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A JURISPRUDENTIAL ANALYSIS ON TRANSFORMATIVE CONSTITUTIONALISM: DHARMA AND CONSTITUTIONAL MORALITY

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ABSTRACT

Constitutional morality serves as a modern interpretive principle that enables the Indian Constitution to evolve in response to dynamic societal changes while remaining tethered to the philosophical foundation of *dharma*. This synthesis highlights India's distinctive legal pluralism, but also raises complex questions of interpretation, secularism, and moral authority. By prioritizing equality, dignity, and fundamental rights under Articles 14, 15, 17, 25, and 26, constitutional morality ensures that governance transcends rigid traditions and adapts to contemporary needs. It positions the Constitution not merely as a legal framework but as a moral force capable of dismantling entrenched hierarchies without undermining the essence of *dharma*. This approach mandates that law evolve responsibly, aligning with shifting social dynamics to foster progressive development. Ultimately, constitutional morality transforms the Constitution into a tool of justice and social reform, ensuring that legal interpretation remains both principled and responsive to societal aspirations.

Keywords: - Dharma- Constitutional Morality- Social Justice.

1. INTRODUCTION

In the dynamically evolving society *dharma* acts as the enduring ethical spirit, while the Constitution provides the structural, procedural and secular mechanism to realize those “ideals of justice, liberty, equality and fraternity. The core objective of this work is to move beyond the “traditional versus modern” dichotomy and proves that ancient Indian ethical frameworks (*Dharma*) provide a philosophical foundation that supports rather than clashes with the modern liberal ideals of the Indian Constitution (Constitutional morality). Whether the conceptualization of modern Constitutional morality in India represent a complete rupture from

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traditional dharmic normative frameworks or does it constitute a transformed continuity of Dharma-Rajya within modern, liberal and democratic constitutional framework?

The Indian Constitution adopted in the mid-twentieth century is not merely a legal parchment allocating state its power and responsibility; it is an ambitious, living charter designed to shepherd a deeply stratified civilization into a modern, egalitarian democracy². This transition is fundamentally governed by the doctrine of complex jurisprudential mechanism that seeks to dismantle systemic, historical inequalities and promote a just, progressive social order³. However, in the Indian context, this legal transformation is challenged by the pervasive and historical presence of ancient ethical and social codes, primarily the overarching concept of Dharma⁴. Dharma and the Constitutional morality are complementary framework rather than opposing ideas focuses on analyzing that both systems share a foundational commitment to “just and moral order”. The laws of the Western democracies after the enlightenment had quickly broken away from the church authority but India’s distinct legal pluralism necessitates is a nuanced synthesis of blending an ancient philosophical tether with modern democratic and secular ideals⁵. The Constitution does not erase India’s cultural heritage but refines it. To understand this, one must understand that *Dharma* is not just “religion” or “duty”. In ancient Indian jurisprudence, it represented as a universal principle of righteousness, ethical conduct, and social sustenance⁶.

The relationship between dharma and constitutional morality is dialogue, where the Indian Constitution blends Western liberal principles with indigenous ethics, strengthening the nation’s commitment to justice and human dignity. When we look at the post-independence era, we can witness the emergence of a modern equivalent to Rajadharma (the duty of the sovereign): the doctrine of 'Constitutional Morality' Championed by Dr. B.R. Ambedkar during the Constituent Assembly Debates. It demands strict adherence to the core values enshrined in the preamble such as liberty, equality, fraternity, and dignity⁷. It mandates the state to adhere these values even if they conflict directly with prevalent public morality, majoritarian beliefs or deeply seated patriarchal customs⁸. The tension between the exclusionary traditions of

² Granville Austin, *"The Indian Constitution: Cornerstone of a Nation,"* Oxford University Press, 1966, p. 50.

³ Karl Klare, *"Legal Culture and Transformative Constitutionalism,"* South African Journal on Human Rights, 1998

⁴ P.V. Kane, *"History of Dharmasastra,"* Bhandarkar Oriental Research Institute, Vol. 1, 1930.

⁵ Upendra Baxi, *"Transformative Constitutionalism in India,"* Oxford University Press, 2013.

⁶ M. Rama Jois, *"Legal and Constitutional History of India,"* Universal Law Publishing, 1984.

⁷ Constituent Assembly Debates, Vol. VII, Speech by Dr. B.R. Ambedkar.

⁸ Ronald Dworkin, *"Taking Rights Seriously,"* Harvard University Press, 1977.

historical Dharma and the dynamic egalitarian demands of Constitutional Morality reached a jurisprudential crucial point in the landmark Sabarimala judgment⁹ by striking down the centuries-old traditional ban on women of menstruating age entering the Lord Ayyappa temple. The Supreme Court of India wielded constitutional morality as a sharp transformative sword, yet simultaneously attempted to balance this intervention within the broader Dharmic framework of religious freedom guaranteed by the State¹⁰. This article tries to critically analyzes this synthesis, exploring how constitutional morality acts as the modern practical tool for creative judicial interpretation¹¹.

2. EPISTEMOLOGY OF DHARMA

Dharma in Indian jurisprudence evolved from ritual obligations in the Vedas into a dynamic ethical framework of duties and moral conduct. The *Dharmasutras* and *Dharmasastras* emphasized situational ethics rather than rigid rules, while the *Bhagavad Gita* articulated a dual system of *samanya dharma* (universal principles) and *vishesha dharma* (contextual duties). Buddhist and Jain traditions added natural law, cosmic order, and *ahimsa*. Across traditions, Dharma prioritized responsibilities over rights and collective harmony over individual gain, shaping governance beyond theology¹².

Scholars debate its relation to constitutional morality. The discontinuity thesis views constitutional morality as a rupture from hierarchical Dharma¹³. The continuity thesis emphasizes shared values of justice and harmony¹⁴. The selective adaptation thesis argues the Constitution reinterprets compatible aspects of Dharma¹⁵. The dialogical thesis sees constitutional morality as ongoing negotiation between past and present¹⁶.

Globally, India's syncretic constitutionalism offers lessons in cultural legitimacy and normative pluralism. Santos advocates "epistemologies of the South," valuing indigenous traditions in governance¹⁷. Julius Stone emphasized law's dependence on sociological

⁹ *Indian Young Lawyers Association & Ors. v. State of Kerala & Ors.*, (2019) 11 SCC 1.

¹⁰ Benjamin N. Cardozo, "The Nature of the Judicial Process," Yale University Press, 1921.

¹¹ Amartya Sen, "The Idea of Justice," Allen Lane, 2009.

¹² Menski. W. (2006). *Hindu Law: Beyond Tradition and Modernity*, Oxford University Press, pp. 41–45.

¹³ Bhargava. R. (1999). *Politics and Ethics of the Indian Constitution*, Oxford University Press, pp. 72–75.

¹⁴ Austin. G. (1999). *Working a Democratic Constitution*, Oxford University Press, pp. 35–40; Baxi. U. (2013). *The Future of Human Rights*, Oxford University Press, pp. 88–92.

¹⁵ Mehta. P. (2010). *The Burden of Democracy*, Penguin, pp. 101–105.

¹⁶ Sen. A. (1997). *Human Rights and Asian Values*, Carnegie Council, pp. 12–15; Nussbaum. M. (2000). *Women and Human Development*, Cambridge University Press, pp. 45–50.

¹⁷ Santos. B. de S. (2002). *Toward a New Legal Common Sense*, Butterworths, pp. 345–350.

realities¹⁸. The Supreme Court in *A.S. Narayana Deekshitulu v. State of A.P.* clarified Dharma as moral law beyond religion¹⁹. Modern constitutionalism purifies Dharma, stripping discriminatory husks while retaining its core pursuit of justice. The concept of *Yugadharma*, laws adapting to epochs finds modern expression in transformative constitutionalism, where fundamental rights and directive principles serve as the new *Dharmashastra*, ensuring egalitarian governance.

3. GENESIS OF CONSTITUTIONAL MORALITY

The concept of Constitutional Morality is not a static jurisprudential artefact; it is a dynamically evolving doctrine that serves as the interpretive soul of the Constitution. Its roots go back to the historic Constituent Assembly Debates. On November 4, 1948, Dr. B.R. Ambedkar introduced the concept, drawing inspiration from the British historian George Grote²⁰. Grote, while studying Athenian democracy, stressed the importance of having deep respect for the Constitution's framework, combined with an open, fearless space for public debate and discussion²¹. Dr. Ambedkar utilized Grote's historical analysis to issue a profound and prescient warning to the newborn nation. He cautioned that democracy in India was merely a "top-dressing on an Indian soil, which is essentially undemocratic."²² In a society deeply entrenched in the hierarchical, exclusionary, and often oppressive norms of localized customary Dharma, constitutional morality was envisaged as a crucial institutional antidote. It was designed to actively replace the fragmented, caste-based, and patriarchal societal morality with a unified, egalitarian civic religion²³. From the very beginning, constitutional morality was designed to act as a counter-majoritarian principle one that actively transforms society instead of simply reflecting its existing inequalities²⁴. For many years after independence, the idea of *Constitutional Morality* was rarely mentioned in Indian law. The Supreme Court's early era was predominantly characterized by fierce debates concerning the basic structure doctrine, property rights, and literal, Austinian interpretations of the constitutional text²⁵. But as India entered the 21st century, a major shift took place, similar to the move in legal theory from rigid *legal positivism* to Ronald Dworkin's more flexible *interpretivism* which marked a new phase

¹⁸ Stone, J. (1964). *Human Law and Human Justice*, Stanford University Press, pp. 120–125.

¹⁹ *A.S. Narayana Deekshitulu v. State of A.P.*, (1996) 9 SCC 548.

²⁰ George Grote, "A History of Greece," John Murray, 1846, Vol. IV.

²¹ B. Shiva Rao, "The Framing of India's Constitution: A Study," Indian Institute of Public Administration, 1968.

²² *Constituent Assembly Debates*, Vol. VII, Speech by Dr. B.R. Ambedkar, November 4, 1948.

²³ Granville Austin, "Working a Democratic Constitution: A History of the Indian Experience," Oxford University Press, 1999.

²⁴ Sujit Choudhry, "The Oxford Handbook of the Indian Constitution," Oxford University Press, 2016.

²⁵ John Austin, "The Province of Jurisprudence Determined," John Murray, 1832.

in Indian constitutional jurisprudence²⁶.

In this modern interpretive renaissance, the Supreme Court began to view the Constitution not merely as a rigid set of administrative rules, but as an expansive framework of overarching moral principles. Lon L. Fuller's concept of the "inner morality of law," which dictates that a legal system must possess a purposive, inherently ethical nature to command fidelity, perfectly encapsulates this judicial shift²⁷. In landmark cases dealing with deeply personal and highly contested issues like personal freedom, sexuality, and religious reform, the Supreme Court unequivocally ruled that constitutional morality, rather than transient and majoritarian public morality, must guide the interpretation of fundamental rights²⁸. It acts as the normative compass that empowers judges to boldly strike down deep-rooted religious customs that violate the egalitarian ethos of the Constitution²⁹.

4. TRAJECTORY OF TRANSFORMATIVE CONSTITUTIONALISM

To understand the tension between traditional *Dharma* and modern *Constitutional Morality*, it is a need of hour to analysis and meticulously examine the Supreme Court of India's decisional trajectory. The Court's handling of conflicts such as faith versus reason and denomination rights versus individual dignity did not happen suddenly. Instead, it has been shaped gradually through landmark precedents that established, refined, and occasionally restricted the doctrine of transformative constitutionalism³⁰. The modern constitutional court's intervention in matters of Dharma formally commenced with *Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*³¹. In this foundational judgment, the Supreme Court of India devised the widely debated "Essential Religious Practices" (ERP) test³². The Court held that Article 25 protects not just religious beliefs, but acts done in pursuance of religion, provided they are strictly "essential" to that specific religion or Dharma³³. While originally intended to protect religious freedom from excessive state overreach, this test practically forced secular, constitutionally trained judges

²⁶ Ronald Dworkin, "Law's Empire," Harvard University Press, 1986, emphasizing law as an interpretive concept inherently reliant on overarching moral principles.

²⁷ Lon L. Fuller, "The Morality of Law," Yale University Press, 1964.

²⁸ U.B. Rao, "Human Rights and the Indian Constitution," Universal Law Publishing.

²⁹ Aharon Barak, "Purposive Interpretation in Law," Princeton University Press, 2005.

³⁰ Upendra Baxi, "The Indian Supreme Court and Politics," Eastern Book Company, 1980, p. 112.

³¹ 1954 AIR 282; 1954 SCR 1005

³² *Commissioner, Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, AIR 1954 SC 282.

³³ H.M. Seervai, "Constitutional Law of India," Universal Law Publishing, 4th Edition, Vol. 2.

into the complex, quasi-ecclesiastical role of interpreting the theological core of Dharma. This made the framework fragile and subjective, setting the stage for future challenges, including the highly debated *Sabarimala case*³⁴. While not explicitly a case adjudicating religious Dharma, the *Kesavananda Bharati case*³⁵ is considered as the greatest judgment in the Indian constitutional law. It established the famous *Basic Structure Doctrine*, which declared that the Constitution has a permanent, unchangeable core³⁶. By declaring that the Constitution possesses an unalterable core, the Court inadvertently birthed the foundational premise of modern Constitutional Morality. It unequivocally posited that the Constitution has an inherent, immutable ethical identity a supreme, secular absolutely cannot be abrogated by majoritarian parliamentary power or transient societal whims. This landmark ruling ensured that the transformative, egalitarian goals of the republic could not be derailed by reactionary legislative amendments seeking to restore orthodox socio-religious hierarchies³⁷.

In the *S.R. Bommai v. Union of India* (1994), nine-judge bench ruling gave *Secularism* the status of a basic feature of the Constitution³⁸. The Supreme Court clarified that while the State must maintain an equal, respectful distance from all religions, it is absolutely not precluded from interfering in religious practices (localized Dharma) if they violate the secular and egalitarian ethos of the Constitution³⁹. This pivotal case established a strict normative hierarchy: Constitutional Morality supersedes religious custom in the public sphere. It empowered the State to rigorously reform deeply rooted religious institutions without being successfully accused of violating constitutional religious neutrality⁴⁰.

In the *Naz Foundation v. Government of NCT of Delhi* (2009) judgment marks the true modern renaissance of the term "Constitutional Morality." Chief Justice A.P. Shah masterfully distinguished between 'public morality' (which almost exclusively reflects orthodox societal Dharma, majoritarian biases, and historical prejudices) and 'Constitutional Morality' (which strictly reflects the universal constitutional values of equality, privacy, and dignity)⁴¹. By striking down Section 377 of the IPC, the Court definitively ruled that the moral indignation of

³⁴ Rajeev Dhavan, *"The Supreme Court of India: A Socio-Legal Critique of its Juristic Techniques,"* N.M. Tripathi, 1977.

³⁵ V.N. Shukla, *"Constitution of India,"* Eastern Book Company, 13th Edition.

³⁶ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

³⁷ Fali S. Nariman, *"The State of the Nation,"* Hay House India, 2013.

³⁸ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.

³⁹ Soli J. Sorabjee, *"Law and Justice: An Anthology,"* Universal Law Publishing, 2003.

⁴⁰ Marc Galanter, *"Law and Society in Modern India,"* Oxford University Press, 1989.

⁴¹ *Naz Foundation v. Government of NCT of Delhi*, 2009 (111) DRJ 1.

the majority cannot legally justify the deprivation of fundamental rights for a minority⁴². This was a bold example of transformative constitutionalism overriding traditional, exclusionary moral codes⁴³. Jurisprudential evolution is rarely a smooth, linear progression. The Koushal case⁴⁴ showed a serious setback, as the Court allowed old customs and Victorian-era values to eclipse the Constitution's rights-based vision. The case highlights the danger of excessive judicial restraint in matters of fundamental rights. Without a strong commitment to *Constitutional Morality*, the judiciary risks preserving unjust traditions instead of advancing equality and justice which shows the severe jurisprudential regression⁴⁵.

The Court had to balance Indian sexual variety customs with Western conceptions of individual rights in *Navtej Singh Johar v. Union of India* (2018), which allowed consenting homosexual conduct. In her dissenting opinion, Justice Indu Malhotra (SC) noted that "history owes an apology" to the LGBTQ people, demonstrating the Court's determination to reframe accepted conventions in terms of constitutional morality. These cases illustrate the continued conversation between constitutional values and customary values in Indian law. Rather than simply rejecting traditional concepts, the Court has engaged in "jurisgenesis", creating legal meaning through the integration of diverse normative traditions. This case filled the gap of the *Koushal judgment* and unequivocally embedded the Constitutional Morality into the beating heart of Indian jurisprudence⁴⁶. The Court explicitly stated that constitutional morality must guide the State, acting as a crucial institutional mechanism to systematically check the "tyranny of the majority."⁴⁷ This case permanently solidified the principle that any interpretation of societal Dharma or historical custom that degrades human dignity and autonomy is constitutionally void. This judgment made it clear that public morality has no legal relevance when fundamental rights are at stake⁴⁸.

The Supreme Court applied the strict lens of *Constitutional Morality* to personal religious laws. By declaring *Triple Talaq (Talaq-e-Biddat)* unconstitutional, the Court showed that *transformative constitutionalism* does not allow discriminatory practices, even if they

⁴² Tarunabh Khaitan, "A Theory of Discrimination Law," Oxford University Press, 2015.

⁴³ Martha C. Nussbaum, "Women and Human Development: The Capabilities Approach," Cambridge University Press, 2000.

⁴⁴ Suresh Kumar Koushal v. Union of India, (2014) 1 SCC 1.

⁴⁵ Upendra Baxi, "The Future of Human Rights," Oxford University Press, 2002.

⁴⁶ Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.

⁴⁷ B.R. Ambedkar, Constituent Assembly Debates, Vol. VII, emphasizing the protection of minorities against majoritarian impulses.

⁴⁸ Gautam Bhatia, "The Transformative Constitution," HarperCollins India, 2019.

claim religious or historical legitimacy⁴⁹. The judgment emphasized that arbitrary religious customs fail the test of *Article 14*, which guarantees equality before the law. It proved that protecting the constitutional dignity of women is more important than the traditional non-interference approach toward minority personal laws⁵⁰. By striking down the colonial-era *adultery law (Section 497 IPC)*, the Supreme Court dismantled a deeply entrenched patriarchal Dharma that effectively treated women as the chattel or property of their husbands⁵¹. Using *Constitutional Morality*, the Court affirmed women's sexual autonomy, agency and individual dignity of women. It explicitly rejected traditional sociological and religious norms that subjugated female agency to preserve the so-called 'purity' of the marital institution⁵². This judgment exemplifies how the Constitution must act as a sword to break the outdated chains of patriarchal customary law. The Supreme Court expanded *Constitutional Morality* beyond the realm of personal liberties and religious freedom, applying it to the very structure of the State⁵³. The Court ruled that constitutional functionaries must exhibit "constitutional statesmanship," ensuring that the government operates on ethical democratic principles rather than political absolutism⁵⁴. This highlighted that modern Rajadharma applies not only to citizens but also to the State itself, meaning that government institutions must operate in a moral, purposeful, and harmonious way.

The theoretical tension between traditional Dharma and modern Constitutional Morality materialized profoundly in the Sabarimala case. This case became the central point for examining the clash between collective religious rights and individual fundamental rights. The controversy centered strictly on the customary ban imposed on the entry of women aged 10 to 50 (menstruating age) into the Sabarimala temple⁵⁵. The temple administration argued this ban was essential to preserve the celibacy nature (Naishtika Brahmacharya) of the deity Lord Ayyappa, thereby framing exclusionary patriarchy as an indispensable tenet of their specific Dharma⁵⁶. It is a Denomination Defense from a legal standpoint that defenders of the ban relied on the Indian Constitution, 1950, *Article 25(1)* (freedom of conscience and free profession, practice, and propagation of religion) and *Article 26(b)* (the right of a religious

⁴⁹ *Shayara Bano v. Union of India*, (2017) 9 SCC 1.

⁵⁰ Flavia Agnes, *"Law and Gender Inequality: The Politics of Women's Rights in India,"* Oxford University Press, 1999.

⁵¹ *Joseph Shine v. Union of India*, (2019) 3 SCC 39.

⁵² Ratna Kapur, *"Erotic Justice: Law and the New Politics of Postcolonialism,"* Routledge, 2005.

⁵³ *Government of NCT of Delhi v. Union of India*, (2018) 8 SCC 501.

⁵⁴ A.V. Dicey, *"Introduction to the Study of the Law of the Constitution,"* Macmillan, 1885.

⁵⁵ *Indian Young Lawyers Association & Ors. v. State of Kerala & Ors.*, (2019) 11 SCC 1.

⁵⁶ Ratna Kapur, *"Feminist Terrains in Legal Domains,"* Kali for Women, 1996.

denomination to manage its own affairs in matters of religion)⁵⁷. They argued that the deity's celibacy was an essential part of their *Dharma*, and that interference would irreparably violate their constitutional protections and amount to a secular obliteration of a religious minority's identity⁵⁸. However, this orthodox defense forced the Supreme Court to weigh localized religious claims against the broader framework of *Constitutional Morality*. The Supreme Court systematically dismantled the denomination's defense by applying the guarantees under Article 14 (Equality before law), Article 15 (Prohibition of discrimination on grounds of sex) and Article 17 (Abolition of Untouchability). The ban fundamentally violated the Article 14 by treating women as a subordinate class of citizens based entirely on biological factors beyond their control⁵⁹. Furthermore, it violated Article 15(1), which explicitly prohibits the State from discriminating against any citizen on grounds only of religion, race, caste, sex, or place of birth⁶⁰. However, the most revolutionary was Justice D.Y. Chandrachud's profound expansion of Article 17. Moving beyond the traditional caste-based untouchability, he brilliantly applied the Article 17 to the systemic exclusion of women based on physiological factors like menstruation⁶¹. He posited that treating menstruation as polluting or impure is a distinct form of untouchability that severely violates the dignity of women, thereby breaching the absolute core of Constitutional Morality⁶². The majority ruling definitively prioritized constitutional values over patriarchal customs, redefining religious freedom within strict egalitarian bounds.

The ongoing tension between *Dharma* and *Constitutional Morality* reaches its peak in the *Sabarimala review petitions*. A larger nine-judge bench has been tasked not merely with reviewing the Sabarimala temple entry order, but with defining the exact, macro-level boundaries between Articles 25, 26, and Part III of the Constitution⁶³. The overarching question referred to the larger bench is how to balance the rights of religious denominations to practice their specific *Dharma* with egalitarian values of Constitutional Morality⁶⁴. The outcome of this case will permanently shape the limits of religious pluralism in India.

A legal system commands fidelity only when it possesses an inherent, purposive, and

⁵⁷ H.M. Seervai, "Constitutional Law of India," Universal Law Publishing, Vol. 2.

⁵⁸ D.D. Basu, "Commentary on the Constitution of India," LexisNexis.

⁵⁹ V.N. Shukla, "Constitution of India," Eastern Book Company.

⁶⁰ Tarunabh Khaitan, "A Theory of Discrimination Law," Oxford University Press, 2015.

⁶¹ Justice D.Y. Chandrachud's concurring opinion in *Indian Young Lawyers Association v. State of Kerala*.

⁶² Upendra Baxi, "The Future of Human Rights," Oxford University Press, 2002.

⁶³ *Kantaru Rajeevaru v. Indian Young Lawyers Association*, (2020) 2 SCC 1.

⁶⁴ Rajeev Dhavan, "The Supreme Court and Public Interest Litigation," 1985.

ethical nature. In India, this 'inner morality' is found in the synthesis of the transformative provisions of the Constitution and the purified core of Dharma. When the judiciary adjudicates on matters of religious practices, it is not merely applying statutory rules; it is performing a 'secular Rajadharma' to ensure that localized customs do not violate universal fundamental rights. This jurisprudential synthesis ensures that India's distinctive legal pluralism remains a source of strength rather than a hindrance to a better social order. By creatively interpreting constitutional provisions, the judiciary ensures that the rule of law remains anchored in the highest ethical principles of civilization, facilitating progressive development toward a truly just republic.

5. CONCLUSION AND SUGGESTIONS

Transformative constitutionalism in India underscores the indispensable role of Constitutional Morality as the guiding principle for reconciling ancient Dharmic traditions with modern egalitarian imperatives. The Constitution, being a living instrument, cannot remain bound by colonial statutes or exclusionary customs; it must evolve to uphold dignity, equality, and justice. The supposed conflict between traditional Dharma and modern Constitutional Morality is best understood as a false dichotomy. In practice, both are complementary manifestations of a single pursuit for a righteous and ethical social order. Constitutional Morality does not negate Dharma; rather, it functions as its modern, secular synthesis *Rajadharma* in contemporary form ensuring that the rule of law remains anchored in the highest ethical principles of civilization⁶⁵.

From a jurisprudential perspective, the Supreme Court must continue to refine its interpretive tools. The "Essential Religious Practices" test has proven inadequate, compelling judges into theological adjudication. A more coherent approach lies in adopting the "Anti-Exclusion Principle," which objectively evaluates whether a practice excludes or oppresses historically disadvantaged groups⁶⁶. This principle would strengthen the judiciary's role in safeguarding equality and dignity, while avoiding theological entanglements.

Globally, India's constitutional experiment offers valuable lessons in interlinking indigenous moral frameworks with modern constitutional regimes. By stripping away patriarchal and

⁶⁵ Austin. G. (1999). *Working a Democratic Constitution*, Oxford University Press, pp. 35–40.

⁶⁶ Mehta. P.B. (2010). *The Burden of Democracy*, Penguin, pp. 101–105.

casteist husks, Dharma's purified core aligns seamlessly with constitutional ideals of justice and fairness⁶⁷. This synthesis demonstrates that cultural traditions and universal rights need not be oppositional; rather, they can converge to enrich governance models worldwide. Constitutional Morality, as India's modern *Rajadharma*, thus provides a template for societies grappling with cultural legitimacy and normative pluralism in constitutional design.



⁶⁷ Sen. A. (1997). *Human Rights and Asian Values*, Carnegie Council, pp. 12–15; Santos. B. de S. (2002). *Toward a New Legal Common Sense*, Butterworths, pp. 345–350.