
CONSTITUTIONAL MORALITY VS PUBLIC MORALITY: REGULATING FEMALE AUTONOMY THROUGH MORAL POLICING IN INDIA

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ABSTRACT

Moral policing in India exists in a grey area between law and social control and does not have a legal category but is very powerful in shaping and controlling individual behaviour. It is often defended by the concept of decency, security or social order and goes beyond what is acceptable to control to the area of individual choice. The current paper critically discusses the constitutional soundness of moral policing in terms of Articles 14, 19, and 21, with specific emphasis on its gender effect.

It claims that moral policing is unconstitutional since it operates by being arbitrary and selective in its enforcement and discriminating against women disproportionately. These practices are harmful as they allow discretion to play freely without references to legal norms and infringe personal liberty by encroaching upon decisional autonomy. Based on the developing jurisprudence of the Supreme Court, such as the case of *K.S. Puttaswamy v. Union of India* and *Navtej Singh Johar v. Union of India*, the paper points to the rise of constitutional morality as a principle that governs over the majoritarian social norms.

Nevertheless, the continued existence of moral policing indicates a disjuncture between constitutional theory and its realization in practice, especially in its implementation at the daily level of enforcement. The paper will illustrate that moral policing is not just a social issue but a constitutional issue of structure by placing it in this gap. It ends by concluding that effective realisation of basic rights would go beyond a mere doctrinal clarity, but needs to be based on a consistent application in terms of constitutional morality.

Keywords: Constitutional Morality; Public Morality; Moral Policing; Personal Autonomy; Article 21; Gender Equality; Indirect Discrimination; Article 14; Freedom of Expression; Rule of Law.

I. Introduction

In India, moral policing does not proclaim itself as law. It is not reflected in laws, or even officially accepted as a valid reason to limit the behaviour of individuals. But in reality, it is conducted with a surprising amount of power. Moral policing lies somewhere between the realms of law and those of sociality, whether it is police action in the streets, verbalizing of what constitutes proper behaviour or it is simply safety or decency that leads to restriction. This is precisely why it is so hard to oppose: and may be constitutionally important to ask.

Moral policing might seem, at first sight, to be a phenomenon of isolated cases or excesses of individual actors. But on closer examination there is a more regular pattern. Some types of behaviour such as demonstrations of affection in public, inter-gender interactions, clothing choices or movement at a specific time are more likely to meet criticism when they involve women. What many people would say is the imposition of social norms usually translates to the control of female autonomy. This rule is not always based on legal taboos but the power of it is a mixture of loosely defined legal clauses, discretionary implementation, and general societal norms.

The constitutional issue is not merely whether or not such acts are lawful as construed in a narrower sense, but whether they can be made acceptable in a structure in which individual liberty, dignity and equality are the fundamental values. The Indian Constitution does not forbid any restrictions to fundamental rights, but some considerations like public order and decency are also allowed. But it does not identify in its loose, subjective sense the so-called public morality as a source of restricting individual freedom. Nevertheless, moral considerations still influence the implementation of law in a manner that is usually incompatible with constitutional guarantees.

The paper continues on the thesis that moral policing in India is constitutionally invalid in the sense that it acts in an arbitrary and gender-based manner, thus jeopardizing the provisions of equality in Article 14 and personal liberty in Article 21. Although the Supreme Court in recent years has expressed a change in its emphasis to constitutional morality in preference above popular morality, the change has not been put into practice. The practice of moral policing is understanding of not only a discrepancy in enforcement, but a broader conflict between constitutional theory and its practical implementation.

This tension is analysed below in the context of Articles 14, 19 and 21. Instead of considering such provisions separately, it considers them as interlinked provisions that define the extent of individual freedom. By so doing, the paper attempts to move beyond a doctrinal analysis, and to approach the means by which law functions on the ground, where constitutional protections frequently come into conflict with competing social norms.

II. Constitutional Morality and The Frontiers of Public Morality.

The concept of public morality versus constitutional morality has become a more and more important aspect of Indian constitutional jurisprudence. Public morality, as usually invoked, embodies dominant social norms- norms that are usually malleable, disputable, and shaped by mainstream cultural or majoritarian perceptions. Constitutional morality, in its turn, is rooted in the values, which the Constitution attempts to promote liberty, dignity, equality, and autonomy.¹

This difference is not just theoretical. It has great implications on the way rights are understood and practiced. In case the constitutional rights were to be conditional on the current social attitudes, they would lose their protective power of a large percentage. A constitutional framework is not merely meant to represent existing norms, but to give a reference point according to which the norms can be judged.²

In recent years, the Supreme Court has been more directly involved with this concept. In *Navtej Singh Johar v. Union of India* the Court repelled the claim that the constitutional rights could be limited under the guise of majoritarian morality.³ It pointed out that individual autonomy is safeguarded by the Constitution despite being incompatible with social beliefs. Likewise, in *Indian Young Lawyers Association v. State of Kerala*, the Court emphasized that the constitutional morality should outweigh the old methods that oppress or marginalise.⁴

The cases represent a significant change in judicial reasoning. The Court has moved away from treating morality as a flexible justification for limiting rights, and towards a more principled approach that centres on constitutional values. Nevertheless, this change is not homogenous or all-encompassing. The power of the public morality is very strong in most situations, especially

¹ Aparna Chandra, *Gender Justice and Constitutional Morality*, 8 NUJS Law Review 1 (2015).

² Gautam Bhatia, *The Transformative Constitution: A Radical Biography in Nine Acts* (HarperCollins 2019).

³ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

⁴ *Indian Young Lawyers Ass'n v. State of Kerala*, (2019) 11 SCC 1.

when dealing with daily enforcement.

Moral policing exists in this very area of inconsistency. It is seldom rationalized using explicit legal arguments; rather, it derives legitimacy using more general conceptions of what is deemed acceptable or suitable. This puts a state of affairs where constitutional protections are on paper, but they are watered down in reality. The difficulty is not merely to explain the primacy of constitutional morality, but to make sure that it is applied in a meaningful way.

Article 21 is perhaps the one constitutional clause that lies at the core of the moral policing debate. Its understanding has over the years drifted way beyond a restricted definition of physical freedom. It has expanded its definition of life as one that incorporates dignity, privacy and freedom to choose personal life. This development is no accident; it is a deliberate attempt in judicial circles in order to make individual autonomy the core of the constitutional protection. This change bears especially great weight when considered in the light of those practices which attempt to control behaviour not by law, but by moral expectations. The moral policing usually works in this very gap between the decisions, which are highly personal and those that are regarded as the issue of general interest. Bringing up the questioning of consenting adults on the street, the examination of relationships, and the creation of informal standards of behaviour, the question arises instantly: to what extent can the state, or those whose actions are tacitly approved of by the state, interfere into the personal sphere?

The fact that privacy was recognized as a fundamental right in *K.S. Puttaswamy v. Union of India* offers an important starting point.⁵ Through the judgment, it becomes evident that privacy is not restricted to physical areas or control of information. It goes to decisional autonomy- the right of people to make decisions on their lives without unnecessary interference. These decisions encompass issues of identity, relationships and personal expression. Differently put, privacy does not merely imply being left alone, but rather being given the privilege to live in your own terms.

The constitutional implications of moral policing are hard to overlook when it is considered in this perspective. Most of the practices that are usually linked to such policing are direct interference with the discretionary powers. The interrogation of the couples, the surveillance of the relationship, or the introduction of behavioural principles according to the perceived

⁵ *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

decency are not neutral practices. They display an expectation that some decisions must be validated by external sources- that individual decisions are subject to examination on the basis of existing norms of morality.

This supposition does not sit well with the conception of autonomy as expressed in Puttaswamy. When people are perceived as being autonomous agents who are able to make their own decisions, any intervention aimed at regulating such decisions without any clear legal foundation becomes constitutionally questionable. It is not only the existence of interference that is a problem, but it is the quality of its defense. Where the justification is based upon some abstract concept of morality as opposed to actual harm in legal terms, it threatens to blur the line between law and social preference.

In *Shafin Jahan v. Asokan K.M.*, the focus on independence is strengthened yet again. The Supreme Court in that instance supported the right of an adult woman to make a choice about who she would cohabit even against the opposition of the family and society.⁶ What is remarkable about the reasoning of the Court is not only its outcome, but also its expression of principle. It realised that individual decision on issues concerning marriage is the most fundamental part of individual freedom, and that such decisions cannot be overturned by the mere fact that they do not conform to the social norms.

This argument has more far reaching consequences. It implies that the Constitution safeguards not only those decisions commonly agreed upon, but also those that are controversial or unpopular. By so doing, it makes the point that autonomy is a meaningful concept because it is divergent. Moral policing, however, is more likely to work the other way. It attempts to bring behaviour into agreement with current norms and tends to look at deviation as an issue that needs to be remedied and not as an option that must be honoured.

The same argument can be seen in the case of *Joseph Shine v. Union of India* where the Court quashed the crime of adultery.⁷ The decision dismissed the notion that the state could intervene in intimate relationships by the moral factor. Notably, it also pointed out how such regulation has been historically influenced by patriarchal assumptions, specifically how women were treated as not having agency in issues of personal choice.

⁶ *Shafin Jahan v. Asokan K.M.*, (2018) 16 SCC 368.

⁷ *Joseph Shine v. Union of India*, (2019) 3 SCC 39.

This crossroads between autonomy and gender is especially applicable in the case of moral policing. Although this type of policing is not necessarily explicitly gendered, it is not always equally effective. Women are likely to be put under the microscope more, to see their decisions doubted, and to be set in the role of requiring protection or control. This is not a localised issue of personal prejudice, but rather a general trend where autonomy is differentially recognised.

The constitutional issue, however, is not solely a question of the presence of the interference, but of the suppositions upon which it is based. Moral policing tends to be driven by the assumption that there are some types of behaviour, particularly when practised by women, that are suspicious or require controlling. This assumption is essentially inconsistent with a dignity-based interpretation of Article 21, which views people as able to make their own choices.

In this case, dignity is not a concept of an ideal. It has practical implications of the way people are treated by the state and those individuals in authority. Dignity recognition is to understand that people have the right to make their own lives, as long as it is within the law. However, moral policing is more likely to negate this acknowledgment. It is an implicit rejection of the validity of personal choices by putting them under external scrutiny.

It is also interesting to add that most of the cases of moral policing are found in the cases where there is no apparent law break. This lack of legal foundation further makes it more difficult to justify. When the Constitution only allows restrictions of liberty based on certain reasons, like on the grounds of the common good or decency, interventions must be linked to those reasons in a tangible and provable manner. Implicit allusions to morality, without a definite relation to harm or a legal offense, do not meet this condition.

The fact that such practices persisted even though the constitutional doctrine was clear, speaks to a bigger problem. There is lack of correlation between the ideals that the judiciary expresses and their implementation in the daily life. Although in recent years courts have become more inclined to note the significance of autonomy and privacy, the same principles are not always demonstrated by law enforcement agencies.

This lack of connection can be seen especially in standard policing behavior. Judgments on the ground can at times be affected by immediate perception of what is right instead of a cautious opinion of the constitutional boundaries. In these cases, safeguarding of rights is subject to discretion, which is a volatile condition that can easily result in misuse. This result is some

kind of constitutional inconsistency. On one hand, there is the law that upholds the dominance of autonomy and dignity. Moral policing and other practices are on the other hand undermining these values. This discrepancy not only undermines the rights of individuals, but also casts doubt on the constitutional system itself.

In order to deal with this problem, simply relying on judicial pronouncements is not enough. Such pronouncements are necessary, but their effectiveness relies on the internalisation in the institutions. The difficulty is to make sure the principles of the constitution are not limited to judgement but are put to practical use in the daily business of government. This would involve a better understanding of limits to authority in the context of moral policing. It would entail a recognition that not every kind of socially unacceptable behaviour needs to be addressed, and that individual decisions, especially those concerning relationships and expression, lie within a shield of autonomy.

The question is not ultimately whether morality is present in the society or not. It undoubtedly does. The question is instead whether morality can be used as a tool to limit constitutional rights. According to the jurisprudence of Article 21, it is not possible at least not without a clear and legally justifiable reason. Moral policing in the form that it is today is not able to live up to this expectation.

IV. Article 14: Arbitrariness and Selective Enforcement.

In case Article 21 is the substantive source of autonomy, Article 14 is the means to assess the treatment of autonomy in practice. It is frequently presented as the assurance of equality before the law, yet there is a greater meaning of it in that it denies arbitrariness. The Supreme Court has over the years clarified that state action does not need to be overtly discriminatory to violate Article 14, but that it must be unreasonable, inconsistent, or to be based upon factors that are not legally relevant.⁸

This realization comes in handy especially when moral policing is considered. Inconsistency is one of the most outstanding aspects of such policing. Equivalent types of behaviour do not have the same effects. On some day, a couple sitting in a public place might be left alone and, on another day, they might be interrogated or rebuked. The distinction, often, is not based on any identifiable legal standard. It is more reliant on subjective perceptions- what seems

⁸ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

suitable, what seems inappropriate, or what catches the eye.

This inconsistency is not a trivial matter. It lies at the core of the intended working of law. The legitimacy of legal rules, at least partially, is based on their predictability. Individuals should be able to understand, in advance, the consequences of their actions. That predictability starts to break down when enforcement comes to rely on discretion without reference to any clear standards. What substitutes it is not law in the proper sense, but a kind of situational judgment, which may change with the person who is applying it and the person who is opposed to it. Moral policing thrives in this realm of uncertainty. It is frequently based on general terms in the law, such as the law on public nuisance or decency, which give a good deal of room to interpretation. Such flexibility, in principle, is not necessarily an issue. It allows the law to react to diverse situations. Nevertheless, when there are no clear boundaries, it also creates an opportunity to enforce it based on individual or social morality, not on objective factors.

The fact that there is discretion is not the issue, but the issue is that it is not applied evenly. Enforcement patterns indicate that some people or behaviour patterns are more prone to examination. This asymmetry is usually not explicitly recognized, but it has an influence on the application of authority on the ground. Under these conditions, the line between what is lawful and moral starts to be unclear.

This is a fundamental issue in the view of Article 14. When the application of law is based on subjective judgements of morality, then similarly situated persons are not treated similarly. Equality is guaranteed not only by the formal terms of the law but also by the way it works in real life. Equality is lost when selective enforcement is applied even without explicit discrimination.

The arbitrariness as a basis of invalidity of state action as stressed by the Supreme Court is especially applicable here. Arbitrariness, here, does not simply mean randomness. It can be described as lack of rational foundation- those decisions no longer have any relevant considerations or they are made on the basis of some vague and changing standards. It is these very qualities that are characteristic of moral policing. Intervention decisions are not necessarily associated with any recognizable harm or lawbreaking; they are often supported by the reference to what is perceived as socially acceptable. This produces a kind of quasi-legal authority, in which moral preferences are given the appearance of legal authority. The threat is that such power will be hard to question. When acts are packaged as a way of preserving order

or of enforcing decency, they tend to be resistant to challenge even where their grounds are not clear. With time, this would normalise the practices that would otherwise be regarded as intrusive or unwarranted.

The problem is even more complicated when one takes into consideration the cumulative impact of such practices. Single cases of moral policing can seem insignificant or contextual. Yet, when taken as a whole, they demonstrate a trend of a regulation that is not so clear and uniform. This pattern is not governed by a formal rule but by repetitive acts of enforcement that in the long run influences behaviour. In constitutional perspective, this begs a critical question, that is, whether such practices can be legitimized by the fact that the law has not specifically prohibited them. According to article 14, it is not. It is not merely on what is allowed under the law, but the exercise of power. When that exercise is arbitrary and when it is not based upon a clear and rational ground then it does not pass constitutional test.

V. Gendered Enforcement and Indirect Discrimination

Although arbitrariness describes a dimension of moral policing, it does not entirely explain the effect of moral policing. Upon closer look, one will see that such policing is not equally spread. Even when the laws invoked are facially neutral, its impacts tend to be gendered. It is here that the concept of indirect discrimination proves handy.

Indirect discrimination is when a rule or practice is neutral in the way it is made, but which in practice has an unequal effect⁹. It changes the intention to impact. This difference is crucial in the case of moral policing. The intervention laws, laws of public order, decency or nuisance, do not directly target women. However, the way they are enforced is often based on assumptions of how women should act. These are assumptions that are depicted in minor yet meaningful ways. When behaviour is expressed by men it can be overlooked, but when it is linked to women, it can become the subject of an investigation. It is more likely that the presence of women in some spaces especially during the night or in a situation that is believed to be socially sensitive will be questioned. The relationships between men and women are more closely monitored, particularly when they do not conform to the norms.

This does not necessarily happen intentionally. It is not necessarily the result of blatant

⁹ Gautam Bhatia, Horizontal Discrimination and Article 15(2), 10 *Indian Journal of Constitutional Law* 1 (2017).

prejudice or deliberate discrimination. Rather, it tends to be influenced by larger social norms which shape the interpretation of behaviour. It is these norms that in turn affect the exercise of authority. What might seem to be impartial enforcement can, thus, result into unequal results.

This dynamic is depicted in the appeals to safety as a defence. The limitation of women in their movement or behaviour is often demonstrated as a protective step. They are put forward as a response to risk as required, not as a restriction on freedom. Nevertheless, these measures have the tendency to place the burden on women that they must change their behaviour so as not to be hurt.

This brings about a more serious constitutional issue. Protection at the price of free will, might be a kind of control. The difference between the two is not always so obvious, but it can be more evident with references to the person who has to adjust. When safety protocols demand that women routinely limit their own decisions, as opposed to tackling the factors that put them at risk, they will start to resemble regulation instead of protection.

The case of *Anuj Garg v. Hotel Association of India* decided by the Supreme Court offers a valuable point of reference. Then the Court ruled and invalidated a law that barred women to work in places that served alcohol. The argument used was that of protection-the care of the safety of women in such surroundings. The Court dismissed this argument saying that it relied on stereotyped assumptions of vulnerability. It underlined the fact that the paternalistic logic cannot be used by the state to restrict the role of women in the life of the state.¹⁰

The argument in *Anuj Garg* has a wider implication with moral policing. It implies that any restrictions in the form of protection need to be scrutinized especially when they support the status quo. The question is not that the safety is not a valid issue, which it no doubt is, but that the steps taken are in line with the principle of autonomy.

Moral policing does not pass this test. It fails to deal with the structural factors of insecurity; rather, it controls behaviour in a manner that fits with current social norms. This way, it supports the concept that the presence of women in the public is conditional, based on the compliance with some standards of behavior. This conditionality is at odds with the notion of substantive equality. Formal equality, which is treating all equal, does not take into consideration the differences in effects. In comparison, substantive equality involves

¹⁰ *Anuj Garg v. Hotel Ass'n of India*, (2008) 3 SCC 1.

consideration of the impacts of laws and practices on various groups. When a practice is habitually more restrictive of women, the practice cannot be defended by simply indicating that the practice is neutrally formulated. This is also an aspect of visibility. The behaviour of women is more likely to be scrutinized, interrogated and more often than not, interfered with. Such increased visibility is not accidental; it is indicative of more profound beliefs about correctness and decency. The effect of these assumptions being used to enforce is that it forms a system where women have more chances to be controlled even in the cases where there is no obvious violation of the law.

The cumulative impact of this is not confined to such cases of interference as isolated cases. It determines how women are able to navigate the public space. The likelihood of questioning, judging or constraining becomes an aspect that alters behaviour. In the long run, this may result in the development of self-regulation in the form of internalised control that does not involve the enforcement of rules. This brings about a challenging yet critical question on the constitutional point of view. Is it possible to have such a system which generates such effects and still have the assurance of equality? Article 14, when it is read in conjunction with Article 15, hints that it is not able to. Equality is not only an issue of formal guarantees, it is an issue concerning the real allocation of freedom.

When interpreted in this light, moral policing can be seen as a trend of regulation that targets women disproportionately rather than a sequence of individual incidents. It is not necessarily overt discrimination, but the effects are unequal. This imbalance is what the Constitution tries to solve.

VI. Article 19: Liberty, Speech and the Bounds of Conscience.

In case Article 21 is safeguarding the internal realm of personal decision-making, Article 19 regulates the way that autonomy is manifested in the external realm. It also ensures the freedom of expression and speech, and the freedom of movement across the Indian territory among other things. These freedoms are not merely formal rights; they shape how individuals inhabit public spaces, interact with others, and present themselves to the world.

Moral policing is often executed by setting informal boundaries around these very freedoms. Signs of affection, dressing preferences or even taking up of the space in the society in some ways can invite intervention. What is noteworthy is that such interventions are usually done in

cases where there is no apparent breach of law. Rather, they are upheld by an appeal to decency, propriety, or communal opinion, which are by definition ambiguous and subject to interpretation.

There are certain limitations on Article 19 rights, which are allowed by the Constitution, such as the right to public order and decency. Nevertheless, these prohibitions are not absolute. They have to be acceptable, relative and well related to the goal they want to accomplish. This is an essential requirement. It guarantees the state that it cannot be dependent on vaguity or subjectivity in order to justify intrusion of basic freedoms.

Here the appeal to morality is very problematic. The meaning of such words as decency when applied in a loose sense may end up being blanket excuse to intervene. Virtually any behaviour can be construed as having been offensive or inappropriate in some sense. When such views are left to dictate enforcement, with no explicit boundaries, the range of restriction that can be permitted vastly increases. Similar concerns have been discussed in terms of the freedom of expression by the Supreme Court. In *S. Khushboo v. Kanniammal*, the Court noted that the law cannot be applied to quash opinions because they do not conform to the existing moral standards.¹¹ It highlighted that a democratic society would have to bear tolerance to diverse opinions even to the extent of unpopular views. Similarly, in the case of *Shreya Singhal v. Union of India*, the Court invalidated a clause that enabled the restriction of online speech on the basis of unspecified and broad parameters, and the importance of being specific in the curtailment of rights.¹²

Moral policing is directly pertinent to these principles. Constitutional freedoms cannot be conditionalized on social approval as long as they are to have real meaning. The fact that certain behaviour may be disapproved of by sections of society does not, in itself, provide a sufficient basis for restriction. Any concession would amount to placing constitutional rights beneath social norms which are subject to change.

Moral policing tends to do just this. It considers social discomfort as a source of harm and employs the discomfort to legitimize intervention. By so doing, it redirects the emphasis of the legally cognisable injury to perceived impropriety. This change is a subtle but important change. It changes the position of the state that once fulfilled a role of protection of rights to a

¹¹ *S. Khushboo v. Kanniammal*, (2010) 5 SCC 600.

¹² *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

role of conformity enforcement.

The challenge is, of course, to be able to draw the line between legal regulation and moral control. The state has a genuine concern in ensuring that there is order and that no harm is done to the people. All limitations on behaviour are not unconstitutional. The difficulty is that these restrictions must be based on objective factors, not on subjective opinions on what is acceptable. This distinction is unclear in moral policing. It is working in a grey zone where the law language is employed to grant effect to moral preferences. The outcome is a kind of regulation which is not clear and consistent. People are uncertain of what is allowed and what is not, and it is left to the whims of those in power to decide what will be enforced.

There is a larger implication in this uncertainty. It impacts the way people interact with the wider area, the way they communicate and the way they associate with others. Potential intervention, even without a definite violation of the law, can serve as a deterrent, and it can influence behaviour in a way that is hard to quantify, but yet, it is significant. This is a matter of concern in constitutional terms. Article 19 is not simply about defending particular acts of expression or movement, it is about facilitating a particular form of communal life, one whereby people are allowed to engage in communal life without unnecessary interference. Moral policing, introducing uncertainty and discretion in this space, compromises that goal.

VII. The Gap between Principle and Practice and the Role of the State.

It would be easy to think of moral policing as an undertaking by non-state actors- vigilante groups or individuals who force their opinion of morality. Though such actors do have a role, such a view is not complete. Moral policing is likely to persist because of the involvement of the state in its institutions and practices.

This implication is not necessarily in the form of direct endorsement. It is not as obvious. Selective enforcement can be observed, where the authorities are willing to interfere in some situations and not others. It may also be reflected in such things as the application of generally-worded legal provisions to defend what in effect are moral motivations.

In other cases, the role of the state is that of omission and not commission. When non-state actors commit acts of moral policing, which are not prevented or adequately responded to, they can establish a situation where such practices are practically accepted. This is the tolerance

which is either deliberate or not, leading to their normalisation. The inability of moral policing to stop even after the judicial pronouncements is a symptom of a larger problem. There exists a disconnect between the values that are expressed by the judiciary and the implementation in the daily governance. Courts have made a growing focus on the significance of autonomy, dignity and constitutional morality. However, these are not always the principles that serve the actions of the law enforcement authorities.

This is not the only gap of moral policing, but this is where it is most evident. The mundane quality of such policing implies that it can often go unnoticed. Cases are not brought to court and where they are brought to court, they are considered to be the isolated cases as opposed to a general trend.

The outcome is a constitutional dissonance. On paper, the legislation proclaims a strong idea of personal freedom. That freedom is bound by informal restrictions which are hard to dispute. This inconsistency weakens the constitutional protection, making them abstract concepts and not actual experiences.

This problem needs more than merely clarity of doctrine. It demands a restructuring of the exercise of authority on the ground level. Police culture should be in conformance with the values of the constitution not just theoretically but also in actual practice. This includes being aware of the boundaries of discretion and making sure that interventions are founded on clear legal basis. It demands a change of attitude too. The concept of moral policing tends to be based on a belief that the pursuit of social order entails the regulation of behaviour. A constitutional approach, on the other hand, emphasizes the protection of rights. The state is not supposed to impose conformity, but to make sure that people can exercise their freedoms without being intruded on excessively.

This is a critical difference. In its absence, the distinction between law and morality is lost and the state power can be applied in imposing the will of the social preferences instead of law. In this case, the constitutional guarantees are under the threat of losing to informal norms.

VIII. Conclusion

When moral policing is considered in the light of constitutional law, it indicates more than isolated incidents. It is an expression of a larger conflict between principles that are written in

the Constitution and how power is exercised in reality. This contradiction is most apparent in the control over female autonomy, in which there is overlap between social pressures on and legal provisions that is neither neutral nor regular.

In this paper, it has been argued that moral policing is constitutionally invalid as it functions by virtue of arbitrary and gendered enforcement. It compromises the assurance of equality under Article 14 by allowing subjective ideas of morality to be used instead of legal standards. It infringes the right to autonomy and dignity under Article 21 by taking out individual decisions in the absence of adequate reasoning. And with the informal restrictions on expression and movement, it undermines the freedoms guaranteed in Article 19.

Jurisprudence of the Supreme Court does not have many doubts about it. The cases like *Navtej Singh Johar v. Union of India* and *K.S. Puttaswamy v. Union of India* confirm that constitutional morality should be placed on the forefront of the public morality.¹³ They understand that one can not condition individual liberty on social approval.

However, the fact that moral policing is still there indicates that this principle has not been achieved to its fullest. It is not a matter of legal doctrine but of practice. The values of the constitution, however well defined, do not necessarily influence daily practices. It is only through the continued focus on the way the law is applied and not only on how it is read that this gap can be bridged.

To be given any meaning, constitutional rights must go beyond the courtroom declarations to the real-life of people. This is especially significant in terms of gender, where the autonomy remains to be conditioned by legal as well as social limitations. The problem of making the Constitution more of a practical than a symbolic guarantee of freedom is a persistent one.

In this way, moral policing is not merely an issue to be solved, but a prism through which it is possible to view the relationship between the law, society and individual liberty. It underscores the necessity to have a more stable and principled application of constitutional values- one that perceives autonomy as a principal commitment, rather than an exception.

¹³ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1; *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.