

CENTRE FOR POLITICAL STUDIES  
SCHOOL OF SOCIAL SCIENCES  
JAWAHARLAL NEHRU UNIVERSITY  
MONSOON SEMESTER 2021

M.PHIL. OPTIONAL COURSE: PO 639

COURSE TITLE: **CITIZENSHIP IN INDIA: LAWS, POLITICS AND INSTITUTIONAL PRACTICES**

INSTRUCTOR: PROFESSOR ANUPAMA ROY

Credits 4

Scheme of Evaluation: Students are expected to write and present *two mid-term assignments* in the form of a review of readings: 2 credits

*Term paper to be submitted and presented at the end of the term.* The term paper will follow the course format, i.e., should preferably be based on a law and judgement and the debates surrounding them bringing out implications for citizenship: 2 credits

**Course description and objectives**

The course brings together as readings for each segment, Bare Acts (laws), judgements, government reports, archival records, and scholarly writings that have emerged from research in the area. The purpose of this combination is to make the students not just aware of the institutional practices of citizenship but also to explore the diverse sources from which these practices may be discerned, and the methodological tools that may be deployed for the interpretation of these sources. The course draws upon readings from different countries, to give it a comparative thrust. At the same time, the focus on India has been retained, to bring out the historical trajectory and the polyrhythms of citizenship experiences, and state practices of citizenship in India.

**(i) Citizenship: Conceptual frameworks**

This segment of the course will be anchored in studies that provide the analytical tools for understanding the debates surrounding citizenship.

T. H. Marshall, 'Citizenship and Social Class', Marshall, T.H., *Citizenship and Social Class and Other Essays*, Cambridge, Cambridge University Press, 1950.

Iris Marion Young, 'Polity and Group Difference', Young, Iris, Marion, 'Polity and Group Difference: A critique of the Ideal of Universal Citizenship', *Ethics*, No.99, 1989.

Niraja Gopal Jayal, *Citizenship and its Discontents: An Indian History*, Cambridge & London: Harvard University Press, and New Delhi: Permanent Black, 2013.

James Holston, *Insurgent Citizenship*, Princeton, Princeton University Press, 2008

Saskia Sassen, 'The Global Street: Making the Political', *Globalizations*, Vol.8, No.5, 2011.

Holloway Sparks, 'Dissident Citizenship: Democratic Theory, Political Courage, and Activist Women', *Hyspatia*, Vol.12, No.4, 1997.

## (ii) The Transformative in Citizenship

This segment will be based on reading Constituent Assembly Debates by deploying the framework of Transformative Constitutionalism.

**Constituent Assembly Debates:** 10<sup>th</sup> to 12<sup>th</sup> August 1949.

Rohit De, *A People's Constitution: The Everyday Life of Law in Indian Republic*, Princeton, Princeton University Press, 2018.

Madhav Khosla, *India's Founding Moment: The Constitution of a Most Surprising Democracy*, Harvard University Press, Cambridge, 2020.

Gautam Bhatia, *The transformative constitution: A radical biography in nine acts*. Noida: Harper Collins, 2019.

Pius Langa, 'Transformative constitutionalism', *Stellenbosch L R*, 17(3), 2006, 351-360.

## (iii) State-formation and liminal citizenship

Through a study of archival material, primarily files pertaining to citizenship in the Indian Citizenship Section of the Home Ministry in the 1950s, citizenship laws, and court judgements, this segment of the course will explore the liminal spaces of citizenship that emerged in the interregnum between the enforcement of the Citizenship provisions as contained in the Constitution of India and the enactment of the Citizenship Act of 1955.

**Bare Acts:** *The Abducted Persons (Recovery and Restoration) Act, 1949, Constitution of India (Chapter Two, Articles 5-11), The Citizenship of India Act, 1955*

**Judgements:** (a) *The State of Punjab vs. Ajaib Singh and Another (10/11/1952)*

**Archival sources:** Files of the Home Ministry (Indian Citizenship Section)

**Articles and selections from the following books:**

Veena Das, 'National Honour and Practical Kinship' in Veena Das ed. *Critical Events: An Anthropological Perspective on Contemporary India*, OUP, Delhi, 1995

Nonica Datta, *Violence, Martyrdom and Partition: A Daughter's Testimony*, OUP, Delhi, 2009.

Laura Anne Stoler, "Colonial Archives and the Arts of Governance", *Archival Science* 2 (2002), 87-109.

Hunter, Rosemary, *Feminist Judgements: From Theory to Practice*, Bloomsbury, 2010.

## (iv) Caste, gender, community and differential citizenship

This segment of the course will familiarise the students with the way in which specific Acts incorporate 'exemption' provisions found in Article 14 and 15 which constitute the fundamental right to equality and lay down what may be called non-discrimination provisions.

**Bare Acts:** *The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989*

**Articles and selections from the following books:**

Gopal Guru (ed.), *Humiliation: Claims and Context*, OUP, Delhi, 2009.

Ranajit Guha, 'Chandra's Death', Ranajit Guha ed., *Subaltern Studies V*, New Delhi, OUP, 1987.

Anupama Rao, 'Death of a Kotwal' in *The Caste Question*, University of California Press, Los Angeles, 2009.

Pratiksha Baxi, *Public Secrets of Law: Rape Trials in India*, OUP, New Delhi, 2014.

#### **(v) Migration and citizenship: Changing laws/regimes of citizenship**

This segment would take up issues in the debates on citizenship that have arisen in the context of migration and invocations of deterritorialised, post-national/world citizenship in a globalised world. Despite the fact that movement has been an inseparable aspect of human existence, the migrant, as an unsettled and floating category has for various reasons remained the perpetual citizen-outsider.

**Bare Acts:** *The Citizenship Act, 1955*

**Judgements:** *Sarbanand Sonowal vs. The Union of India (Supreme Court judgement scrapping the Illegal Migrants Determination by Tribunals Act, 1983)*

#### **Articles and selections from the following books:**

Aiwha Ong, 'Please Stay: Pied-a-Terre, Subjects in the Megacity', *Citizenship Studies*, Vol.11, No.1, 2007.

Aiwha Ong, 'Mutations in Citizenship', *Theory, Culture & Society*, Vol. 23 no. 2-3, May 2006.

Kamal Sadiq, *Paper Citizens: How Illegal Immigrants Acquire Citizenship in Developing Countries*, OUP, New York, 2009.

Sanjib Baruah, 'The Partition's Long Shadow: The Ambiguities of Citizenship in Assam', *Citizenship Studies*, Vol. 13, Issue 6, 2009.

Veena Das, State, Citizenship, and the Urban Poor, *Citizenship Studies*, Vol.15, Nos.:3-4, 2011.

Aradhana Sharma, 'Specifying Citizenship: Subaltern Politics of Rights and Justice in Contemporary India', *Citizenship Studies*, Vol. 15, No. 8, 2012.

Etienne Balibar, *We the People of Europe: Reflections of Transnational Citizenship at the Borders of Europe*, Princeton University Press, Princeton, 2004.

Austin Sarat (eds). *Law and the Stranger*, Stanford Law Books, Stanford University, 2010 [Chapter: Pheng Cheah, 'Necessary Strangers: Law's Hospitality in the Age of Transnational Migrancy']

#### **(vi) Sexuality and debates on illegality/criminality**

In this section the hierarchised universe of citizenship will be discussed by examining the ways in which difference is made invisible, and citizenship is hierarchically structured around sexuality and societal institutions such as marriage and family.

**Judgement:** *Article 377 IPC, and the High Court Judgement (Naz Foundation and Others v. Government of NCT of Delhi and Others, 2009, Navtej Johar and Others v. Union of Others, 2018)*

**Articles and selections from the following books:**

Nivedita Menon ed., *Sexualities: Issues in Contemporary Indian Feminism*, London, Zed Books, 2008.

Upendra Baxi, 'Dignity in and with Naz' in Arvind Narrain and Alok Gupta eds., *Law Like Love: Queer Perspectives on Law*, Yoda Press, Delhi, 2011.

**(vii) The security state and suspect citizenship**

*Judgement: Nandini Sundar v. The state of Chhattisgarh*

**Articles and selections from the following books:**

E.P.Thompson, *Whigs and Hunters: The Origin of the Black Act*, Penguin, Harmondsworth, 1985 (paperback)

Carlos Ginzburg, *The Judge and the Historian. Marginal Notes and a Late-Twentieth-century Miscarriage of Justice*, London 1999.

Kalyani Ramnathan, The Runaway Judgement, *Journal of Indian Law and Society*, Vol.3,

Iris Marion Young, 'The Logic of Masculinist Protection: Reflections on the Current Security State', in *Global Challenges, War, Self Determination and Responsibility for Justice*, Polity, Cambridge, 2007.

David Lyon, 'Surveillance Society', Talk for Festival del Diritto, Piacenza, Italia: September 28, 2008.

Btihaj Ajana, 'Biometric Citizenship', *Citizenship Studies*, Vol.16, No.7, 2012.

John Torpey, *The Invention of the Passport: Surveillance, Citizenship and the State*, Cambridge University Press, Cambridge, 2000 [Chapter One; Coming and Going: On the State Monopolisation of the Legitimate 'Means of Movement']

Please note that the course content is intended for a regular one semester course (four months). If there are changes in the duration of the semester, corresponding modifications will be applied with reference to the topics, class lectures and readings.