

## DISCIPLINE SPECIFIC ELECTIVE COURSE – 1b: Indian Constitution: Key Debates

### CREDIT DISTRIBUTION, ELIGIBILITY AND PRE-REQUISITES OF THE COURSE

Course title & Code	Credits	Credit distribution of the course			Eligibility criteria	Pre-requisite of the course (if any)
		Lecture	Tutorial	Practical/Practice		
Indian Constitution: Key Debates DSE-1b	4	3	1	0	12 Pass	NIL

#### Learning Objectives

The course has been designed with the aim to familiarise students with the key debates that went into the making of the Indian Constitution. The debates have been identified for their historical significance and contemporary relevance. The course is on the distinguishing features of the constitution, the modalities through which consensus on contentious matters were arrived in the Constituent Assembly, and the political contexts in which these debates have remained significant. The course takes the students back to the Constituent Assembly Debates to help them comprehend the principles that were articulated to resolve or defer a debate. While the Constituent Assembly Debates serve as resources for a historical and a contextual analysis of the Constitution, the forms in which the debates have resurfaced is also paid attention through recourse to debates in the Parliament. Alongside, scholarship produced by political theorists, historians and lawyers have been included to trace the contours of the debate and the constitutional values that emerge out of it.

#### Learning outcomes

On successful completion of the course, the students will demonstrate:

- Knowledge of the process of constitution making and familiarity with Constituent Assembly debates
- An understanding of the framing of debates in the Constituent Assembly and the forms in which they have remained significant
- An understanding of the principles that undergirded the debates and the constitutional values that they sought to entrench

#### SYLLABUS OF DSE-1b

##### UNIT – I (7 Hours)

###### Citizenship

**UNIT – II (7 Hours)****Religious Freedom (and Minority Rights)****UNIT – III (7 Hours)****Uniform Civil Code****UNIT – IV (7 Hours)****Asymmetrical Federalism****UNIT – V (7 Hours)****Emergency Provisions and Preventive Detention Laws****UNIT – VI (5 Hours)****Constitutional Amendment****UNIT – VII (5 Hours)****Language Question****Essential/recommended readings****Unit wise reading list**

Constituent Assembly Debates (Proceedings), Volumes I- XII, available at <http://164.100.47.194/LoksabhaHindi/cadebatefiles/cadebates.html>

**1. Citizenship**

Primary Text: Part II, The Constitution of India

Constituent Assembly Debates (Proceedings), On Citizenship, 10 August 1949 to 12 August 1949, Vol. IX, pp. 343-349, 353-357, 398-401 (Lok Sabha Secretariat, New Delhi, 4<sup>th</sup> edition, 2003). URL: <http://loksabhap.nic.in/writereaddata/cadebatefiles/vol9.html>

Valerian Rodrigues, 2008, Citizenship and the Indian Constitution, in Rajiv Bhargava (ed), *Politics and Ethics of Indian Constitution*, Oxford University Press

Anupama Roy, 2016, We the People: Citizenship in the Indian Constitution, in *Citizenship in India (Oxford India Short Introductions)*, Oxford University Press.

Anupama Roy, 2019, The Citizenship (Amendment) Bill, 2016 and the Aporia of Citizenship, *Economic and Political Weekly*, Vol. 54, Issue No. 49.

**2. Religious Freedom (and Minority Rights)**

Primary Text: Art 25- 30, The Constitution of India

Constituent Assembly Debates (Proceedings), On Religious Conversion, 1<sup>st</sup> May 1947, Vol III (<http://164.100.47.194/loksabha/writereaddata/cadebatefiles/C01051947.html>) and 6<sup>th</sup> December 1948, Vol. VII (<http://164.100.47.194/Loksabha/Debates/cadebatefiles/C06121948.html> )

Rajeev Bhargava, 2002, India's Secular Constitution, in Zoya Hasan et al, *India's Living Constitution*, Permanent Black.

Gurpreet Mahajan, 2008, Religion and the Indian Constitution: Questions of Separation and Equality, in Rajiv Bhargava (ed), *Politics and Ethics of Indian Constitution*, Oxford University Press

Shibani Kinkar Chaube, 2000, End of the Indian Problem II- Minority Rights, in *Constituent Assembly of India: Springboard of Revolution*, Manohar

### **3. Uniform Civil Code**

Constituent Assembly Debates (Proceedings), On UCC, 23<sup>rd</sup> November 1948, Vol. VII URL: <http://164.100.47.194/loksabha/writereaddata/cadebatefiles/C23111948.html>

Peter Ronald deSouza, 2015, Politics of the Uniform Civil Code, *Economic and Political Weekly*, Vol. 50, Issue No. 48,

Nivedita Menon, 2014, A Uniform Civil Code in India: The State of the Debate in 2014. *Feminist Studies* 40(2), 480-486. doi:10.1353/fem.2014.0025.

### **4. Asymmetrical Federalism**

Primary Texts: Article 370- 371 (J), Part XXI, The Constitution of India,

Primary Texts: Fifth Schedule and Sixth Schedule, Part XXII, Constitution of India

Constituent Assembly Debates (Proceedings), On Special Status to Jammu and Kashmir, 17<sup>th</sup> October 1949, Vol. X.

URL: <http://164.100.47.194/loksabha/writereaddata/cadebatefiles/C17101949.html>

Arun Thiruvengadam, 2018, Federalism and Local Government (pp. 71-92), *The Constitution of India, a Contextual Analysis*, Hart Publishing

Rekha Saxena, 2021, Constitutional Asymmetry in Indian Federalism, *Economic and Political Weekly*, Vol. 56, Issue No. 34.

M.P. Singh, 2016, The Federal Scheme, in Sujit Choudhry et al, *The Oxford Handbook of the Indian Constitution*, New Delhi: Oxford University Press.

Ashwani Kumar, 2019, The Constitutional Legitimacy of Abrogating Article 370, *Economic and Political Weekly*, Vol. 54, Issue No. 38

### **5. Emergency Provisions and Preventive Detention Laws**

Primary Text: Articles 352, 353, 356, 358, 359, Part XVIII, The Constitution of India

Constituent Assembly Debates (Proceedings) on Draft Article 15-A, Personal Liberty and Procedure Established by Law (Article 22), September 15 and 16, 1949, Volume IX (<http://164.100.47.194/loksabha/writereaddata/cadebatefiles/vol9.html> )

Venkat Iyer, 2000, Emergency Law in India: the Background and the Development of the Law, in *States of Emergency, the Indian Experience*, Butterworths.

S.P. Mukherjee, 1990, Preventive Detention (Parliamentary Debates, 13 February, 1951), in *Eminent Parliamentarians Monograph Series*, Lok Sabha Secretariat, pp. 61- 81 (<https://eparlib.nic.in/bitstream/123456789/58670/1/Eminent%20Parliamentarians%20Series%20Syama%20Prasad%20Mookerjee.pdf> )

Granville Austin, 1966, Fundamental Rights II, Social Reform and State Security versus 'Due Process' (pp. 128- 142), in *Indian Constitution, Cornerstone of a Nation*, OUP.

Granville Austin, 1999, Democracy Rescued or Constitution Subverted: Emergency and 42<sup>nd</sup> Amendment, in *Working a Democratic Constitution*, OUP

Arvind Narrain, 2022, Roots of the Emergency: Preventive Detention, in *India's Undeclared Emergency*, Context, Westland Publications.

## 6. Constitutional Amendment

Primary Text: Art 368, Part XX, The Constitution of India.

Constituent Assembly Debates (Proceedings), Excerpts on Amendment Procedure in B R Ambedkar's Final Speech on 25<sup>th</sup> November 1949 URL: <http://164.100.47.194/lok sabha/writereaddata/cad ebat efiles/C25111949.html>

D DBasu, 2011, Procedure for Amendment, in *Introduction to the Constitution of India* (20th ed.). Lexis Nexis, India.

Arun Thiruvengadam, 2018, Constitutional Change, in *The Constitution of India, a Contextual Analysis*, Hart Publishing

Pratap Bhanu Mehta, 2002, The Inner Conflict of Constitutionalism: Judicial Review and the 'Basic Structure', in Zoya Hasan et al, *India's Living Constitution*, Permanent Black.

Sudhir Krishnaswamy, 2009, Amending Power: The Constitutional Basis for Basic Structure Review, in *Democracy and Constitutionalism in India, A Study of the Basic Structure Doctrine*, Oxford University Press.

## 7. Language Question

Primary Text: Art 343- 351, Part XVII, The Constitution of India.

Granville Austin, 1966, Language and the Constitution- The Half-Hearted Compromise, in *Indian Constitution, Cornerstone of a Nation*, OUP.

Paramjit S Judge, 2021, Fifteen Years that Never Ended: The Language Debate in *Making of Modern India*, Rawat

Paramjit S Judge, 2021, Language Issue in Constituent Assembly Debates, *Economic and Political Weekly*, Vol. 56, Issue No. 14

(On Assembly Debates) *Indian Express*, 24 Sep 2019, <https://indianexpress.com/article/explained/amit-shah-on-hindi-language-status-constituent-assembly-national-language-6022271/>

**Note: Examination scheme and mode shall be as prescribed by the Examination Branch, University of Delhi, from time to time.**