PaCS 05 CONSTITUTION, LAW AND HUMAN RIGHTS [2 credits]

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COURSE DESCRIPTION

Constitution is widely acknowledged as a necessity for modern governance. In many ways, constitution and law are essential to social change. For the marginalised groups, constitution becomes an important source for safeguarding their rights and guaranteeing them against discrimination. However, there is no direct correlation between democratisation and constitution. In fact, it could be through the constitution that modern polities effectively oppress large sections of the citizenry. Could we measure the role of constitution and law simply as means to safeguard human rights? In that case, how does one understand a law like AFSPA and section 377 of the Indian Constitution vis-a-vis the issue of human rights since sanctioned violence from the state emanate through law and Constitution? What are the ways in which one looks at the intersection between constitution, law and human rights? This course will delve into these questions by looking at constitution from various perspectives.

COURSE OBJECTIVES

a. To understand the theoretical aspects of the issues of constitution, law and human rights.

b. To critically examine those features of the Indian Constitution and law that lead to human rights violations.

c. The students will be trained to evaluate the various debates on human rights – its philosophical foundations, the claim to universality, and the criticisms against it from various perspectives.

Learning Objective

At the end of the course you will have basic knowledge about the history and philosophy of constitution. You will be able to critically analyse the relationship between constitution, law and human rights. You will be familiar with contemporary human rights debates. Finally, you will also learn to read texts critically.

Modes of Assessment: Group Work 40%

Respond papers 60%

Group work: You will be divided into groups of 4 or 5 and assigned a research topic relevant to the course. Each group will spend about two weeks in researching and documenting published data on that topic. Each group will share your research in a round table conference on dates to be announced in the class.
Respond papers: A respond paper (350 – 500 words) is not merely a summarisation of the ideas and arguments presented in the readings, but your evaluation of the ideas and arguments made by the author(s). You will submit your respond papers at the end of the designated lecture hours. I will return the respond papers with my comments before the next round of papers are due. You will use these comments to improve on your subsequent respond papers. Grading will commence from second respond papers. These weekly respond papers will finally form one final term paper.

Week 1

The first week is dedicated to introduction of the course, grading, term paper and clarifications. [1 hour]

Week 2 and 3: Constitution – possibilities and challenges [4 hours]

[Constitutionalism is written into the making of the modern state. This unit critically examines the making of the Indian Constitution and the general consensus that considers it to be a secular one]

Readings


Week 4 and 5: Rule of law and human rights [6 hours]

[To talk about the rule of law when both national and international laws have failed to provide effective protection is a difficult and challenging task. This unit foregrounds the reality that human rights have been challenged conceptually and politically while exploring the relationship between the rule of law and human rights.]

Readings


Week 6 and 7: History and politics of human rights [6hours]

[Since the end of the World War II, human rights have become a universal concern. This unit will explore the complicated histories of human rights from the global, universal level to the national level, and also discuss some of the criticisms against the concept of human rights.]

Readings


Week 8 and 9: liberalism, human rights and universality [6hours]

[This unit will discuss the role that liberalism as a political philosophy has played in popularising and sustaining human rights discourse. Critics against liberalism argue at the limitations of such an approach since the primary focus has been on codification rather than address the deeper structural problems that global political economic systems generate.]

Readings


Week 10 and 11: Individual Conference on your respond papers

Week 12 and 13 and 14: Feminism, cultural relativism and human rights [6hrs]

[The feminist critique of human rights argues that, in practice those who hold human rights are men and not women. Therefore, gender equality and freedom from discrimination for women is given low priority in the international arena. This unit will explore the criticisms against the claim to universality embedded in the discourse of human rights.]

Readings


Jacques Ranciere, ‘Who is the Subject of the Rights of Man?’, South Atlantic Quarterly, spring/summer 2004,


Week 15: Revisions and further discussion

Other Readings

Carl Bridge, Holding India to the Empire: The British Conservative Party and the 1935 constitution, New Delhi: Sterling Publishers, 1986


Ranabir Samaddar and Suhit K Sen, eds., Political Transition and Development Imperatives in India, New Delhi and Abingdon: Routledge, 2012


Thomas Biolse, Deadliest Enemies: Law and the Making of Race Relations on and off the Rosebud Reservation, University of California press, 2001


