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Normative Constitutionalism and Democratic Legitimacy: A Jurisprudential and Hermeneutic Analysis of Constitutional Interpretation

Rashneet Kaur^a

^aApex University, Jaipur, India

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Normative constitutionalism offers a principled framework for understanding constitutional interpretation as a practice grounded in democratic values rather than mere textual adherence. This paper examines how constitutional jurisprudence and constitutional hermeneutics together inform judicial interpretation, with particular emphasis on the role of adjudicative rationality in sustaining constitutional authority. It argues that interpretation is not a neutral exercise but a normative process shaped by philosophical commitments, institutional constraints, and democratic expectations. The study situates adjudicative rationality as the mediating force between jurisprudential theory and interpretive method. Judicial reasoning, when structured through doctrines such as proportionality, reasonableness, and justification, enables courts to articulate constitutional meaning in a manner that is both principled and institutionally restrained. Within this framework, constitutional hermeneutics functions as a justificatory discipline that connects constitutional text with broader normative commitments, rendering judicial decisions intelligible within a constitutional democracy. The paper further addresses concerns regarding the democratic legitimacy of judicial interpretation. It contends that legitimacy is preserved when normative constitutionalism operates within jurisprudential limits that respect constitutional structure, separation of powers, and participatory governance. By integrating philosophical reasoning with interpretive discipline, the paper advances a model of constitutional adjudication that balances constitutional continuity with normative responsiveness. Overall, the paper contributes to constitutional theory by clarifying how jurisprudential reasoning and interpretive rationality jointly sustain democratic legitimacy in contemporary constitutional systems.

Keywords: *constitutional jurisprudence, constitutional hermeneutics, adjudicative rationality, democratic legitimacy.*

INTRODUCTION

Constitutional interpretation is how constitutional norms actually become relevant in practice. A constitution, even if it is firmly entrenched, does not by itself explain how its provisions should work in every situation. Many of its ideas are expressed in general terms and leave room for different understandings. These ideas only turn into enforceable legal norms.¹ Over time, the meaning of constitutional norms develops through this process, rather than being fixed once and for all at the moment the Constitution is adopted.

This interpretive function gives courts an important place among constitutional institutions.² Judges are not elected and do not represent the electorate in the way legislatures do. Despite this, they have the power to review and invalidate laws passed by representative bodies. This arrangement raises concerns about democratic legitimacy, since decisions made through democratic processes can be set aside by unelected courts. This concern does not arise only in exceptional cases. It is part of the basic institutional structure of constitutional democracy, where courts are assigned the role of enforcing constitutional limits.

Judgments are where the effects of this structure are most clearly seen. When courts deliver judgments, they are not only resolving disputes but also stating what the Constitution means in that context. Even when judges claim to be applying existing law, their judgments involve choices about interpretation.³ But this account struggles when placed against actual constitutional practice. Provisions dealing with equality, liberty, dignity, and due process are deliberately open-ended and expressed in evaluative language.⁴ Because of this, constitutional adjudication can appear difficult to reconcile with democratic self-government. Interpretive approaches such as textualism or original intent try to respond to

¹ H L A Hart et al., *The Concept of Law* (3rd edn, OUP 2012)

² Jeremy Waldron, 'The Core of the Case Against Judicial Review' (2006) 115 *Yale Law Journal* 1346
<[https://www.humanities.mcmaster.ca/~walucho/3Q3/Waldron.Core Case Judicial Review Yale LJ.pdf](https://www.humanities.mcmaster.ca/~walucho/3Q3/Waldron.Core%20Case%20Judicial%20Review%20Yale%20LJ.pdf)>
accessed 20 December 2025

³ Antonin Scalia and Amy Gutmann, *A MATTER OF INTERPRETATION: FEDERAL COURTS AND THE LAW* (Princeton University Press 2018)

⁴ Ronald Dworkin, *Taking Rights Seriously* (Bloomsbury Publishing India Private Limited 2013)

this difficulty by treating judgments as constrained by pre-existing meanings rather than as products of judicial choice.

This chapter takes the position that normative constitutionalism provides a workable way of reconciling constitutional interpretation with democratic legitimacy. Instead of denying that interpretation is unavoidably normative, it accepts this reality and seeks to discipline it through principled justification, institutional restraint, and interpretive rationality. On this account, democratic legitimacy is not preserved by interpretive minimalism, but by forms of constitutional adjudication that are open, reasoned, and publicly defensible.

NORMATIVE CONSTITUTIONALISM: MEANING, SCOPE, AND COMMITMENTS

Normative constitutionalism begins with the idea that constitutions are not neutral legal texts. They are better understood as moral and political charters that express certain commitments. The authority of constitutional norms does not come only from the fact that they were formally enacted, but from the substantive values they institutionalise. From this perspective, interpretation is concerned less with mechanical application and more with justification. Normative constitutionalism also does not set legality or text aside. It accepts that constitutional meaning develops through the interaction of text, structure, purpose, and values. Interpreting the Constitution, then, is a principled effort to maintain the coherence and integrity of its commitments as they unfold over time.

CONSTITUTION AS A NORMATIVE CHARTER

Describing the Constitution as a normative charter means seeing it as a document that lays down the basic values according to which public power should be exercised. It sets the overall framework for how the State functions and also places limits on that power. Values such as equality, liberty, dignity, and the rule of law form the core of this framework. These values are not meant to remain abstract or symbolic. In practice, they influence how constitutional provisions are read and applied, and they operate as real standards against which governmental action is judged.

The Constitution can therefore be read as setting out a general orientation for the exercise of public power rather than a detailed set of answers.⁵ In actual cases, the text often leaves gaps

⁵ *Kesavananda Bharati Sripadagalvaru and Ors v State of Kerala & Anr* (1973) 4 SCC 225

that have to be addressed through reference to broader constitutional ideas. How those ideas are used is not always predictable and tends to vary with circumstances. Courts draw on them when assessing whether state action is acceptable, even if the connection is not always made explicit. Over time, this practice gives substance to constitutional values through repeated use rather than through any single authoritative definition.⁶

Beyond Legal Positivism: Legal positivist explanations of constitutional authority focus mainly on sources, such as the manner in which a constitution is adopted and its formal pedigree.⁷ This approach makes constitutional authority easier to identify and describe in legal terms. However, it does not fully reflect how constitutional practice actually functions. Courts often continue to rely on certain constitutional norms even when those norms become politically unpopular or are openly contested within democratic processes. This is especially clear in fundamental rights adjudication, which cannot be fully explained through positivist categories alone.

Normative constitutionalism takes a different approach. It links constitutional authority to justification rather than source alone.⁸ Constitutional norms are treated as binding because they reflect principles of political morality that organise how public power is exercised. Interpretation, in this sense, involves engaging with those principles, not merely pointing to formal sources.

NORMATIVE SUPREMACY AND CONSTITUTIONAL AUTHORITY

Within a normative framework, constitutional supremacy is not understood simply as a matter of hierarchy over ordinary law. Instead, it is grounded in foundational commitments⁹ that give the Constitution its authority. This way of understanding supremacy explains why constitutional doctrine continues to limit governmental power even where formal legal authority is otherwise present.

The Indian Supreme Court's decision in *Kesavananda Bharati v State of Kerala*¹⁰ is a clear example of this approach. When the Court held that constitutional amendments are limited

⁶ Ronald Dworkin, *Law's Empire* (Belknap Press 1988)

⁷ Hart (n 1)

⁸ Dworkin (n 4)

⁹ Bruce Ackerman, *We the People Volume 1: Foundations* (Harvard University Press 1991)

¹⁰ *Kesavananda Bharati Sripadagalvaru and Ors v State of Kerala & Anr* (1973) 4 SCC 225

by the basic structure, it was saying that constitutional authority does not rest on procedure alone. Even formally valid exercises of power can be restricted by substantive constitutional values. In this sense, the doctrine treats constitutional interpretation as a task of protecting those values, not merely applying power.

NORMATIVE COMMITMENTS EMBEDDED IN CONSTITUTIONAL TEXT

Constitutions set out their commitments in broad and open terms. Ideas like equality before the law or personal liberty are not fixed in detail at the time of enactment.¹¹ Their meaning has to be worked out through interpretation as social conditions change, while still keeping faith with the basic purposes of the Constitution. This reflects a conscious choice in constitutional design. The use of abstract language allows constitutional norms to remain relevant over time without constant formal amendment. Interpretation, therefore, serves as the means through which constitutional stability is maintained while accommodating social change.

In day-to-day adjudication, this design choice shows up in fairly ordinary ways. Courts do not approach concepts like equality or liberty as if their content has already been fully settled. Instead, they tend to work from earlier understandings and adjust them cautiously when new situations arise.¹² This process is often incremental and sometimes inconsistent, shaped by the problems that actually come before the court. What gives it coherence is not a single interpretive theory, but the continued effort to relate present decisions to the purposes the Constitution was meant to serve.¹³ In this way, constitutional interpretation becomes a practical activity of adjustment rather than an exercise in fixing meaning once and for all.

ENDURANCE AND ADAPTABILITY OF CONSTITUTIONAL NORMS

Normative constitutionalism helps explain how constitutional norms do not remain frozen in time. This is evident in the Indian Supreme Court's reading of Article 21. In *Maneka Gandhi v Union of India*, the Court did not treat 'procedure established by law' as a purely formal rule. It required the procedure to be fair and reasonable. The constitutional text stayed the same, but its meaning adjusted to changing ideas of liberty and due process.

¹¹ Dworkin (n 4)

¹² *Maneka Gandhi v Union of India* AIR 1978 SC 597

¹³ Hans-Georg Gadamer, *Truth and Method* (Bloomsbury Publishing India Private Limited 2013)

A similar change can be seen in another context as well. In *Brown v Board of Education of Topeka*,¹⁴ the U.S. Supreme Court interpreted the Equal Protection Clause by taking into account later understandings of equality, rather than continuing with earlier views that accepted segregation. The Court did not treat previous practices as binding simply because they had existed for a long time. These examples suggest that constitutional interpretation makes it possible for constitutions to adapt in their application, without abandoning the basic principles on which they are founded.

RISKS AND INTERNAL LIMITS OF NORMATIVE CONSTITUTIONALISM

Normative constitutionalism is not without its risks. Critics warn that once interpretation becomes openly value-based, judges may be tempted to advance contested moral views while presenting them as constitutional reasoning. This concern makes the question of limits unavoidable. Without such limits, judicial preferences can begin to substitute constitutional judgment, particularly in settings marked by deep political and moral disagreement. Where normative reasoning is not grounded in constitutional text, structure, and precedent, it risks eroding democratic choice rather than complementing it.¹⁵

Normative constitutionalism, then, carries an internal tension that courts cannot entirely escape. The more interpretation relies on values, the more important it becomes to show where those values are coming from and how they connect to existing constitutional practice. When this connection is weak, constitutional reasoning can start to feel unmoored, even if the outcome appears substantively attractive. Courts are therefore required to work within a limited space, where values are engaged cautiously and often indirectly. This does not remove disagreement, but it reflects an effort to keep constitutional interpretation recognisably legal rather than purely expressive of judicial preference.

INSTITUTIONAL DISCIPLINE AS A CORRECTIVE

Normative reasoning needs limits. It must stay tied to constitutional text, structure, precedent, and institutional role.¹⁶ Courts, therefore, have to justify their decisions by reference to constitutional commitments, not personal morality, so that interpretation does

¹⁴ *Brown v Board of Education of Topeka* [1954] 347 U S 483

¹⁵ Alexander M Bickel, *The Least Dangerous Branch: The Supreme Court at the Bar of Politics* (Yale University Press 1986)

¹⁶ *I R Coelho (Dead) by LRs v State of Tamil Nadu & Ors* (2007) 2 SCC 1

not become an expression of individual preference. Public justification plays a central role here. It requires judges to give reasons that are open to examination and democratic scrutiny.¹⁷ This keeps judicial power answerable and open to challenge, rather than insulated or self-validating.

Judicial justification, in practice, often ends up being less ambitious than theory suggests. Courts frequently rely on familiar language, settled formulations, and incremental reasoning, even when dealing with constitutional questions. This can make decisions appear cautious or even repetitive, but it also reflects an effort to stay within recognised limits. Reasons are framed so that they can be understood and reused, rather than to advance a fully worked-out account of constitutional morality. As a result, justification functions less as a grand defence of judicial authority and more as an everyday constraint on how constitutional power is exercised.

CONSTITUTIONAL JURISPRUDENCE AND DEMOCRATIC LEGITIMACY

Constitutional jurisprudence is fundamentally concerned with how judicial authority relates to democratic governance. The central issue is not whether courts have the power to interpret the Constitution, but whether the use of that power can be democratically legitimate when it sets aside decisions made by representative institutions. This tension becomes especially sharp in constitutional systems where courts are authorised to invalidate legislation on substantive grounds.

This question of legitimacy is not resolved simply by pointing to constitutional text or institutional design. Even where judicial review is expressly authorised, its exercise continues to generate unease because it involves courts passing judgment on choices made through democratic processes. The concern is less about the existence of judicial power and more about how that power is exercised and explained. When courts intervene, they are required to show why constitutional commitments justify limiting legislative judgment in that instance. Democratic legitimacy, in this sense, turns on the quality of justification offered, rather than on the mere fact that courts are constitutionally empowered to act.

¹⁷ Aharon Barak, *THE JUDGE IN A DEMOCRACY* (Princeton University Press 2023)

THE COUNTER-MAJORITY DIFFICULTY

The counter-majoritarian difficulty points to a basic tension between courts and democratic self-government. Democratic legitimacy is usually thought to come from elections. When courts invalidate legislation, this can be seen as cutting against popular sovereignty. Since judges are unelected and not directly accountable to voters, their authority can seem difficult to justify when they override the choices of an elected majority.

The concern is also shaped by how democratic authority is understood in practice. Legislative decisions are usually seen as carrying legitimacy because they emerge from debate, negotiation, and electoral responsibility. Judicial decisions, by contrast, are produced through a closed institutional process that does not involve direct public participation. This difference in form makes it easier to question the authority of courts when they intervene against legislation. Even where such intervention is constitutionally authorised, it can still appear to stand apart from ordinary democratic decision-making. The counter-majoritarian difficulty draws attention to this gap, which remains a persistent feature of constitutional systems rather than a problem that can be fully resolved.

Classical Formulation: The classical account of the counter-majoritarian difficulty treats judicial review as a necessary but democratically suspect institution. On this account, constitutional adjudication is accepted as a mechanism for enforcing constitutional limits, yet it remains normatively troubling because it overrides legislative judgment. The tension becomes especially sharp when courts adopt expansive interpretations of rights rather than confining themselves to the enforcement of clear constitutional prohibitions.

The classical position also tends to assume that the problem lies primarily in the scope of judicial reasoning rather than in its existence. Judicial review is tolerated so long as it is presented as restrained, reactive, and closely tied to identifiable constitutional commands. Difficulty arises when courts move beyond this posture and justify intervention through broader conceptions of rights or justice. At that point, judicial reasoning begins to look less like enforcement and more like evaluation.¹⁸ The unease stems from this shift, since it

¹⁸ John Hart Ely, *DEMOCRACY and DISTRUST: A Theory of Judicial Review* (Harvard University Press 1981)

challenges the idea that courts are merely applying pre-existing constitutional limits rather than making substantive judgments that compete with legislative choice.

Limits of Pure Majoritarianism: Normative constitutionalism starts from a different understanding of democratic legitimacy. It does not treat majority rule as the sole source of democratic authority. Constitutional democracy is concerned with how political power is organised and limited through rights, principles, and institutional constraints. When majority rule operates without such limits, it can turn into majoritarian domination. In this sense, rights adjudication supports democracy by protecting minorities and by preserving the conditions necessary for meaningful political participation.

Democratic legitimacy, on this account, is therefore assessed over time rather than at a single moment. The focus shifts from asking whether a decision reflects the will of the majority to asking whether the system within which that decision was made remains open, fair, and responsive. Rights play a role in maintaining this system by preventing durable exclusions and by ensuring that political disagreement can take place on reasonably equal terms. Judicial enforcement of such rights does not negate democratic choice, but operates alongside it, addressing situations where ordinary political mechanisms are unable to correct their own distortions.

JUDICIAL REVIEW AS A STRUCTURAL FEATURE OF CONSTITUTIONAL DEMOCRACY

Judicial review can be understood not as an exception to democracy, but as something built into constitutional design itself. Constitutions assign interpretive authority to courts so that constitutional commitments are not worn down through ordinary political processes.

In *Marbury v Madison*,¹⁹ the U.S. Supreme Court explained judicial review as a necessary implication of constitutional supremacy. The Court argued that a written constitution would have little force if courts were unable to apply it when legislation conflicted with constitutional requirements. On this account, judicial review follows from constitutional structure rather than from any distrust of democratic decision-making.

¹⁹ *Marbury v Madison* [1803] 5 U S 137

Courts usually express this role in fairly restrained and practical terms. When they review legislation, the focus is typically on whether a constitutional boundary has been crossed, not on whether the underlying policy choice was wise or desirable. Judgments often stress that it is for the legislature to decide how to pursue its objectives, so long as constitutional limits are respected. This way of framing the review keeps the emphasis on compatibility with the Constitution rather than disagreement with democratic choice. Judicial review, in this sense, functions as a corrective mechanism that operates within the normal flow of constitutional governance, rather than as an intervention that claims a superior position over representative institutions.

Separation of Powers and Interpretive Authority: Judicial review takes place within a constitutional structure where power is divided among different institutions. Courts do not exist to manage or control the political branches. Their function is confined to interpretation and enforcement as provided by the Constitution. When this function is exercised with restraint, judicial review helps maintain institutional balance by keeping each branch within constitutional limits. The authority of courts, therefore, depends largely on careful interpretation and an awareness of the boundaries set by the constitutional framework.

Courts tend to express this awareness in fairly restrained ways when deciding cases. Rather than spelling out grand theories about the separation of powers, they usually limit themselves to what is required to resolve the dispute before them. The emphasis is often on explaining why intervention is justified in that instance, and why further questions are left to the political branches.²⁰ This style of reasoning signals that judicial authority is being exercised with caution, not ambition. Over time, such decisions reinforce the idea that interpretation is tied to role and context, and that the separation of powers is maintained through practice as much as through formal constitutional design.

THE INDIAN CONSTITUTIONAL EXPERIENCE

Indian constitutional jurisprudence illustrates normative constitutionalism in practice. From its early years, the Supreme Court approached fundamental rights as more than formal guarantees and interpreted them in light of underlying values. Broad constitutional provisions were read as having substantive content rather than being confined to narrow

²⁰ *State of Rajasthan & Ors Etc Etc v Union of India Etc Etc* AIR 1977 SC 1361

textual meaning. By drawing on principles such as fairness and dignity instead of strict textualism, the Court grounded judicial review in normative justification.

The practice that emerged was shaped as much by institutional necessity as by theory. Faced with wide social inequality and an expansive constitutional text, the Court was often required to decide issues for which there were few clear legislative or doctrinal answers. In these situations, reliance on constitutional values became a way of giving direction to adjudication without claiming exhaustive authority over policy choices. The result was a form of reasoning that moved cautiously between text and context, using values to inform outcomes while leaving room for future adjustment. This incremental and sometimes tentative approach reflects how normative constitutionalism took root in Indian constitutional law through practice rather than through formal articulation.

Basic Structure Doctrine: The basic structure doctrine is often seen as an important contribution of Indian constitutional law to normative constitutionalism. In *Kesavananda Bharati v State of Kerala*, the Supreme Court made it clear that Parliament does not have unlimited power to amend the Constitution. The Court's point was that this power is restricted by certain substantive values that lie at the core of the constitutional framework. The doctrine is based on the understanding that democratic authority is exercised within constitutional limits, and that constitutional supremacy depends on these underlying values rather than only on whether proper procedures have been followed.

The basic structure doctrine has also been applied unevenly in later cases, which shows that it was never meant to operate as a rigid formula. Courts have rarely attempted to produce an exhaustive list of what the basic structure contains, and have instead dealt with challenges as and when they arise. This has allowed the doctrine to function more as a limiting idea than as a strict rule. Its use depends largely on the context of the amendment under review and the nature of the constitutional change involved. In practice, the doctrine has worked as a cautionary principle, reminding both Parliament and the Court that constitutional power is not unlimited, even when exercised through formally valid procedures.

Rights Expansion and Democratic Justification: The Court's expansion of rights also shows how normative constitutionalism operates in practice. In *Navtej Singh Johar v Union of*

India,²¹ the Supreme Court removed the criminal prohibition on consensual same-sex relations by relying on constitutional ideas of dignity, autonomy, and morality. The decision did not rest on prevailing social opinion. Instead, the Court explained its intervention by reference to constitutional values, treating justification rather than restraint as the basis of democratic legitimacy.

The judgment also shows a conscious effort to speak in a restrained and explanatory register rather than as a declaration of moral authority. Much of the reasoning is directed at explaining why the Constitution could not be read in a way that permitted continued exclusion, rather than at asserting what the correct social outcome ought to be. This manner of reasoning reflects an awareness of democratic sensitivity, even while rejecting popular morality as a controlling factor. The Court's emphasis remained on justification drawn from constitutional commitments, not on claiming a superior position to the legislature or society.²² In that sense, the decision illustrates how rights expansion was defended through constitutional reasoning that sought to remain accountable to the constitutional framework itself.

CONSTITUTIONAL HERMENEUTICS AND INTERPRETIVE METHOD

Constitutional hermeneutics is about how meaning is read into the Constitution. Constitutional provisions are framed in broad and value-laden terms, which makes purely literal or mechanical interpretation inadequate. Hermeneutics understands interpretation as something that takes place over time, shaped by the interaction between constitutional text, social change, and normative commitments.

Normative constitutionalism makes use of this hermeneutic approach to give effect to constitutional values without abandoning limits on interpretation. Hermeneutics, therefore, works in two directions: it permits constitutional meaning to adapt, while also keeping interpretation anchored in constitutional materials so that it does not become unbounded.

Hermeneutics and Constitutional Meaning: Constitutional meaning is not produced by textual analysis alone. It takes shape through the interaction of the text with historical context, constitutional purpose, and normative structure. From a hermeneutic perspective,

²¹ *Navtej Singh Johar v Union of India* Thr Secretary Ministry of Law and Justice AIR 2018 SC 4321

²² Ronald Dworkin, *JUSTICE FOR HEDGEHOGS* (Harvard University Press 2013)

constitutional provisions do not carry fixed meanings that can be discovered simply by examining language in isolation.

This perspective is especially relevant in the field of fundamental rights. Courts are often required to give concrete meaning to abstract constitutional language in light of lived social conditions. Interpretation therefore operates as a process of constitutional reasoning, not as a task of textual decoding.

Rejection of Mechanical and Literalist Interpretation: A mechanical or literal reading of the Constitution does not really work in many cases. Constitutional provisions are written in broad language and are not meant to be applied one by one in isolation. Their meaning often depends on how they connect with other provisions. This can be seen in *Maneka Gandhi v Union of India*. In that case, the Supreme Court did not read Article 21 by itself but read Article 21 along with Articles 14 and 19. By doing this, the Court gave substance to due process and did not treat it as a merely technical requirement. The case shows that constitutional interpretation usually involves reading the Constitution together as a whole, and not sticking only to the literal meaning of one article.

Comparative jurisprudence points in the same direction. The Supreme Court of Canada has long adopted the ‘living tree’ approach, recognising that constitutional interpretation must allow for growth and adaptation.²³ Hermeneutics, in this way, makes it possible for constitutions to remain continuous over time without becoming stagnant.

Purposive and Structural Interpretation: Purposive and structural interpretation provide the practical means through which normative constitutionalism operates. Instead of focusing on literal or isolated readings, these approaches ask courts to consider what constitutional provisions are intended to achieve within the overall constitutional arrangement. By situating individual clauses within the broader institutional framework, purposive and structural interpretation preserves constitutional unity while placing limits on judicial discretion through identifiable constitutional purposes.

These methods usually come into play when a straightforward reading of the text does not really resolve the issue before the court. Judges are then pushed to look beyond individual

²³ *Maneka Gandhi v Union of India* AIR 1978 SC 597

clauses and consider how different provisions sit alongside one another in practice. This often involves a fairly pragmatic exercise of fitting parts together, rather than applying any rigid interpretive formula. Attention is paid to how institutions are meant to function and what the consequences of a particular reading might be. The result is an interpretation that may not be theoretically elegant, but is workable within the broader constitutional scheme and easier to justify as part of an ongoing constitutional practice.²⁴

Purposive Reasoning in Constitutional Adjudication: Purposive interpretation directs attention to the objective a constitutional provision is designed to serve. Instead of locating meaning solely in the time of enactment, courts consider the constitutional values the provision seeks to protect. This mode of interpretation is especially significant in rights adjudication, where concerns of dignity, autonomy, and equality provide the guiding frame.

In *Navtej Singh Johar v Union of India*, the Supreme Court was dealing with how ideas like equality and liberty apply in everyday situations. The case forced the Court to move away from abstract discussion and look at what these rights actually mean for people affected by the law. This line of thinking eventually resulted in Section 377 of the Indian Penal Code being struck down. The Court did not treat old social beliefs or accepted moral views as decisive. It did not accept that past practice should settle the issue. Instead, it focused on what the Constitution is meant to protect now. The judgment shows that constitutional purpose cannot be tied to prejudice from the past or to popular morality when that morality excludes people.

Structural Interpretation and Constitutional Unity: Structural interpretation looks at constitutional provisions in relation to the Constitution as a whole, rather than treating each clause as self-contained. In *State of Rajasthan v Union of India*, the Supreme Court observed that constitutional provisions must be understood against the background of the broader constitutional structure. Structural reasoning, therefore, works to prevent disjointed interpretations and helps maintain the Constitution's internal integrity.

Structural interpretation also supports separation of powers by requiring courts to read constitutional provisions in a way that fits the Constitution's overall institutional design. By

²⁴ *State of Rajasthan & Ors Etc Etc v Union of India Etc Etc* AIR 1977 SC 1361

tying interpretation to constitutional architecture, it places a check on judicial discretion and limits how far courts can depart from the roles assigned to them.

Hermeneutic Constraints on Judicial Power: Hermeneutics gives courts space to reason about constitutional values, but it also sets boundaries on how that reasoning is used. Because interpretation must remain connected to constitutional text, structure, and established interpretive practices, judges have less freedom to rely on subjective or ad hoc decision-making. This keeps constitutional interpretation tied to reasoned justification rather than personal discretion, and helps protect the legitimacy of constitutional adjudication in a democratic system.

In everyday adjudication, these limits tend to show up in fairly ordinary ways. Courts usually feel the need to explain how a conclusion fits with what has been said before, even when they are moving the law forward. This often results in cautious reasoning, reliance on familiar formulations, or careful distinctions rather than abrupt departures. Such practices are not always theoretically satisfying, but they serve an important function. They keep judicial reasoning connected to an existing constitutional conversation and make it harder for decisions to appear as the product of individual inclination. In this sense, hermeneutic constraints operate through routine judicial practice, shaping outcomes gradually rather than through explicit prohibitions.

Fidelity to Text and Constitutional Structure: Hermeneutic fidelity means that courts cannot justify an interpretation by intuition alone. They have to show how their conclusions follow from identifiable elements within the Constitution. In *I.R. Coelho v State of Tamil Nadu*, the Supreme Court made this point explicit by holding that judicial review of constitutional amendments must be anchored in the basic structure, rather than in a judge's personal understanding of justice. This approach keeps judicial reasoning tied to constitutionally traceable commitments. It also ensures that normative interpretation remains disciplined by continuity, precedent, and institutional role, while preserving democratic accountability and constitutional supremacy.

Courts often signal this commitment in fairly modest ways. Instead of framing their conclusions as matters of principle alone, they tend to spend time explaining how a particular outcome follows from the way the Constitution has been read and applied in earlier cases.

This can involve restating familiar ideas or revisiting settled doctrines, even when the dispute raises new concerns. Such repetition may seem unnecessary, but it serves to locate the decision within an existing line of reasoning. By doing this, courts present their conclusions as part of an ongoing constitutional practice, rather than as the result of individual judgment exercised in isolation.

Fidelity, in this sense, operates as a practical discipline rather than a rigid constraint. It does not require courts to reproduce earlier interpretations unchanged, but it does require them to explain how any development remains connected to the constitutional framework as it has been understood over time. This explanatory burden limits the space for abrupt shifts or purely result-oriented reasoning, even where the Constitution is framed in open terms. Interpretive change is therefore presented as incremental and reasoned, grounded in constitutional materials that are recognisable to other institutions and to the public. By insisting on this continuity, hermeneutic fidelity allows constitutional meaning to evolve while maintaining the stability and legitimacy of judicial interpretation within a democratic order.

ADJUDICATIVE RATIONALITY AND JUSTIFICATORY PRACTICES

Adjudicative rationality refers to the way courts explain and justify their constitutional decisions through structured reasoning. Within normative constitutionalism, legitimacy does not come from electoral accountability, but from the strength and clarity of the reasons courts give for their outcomes.²⁵ Giving reasons, therefore, becomes part of the democratic responsibility of adjudication.

Adjudicative rationality also serves to balance normativity with restraint. By working through established doctrinal frameworks, judicial reasoning is kept within limits rather than left open-ended. Doctrines such as proportionality and reasonableness allow courts to give concrete legal shape to abstract constitutional values.

Reason-Giving as a Democratic Obligation: Judicial decisions are seen as legitimate when courts openly explain the reasoning behind them. Judges are expected to give reasons that

²⁵ Aharon Barak, *PROPORTIONALITY: CONSTITUTIONAL RIGHTS AND THEIR LIMITATIONS* (CUP 2012)

can be understood and examined under public scrutiny, rather than simply announcing conclusions.

When courts explain their reasoning, their decisions can be questioned, criticised, and debated in public. This possibility of public engagement links constitutional adjudication to democratic values. Transparency, in this sense, compensates for the absence of electoral accountability by allowing judicial reasoning to remain open to challenge rather than insulated from it.

Doctrines Structuring Adjudicative Rationality: Doctrinal frameworks discipline judicial reasoning by giving judges a practical structure for working through constitutional values. When inquiry is organised around defined stages and criteria, discretion is narrowed without foreclosing substantive normative evaluation. This approach presses courts to explain how conclusions are reached, encouraging consistency and intelligibility across cases. In doing so, doctrine connects abstract constitutional commitments to outcomes that can be examined and debated, reducing reliance on intuition and limiting ad hoc adjudication. Rather than suppressing normativity, doctrinal structure situates it within institutional practice, supporting transparent reasoning aligned with democratic legitimacy.

These structures are often used in a fairly routine and sometimes unreflective way. Judges may apply them because they are already embedded in prior case law, rather than because they consciously endorse the theory behind them. This can make doctrinal reasoning appear repetitive or formulaic, but it also serves a stabilising function. Familiar frameworks reduce the need to reinvent standards in every case and provide a sense of continuity in decision-making. Even when outcomes differ, the shared use of doctrine allows reasoning to be compared and questioned within an accepted legal form, rather than being treated as a matter of personal judgment.²⁶

Proportionality as Structured Balancing: Proportionality analysis asks courts to pause and examine whether restrictions on rights genuinely serve a legitimate aim, whether those restrictions are appropriate and necessary, and whether they strike a fair balance between competing interests. In *Modern Dental College & Research Centre v State of Madhya Pradesh*, the Supreme Court's adoption of proportionality reflected a broader shift toward

²⁶ *Modern Dental College & Research Centre & Ors v State of Madhya Pradesh & Ors* (2016) 7 SCC 353

justification-based review. Instead of accepting restrictions at face value, courts are required to explain their reasoning in a clear and structured manner. This makes constitutional decision-making easier to follow and significantly reduces the space for ad hoc or impression-driven judgments.

In applying proportionality, courts are also required to engage more directly with the reasons offered by the State for limiting rights. This shifts the focus of review away from formal compliance and toward the quality of justification put forward in support of the restriction. Arguments that might once have passed with minimal scrutiny are subjected to closer examination, particularly where less intrusive alternatives are available. The proportionality framework, therefore, changes the posture of adjudication by placing the burden on the State to defend its choices in reasoned terms. In doing so, it encourages a more transparent form of constitutional reasoning that treats rights limitations as exceptions requiring explanation, rather than as defaults to be accepted without sustained analysis.

Reasonableness and Justification-Based Review: Reasonableness review complements proportionality by acting as a practical check on how the state exercises power. In *E.P. Royappa v State of Tamil Nadu*,²⁷ the Supreme Court made a simple but important point: arbitrariness cannot coexist with equality, and state action that lacks reason offends Article 14. This insight shifted constitutional review away from technical compliance and toward substance. What matters is whether the state can actually explain itself. By insisting on intelligible and rational reasons, reasonableness review strengthens adjudicative rationality in everyday constitutional decision-making.

In many instances, this standard is applied almost instinctively, without courts spelling it out in theoretical terms. Judges often focus on whether the decision-making process appears fair on its face and whether there is anything on record that suggests a lack of application of the mind. This kind of assessment is usually brief and fact-specific, and it rarely leads to extended constitutional discussion. Yet, even in its simplicity, it performs an important function. By expecting public authorities to act in a way that can be reasonably accounted for, courts

²⁷ *E P Royappa v State of Tamil Nadu & Anr* AIR 1974 SC 555

reinforce the idea that power must be exercised with care and attention, even where no heightened rights analysis is involved.²⁸

Institutional Restraint and Democratic Accountability: Adjudicative rationality enables courts to intervene while remaining within institutional limits. The articulation of clear standards of review allows courts to respect institutional boundaries while enforcing constitutional commitments. Democratic accountability is maintained because judicial intervention is based on publicly stated reasons rather than assertions of institutional supremacy. At the same time, structured adjudicative reasoning helps prevent constitutional values from being affected by short-term political pressures, reinforcing the legitimacy of judicial review within a constitutional democracy. Courts often demonstrate this restraint through fairly ordinary choices about emphasis and scope. Instead of addressing every possible implication of a case, judgments are frequently limited to the specific issue that requires resolution. Broader questions are left open, sometimes explicitly, for future consideration by the legislature or by later benches. This practice does not weaken judicial authority, but situates it within a larger institutional setting. By deciding only what is necessary and explaining why intervention is warranted in that instance, courts reinforce the idea that constitutional review is a shared enterprise rather than a claim to ultimate control over democratic decision-making.²⁹

RECONCILING NORMATIVE INTERPRETATION WITH DEMOCRATIC GOVERNANCE

Normative constitutionalism does not weaken democracy or take power away from democratic institutions. It actually supports democratic governance by protecting the basic constitutional conditions that allow democratic processes to work at all. Courts contribute to this by interpreting the Constitution and making sure that political power is exercised within constitutional limits. This helps prevent situations where power is used in a way that may claim to be democratic but ends up harming or destabilising the democratic framework itself.

Courts usually reach these issues in a fairly indirect way. What comes before them are individual cases where something about the exercise of power has gone wrong, not questions

²⁸ H W R Wade & C F Forsyth, *ADMINISTRATIVE LAW* (8th edn, OUP 2000)

²⁹ Mark Tushnet, *WEAK COURTS, STRONG RIGHTS: JUDICIAL REVIEW AND SOCIAL WELFARE RIGHTS IN COMPARATIVE CONSTITUTIONAL LAW* (Princeton University Press 2009)

about democracy in the abstract. The response is therefore limited to that setting. Judges focus on whether the Constitution has been complied with in that instance, and little more. They do not try to evaluate broader political choices or set out general standards for democratic decision-making. In this sense, normative interpretation operates in a narrow space, addressing specific constitutional failures when they appear, and otherwise leaving democratic institutions to function on their own terms.

Protection of Minorities and Structural Justice: Constitutional adjudication performs an important democratic task when it checks the effects of majoritarian dominance. Courts become places where marginalised groups can bring forward constitutional claims that do not receive adequate political representation in ordinary law-making. This function matters not only for inclusion, but also for sustaining confidence in the constitutional system over time.

The U.S. Supreme Court's decision in *Brown v Board of Education*³⁰ shows what can happen when democratic processes fail to deal with inequality. In that situation, segregation continued even though political processes were in place. The Court stepped in because equality was not being secured in practice. Similar responses can be seen in Indian constitutional law, especially in cases related to caste, gender, and sexual orientation, where courts have intervened when democratic processes did not bring about meaningful change.

Dialogic and Participatory Constitutionalism: Recent constitutional writing has focused on dialogic constitutionalism, where courts interact over time with legislatures and the public. Judicial decisions are not treated as endpoints. Instead, they often invite further discussion and response within the democratic process.

In this approach, courts state constitutional standards but leave room for legislative action and revision. Democratic legitimacy is understood to develop through this back-and-forth between institutions, rather than through claims that courts have the final or exclusive authority.

Judicial dialogue, in practice, often unfolds in a low-key and fragmented manner. Courts may raise a constitutional issue without dictating how it must be resolved, and the response

³⁰ *Brown v Board of Education* [1954] 347 U S 483

from other institutions may come slowly or not in a single, identifiable form. Sometimes the legislature reacts directly, sometimes through partial adjustment, and sometimes not at all. This unevenness is part of how constitutional systems function over time. What matters is that judicial decisions do not shut down the space for response. Instead, they leave room for further action, disagreement, and revision, allowing constitutional meaning to develop through interaction rather than final settlement.

CONCLUSION

Constitutional interpretation inevitably involves normative judgment. Attempts to treat it as a purely neutral or technical exercise tend to obscure the foundations on which constitutional authority actually rests. Normative constitutionalism offers a way of understanding how judicial interpretation can remain democratically legitimate even when it runs counter to immediate majoritarian outcomes.

By bringing together constitutional jurisprudence, interpretive method, and adjudicative reasoning, this approach explains how courts can uphold constitutional values while remaining institutionally restrained. Continuity is maintained not through interpretive minimalism, but through reasoned justification that allows constitutional meaning to respond to changing democratic conditions. In periods of democratic strain and constitutional contestation, this justificatory model provides a stable basis for judicial authority without collapsing into either judicial supremacy or unqualified majoritarianism.

Seen from this angle, constitutional interpretation does not stand apart from democratic practice, nor does it bring democratic disagreement to an end. It operates alongside political processes, stepping in only when constitutional questions are raised in concrete disputes. The role of courts remains limited to addressing those questions as they arise, rather than offering comprehensive accounts of constitutional meaning. What sustains this arrangement is not the absence of controversy, but the continued expectation that judicial reasoning will stay within recognisable constitutional bounds. Normative constitutionalism helps explain why this expectation persists, even where judicial decisions remain contested and open to critique.