

Objectives

In this course I will teach the evolution of the Indian constitution in the last two decades of the nineteenth and first half of the twentieth centuries, especially from 1885-1947. I will address the ideological framework and views of the newly emerging group of social and political activists of the Indian national movement, led by moderate and mass nationalists, such as Gopal Krishna Gokhale, Chittaranjan Das, M.K. Gandhi, Jawaharlal Nehru, Maulana Abul Kalam Azad and Sardar Vallabhbhai Patel in the shaping of the destiny of millions of Indians at a very critical stage of the growth of Indian nationhood. This course will discuss the achievements of Gandhi and Nehru in building a new India and giving it a new constitution along lines recommended by British socialists and liberal political thinkers, such as Annie Besant, Bertrand Russell and Sidney and Beatrice Webb.

The first objective of this course is to question the premises informing the twin themes of liberty and freedom from a civil rights perspective. Based on concepts of positive obligation and negative liberty, which have been drawn from precepts of western philosophical traditions, and expostulated by Isaiah Berlin, this course will discuss the intellectual origins of the framework of argument that informed the conceptualization of social reforms leading to revolution in India. In this context, I will discuss the origins of the concept of constitutionalism in India.

The second objective is to address the growth of Indian opinion regarding modern Indian intellectuals' constitutional role and entitlement to civil and economic rights as well as the emergence of nationhood in the early years of Indian nationalism, through movements inspired by western rationalist and enlightenment thought initiated by Madam Blavatsky and Besant. I will discuss the growth of the demand for civil rights in India for the bulk of Indians before the arrival of Gandhi in Indian politics, and through his and Nehru's participation in peasant and municipal politics in the first two decades of the twentieth centuries.

The third objective will be to address the role of socialism in India after the commencement of the Bolshevik Revolution in 1917 and its impact on the initial drafting of the Indian Constitution. I will discuss, in three stages, the progress of the constitutional question and the process of writing the constitution from the beginning of the 1920s to the end of the 1940s. I will discuss the political and intellectual circumstances behind the passing of the Commonwealth of India Bill of 1925, the politics of Swaraj Party and Council Reforms leading to the drafting and passing of the National Demand or the Motilal Nehru Report of 1927-28, which was passed in the Calcutta Session of the Congress Party in 1928, and the passing of the Karachi Resolution of the Congress in 1931. I will discuss the circumstances surrounding the foundation of the Congress Socialist Party [CSP] under the leadership of Jawaharlal Nehru and the eventual failure of the proposal of direct elections through adult suffrage in the Indian Constitution. At the same time the urgent need for empowerment through the use of constitutional devices such as articles dealing with Panchayati Raj and their implementation revisited the space and sought to redefine the structure of constitutional progress in the last two decades of the British Raj in India.

The fourth and the last objective will be to discuss the next and final three stages of the progress of the constitutional question in India. I will address themes such as the politics of the National Plan [1938] and also of the Bombay Plan [1944] and issues related to large-scale industrialization in India. Addressing the circumstances leading to the establishment of the Indian Constituent Assembly and the debate within it will also be another objective. I will discuss the contestation between social reforms and state security on the one hand and the due process of law on the other to explain the circumstances under which firstly the articles granting the right to property were drafted and later abolished, most notably in the UP Landholders Bill in 1956 by Govind Ballabh Pant, and also in West Bengal under the stewardship of Bimal Chandra Sinha, the then Land Reforms Minister in the Government of West Bengal. A third strand in this objective is to discuss the passage of the Hindu Code Bill of 1956. I will discuss Nehru's role in it and the leadership given by Renuka Ray to the women's movement in the Central Legislative Assembly. One question that I will ask is whether the Nehruvians were indeed committed to women's upliftment in India. Another question that I will ask is whether the several aborted attempts to subvert the Hindu Code Bill were emblematic of the efforts of the conservative and traditional elements to challenge the introduction of seeds of socialist ideas in the Indian Constitution.

Syllabus

1. **Introduction:** [a.] Concept of liberty; [b] Concept of positive and negative obligations
2. **The Premises of Social Revolution:** [a] Intellectual and historical origins of the concept of Socio-Economic Justice in India.

3. **Sixty years of civil rights movement in India:** [a] Moderate nationalism and the emergence of the politics of socio-economic justice; [b] Annie Besant, the Theosophical Society and the Home Rule League Movement, [1915-6]
4. **Impact of Socialism on the Writing of the Indian Constitution II, [1914-31]: From the First World War to the Karachi Resolution:** [a] Jawaharlal Nehru's arrival in national politics and his initiation in municipal politics; [b] The Bolshevik Revolution [1917] and its impact on growth of Indian socialism; [c] Growth and influence of Fabian socialists on Indian nationalism; [d] Commonwealth of India Bill [1925]; [e] National Demand or the Motilal Nehru Report [1927-8] and the Calcutta Congress [1928]; [f] Karachi Resolution of the Indian National Congress [1931]
5. **Impact of Socialism on the Writing of the Indian Constitution III, [1932-52]: From the Demand for Adult Suffrage to Passing of the Constitution of India:** [a] Growth of the Congress Socialist Party and the demand for the adoption of adult suffrage; [b] Panchayati Raj and empowerment in the Indian Constitution; [c] The National Plan [1938], the Bombay Plan [1944] and proposals for large-scale industrialisation in India; [d] The August Offer [1940], Cripps Mission [1942] and the Cabinet Mission proposals [1946]; [e] The establishment of Indian Constituent Assembly [1946], the Indian Independence Act [1947], the working of the Constituent Assembly and the Assembly debates and the role of the Oligarchy comprising of Jawaharlal Nehru, Vallabhbhai Patel, Maulana Abul Kalam Azad and Rajendra Prasad in it; [f] Social reforms and State Security v. 'Due Process of Law'; [g] The introduction, passage and development of the Hindu Code Bill, 1956
6. **Conclusion:** [a] The Constitution of India: An Appraisal

Booklist

- Bagehot, Walter, *An Introduction to English Legal History*, [London, 1990]
- Berlin, Isaiah, Henry Hardy and Ian Harris, *Liberty: Incorporating Four Essays on Liberty*, [Oxford, 2002]
- Austin, Granville, *The Indian Constitution: Cornerstone of a Nation*, [Oxford, 1966]
- , *Working of a Democratic Constitution: A History of the Indian Experience*, [New Delhi, 2003]
- Bagchi, Amiya Kumar, *Private Investment in India, 1900-1939*, [London, 1972]
- Bakshi, P.M., *The Constitution of India: With Comments and Subject Index*, [Delhi, 1991]
- Basu, Durgadas, *Introduction to the Constitution of India*, [New Delhi, 1995]
- , *Shorter Constitution of India*, [Calcutta, 1959]
- Chandra, Bipan, [et al.], *India's Struggle for Independence*, [New Delhi, 1991]
- Coupland, Reginald, *The Indian Problem*, Three Volumes, [London, 1944]
- Dutta, Nilanjan, 'From Subject to Citizen: Towards a History of Indian Civil Rights Movement', in Michael Anderson and Sumit Guha, *Changing Concepts of Rights and Justice in South Asia*, [New Delhi, 2000]
- Dhavan, Rajeev and Thomas Paul, *Nehru and the Constitution*, [Bombay, 1992]
- Forbes, Geraldine, *Women in India*, [Cambridge, 1996]
- Gauba, O.P., *Constitutionalism in a Changing Perspective*, [New Delhi, 1996]
- Mohanty, Manoranjan, 'Does India Need a New Constitution? [A Democratic Right Perspective on Constitutional Discourse]', in Surya Narayan Misra, Subhas Chandra Hazary and Amareshwar Misra, [ed.], *Constitution and Constitutionalism in India*, [New Delhi, 1999]
- Park, Richard L. and Irene Tinker, *Leadership and Political Institutions in India*, [Princeton, 1959]
- Pylee, M.V., *Our Constitution, Government and Politics*, [Delhi, 2002]
- , *An Introduction to the Constitution of India*, [Calcutta, 1995]
- Khare, R.S., [ed.], 'Elusive Social Justice, Distant Human Rights: Untouchable Women's Struggles and Dilemmas in Changing India', in Michael Anderson and Sumit Guha, *Changing Concepts of Rights and Justice in South Asia*, [New Delhi, 2000]
- Ray, Renuka, *My Reminiscences: Social Development during Gandhian Era and After*, [New Delhi, 1982]
- , *Role and Status of Women in India*, [Calcutta, 1978]
- Seervai, H.M., *Constitutional Law of India: A Critical Commentary*, [Bombay, 1991]