

The Journey of Seven Decades
Constitutional Discourse at Crossroads



Hidayatullah National Law University
Raipur



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HIDAYATULLAH NATIONAL LAW UNIVERSITY

Raipur, Chhattisgarh

**The Journey of Seven Decades:
Constitutional Discourse at Crossroads
(HNLU JLSS)**

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FROM EDITORS

Constitution serves the purpose of limiting the power of the government and is a guide to the elected government to work for the welfare of the people. A constitution requires commitment from the people and the government to remain relevant to each generation. The relevancy and consistency demand adherence to the foundational principles as well the accommodation of the changes taking place across time.

Under the Indian Constitution, the fundamental rights limit the power of the government, and the Directive Principles of the State Policy sets the welfare agenda of the popularly elected government. It also lays down the power and functions of different institutions of the state in detail along with the constitutional status of the election commission and office of the highest auditor of the country.

In the last seven decades, the Constitution of India has been amended more than 100 times to incorporate the aspirations of the people. The change in the last seven decades has led to the increase of the Articles from 395 to more than 450. A few notable changes relate to giving due priority to welfare goals, validating more policies of affirmative action, introducing fundamental duties, reorienting the indirect tax regime and re-asserting the values of the Indian Constitution. The Constitution has experienced several challenges in the last seven decades. The resilient character of the Constitution has helped in addressing the contestations and conflicts either through judicial or legislative processes. Though the judicial intervention in every aspect of constitutional governance has portrayed the legal character of the Constitution it also promises social reform, economic prosperity and political progress.

The journey of the seven decades is a testimony of stronger democratic values, peaceful transfer of power from one government to the other and adherence to judicial directions regardless of difference or deference with the ruling political dispensation. With all the incredible achievements in the last seven decades, there are unfulfilled agendas which require the attention of the government and people alike. The poor performance on the delivery of public goods is a matter of concern as it directly affects the quality of life and impacts the governance of the country. Thus, the government must strengthen education, public health, and physical and social infrastructure.

In this book, sixteen authors have presented their perspectives on the functioning of the Constitution in the last seven decades. The authors have touched upon the principles of constitutionalism, the functioning of the judiciary, independence and accountability of the judiciary, the relevance of fundamental duties, significance of representative judiciary, importance of freedom of expression, institutionalisation of the unenumerated rights (the right to privacy) and changing paradigm of transformative constitutionalism.



सत्यमेव जयते

अध्यक्ष, लोक सभा
SPEAKER, LOK SABHA
INDIA

MESSAGE

I convey my hearty congratulation to the Hidayatullah National Law University, Raipur for publishing a book on "The Journey of Seven Decades : Constitutional Discourse at Cross-Roads". The editorial book covers different facets of the constitutional discourse that has unfolded since the commencement of the Constitution.

The Constitution of India is a living document that has been fulfilling the hopes of the people and addressing the challenges of governance in the country. Over the last seven decades, it has accommodated the new ideas and aspirations of successive generations. We are proud of the fact that our Constitution has adequate in-built dynamism to enable us to move forward through the changing times. It is a testament of the vision and sagacity of our founding fathers.

I congratulate the authors for their contribution and the University for bringing a book on seven decades journey of the Constitution and I am sure that this academic endeavour will be valuable to all who take keen interest in constitutional studies.


(Om Birla)

Arup Kumar Goswami
Chief Justice



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Message

'The Journey of Seven Decades : Constitutional Discourse at Crossroads' is a significant contribution to the deliberation on the functioning of the Constitution in the last seven decades by the Hidayatullah National Law University, Raipur. The academic endeavour of the University has given the space for the scholars to articulate their thoughts on the working of the Indian Constitution.

The endurance of the Constitution is globally known, especially when compared with other national constitutions. The longevity of the foundational document is attributed to its design and the dynamism to effectively address the newer challenges. In seven decades, the constitutional philosophy has strengthened the core values enshrined in the Constitution. The resilient character of the Constitution has been experienced at the time of crisis and its progressive nature has been reflected in accommodating the newer aspirations of the people.

I congratulate all the authors for contributing to the editorial venture of the University. I believe that the book will find a distinct place in midst of voluminous texts/commentaries on the Constitution of India.

(Justice Arup Kumar Goswami)



Hidayatullah National Law University

Prof. (Dr.) V.C. Vivekanandan
Vice Chancellor

MESSAGE

India's Constitution is the longest of any modern democratic nation in the world, with a body of legislation that has been updated and amended numerous times since it was adopted in 1950. Over the past 70 years, a vast body of scholarship has developed in India on the topic of constitutional discourse and its impact on the socio-political development of the country. This publication is a critical review of such a journey by various constitutional observers on the key concepts, events, and interpretations that have shaped constitutional discourse in India over the past 70 years, with an emphasis on their implications for contemporary and future timelines.

The edited articles deal with the dialogue, interpretation, and application of constitutional principles and laws. The various articles touch upon the study of how constitutional provisions, the fundamental rights & responsibilities of citizens, and the relationships between government & its citizens are developed and practiced, as well as the process of interpreting and applying them in real-world situations.

One of the core topics of constitutional discourse in India that have attracted major scholarly attention is the idea of constitutional morality. This concept can be defined as the conviction that individuals have a duty to act in accordance with constitutional values and norms, even when the legality of their actions may be open to question. Constitutional morality encompasses both individual responsibility and collective responsibility and has been a key feature of Indian constitutional debate since the post-colonial period.

Historically, the Supreme Court of India has dynamically impacted the development of constitutional discourse, as well as the interpretation and enforcement of laws. The court has also led many debates around key constitutional issues such as the balance between individual liberty and the interests of the state, affirmative action, and the freedom to critique religion, among others.

One of the most significant issues is the ongoing debate about the scope and powers of the central government versus those of the states. This issue is especially pertinent in a federal system where the demarcation of the boundaries between the Union and the States gets differently interpreted resulting in pain points.

The increasing power of technology and its impact on constitutional discourse has also been a major topic for discussion in recent years. Specifically, questions have arisen around the privacy of citizens in relation to the collection and usage of data, the scope of legal regulation of the tech industry, and the extent to which tech companies should be held accountable. Finally, another important contemporary issue is the threat of religious extremism to constitutional discourse in India. This issue is particularly relevant in a nation with a diverse religion and culture and has become increasingly acute in recent times due to the rise of extremist groups and their ideologies.

In conclusion, this publication review provides an overview of the development of constitutional discourse in India over the past 70 years and will be a very valuable addition to the repository of constitutional discourse.

I would like to congratulate the Editors for their effort to bring out this valuable publication.

Prof. (Dr.) V.C. Vivekanandan

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