutional morality lead even when social readiness is uncertain? These questions lie at the heart of contemporary constitutional adjudication.

This paper argues that the Supreme Court's evolving reliance on constitutional morality represents more than interpretative innovation, it reflects an attempt to dismantle the normative foundations of gender hierarchy. By examining key judicial developments, this study explores whether constitutional morality functions merely as a rhetorical doctrine or as a substantive tool capable of restructuring entrenched gender roles. In doing so, it seeks to assess whether law in India serves merely as a mirror of culture or increasingly as an instrument capable of challenging and reshaping it.

## 1.2. Ambedkar and Constitutional Morality

The Constitution does not merely exist to govern, it exists to transform. It was not drafted solely as a legal manual for administration, but as a moral and political blueprint for restructuring Indian society. The idea that the Constitution must guide the path toward freedom and democracy reflects what contemporary scholars describe as transformative constitutionalism the understanding that constitutional texts may consciously attempt to dismantle entrenched hierarchies rather than preserve status quo arrangements (Bhatia, 2019).

Dr. B.R. Ambedkar's well-known saying that "democracy in India is only a top-dressing on an Indian soil which is essentially undemocratic" (India, 1949) captures this debate powerfully. India, historically was recognised as agricultural land and socially stratified, carried within its "soil" deep-rooted structures of caste hierarchy. Democracy, in contrast, rests upon political equality and equal participation. Ambedkar recognised the contradiction between constitutional democracy and social stratification. While democracy invites fraternity and equality, the caste system organises society through graded inequality where one group stands above another and hierarchy becomes internalised as natural.

This notion of graded inequality was central to Ambedkar's critique of caste. Unlike a simple binary of oppressor and oppressed, caste created multiple levels of social ordering, ensuring that each group saw itself as superior to someone below. Such a structure normalised discrimination and weakened collective resistance (Ambedkar, 2023). Social exclusion, including practices of untouchability, denial of access to common resources, and segregation, emerged not merely as social prejudices but as institutionalised hierarchies. These realities stood in direct opposition to democratic equality.

Ambedkar therefore understood that constitutional morality could not be assumed to be a natural sentiment in India. Unlike societies with long traditions of individual rights culture, constitutional loyalty in India would have to be cultivated. In the Constituent Assembly, he emphasised that constitutional morality "is not a natural sentiment; it has to be cultivated" (India, 1949). This statement reflects a crucial insight: constitutional morality may conflict with deeply embedded religious, caste-based, and patriarchal norms. In such a context, allegiance to constitutional values liberty, equality, fraternity may appear disruptive to traditional belief systems.

In a country where religion, custom, and caste often command greater emotional allegiance than abstract constitutional principles, the Constitution assumes a pedagogical role. It does not merely restrain state power; it seeks to reorient social consciousness. The judiciary, in this framework, becomes a guardian and interpreter

of constitutional morality. Through judicial review under Articles 13 and 32, courts are empowered to invalidate laws and practices inconsistent with fundamental rights. The judiciary thus acts not only as an arbiter of disputes, but as an institution that reinforces constitutional commitments in the face of social resistance.

This role becomes visible when courts nullify practices justified under the banner of tradition but found inconsistent with equality. The Supreme Court decriminalised consensual same-sex relationships, explicitly prioritising constitutional morality over societal disapproval. The Court held that fundamental rights cannot be subjected to majoritarian views (*Navtej Singh Johar vs Union Of India*, 2018). Similarly, the Court held that the exclusion of women from the Sabarimala temple was subjected to constitutional scrutiny. The majority emphasised that practices rooted in religion cannot override the guarantees of equality and dignity under Articles 14 and 25 (*Indian Young Lawyers Association vs The State Of Kerala*, 2018).

Through such decisions, the judiciary performs a corrective function it identifies where social morality perpetuates exclusion and affirms constitutional values instead. However, this judicial intervention is often perceived as confrontational. Social groups may interpret such decisions as an attack on faith, culture, or tradition. Yet, from a constitutional standpoint, these interventions reflect loyalty to a higher normative order embedded in the Constitution itself.

To understand this dynamic further, it becomes necessary to distinguish between constitutional morality, social morality, and majoritarian morality. Social morality reflects prevailing community standards. Majoritarian morality reflects what the majority endorses. Constitutional morality, however, derives from the constitutional text and its underlying principles, regardless of social popularity. The friction among these forms of morality defines much of contemporary constitutional adjudication in India.

### 1.2.1. Constitutional Morality

Constitutional morality represents one of the most significant normative commitments of the Indian constitutional framework. It may appropriately be described as the “guiding spirit” of the Constitution, for it ensures that constitutional principles prevail even when they conflict with prevailing social attitudes. Constitutional morality does not derive its legitimacy from what the majority believes at a given time; rather, it is anchored in the values enshrined in the Constitution itself justice, liberty, equality, and fraternity (India, 1949).

Dr. B.R. Ambedkar emphasised that constitutional morality requires adherence to constitutional principles over social impulses (India, 1949). It aims to protect the rights of individuals, particularly when those rights are threatened by the will of a dominant group. In this sense, constitutional morality acts as a counter-majoritarian principle. It ensures that individual dignity is not subordinated to prevailing social beliefs. Scholars of transformative constitutionalism argue that this orientation reflects the Constitution’s ambition to remodel social structures rather than merely accommodate them (Bhatia, 2019).

The judiciary plays a decisive role in operationalising constitutional morality. Through judicial review, courts interpret the Constitution as a normative yardstick against which social practices and laws are measured. When established traditions infringe upon fundamental rights, the judiciary may intervene to uphold constitutional values.

A prominent example is the landmark judgment commonly referred to as the Sabarimala case (*Indian Young Lawyers Association vs The State Of Kerala*, 2018). The exclusion of women of menstruating age from entering the temple was justified on grounds of tradition and religious practice. However, the Supreme Court held that such exclusion violated Articles 14 (Equality), 15 (non-discrimination), and 25 (Freedom of religion), emphasising that practices derogating from dignity cannot be sustained under constitutional scrutiny. The Court clarified that constitutional morality must prevail over customary or religious morality when fundamental rights are infringed.

Similarly, the Court explicitly prioritised constitutional morality over social disapproval while decriminalising consensual same-sex relations. It rejected the argument that popular morality could justify the denial of dignity and autonomy. These decisions demonstrate how constitutional morality functions as a corrective mechanism against discriminatory social norms (*Navtej Singh Johar vs Union Of India*, 2018).

Thus, constitutional morality safeguards individuals from practices legitimised by tradition but inconsistent with constitutional guarantees. It does not aim to suppress society but to align social behaviour with constitutional commitments. Through this doctrine, the judiciary ensures that rights are not sacrificed at the altar of tradition or majority sentiment.

### **1.2.2. Social Morality**

In contrast, social morality reflects the prevailing norms, traditions, customs, and belief systems operating within a particular community. It is shaped by long-standing religious practices, patriarchal structures, caste hierarchies, and inherited cultural values. Unlike constitutional morality, which is grounded in normative principles, social morality is grounded in collective sentiment.

While constitutional morality protects individual rights, social morality often seeks to preserve continuity and group identity. For example, societal resistance to inter caste or interfaith marriages frequently stems from traditional notions of honour and community preservation. Yet constitutional courts have consistently recognised the right to choose a partner as intrinsic to personal liberty and autonomy (*Shafin Jahan vs Asokan K.M.*, 2018).

The rigidity of social morality can become problematic when it restricts the exercise of fundamental rights. When traditional belief systems dictate gender roles or restrict women's participation in public or religious spaces, such beliefs may conflict with constitutional guarantees of equality. Social morality, when enforced coercively, may produce exclusionary outcomes and reinforce undemocratic hierarchies.

However, it is important to recognise that social morality is not static. It evolves gradually through social reform, education, and legal intervention. The tension arises not because social morality exists, but because it may resist constitutional commitments aimed at dismantling inequality.

### 1.2.3. Majoritarian Morality

Majoritarian morality differs subtly from social morality. While social morality refers broadly to prevailing cultural norms, majoritarian morality specifically concerns the dominance of majority opinion in political decision-making. In a representative democracy, legislative decisions are taken by majority vote. However, constitutional democracy requires that majority rule be limited by fundamental rights.

If the views of the majority are allowed to override constitutional protections, the rights of minorities may be compromised. The Supreme Court has repeatedly emphasised that fundamental rights cannot depend on the approval of the majority (*Navtej Singh Johar vs Union Of India*, 2018). Constitutional morality therefore acts as a safeguard against what constitutional scholars describe as the “tyranny of the majority” (Baxi, 1989).

Majoritarian morality becomes problematic when legislative or social action disregards the protection owed to minority groups whether religious, caste-based, gendered, or sexual minorities. The Constitution does not operate solely on the principle of numerical superiority; it balances majority rule with minority protection. This balance is maintained through judicial review.

Thus, constitutional morality, social morality, and majoritarian morality operate in constant tension. While social and majoritarian morality derive legitimacy from numbers and tradition, constitutional morality derives legitimacy from constitutional principles. The resolution of conflict among them lies ultimately in judicial interpretation grounded in fundamental rights.

### 1.3. Role Of Judiciary

The judiciary occupies a central institutional position within the architecture of constitutional democracy. It functions not merely as an interpreter of statutes, but as a guardian of constitutional morality. When social morality or majoritarian sentiment conflicts with fundamental rights, it is the judiciary that is constitutionally empowered to ensure that constitutional principles prevail. Judicial review under Articles 13, 32, and 226 enables courts to invalidate laws and practices inconsistent with fundamental rights.

In this sense, the judiciary safeguards constitutional morality against both social and majoritarian morality. While a majority may endorse a practice grounded in tradition, religion, or cultural sentiment, constitutional adjudication requires courts to assess such practices against the guarantees of equality, liberty, and dignity. The Supreme Court has consistently affirmed that fundamental rights cannot be made contingent on popular approval (*Navtej Singh Johar vs Union Of India*, 2018).

Thus, the judiciary acts as a counter-majoritarian institution. It protects individual rights even when those rights are unpopular. This position aligns with constitutional theory that views courts as protectors of

minorities against the potential excesses of democratic majorities (Baxi, 1989). In the Indian context, where social hierarchies are historically entrenched, this role assumes particular significance.

#### **1.4. Judicial Deconstruction of Gender Roles**

Judicial deconstruction of gender roles refers to the constitutional process through which courts identify, interrogate, and dismantle entrenched assumptions about how men and women are expected to behave within society. Unlike traditional equality analysis which examines whether a classification is reasonable judicial deconstruction goes deeper. It questions the social imagination underlying legal rules. It asks whether law is reinforcing hierarchy through stereotype.

In the Indian constitutional context, this evolution has been gradual. Early equality jurisprudence relied heavily on the classification doctrine under Article 14, which examined whether legislative distinctions were reasonable and had a rational nexus to their objectives. However, as the Court increasingly encountered cases involving gender discrimination, it became evident that inequality was not always explicit. Often, discrimination operated through seemingly benevolent or protective frameworks that preserved traditional roles.

The shift from formal equality to substantive equality marked the beginning of judicial deconstruction.

##### **1.4.1. Deconstruction of Protective Paternalism**

One of the earliest and clearest examples of stereotype dismantling is Anuj Garg's case. The challenged provision prohibited women from working in establishments serving alcohol. The State defended the law as a protective measure grounded in safety concerns. The Supreme Court rejected this reasoning and held that legislation premised upon "romantic paternalism" perpetuates assumptions about female vulnerability (Anuj Garg & Ors vs Hotel Association Of India & Ors, 2007).

The significance of this decision lies not merely in striking down a statutory restriction, but in the Court's recognition that protective frameworks may reinforce exclusion. The judgment signalled that equality under the Constitution cannot tolerate assumptions that women require constant shielding from public spaces. In effect, the Court dismantled a legal narrative rooted in gendered protection.

This reasoning was further strengthened in landmark judgment where the Court held - The Union Government justified denial of permanent commission to women officers in the armed forces on grounds of physiological limitations and domestic responsibilities. The Court rejected these generalisations and held that policy decisions cannot rely upon stereotypical conceptions of gender roles (Secr., Ministry Of Defence vs Babita Puniya, 2020). The judgment emphasised that equality requires dismantling structural barriers, not merely ensuring formal access.

Here, judicial deconstruction moved from rejecting protective discrimination to challenging biological essentialism.

### 1.4.2. Deconstruction of Sexual and Marital Hierarchy

Gender roles are also deeply connected to control over sexuality and marital relations. The Court's intervention in this domain demonstrates a second layer of deconstruction.

In Joseph Shine's case the Supreme Court invalidated Section 497 of the Indian Penal Code, which criminalised adultery. The law treated a woman as lacking independent agency and effectively positioned her as the property of her husband. By striking down the provision, the Court recognised that criminal law cannot enforce patriarchal conceptions of marriage (*Joseph Shine vs Union Of India*, 2018).

The judgment did more than decriminalise conduct. It exposed the structural inequality embedded within marital law and reaffirmed that constitutional guarantees of dignity under Article 21 protect decisional autonomy. The Court rejected the notion that women require moral supervision through criminal sanctions.

Similarly, the Court dismantled Section 377 of the Indian Penal Code to the extent that it criminalised consensual same-sex relations. While the case is often discussed in the context of LGBTQ+ rights, it also represents a broader rejection of heteronormative hierarchy. The Court held that constitutional morality must prevail over social morality when fundamental rights are implicated (*Navtej Singh Johar vs Union Of India*, 2018). This case is particularly significant because it acknowledged that law itself can legitimise stigma. By striking down criminalisation rooted in Victorian morality, the Court not only affirmed dignity and privacy but also disrupted the moral categorisation of certain identities as "unnatural." In doing so, it expanded constitutional protection to encompass sexual autonomy as an essential component of equality.

Together, Joseph Shine and Navtej represent judicial recognition that state regulation of gender and sexuality often reinforces unequal power structures.

### 1.4.3. Deconstruction of Structural and Institutional Inequality

The most recent stage of judicial deconstruction involves scrutiny of institutional frameworks that appear neutral but perpetuate disadvantage.

In *Lt. Col. Nitisha v. Union of India*, the Court addressed promotional criteria in the armed forces that disproportionately disadvantaged women. Although formally neutral, these criteria failed to account for systemic exclusion faced by women officers. The Court explicitly distinguished between formal equality and substantive equality, emphasising that identical standards in unequal contexts reproduce discrimination (*Nitisha vs Union Of India*, 2021).

This judgment reflects a matured understanding of structural inequality. It acknowledges that discrimination is not always explicit; it may arise from institutional design.

Similarly, the Supreme Court scrutinised the exclusion of women from the Sabarimala temple. The majority held that exclusion based on notions of purity violated equality and dignity. While grounded in religious

tradition, the practice was examined through the lens of constitutional morality (Indian Young Lawyers Association vs The State Of Kerala , 2018).

In each of these cases, the judiciary did not merely strike down rules. It interrogated the normative assumptions underlying them.

### **1.5. Institutionalising Constitutional Morality: The Structural Turn in Gender Jurisprudence**

The earlier phase of judicial engagement in gender jurisprudence focused primarily on dismantling explicit stereotypes embedded in statutory provisions. Courts invalidated discriminatory rules, exposed paternalistic logic, and rejected moral frameworks that subordinated autonomy. However, constitutional transformation does not conclude with the striking down of a provision. A deeper challenge emerges when rights formally recognised by law fail to materialise in lived reality.

This marks what may be described as the structural turn in judicial reasoning. At this stage, constitutional morality is no longer confined to the correction of overt discrimination; it extends into the realm of institutional accountability.

The decision in Jane Kaushik's case represents an important development in this trajectory. Unlike earlier cases that addressed directly discriminatory provisions, Jane Kaushik exposed the consequences of administrative inaction. Although statutory protections for transgender persons existed, the failure of authorities to implement them effectively resulted in continued marginalisation. The absence of hostile legislation did not translate into substantive equality (Jane Kaushik v. Union of India , 2025).

The Court recognised that equality under Articles 14 and 21 cannot remain merely declaratory. Where institutional delay or bureaucratic indifference undermines statutory guarantees, constitutional morality demands corrective intervention (Jane Kaushik v. Union of India , 2025). This reasoning reflects a mature understanding of discrimination not as a singular act, but as a structural condition perpetuated through omission.

In this sense, judicial deconstruction has evolved. Earlier judgments such as (Anuj Garg & Ors vs Hotel Association Of India & Ors, 2007), (Joseph Shine vs Union Of India , 2018), and (Secr.,Ministry Of Defence vs Babita Puniya, 2020) dismantled specific gendered assumptions embedded within law. Jane Kaushik's case, however, extends the inquiry to governance itself. It recognises that even progressive legislation can become ineffective if not accompanied by institutional commitment.

This shift reflects an expansion of constitutional morality from a principle of interpretation to a principle of enforcement. Courts are no longer merely removing barriers; they are ensuring that constitutional promises are operationalised. Such a move aligns with the substantive understanding of equality articulated in (Nitisha vs Union Of India, 2021), where the Court acknowledged that structural disadvantages must be addressed contextually.

The structural turn is particularly significant in gender jurisprudence because inequality often operates invisibly through administrative design, resource allocation, and implementation gaps. Formal recognition of rights does not automatically dismantle exclusion if institutions remain indifferent or resistant.

Thus, judicial deconstruction now functions at three interconnected levels:

1. Normative dismantling of stereotypes.
2. Constitutional invalidation of discriminatory provisions.
3. Structural enforcement ensuring effective realisation of rights.

Through this progression, constitutional morality becomes institutionalised. It moves beyond rhetorical affirmation and assumes practical force.

The critical implication is that constitutional morality is not static. It evolves through judicial interpretation in response to the layered nature of inequality. As gender discrimination becomes less overt and more systemic, constitutional adjudication must similarly deepen its analytical lens.

This structural turn strengthens your central thesis: law in India does not merely mirror social change; it increasingly attempts to engineer it. Whether such intervention can transform cultural attitudes fully remains debatable. However, jurisprudence clearly indicates that the Judiciary Has Transitioned from Passive Adjudicator to Active Constitutional Custodian.

### **1.6. Limits of Judicial Deconstruction: Can Courts Transform Culture?**

While the judiciary has increasingly acted as a catalyst for dismantling gender hierarchies, it is necessary to confront the limits of judicial power. Constitutional morality may be articulated through judgments, but social transformation is rarely immediate. The distance between judicial declaration and cultural internalisation remains significant.

Court decisions such as (*Navtej Singh Johar vs Union Of India* , 2018) and (*Joseph Shine vs Union Of India* , 2018) establish normative equality. However, social stigma, gender bias, and heteronormative assumptions continue beyond the courtroom. This reveals a structural truth: law can invalidate discrimination, but it cannot instantly recalibrate collective consciousness.

Scholars have long recognised that constitutional transformation requires societal participation beyond judicial mandate (Bhatia, 2019). Courts can reinterpret norms, but social acceptance depends upon education, civil society movements, administrative compliance, and generational change.

There also exists an institutional constraint. The judiciary is counter-majoritarian but unelected. When courts frequently invalidate practices deeply rooted in social belief, they may face accusations of judicial overreach. This tension is evident in the backlash that followed the Sabarimala decision (*Indian Young Lawyers Association vs The State Of Kerala* , 2018) where societal resistance persisted despite constitutional adjudication.

Furthermore, judicial reasoning operates within litigative boundaries. Courts decide issues brought before them. Structural inequality often exists in domains that never reach constitutional scrutiny. Thus, transformation through adjudication is inherently reactive.

Another limitation lies in enforcement. Even after progressive rulings, implementation mechanisms may remain weak. The persistence of discrimination despite legal reform demonstrates that judicial deconstruction must be complemented by legislative clarity and administrative commitment. The structural concerns identified in (*Jane Kaushik v. Union of India*, 2025) underscore this reality.

Therefore, while constitutional morality empowers courts to challenge tradition, it cannot alone dismantle patriarchy embedded in daily practices, cultural narratives, and private relationships.

Does This Undermine Constitutional Morality?

Not necessarily.

Instead, it clarifies its role.

Constitutional morality functions as a normative compass. It establishes the direction of movement, even if social pace varies. It marks the minimum standard below which society cannot descend. Over time, judicial articulation influences public discourse, educational curricula, and institutional design.

The transformative ambition of the Constitution lies not in instant social change, but in gradual normative evolution.

### **1.7. Conclusion: between Constitutional Promise and Cultural Reality**

The Indian Constitution was not drafted as a passive charter of governance. It was framed as an instrument of social reconstruction. Dr. B.R. Ambedkar's warning that democracy in India would remain fragile without social transformation remains profoundly relevant (India, 1949). Constitutional morality, as envisioned in the Constituent Assembly, was never meant to reflect prevailing social attitudes; it was intended to discipline them.

This paper has traced the evolution of constitutional morality from philosophical foundation to judicial doctrine. The judiciary's engagement with gender roles demonstrates that constitutional morality has progressively become operational rather than rhetorical. Through decisions such as (*Anuj Garg & Ors vs Hotel Association Of India & Ors*, 2007), the Court dismantled protective paternalism. Through (*Joseph Shine vs Union Of India*, 2018), it rejected patriarchal marital assumptions. Through (*Navtej Singh Johar vs Union Of India*, 2018), it prioritised dignity over majoritarian morality. Through (*Nitisha vs Union Of India*, 2021) (*Secr., Ministry Of Defence vs Babita Puniya*, 2020) it exposed structural inequality masked as neutrality. And through (*Jane Kaushik v. Union of India*, 2025) it moved further into ensuring administrative accountability.

Across these judgments, a coherent trajectory emerges: judicial deconstruction of gender roles is no longer limited to invalidating overt discrimination. It now interrogates the normative foundations of hierarchy,

recognises structural disadvantage, and demands institutional compliance. Constitutional morality has evolved into a tool that dislodges entrenched assumptions about vulnerability, purity, sexuality, and capability.

Yet, the judiciary's transformative ambition encounters undeniable limits. Social morality, grounded in longstanding cultural practices, often resists rapid recalibration. Court rulings may declare equality, but lived experience changes gradually. Patriarchal attitudes, caste-based prejudice, and heteronormative assumptions cannot be erased through adjudication alone. The tension between constitutional text and cultural tradition therefore persists.

However, this persistence does not signal constitutional failure. Rather, it reflects the radical nature of the Constitution's commitment to equality. Constitutional morality serves as a stabilising compass in moments of social conflict. It prevents regression into majoritarian domination and protects minority rights against numerical superiority. It establishes the normative floor beneath which democracy cannot descend.

Whether law can fully transform culture remains contested. What is clear, however, is that law has ceased to be a passive reflector of tradition. Indian constitutional jurisprudence increasingly positions the judiciary as an active participant in reshaping normative boundaries. Through judicial deconstruction of gender roles, the Court has begun confronting the mental architecture of patriarchy itself.

The transformative journey envisioned by Ambedkar was never intended to be immediate. It required cultivation. Constitutional morality, as he recognised, "has to be learned" (India, 1949). The courts may lead this learning process, but lasting transformation depends upon societal internalisation of constitutional values.

Thus, the relationship between constitutional morality and social morality is not a zero-sum conflict. It is an ongoing dialogue. In that dialogue, the judiciary serves not as an adversary of society, but as a constitutional conscience persistently reminding the nation that equality and dignity are not negotiable values, but foundational commitments.

The deconstruction of gender roles in Indian jurisprudence demonstrates that constitutional morality is no longer merely aspirational. It is interventionist, evolving, and increasingly structural. Whether this judicial evolution ultimately reshapes culture may depend on forces beyond the courtroom. Yet, without constitutional adjudication, such transformation may never begin.

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