



Constitutional Morality and Personal Relation

This editorial is based on [An unacceptable verdict in the constitutional sense](#) which was published in The Indian Express on 14/07/2023. It talks about flaws in Allahabad high court judgment on inter-faith live-in relationship.

For Prelims: [Rights of LGBTQ+](#), [Naz Foundation vs Government of NCT of Delhi \(2009\)](#), [Fundamental Rights](#).

For Mains: Concept and Significance of Constitutional Morality

Constitutional morality is a **concept that refers to the adherence to the core principles** of constitutional democracy, such as individual **autonomy, liberty, equality, dignity, privacy, and non-discrimination**, in matters of personal choices and relations.

The Allahabad High Court judgment in **Kiran Rawat vs State of UP** is being seen as violating constitutional morality regarding denial of the protection to an inter-faith couple in a live-in relationship from police harassment, and by implying that their relationship was immoral, illegal, and against personal laws.

Constitutional morality **plays a vital role in shaping the functioning of a democratic society governed by the principles of the constitution**. While it is subject to interpretation and has its challenges, it serves as a guiding framework for upholding **fundamental rights, ensuring justice, and maintaining a balance of power**.

What is the Significance of Constitutional Morality?

- **Protection of Individual Autonomy and Personal Liberty:**
 - Recognizes intimate choices and relations as inherent and inalienable aspects of human personality.
 - **Limits the state's power to regulate or punish** based on public or social morality.
- **Respect for Constitutional Values:**
 - Upholds secularism, pluralism, and diversity.
 - Prevents imposition of **religious or cultural norms** on individuals who do not voluntarily accept them.
- **Promotion of Pluralism and Diversity:**
 - Fosters a culture of **tolerance, respect, and dialogue among different groups and communities**.
 - Enables individuals to freely express their identities and preferences without fear or coercion.

What are the Landmark Judgments Upholding Constitutional Morality?

- **Lata Singh vs State of UP (2006):**
 - Directed protection for inter-caste and inter-religious couples from harassment and violence.
- **S. Khushboo vs Kanniammal & Anr. (2010):**
 - Declared sexual relations between **consenting adults outside marriage** as legal and within the right to privacy.
- **[Naz Foundation vs Government of NCT of Delhi \(2009\):](#)**
 - Decriminalized consensual homosexual acts between adults, declaring **Section 377** of the Indian Penal Code as a violation of rights.
- **Joseph Shine vs Union of India (2018):**
 - Decriminalized adultery and **declared it a violation of the rights to equality, dignity, privacy, and autonomy.**
- **Navtej Singh Johar vs Union of India (2018):**
 - Affirmed the **rights of LGBTQ+** individuals to express their sexual orientation and identity with dignity.
- **Shafin Jahan vs Asokan K.M. (2018):**
 - Upheld the right to marry a person of one's choice regardless of religion or caste, nullifying the annulment of a Hindu-Muslim marriage.
- **Shakti Vahini vs Union of India (2018):**
 - Condemned honour killings and violence against inter-caste and inter-religious couples, issuing guidelines for prevention and protection.

What are the Challenges of Constitutional Morality?

- **Lack of Clear Definition:**
 - Constitutional morality lacks a **clear definition, leading to varied interpretations** based on individual perceptions.
- **Promotion of Judicial Supremacy:**
 - Constitutional morality **promotes judicial supremacy, which can result in the Judiciary intervening** in the functioning of the legislature.
 - This intervention violates the principle of the separation of powers.
- **Conflicts with Popular Morality and Religious Beliefs:**
 - Constitutional morality may sometimes conflict with popular morality or religious beliefs.
 - Conflicts of this nature can **lead to social unrest and resistance**
 - Examples of such conflicts include the Supreme Court's verdicts on decriminalizing homosexuality and allowing women's entry into the **Sabarimala temple**, which were met with protests by certain sections of society.
- **Influence of Political Considerations and Personal Biases:**
 - Constitutional morality **may be influenced by political considerations or personal biases.**
 - These influences can undermine the objectivity and legitimacy of constitutional morality.

What Should be the Way Forward for Constitutional Morality?

- **Clear Definition and Understanding:**
 - Efforts should be made to **establish a clear and comprehensive definition of constitutional morality**, providing a solid foundation for interpretation and application.
- **Public Awareness and Education:**
 - Promoting **public awareness and education** about constitutional morality is crucial.
 - This includes **enhancing civic education, conducting public discussions, and engaging with various stakeholders** to foster a deeper understanding of its principles.
- **Judicial Restraint and Respect for Separation of Powers:**
 - To address concerns about **judicial supremacy, there should be a focus on judicial restraint** and a respect for the separation of powers.
 - The judiciary should exercise caution in intervening in legislative matters and maintain a balance between upholding constitutional values and respecting the roles of other

branches of government.

▪ **Evolving and Adaptive Approach:**

- Constitutional morality should be **flexible and adaptive to evolving societal norms, values, and challenges.**
- Courts and institutions responsible for interpreting the constitution should embrace a dynamic approach that considers contemporary issues and developments.

Drishti Mains Question:

What are the key challenges surrounding the concept of constitutional morality, and how can they be addressed to ensure its effective implementation in a democratic society?

UPSC Civil Services Examination Previous Year's Question (PYQs)

Mains:

Q: What is meant by the term 'constitutional morality'? How does one uphold constitutional morality? **(2019)**

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