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Contours of Constitutionalism: Book Review on The Oxford Handbook of the Indian Constitution

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 1. Sujit Choudhry
 2. Madhav Khosla
 3. Pratap Bhanu Mehta

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INTRODUCTION

The Indian Constitution is one of the most remarkable political texts of the twentieth century. Framed in the aftermath of colonial rule and amidst immense diversity, it reflects both aspiration and accommodation. *The Oxford Handbook of the Indian Constitution* offers a sophisticated and layered understanding of this document—not merely as a legal charter, but as a living political instrument. It addresses the Constitution's historical context, normative foundations, institutional design, and the evolution of constitutional practices over time. The book's purpose is not only to chronicle the Constitution's journey but also to critically analyze how it operates in practice, highlighting both its strengths

and challenges.

The editors take an explicitly interdisciplinary approach, recognizing that any serious engagement with constitutional law in India must go beyond doctrinal analysis. Accordingly, they invite contributions from legal scholars, political scientists, historians, economists, and policy experts, making the volume as much a political and social study as a legal one. The result is a layered and nuanced account that is both accessible and deeply scholarly.

OVERVIEW AND STRUCTURE OF THE BOOK

The Handbook is organized into eight major parts, each containing several chapters that collectively offer a holistic understanding of India's constitutional system. The structure allows readers to navigate the Constitution thematically, exploring not just the black-letter law but the deeper normative and practical questions it raises.

- **Part I:** History sets the tone with essays on the Constitution's historical antecedents and its place in global constitutionalism.
- **Part II:** Negotiating Constitutionalism addresses interpretation, identity, hegemony, and international influences.
- **Part III:** Constituting Democracy explores citizenship, language, elections, emergency powers, and amendments.
- **Part IV:** Separation of Powers covers the institutional architecture and functional dynamics of the executive, legislature, and judiciary.
- **Part V:** Federalism engages with India's complex center-state relations, fiscal federalism, and local governance.
- **Parts VI & VII:** Rights—Structure and Substance analyze the scope of fundamental rights, PILs, equality, liberty, secularism, and personal laws.
- **Part VIII:** Government's Legal Personality concludes with chapters on sovereign immunity, government contracts, and public employment.

Each chapter stands independently yet contributes to the overarching discourse, making the book suitable for both focused and comprehensive readings.

KEY THEMES AND SECTIONS

One of the most remarkable aspects of *The Oxford Handbook of*

the Indian Constitution is its extensive thematic coverage that spans historical, doctrinal, institutional, and contemporary dimensions of constitutional law. The volume captures the layered and evolving nature of the Indian Constitution, dissecting it through both classical principles and present-day concerns. This section of the review focuses on the core themes that the handbook elaborates upon, reflecting the depth and interdisciplinarity of the essays.

- ***Historical Foundations***

The foundational chapters of the Handbook provide an essential backdrop to the making of the Indian Constitution. Contributions by scholars like Rohit De and Uday Mehta trace the pre-constitutional legal regimes, the influence of colonial governance structures, and the ideological motivations that drove the drafting process. These essays offer a historically grounded understanding of how the Indian Constitution emerged as a response to British colonialism, princely state politics, and nationalist aspirations.

Hanna Lerner's comparative perspective on the Indian founding situates India's Constitution within a global context of postcolonial nation-building, demonstrating how India's framers borrowed from diverse legal systems while crafting an indigenous constitutional framework. This historical analysis is crucial to understanding the Indian Constitution not just as a legal document but as a political act of democratic assertion and social engineering.

- ***Fundamental Rights and Freedoms***

A significant portion of the volume is dedicated to analyzing the theory and practice of fundamental rights, which are often considered the heart of the Indian Constitution. The two-part exploration—*Rights: Structure and Scope* and *Rights: Substance and Content*—features contributions from scholars such as Tarunabh Khaitan, Gautam Bhatia, Lawrence Liang, and Ratna Kapur. These essays delve into both the structural dimensions (such as writ remedies, horizontal application, and the role of saving clauses) and the substantive content (like equality, liberty, secularism, free speech, and gender justice).

For instance, Tarunabh Khaitan's analysis of legislative review under Article 14 offers a nuanced discussion of the evolution of equality jurisprudence. Ratna Kapur critically examines the limits of formal equality in achieving gender justice, challenging the liberal frameworks through which constitutional rights are often interpreted.

The PIL, a uniquely Indian innovation, receives considerable attention through Shyam Divan's chapter, which not only discusses its role in expanding access to justice but also flags its potential to blur the lines between judicial activism and overreach. These chapters collectively illustrate the richness, complexity, and ongoing debates surrounding the fundamental rights regime in India.

- ***Institutional Framework***

The book thoroughly examines the tripartite institutional structure—Legislature, Executive, and Judiciary—established under the Constitution, along with associated regulatory and administrative bodies. The separation of powers, while theoretically clear, is shown to be more fluid in practice, especially given the Indian context of a strong executive and a frequently assertive judiciary.

Ruma Pal's essay on separation of powers sets the tone by explaining how constitutional practice often departs from doctrine, particularly in times of political upheaval or judicial assertiveness. The chapters on the Legislature by M. R. Madhavan and Sidharth Chauhan dissect the technical aspects of composition, privileges, and disqualification, offering a fresh look at parliamentary democracy.

Nick Robinson and B.N. Srikrishna provide insightful analysis into the architecture, capacity, and independence of the judiciary. The essays underscore structural concerns, including backlog of cases, appointments, and accountability mechanisms. Additionally, Shubhankar Dam's discussion of the Executive illuminates the increasing centralization of power in the Prime Minister's Office and the evolving role of civil services.

The chapters on tribunals, administrative law, and review of executive action further demonstrate how the Constitution has adapted to the rise of a regulatory state, emphasizing the shifting nature of institutional accountability in contemporary governance.

- ***Federalism and Decentralization***

The Indian Constitution adopts a quasi-federal structure, and this complex design is extensively explored in Part V of the Handbook. Contributors such as Mahendra Pal Singh, Nirvikar Singh, Louise Tillin, and Harish Salve examine both vertical (Union-State) and horizontal (inter-state) relationships, addressing classical debates and emerging challenges.

The foundational chapter by Singh articulates the rationale and mechanics of the federal scheme in India, emphasizing its centralized tendencies. Nirvikar Singh's essay on fiscal federalism brings in an economic lens, examining the evolving nature of financial devolution, especially post the 14th and 15th Finance Commissions. Harish Salve's discussion on inter-state river water disputes and Arvind Datar's analysis of trade and commerce between states highlight the friction points within federal governance.

Louise Tillin's work on asymmetric federalism is particularly notable, as it explores special constitutional arrangements with certain states and regions—such as Jammu & Kashmir (pre-2019), the Northeast, and Scheduled Areas. K.C. Sivaramakrishnan's contribution on local governments highlights how the 73rd and 74th Amendments have tried to promote decentralization, albeit with varied success across the states.

• ***Judicial Review and Supreme Court***

India's Supreme Court has developed a strong tradition of judicial review, and this is one of the most analytically rich sections in the Handbook. Upendra Baxi, Chintan Chandrachud, and Raeesa Vakil, among others, offer deep reflections on the Court's evolving role and jurisprudential creativity.

Baxi's chapter is especially compelling for its critique of "constitutional hegemony" and its exposition of "demosprudence"—a theory that emphasizes democratic responsiveness in judicial reasoning. Chandrachud explores the interpretative frameworks adopted by the Court, navigating between textualism, purposivism, and transformative constitutionalism.

Raeesa Vakil's analysis of jurisdiction and Prateek Jalan and Ritin Rai's essay on administrative review underscore the expanding reach of judicial power into domains traditionally reserved for the executive. The volume highlights how judicial review in India has gone beyond negative liberty (checking state power) and has evolved into a tool for social transformation, albeit not without controversies.

• ***Contemporary and Emerging Issues***

One of the greatest strengths of the Handbook is its responsiveness to contemporary challenges and emerging areas of constitutional concern. Chapters on secularism

(Ronojoy Sen), personal laws (Flavia Agnes), and reservation policies (Vinay Sitapati) engage with deeply contested spaces of identity, justice, and state neutrality.

Gautam Bhatia's discussion of Directive Principles of State Policy revisits their normative force, especially in light of socio-economic rights advocacy. Abhinav Chandrachud and Anup Surendranath's chapters on due process and personal liberty draw attention to the interface between constitutional protections and criminal justice—areas of particular concern in recent years.

The volume also includes chapters on professional freedoms, religious autonomy, and minority educational institutions, addressing how group rights and individual rights intersect within India's plural legal system. The epilogue by Mark Tushnet provides an outsider's view, reflecting on how the Indian constitutional experience contributes to global constitutionalism, especially through its commitment to social democracy and judicial innovation.

SCHOLARLY CONTRIBUTION AND SIGNIFICANCE

The Oxford Handbook of the Indian Constitution stands as one of the most comprehensive scholarly efforts to map, interpret, and interrogate the Indian constitutional experience. Edited by leading scholars—Sujit Choudhry, Madhav Khosla, and Pratap Bhanu Mehta—the volume draws upon the intellectual contributions of a wide range of legal academics, political scientists, historians, economists, and public policy experts. The interdisciplinary nature of the volume enhances its richness, making it a significant scholarly intervention in the study of Indian constitutional law.

This handbook goes beyond a mere doctrinal exposition of constitutional provisions; it explores the Constitution as a living document, embedded within India's historical, social, and political realities. By engaging with both the foundational philosophy and the evolving interpretation of the Constitution, the volume positions itself as a critical resource for understanding the dynamism and resilience of Indian constitutionalism.

One of the most valuable contributions of the book lies in its engagement with comparative constitutionalism. Several chapters situate India's constitutional framework within a broader global context, thereby offering perspectives that transcend legal formalism. For example, essays such as Hanna Lerner's on the comparative foundations of India's Constitution, and Gary Jacobsohn's on constitutional identity, offer analytical depth to

questions of pluralism, unity, and national coherence.

Furthermore, the volume is significant for its timely and reflective interrogation of constitutional crises—both historical and contemporary. From analyzing the roots of emergency powers and the impact of public interest litigation to exploring the boundaries of judicial activism, the book charts the journey of India's democratic experiment in a nuanced manner. It opens up important discourses about constitutional morality, interpretive strategies, and the tension between majoritarian rule and minority protection.

Importantly, the volume bridges the gap between legal academia and public discourse. Many of the contributors are not just scholars but public intellectuals who engage regularly with media, policy debates, and judicial reforms. Their contributions lend the book a practical orientation, making it relevant to contemporary policy challenges and institutional reform debates in India.

The handbook's significance is also evident in academic and professional circles. It is increasingly being used in postgraduate syllabi in law schools and interdisciplinary programs across India and abroad. For researchers, it provides a treasure trove of references, frameworks, and conceptual tools. For policy practitioners and judges, it serves as a lens to reflect upon the broader socio-legal implications of constitutional interpretation and governance.

Moreover, *The Oxford Handbook of the Indian Constitution* offers a scholarly blueprint for engaging with the Indian constitutional tradition—not as a static edifice but as an evolving, contested, and participatory process. Its contribution is not limited to cataloguing constitutional doctrine, but rather, it reorients constitutional thinking through critical, contextual, and comparative lenses. It is a landmark publication in the field of Indian constitutional studies, and its long-term impact on scholarship, pedagogy, and public discourse is likely to be profound and enduring.

STRENGTHS OF THE VOLUME

The Oxford Handbook of the Indian Constitution is distinguished by several key strengths that elevate it above other compilations of constitutional scholarship. One of the most evident strengths is its sheer comprehensiveness. Spanning over 50 chapters and more than 1000 pages, the book covers an expansive range of themes—from the historical origins of the Constitution and its philosophical foundations to granular topics like local governance, emergency powers, inter-state water disputes, and sovereign immunity. This breadth ensures that the volume serves

as a one-stop resource for both foundational knowledge and specialized inquiries.

Another major strength is the interdisciplinary approach adopted by the editors. The inclusion of scholars from diverse backgrounds—law, political science, economics, history, and public administration—ensures that the Constitution is examined not just as a legal document but as a living social contract. This holistic treatment makes the volume especially valuable to readers who seek to understand how constitutional principles play out in real-world scenarios.

The caliber and diversity of contributors also significantly enhance the volume's quality. Authors like Upendra Baxi, Gautam Bhatia, Ratna Kapur, and Arun Thiruvengadam bring decades of experience and critical insight to their respective topics. The contributors are drawn from both academia and legal practice, enabling a fusion of theoretical insight and practical relevance. Each chapter is rigorously researched and often presents original arguments or novel frameworks that move the conversation forward in meaningful ways.

The clarity and accessibility of writing is another strength worth noting. Despite its academic rigor, most chapters are written in a lucid style that makes complex ideas accessible to a broad audience. This is particularly important in a country like India where public discourse around constitutional values is vibrant and participatory. The handbook strikes an effective balance between scholarly precision and readability, making it useful for students, educators, policy professionals, and lay readers alike.

One of the most commendable features of the volume is its critical orientation. The authors do not shy away from engaging with controversial or underexplored areas of constitutional law. Whether it is critiquing the Supreme Court's interpretive inconsistencies, questioning the effectiveness of affirmative action, or probing the limits of federalism, the essays encourage readers to think critically about constitutional principles and their implications. This makes the volume not just informative but intellectually stimulating.

The structural organization of the book is also well-conceived. The division into thematic parts—History, Rights, Separation of Powers, Federalism, Institutional Structures, etc.—provides clarity and allows for both sequential and selective reading. Readers can easily navigate to the sections that align with their interest, which adds to the book's usability as a reference tool.

The book is a monumental scholarly work that is marked by its

breadth, depth, and analytical rigor. Its strengths lie in its interdisciplinary scope, diversity of contributors, critical engagement, and accessibility. It not only enhances academic understanding of the Constitution but also contributes meaningfully to contemporary debates about law, rights, governance, and democratic values in India.

LIMITATIONS AND CRITIQUE

While *The Oxford Handbook of the Indian Constitution* is a monumental and authoritative resource, no scholarly work is without its limitations. A few areas merit critique, both in terms of content and structure.

First, despite its vast coverage, the volume tends to overrepresent doctrinal legal scholarship, at times under-emphasizing empirical and ground-level constitutional experiences. While many chapters delve into constitutional interpretation and judicial decisions, there is relatively less focus on the lived realities of constitutional implementation—how rights are accessed (or denied) in rural India, how marginalized communities interface with state institutions, and how federal dynamics play out in politically volatile regions. A greater inclusion of field-based studies or sociological insights could have enriched the discussion on constitutional practice.

Second, some critical contemporary issues are not addressed in sufficient detail. For example, while the book covers themes such as secularism, personal laws, and federalism, it does not fully engage with emerging questions around digital rights, surveillance, data protection, and environmental constitutionalism. These are increasingly vital to India's constitutional future and deserved more focused attention given their growing legal and societal relevance.

Third, the format of the book—while comprehensive—can be somewhat overwhelming. The sheer number of chapters and the density of content may make it daunting for new readers or those unfamiliar with constitutional discourse. Moreover, there is limited cross-referencing between chapters, which could have helped readers draw thematic connections. A synthesizing introductory or concluding chapter that ties together the various strands of argument and analysis could have enhanced the coherence of the volume.

Finally, the authorship, while impressive, remains somewhat tilted towards elite institutions and English-language academia, potentially excluding voices from legal activists, regional scholars, or vernacular thinkers who contribute substantially to India's

constitutional discourse. Despite these limitations, the critiques should be viewed as opportunities for future editions or companion volumes that can expand the inclusivity and topical relevance of this important work.

RELEVANCE IN CONTEMPORARY CONSTITUTIONAL DISCOURSE

In today's polarized and rapidly evolving political climate, *The Oxford Handbook of the Indian Constitution* remains profoundly relevant and intellectually essential. Its analytical richness and critical engagement with core constitutional values make it a vital resource for interpreting the contemporary challenges facing Indian democracy.

One of the primary reasons for its enduring relevance is its capacity to contextualize India's constitutional architecture within ongoing debates on democracy, secularism, nationalism, and social justice. As India navigates increasing centralization of power, controversial legal reforms, judicial populism, and social tensions, the questions raised in this volume—about constitutional morality, balance of power, and the role of dissent—resonate more strongly than ever.

The book's focus on fundamental rights and freedoms, including gender equality, reservations, privacy, and secularism, aligns closely with current legal battles in courts and legislative debates. The discussions on public interest litigation, judicial activism, and constitutional amendments have assumed renewed significance as courts and governments alike are re-evaluating the balance between state power and individual liberty. Chapters on emergency powers, citizenship, and the judiciary's evolving role underscore constitutional debates surrounding issues like the Citizenship Amendment Act, preventive detention laws, and the abrogation of Article 370.

Moreover, the insights offered in the chapters on federalism, asymmetric governance, and inter-state relations are timely, especially with increasing friction between the Centre and states on matters of taxation, health, and law enforcement. In light of India's changing fiscal dynamics post-GST and the rising importance of regional political actors, these themes are central to democratic functioning. The volume also serves as an essential pedagogical tool in the classroom. In law schools, political science departments, and policy institutes, the book facilitates deeper engagement with constitutional principles in a way that goes beyond the standard textbook treatment.

Importantly, in a time when democratic backsliding is a concern

not just in India but globally, the comparative and critical perspectives in the book help readers locate the Indian Constitution in broader global currents. In this regard, the volume continues to serve not just as a national resource, but also as a globally relevant scholarly intervention in constitutional studies.

CONCLUSION AND RECOMMENDATION

This book is a landmark publication that masterfully brings together scholarly expertise, analytical depth, and critical engagement to illuminate the Indian constitutional experience. It transcends the confines of traditional legal analysis by adopting an interdisciplinary lens, ensuring that readers understand the Constitution not merely as a static legal document but as a vibrant, contested, and evolving framework of governance and rights.

One of the greatest achievements of this volume is its ability to intertwine legal theory with practical realities, historical evolution with contemporary challenges, and domestic norms with global trends. From the foundational ideas of constitutionalism to the mechanics of governance, from rights-based jurisprudence to structural reforms—every major aspect of India’s constitutional life is treated with scholarly rigor and thematic coherence.

While the volume has its limitations—particularly in terms of inclusion of field realities and newer domains such as digital rights and environmental justice—its academic strengths far outweigh its gaps. In fact, these identified limitations can serve as productive springboards for further research, expanded volumes, or regional companion texts.

For scholars, practitioners, students, and policy professionals alike, the book is an indispensable resource. It not only provides doctrinal clarity and historical context but also challenges readers to engage critically with constitutional issues. For those involved in teaching or studying Indian constitutional law, this volume offers both breadth and depth that no single-author text can match.

This handbook is strongly recommended to anyone seeking to deepen their understanding of India’s constitutional order. It is a celebration of Indian constitutionalism in its many dimensions—complex, contested, and yet resilient. As India continues to evolve as a constitutional democracy, this book will remain a cornerstone of academic and public discourse for years to come.

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