

Moral Authority Without Legal Power: Cultural Vigilantism and the Constitutional Boundaries of Public Intimacy in India

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Abstract

Cultural vigilantism in contemporary India represents a structural constitutional crisis rather than isolated law-and-order disturbances. Self-appointed actors increasingly intervene in matters of public intimacy, artistic expression, and relational autonomy, invoking “Indian culture” as justification. These interventions, often coercive and humiliating, operate outside statutory authority yet exert tangible regulatory power over citizens. This paper argues that such vigilantism constitutes an extra-legal assertion of sovereignty that directly undermines Articles 19 and 21 of the Constitution of India. Drawing upon constitutional jurisprudence, sociological analysis, and empirical indicators, this study demonstrates that moral policing is not cultural protection but constitutional subversion. The struggle over public intimacy is, ultimately, a struggle over constitutional supremacy.

Key Words

Constitutional Morality; Cultural Vigilantism; Moral Policing; Public Intimacy; Article 19; Article 21; Right to Privacy; Dignity; Personal Liberty; Freedom of Expression; Heckler’s Veto; Obscenity Law; Bharatiya Nyaya Sanhita; Public Order; Transformative Constitutionalism; Gendered Surveillance; Caste Endogamy; Rule of Law; Non-State Actors; Constitutional Supremacy.

1. Introduction: The Rise of Extra-Legal Moral Regulation

It is a Sunday evening in a public park in Indore. Families stroll past fountains. Children chase kites. On a shaded bench, a young couple sits close talking softly, perhaps planning examinations, perhaps imagining a shared future. They are not obstructing pathways. They are not inciting unrest. They are not violating any statutory provision. Yet within minutes, a group of men approaches. Questions are demanded rather than asked: “Are you married?” “Show your ID.” “What will your parents say?” A mobile phone camera is raised. The crowd thickens. The couple’s quiet companionship transforms into public spectacle.

This scene is not cinematic exaggeration. It reflects a recurring pattern in multiple Indian cities. What appears as a minor confrontation reveals something deeper a constitutional fracture.

This is the Park Paradox of contemporary India. The Constitution promises liberty, dignity, and personal autonomy. Public parks are owned by the Republic and funded by public resources. Yet in these very spaces, citizens increasingly find themselves compelled to justify private relationships before strangers who possess no legal authority.

The paradox lies here: a democratic State guarantees freedom, but the street often withdraws it.

Historically, regulation of public conduct was exercised by the State, constrained by statutory law and judicial review. Even colonial policing, however flawed, functioned within a formal legal framework. What we now witness is different. We are observing the normalization of mob policing private actors assuming regulatory authority without legislative mandate.

- a) These actors do not cite the Bharatiya Nyaya Sanhita.
- b) They do not produce warrants. They do not invoke constitutional provisions.
- c) They invoke culture.

From moral crackdowns on pubs in Mangalore to disruptions of art exhibitions and inter-faith gatherings, a pattern emerges. Cultural vigilantism asserts that social morality supersedes constitutional guarantees. It converts subjective discomfort into enforcement. It transforms emotional offense into jurisdiction.

Defenders of such conduct claim to protect Indian culture. Yet culture in a constitutional democracy is neither static nor coercive. It evolves through consent, debate, and creative

expression. The moment cultural enforcement shifts from persuasion to intimidation, it ceases to be preservation and becomes constitutional aggression.

The thesis of this paper is unambiguous: cultural vigilantism is not protecting culture; it is attacking the Constitution.

- a) It undermines Articles 19 and 21.
- b) It substitutes informal sovereignty for constitutional supremacy.
- c) It constructs a parallel order in which fear replaces law.

Dr. B.R. Ambedkar warned the Constituent Assembly against the tyranny of the majority. In a society structured by caste, patriarchy, and communal hierarchies, majority sentiment could easily become oppressive. The Constitution was designed as a shield against such dominance.

If public space becomes conditional upon approval, liberty becomes conditional. And conditional liberty is no liberty at all.

The park, therefore, becomes symbolic. It is the Republic in miniature. If two consenting adults cannot sit peacefully on a public bench without interrogation, the larger commitments of constitutional democracy stand compromised.

2. Conceptualizing Cultural Vigilantism in Contemporary India

Cultural vigilantism must be understood not as episodic aggression but as a system of thought. It is rooted in a belief structure that elevates social morality above constitutional legality. It rests on the assumption that emotional offense confers regulatory competence.

In constitutional theory, this phenomenon resembles the Heckler's Veto—where peaceful conduct is curtailed because others threaten disruption. In the Indian context, the pattern unfolds predictably:

- a) A couple sits quietly in a park.
- b) A vigilante group claims offense.
- c) Police, citing “public order,” advise the couple to disperse.
- d) The peaceful party is silenced.

- e) The threatening party is empowered.
- f) Law yields to noise.

This inversion is not accidental. It is structural. Cultural vigilantism converts social anxiety into authority.

The Sociology of Vigilantism

Anthropologist Ian M. Cook's ethnographic study of vigilante groups in Mangaluru provides crucial insight. His research demonstrates that many participants are not religious scholars nor cultural historians. They are frequently underemployed youth navigating economic displacement and social insecurity. Vigilantism becomes a vehicle for reclaiming status.

- a) Public intervention produces visibility.
- b) Visibility produces influence.
- c) Influence produces power.

In Cook's analysis of pub attacks in Mangaluru, vigilantes framed their violence as defense of Indian culture. Yet beneath this rhetoric lay anxieties regarding globalization, gender autonomy, and declining patriarchal control. Moral policing became a performance of masculinity—a way to reassert dominance in spaces where traditional authority had eroded.

Thus, cultural vigilantism operates simultaneously at two levels:

- a) At the ideological level, it claims to defend tradition.
- b) At the sociological level, it provides identity and authority to those experiencing marginalization.
- c) It is less about virtue than about visibility.

The Chandramohan Case and Artistic Suppression

The vulnerability of artistic expression illustrates how vigilantism extends beyond intimacy into speech. In 2007, art student Chandramohan at M.S. University, Baroda, faced violent backlash after exhibiting works that some groups deemed offensive. The exhibition was vandalized. Instead of unequivocally protecting artistic freedom, authorities arrested the artist.

This incident reveals a dangerous institutional pattern: moral outrage can mutate into institutional compliance.

When art unsettles belief, vigilante actors claim injury. When institutions respond defensively rather than constitutionally, parallel authority gains legitimacy.

The structural features of cultural vigilantism become visible:

- a) Moral subjectivity becomes enforcement power.
- b) Institutional fear replaces institutional protection.
- c) Parallel authority eclipses constitutional authority.

If a painting can be criminalized because it unsettles belief, then public affection can be criminalized because it unsettles custom.

Parallel Sovereignty

Ultimately, cultural vigilantism constructs parallel sovereignty. It declares: we, not the Constitution, will determine acceptable conduct.

This is not mere social conservatism. It is constitutional displacement.

The Sanskrit maxim *Yato Dharmastato Jayah* where there is law, there is victory appears beneath the emblem of the Supreme Court of India. In a constitutional republic, Dharma signifies rule of law, not inherited prejudice.

- ❖ Vigilantism replaces Dharma with impulse.
- ❖ It converts public space into a moral checkpoint.
- ❖ It erodes the rule of law by normalizing informal coercion.
- ❖ The park, the pub, the art gallery, the university campus each becomes a contested arena between two competing authorities:
 - ❖ The authority of the Constitution.
 - ❖ The authority of the mob.

Only one of these is legitimate.

3. Public Intimacy and the Constitutional Protection of Personal Liberty

The Constitution of India was never intended to function as a mere administrative blueprint. It was conceived as a transformative charter a document designed not only to structure governance but to reconstruct society. As former Vice President Hamid Ansari has observed, the Constitution is fundamentally a social document, intended to initiate a quiet revolution against entrenched hierarchies. It sought to dismantle caste dominance, patriarchal control, communal suspicion, and inherited privilege, and replace them with a rights-based order centered on the dignity of the individual.

To understand why public intimacy becomes a constitutional flashpoint, one must situate it within this transformative project.

For centuries, Indian society regulated intimacy through strict social mechanisms. Endogamy preserved caste lines. Community elders supervised relational choices. Family honor often outweighed individual consent. Surveillance was not technological; it was social. Who one sat with, spoke to, or married was rarely a purely personal matter.

The Constitution disrupted this architecture.

By centering the individual as the fundamental unit of constitutional protection, it severed the automatic authority of community over choice. Personal liberty was elevated above inherited social codes. The State was no longer an enforcer of tradition but a guarantor of rights.

Public intimacy between consenting adults must therefore be read as part of this social transformation. When two adults sit together in a park, hold hands, or share quiet companionship, they are not merely engaging in a private emotional act. They are exercising decisional autonomy in a society historically structured to restrict relational freedom particularly across caste, religion, and gender lines.

This is precisely why such acts provoke reaction.

Public intimacy symbolizes several constitutional shifts simultaneously:

- a) The erosion of caste boundaries.
- b) The assertion of female autonomy.

- c) The normalization of inter-community association.
- d) The right to choose without seeking approval.

When vigilantes intervene in such moments, they are not merely objecting to affection. They are resisting the constitutional redistribution of power from community to individual.

Article 21 of the Constitution guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law. Over decades, the Supreme Court has expanded “personal liberty” far beyond physical confinement. It now includes autonomy, dignity, decisional freedom, and the right to shape one’s relational life.

Public intimacy, so long as it is consensual and non-coercive, falls squarely within this sphere.

The Constitution does not confine liberty to private bedrooms. It does not suggest that autonomy evaporates upon entering a public park. If public space could suspend personal liberty, then constitutional protection would shrink in proportion to visibility.

In that scenario, liberty would exist only in hiding.

And liberty that survives only in secrecy is not liberty it is fear.

The struggle over public intimacy is therefore a struggle over the meaning of personal liberty itself. If liberty depends upon social approval, it ceases to be constitutional and becomes conditional. The framers rejected conditional citizenship. They envisioned a Republic where dignity travels with the individual.

4. Article 19 and Expressive Conduct in Public Spaces

Article 19(1)(a) guarantees freedom of speech and expression. While often associated with political dissent or journalistic freedom, constitutional jurisprudence has consistently clarified that expression extends beyond verbal articulation.

- a) Expression includes identity.
- b) Expression includes association.
- c) Expression includes the manner in which individuals live relationally in public.

Holding hands. Sitting close. Sharing visible companionship. These are not obscene acts by default. They are communicative gestures. They signal solidarity, affection, equality, and belonging.

In *Navtej Singh Johar v. Union of India* (2018), the Supreme Court delivered one of the most significant expansions of expressive liberty in Indian constitutional history. The Court held that expression under Article 19 includes the manifestation of sexual orientation and the freedom to choose a partner. It emphasized that constitutional morality must prevail over social morality and that the Constitution protects the right to love without fear of criminal sanction.

The judgment did something profound: it recognized that intimacy itself can be expressive.

The Constitution protects not only the right to speak but the right to live one's identity openly.

This doctrinal development has direct implications for cultural vigilantism. When vigilantes interrupt consensual affection, they are not merely voicing disagreement. They are suppressing expression through intimidation. They are performing extra-constitutional censorship.

Article 19(1)(b) further guarantees the right to assemble peaceably. Two consenting adults sitting in a park are engaged in peaceful association. The Constitution does not condition assembly upon marital status. It does not require proof of familial approval.

Yet moral policing introduces precisely such conditions.

If a couple must produce identification or justify their relationship in order to occupy public space, then associational freedom is no longer free.

The State carries a positive obligation to ensure that public spaces remain constitutionally open. The "marketplace of ideas" includes not only political speech but plural ways of living. When fear dictates behavior when couples avoid parks, when women restrict movement, when inter-faith companionship becomes furtive expression becomes chilled.

A chilled expression is not immediately visible. It manifests as silence. Avoidance. Withdrawal.

Cultural vigilantism produces precisely this chilling effect. It signals that certain identities are conditionally tolerated. It transforms visibility into risk.

In doing so, it undermines Article 19 not through statute but through intimidation.

The Constitution prohibits both.

5. Article 21: Dignity, Privacy, and Autonomy of Consenting Adults

If Article 19 protects expression, Article 21 protects existence with dignity.

The landmark judgment in Justice K.S. Puttaswamy v. Union of India (2017) recognized privacy as a fundamental right intrinsic to life and personal liberty. Justice D.Y. Chandrachud articulated a principle that strikes at the heart of moral policing:

Privacy is not lost or surrendered merely because the individual is in a public place.

This sentence carries transformative implications.

Vigilantes often argue that because a park is public, intervention is justified. The Constitution rejects this logic. Privacy is not a physical enclosure; it is a constitutional sphere surrounding the individual. One carries a zone of autonomy into public space.

Privacy includes decisional autonomy the right to make intimate choices without unwarranted intrusion. It includes bodily integrity. It includes the freedom to associate relationally without external audit.

Dignity, as the Court has repeatedly emphasized, is central to Article 21. Dignity means:

- a) The right not to be publicly humiliated.
- b) The right not to be interrogated by strangers about personal relationships.
- c) The right not to justify consensual companionship.
- d) The right to be left alone by the mob.

In Shafin Jahan v. Asokan K.M. (2018), commonly known as the Hadiya case, the Supreme Court reaffirmed that the right to marry a person of one's choice is integral to Article 21. The Court rejected the notion that family or community could override adult consent.

If community cannot invalidate marriage, it certainly cannot invalidate companionship.

The maxim Satyameva Jayate — Truth alone triumphs — appears beneath the State Emblem of India. In constitutional terms, truth does not mean majority belief. It means adherence to constitutional principle. The constitutional truth is that dignity outweighs discomfort. Social pressure cannot override personal liberty.

In practical terms, this means:

- a) A police officer cannot detain a couple solely because others complain.
- b) A vigilante has no authority to demand proof of marriage.

Consensual affection that does not meet the legal threshold of obscenity cannot be criminalized.

Article 21 stands as a bulwark against mob intrusion. It ensures that life is not merely biological survival but existence with self-respect.

When vigilantes shame couples, they do not merely embarrass them; they degrade constitutional dignity. When authorities fail to intervene, they abdicate their protective obligation.

The framers of the Constitution understood that Indian society was deeply hierarchical. They knew liberty would not defend itself. It required institutional courage.

To allow moral vigilantism to dictate public conduct is to surrender the Republic to fear.

And where fear governs, liberty recedes.

6. Public Morality vs Constitutional Morality

At the heart of cultural vigilantism lies a fundamental confusion about the nature of democracy. It assumes that morality is determined by social consensus. But constitutional democracy is built on the opposite premise: that fundamental rights exist precisely to restrain social consensus when it becomes coercive.

Public morality is shaped by tradition, religion, generational anxiety, and inherited social codes. It is fluid, often contradictory, and deeply influenced by structures of caste and patriarchy. It is reinforced by the pervasive anxiety of “Log Kya kahenge?” what will people say? This invisible

surveillance system disciplines conduct long before any formal authority intervenes. It creates compliance not through law but through anticipated judgment.

Constitutional morality, by contrast, is principled and institutional. It derives from the text, structure, and values of the Constitution. It is anchored in liberty, equality, fraternity, and dignity. It does not fluctuate with outrage or discomfort. It exists to ensure that the rights of individuals are not sacrificed at the altar of majority sentiment.

Dr. B.R. Ambedkar warned the Constituent Assembly that India's democracy could not survive unless constitutional morality replaced social morality as the governing norm. He recognized that in a society structured by caste hierarchy and gendered control, majoritarian impulses could become instruments of oppression. Without constitutional discipline, social morality would perpetuate exclusion.

The Supreme Court has repeatedly reaffirmed this distinction. In *Navtej Singh Johar v. Union of India*, the Court held unequivocally that constitutional morality must prevail over social morality. The feelings of the majority cannot determine the scope of fundamental rights. Rights are not granted by society; they are guaranteed against society when necessary.

This doctrinal position is critical in the context of public intimacy. When a vigilante group claims offense at a couple sitting together, it is invoking public morality. It is asserting that discomfort justifies intervention. But the Constitution does not recognize emotional irritation as a legitimate basis for coercion unless it crosses clearly defined legal thresholds.

Democracy does not promise universal comfort. It promises lawful coexistence.

If public morality becomes enforcement authority, then rights lose meaning. Liberty becomes conditional. Visibility becomes risky. Difference becomes punishable.

Constitutional morality exists precisely to prevent such outcomes. It requires institutions to protect individuals even when that protection is unpopular. It demands that law, not noise, determine legitimacy.

The struggle between public morality and constitutional morality is not abstract. It plays out in parks, campuses, police stations, and courtrooms. It determines whether India functions as a constitutional republic or as a socially majoritarian society with a constitutional facade.

7. Obscenity Laws and the Regulation of Non-Sexual Affection

The most common legal instrument invoked in cases of moral policing is the obscenity provision. Under the Indian Penal Code, Section 294 criminalized obscene acts in public places that caused annoyance. With the enactment of the Bharatiya Nyaya Sanhita, 2023, this provision reappears as Section 296. While the criminal code has been modernized in nomenclature, the core language remains substantially similar.

The problem lies in vagueness.

The terms “obscene” and “annoyance” are not exhaustively defined. This interpretive elasticity creates space for misuse. When law enforcement operates under social pressure, vague terms become convenient tools.

The Supreme Court addressed this concern in *Aveek Sarkar v. State of West Bengal* (2014). Rejecting the outdated Hicklin Test inherited from colonial morality, the Court adopted the Community Standards Test. It held that obscenity must be judged from the perspective of a reasonable, strong-minded person applying contemporary standards, not from the standpoint of hypersensitive individuals.

This doctrinal shift is critical. It establishes that moral hypersensitivity cannot dictate criminal liability. Context matters. The act must involve explicit sexual content that affronts contemporary community standards in a substantive way.

Applying this reasoning, consensual non sexual affection holding hands, sitting close, conversing intimately cannot reasonably qualify as obscene. Such conduct lacks explicit sexual character. It does not meet the threshold required for criminalization.

Yet in practice, Section 294 IPC, and now Section 296 BNS, are frequently cited during moral policing interventions. Officers warn couples of “obscenities” without assessing the legal standard. The mere presence of discomfort is treated as sufficient.

The transition from IPC to BNS has not materially narrowed this risk. The retention of the word “annoyance” continues to permit subjective invocation. Unless courts strictly enforce doctrinal clarity, the provision remains vulnerable to moral weaponization.

The criminal law is designed to prevent harm. It is not designed to enforce propriety.

When obscenity provisions are deployed against consensual companionship, they cease to function as protections against exploitation and instead become instruments of intimidation. Law shifts from regulating harm to regulating visibility.

Visibility, however, is not a crime.

In a constitutional democracy, criminal sanction must be a last resort, not a response to discomfort. If moral irritation suffices for intervention, then the boundary between law and prejudice dissolves.

8. Police Powers, Public Order, and Misuse of Legal Provisions

The Constitution empowers the State to maintain public order. It does not authorize the State to enforce private morality. This distinction is foundational.

Public order concerns tangible threats to safety — riots, violence, incitement, and serious disturbances. Public morality concerns discomfort and disapproval. The Constitution permits reasonable restrictions for public order under Article 19(2), but it does not permit restrictions based on irritation.

Yet in practice, these categories are frequently blurred.

When vigilante groups confront couples, police often intervene by dispersing the couple “to avoid escalation.” On the surface, this appears pragmatic. But constitutionally, it is problematic. It rewards disruption and penalizes lawful conduct. It operationalizes the Heckler’s Veto.

In effect, the aggressor determines legality.

The introduction of Anti Romeo Squads in certain states illustrates this tension. Created ostensibly to protect women from harassment, these squads in several documented instances questioned

consenting couples rather than focusing exclusively on predatory behavior. Protection blurred into surveillance. Surveillance slid into moral inspection.

The problem is not police presence. It is the direction of police discretion.

According to the National Crime Records Bureau Crime in India Report 2022, over 4.4 lakh crimes against women were registered that year. Serious issues such as domestic violence, sexual assault, and trafficking demand focused enforcement resources. When police energy is diverted toward monitoring consensual companionship, enforcement priorities become distorted.

The constitutional duty of the police is protective, not moralistic.

The recent judicial scrutiny in cases such as *Praveen Chetri v. State of Uttar Pradesh* underscores the risks of identity profiling and intrusive questioning without statutory basis. When officers inquire into caste, lineage, or relational status without necessity, they risk embedding social prejudice into state machinery.

Public order is not threatened by two adults sitting peacefully in a park.

If no violence is imminent, no obstruction occurs, and no explicit obscenity is present, public order is not implicated. Invoking it in such contexts reflects category confusion.

The deeper danger is normalization. When citizens observe that vigilante pressure leads to police compliance, they internalize caution. Couples avoid public spaces. Women restrict mobility. Inter faith friendships become discreet.

The chilling effect spreads silently.

A constitutional democracy cannot allow informal intimidation to dictate public conduct. Police officers are not agents of community sentiment. They are custodians of constitutional order.

To honor the maxim *Yato Dharmastato Jayah*, Dharma must mean constitutional discipline. It cannot mean inherited prejudice.

Where law yields to noise, the Republic weakens.

9. Non-State Actors and the Question of Legal Authority

At the core of cultural vigilantism lies a question that goes beyond morality or discomfort. It is a constitutional question: who has the authority to regulate conduct in a Republic governed by law?

In India, sovereignty flows from the Constitution. Every exercise of coercive power must be traceable to statutory authorization. Police derive authority from legislation. Courts derive authority from constitutional mandate. Even Parliament functions within constitutional limits.

Vigilante groups derive authority from nowhere.

They possess no statutory mandate under the Bharatiya Nyaya Sanhita. They hold no warrant issued by a magistrate. They are not delegated officers of the State. Yet in parks, campuses, and public streets, they assume the posture of investigators and adjudicators. They demand identification. They question relational status. They record videos. They threaten exposure.

This is not cultural guardianship. It is private adjudication.

The ancient political concept of Matsya Nyaya described a condition in which the strong devour the weak in the absence of lawful order. It symbolized a breakdown of Dharma. Cultural vigilantism resembles this condition in modern form. It replaces constitutional procedure with social dominance. It assumes that numerical strength and emotional intensity create jurisdiction.

But a constitutional republic rejects that premise.

The rule of law rests on three foundational principles. Authority must be lawful. Enforcement must follow procedure. Rights must be respected. Vigilantism satisfies none of these.

- a) Its authority is informal.
- b) Its procedure is arbitrary.
- c) Its impact is coercive.

The danger extends beyond individual humiliation. It creates a symbolic displacement of constitutional sovereignty. When citizens begin to believe that their liberties depend on the mood of the street, the Constitution recedes from lived reality.

A Republic cannot function with parallel sovereignty.

The Constitution did not establish a moral oligarchy. It established a rights-based democracy. No group, however vocal, may substitute its sentiment for statutory authority.

Public space belongs equally to citizens. It does not belong to self-appointed custodians of tradition.

10. Judicial Responses to Moral Policing and Vigilantism

While ground realities reveal persistent vigilantism, constitutional jurisprudence has consistently defended autonomy and dignity. The judiciary has repeatedly clarified that community sentiment cannot override individual rights.

In *Shakti Vahini v. Union of India*, the Supreme Court addressed interference by Khap Panchayats in adult relationships. The Court recognized that once two consenting adults choose to associate, no third party has the authority to intervene. It directed State authorities to provide protection to couples facing social coercion.

The judgment was unequivocal. Honor based interference violates constitutional governance. Choice in matters of intimacy is not granted by society. It is guaranteed by the Constitution.

Similarly, in *S. Khushboo v. Kanniammal*, the Court dealt with attempts to criminalize public statements supporting pre-marital relationships. The Court distinguished clearly between morality and criminality. It held that merely because a segment of society finds something immoral does not render it unlawful.

Law does not enforce virtue. It prevents harm.

In *Navtej Singh Johar v. Union of India*, the Supreme Court expanded this reasoning further. It declared that constitutional morality must prevail over social morality. The judgment rejected the idea that majority discomfort could justify the suppression of minority identity or intimate autonomy.

Across these cases, a consistent doctrinal pattern emerges. The Court protects:

- a) Autonomy in relational choice.
- b) Dignity in personal identity.
- c) Expression in intimate conduct.

Yet there remains a gap between judicial articulation and administrative implementation. Courts speak clearly. Policing practices sometimes falter.

The challenge, therefore, is institutional translation. Judicial pronouncements must not remain abstract. They must inform everyday governance.

The maxim *Yato Dharmastato Jayah* reminds us that victory lies where law prevails. The judiciary has identified Dharma as constitutional principle. The next step is ensuring that executive institutions internalize that definition.

11. Gendered and Social Implications of Public Intimacy Surveillance

Moral policing is not neutral. It is deeply gendered.

In many instances, the woman in a public space is treated as the primary subject of scrutiny. Her character is questioned. Her family is invoked. Her autonomy is doubted. She is framed as vulnerable, misguided, or dishonorable. The male companion may be interrogated, but the moral burden disproportionately falls upon her.

This reflects a longstanding patriarchal framework in which women are perceived as bearers of family honor. Public intimacy is interpreted as a breach of that honor. Surveillance becomes a mechanism for reasserting control over female mobility and choice.

Michel Foucault described the panopticon as a structure in which constant visibility produces internal discipline. In India, this structure is social rather than architectural. The gaze of the neighborhood, extended family, and community produces compliance without formal law.

Women inhabit this gaze more intensely than men.

Public intimacy surveillance reinforces a message that female autonomy must remain supervised. Movement must be monitored. Choice must be justified.

This dynamic intersects profoundly with caste.

Dr. B.R. Ambedkar argued that caste survives through endogamy. If individuals freely choose partners across caste lines, caste hierarchies weaken. Public companionship across caste boundaries symbolizes the erosion of structural control.

Moral policing often functions as informal enforcement of endogamy. By policing who sits with whom, vigilantes indirectly police who may eventually marry whom. Anxiety around inter faith relationships reflects similar demographic and political fears.

Thus, moral vigilantism is not merely conservative. It is structurally protective of hierarchy.

The social consequences are tangible. Young couples internalize fear. Women restrict mobility. Minority communities feel conditionally accepted. Public space remains physically open but psychologically narrowed.

Citizenship becomes fragile when visibility invites interrogation.

The Constitution envisioned fraternity as a guiding principle. Fraternity requires mutual respect among citizens, not surveillance. It requires recognition of equal dignity, not moral inspection.

When public space becomes a site of suspicion rather than coexistence, democratic culture deteriorates.

To protect liberty, the Republic must ensure that the public square remains governed by law, not by inherited hierarchies.

12.Reasserting Constitutional Supremacy Over Cultural Enforcement

At this stage, the constitutional conflict is unmistakable. On one side stands the Constitution a carefully structured framework designed to protect individuals from both state excess and social tyranny. On the other side stands cultural vigilantism an informal regime that claims moral authority without legal power.

The resolution of this conflict depends on one foundational principle: constitutional supremacy.

Constitutional supremacy means that all coercive authority must flow through law. It means that neither majority sentiment nor religious conviction nor cultural discomfort can independently

generate enforcement power. Even Parliament is subordinate to constitutional limits. The executive is bound by fundamental rights. Courts exist to ensure that these limits are respected.

Cultural enforcement collapses this discipline. It assumes that moral conviction alone authorizes intervention. It treats emotional offense as jurisdiction. It confuses social intensity with legal legitimacy.

But the Republic was founded on the rejection of arbitrary authority.

When vigilantes claim that they are defending Dharma, they invoke a moral vocabulary that predates the Constitution. Yet in a constitutional democracy, Dharma has been redefined. It no longer signifies inherited social obligation. It signifies fidelity to constitutional values dignity, equality, liberty, fraternity.

The maxim Yato Dharmastato Jayah, inscribed beneath the emblem of the Supreme Court, does not refer to religious orthodoxy. It affirms that where constitutional law prevails, justice prevails.

To reassert constitutional supremacy in public spaces, institutions must internalize three core commitments.

First, public space belongs equally to all citizens. No group has custodial ownership over morality in parks, campuses, or streets. The Constitution does not recognize moral zoning.

Second, rights do not depend on approval. The Constitution protects unpopular conduct so long as it is lawful. The purpose of fundamental rights is precisely to protect minority practices against majority pressure.

Third, the State carries a positive obligation to protect individuals from private coercion. Constitutional governance does not end at restraining the State. It includes shielding citizens from non-state intimidation.

The Constitution is not weakened because citizens love differently. It is weakened when institutions hesitate to defend that difference.

13.Recommendations for Legal and Institutional Reform

The restoration of constitutional discipline requires structural reform. Moral vigilantism cannot be addressed through rhetoric alone. Institutional clarity and accountability are necessary.

The first reform concerns policing practice. When vigilante groups harass consenting adults, law enforcement must treat the aggressor not the couple as the subject of legal scrutiny. Intimidation, unlawful assembly, and criminal trespass are already defined under existing statutes. These provisions must be applied consistently.

Police training modules should clearly distinguish between public order and public morality. Officers must understand that annoyance is not equivalent to disturbance. The presence of social discomfort does not authorize intervention absent statutory violation.

Second, judicial clarification regarding Section 296 of the Bharatiya Nyaya Sanhita is necessary. Courts should articulate explicitly that consensual non sexual affection does not fall within the ambit of obscenity. Narrow interpretation will prevent discretionary misuse. Precision in legal standards reduces the space for moral improvisation.

Third, constitutional literacy must move beyond formal civics education. Schools, universities, and public institutions should emphasize the lived meaning of constitutional morality. Citizens must understand that rights are enforceable, not symbolic.

Fourth, institutional accountability mechanisms must address improper police conduct motivated by social pressure. Internal review boards and judicial oversight can ensure that executive discretion remains constitutionally aligned.

Finally, public discourse must shift from moral panic to constitutional reasoning. Media narratives often amplify outrage without interrogating legality. Responsible reporting can reinforce rights-based understanding rather than sensationalism.

The objective is not cultural suppression. It is cultural confidence. A confident society does not fear visibility. A confident Constitution protects difference without hesitation.

14.Conclusion: Restoring the Rule of Law in Public Spaces

This paper began in a park. It concludes with the Republic.

The struggle over public intimacy is not about affection alone. It is about sovereignty. It asks a foundational question: does authority in India derive from the Constitution or from collective outrage?

Cultural vigilantism represents a gradual erosion. It replaces legal procedure with moral spectacle. It substitutes intimidation for dialogue. It conditions liberty upon approval.

But the Constitution was drafted precisely to prevent such erosion.

Articles 19 and 21 do not grant conditional freedoms. They recognize inherent dignity. The Supreme Court has consistently affirmed that constitutional morality must prevail over social morality. Privacy does not vanish in public. Choice does not require endorsement. Dignity does not depend on permission.

If India is to remain a constitutional democracy rather than drift into social majoritarianism, the boundary must remain firm. Non-state actors cannot assume regulatory power. Police cannot act as moral arbiters. Public order cannot be conflated with public discomfort.

The maxim Dharmo Rakshati Rakshitah reminds us that law protects those who protect it. Constitutional law will protect the citizen only if institutions defend it courageously.

The image of two young citizens sitting peacefully in a park should not provoke anxiety. It should affirm freedom. It should remind us that public space is not a moral checkpoint but a constitutional common.

The strength of Indian democracy will not be measured by how loudly it proclaims culture, but by how quietly and consistently it protects liberty.

If we protect the Constitution, it will protect us.

And where constitutional Dharma prevails, the Republic will endure.