Constitutional Litigation and Social Movements

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COURSE DESCRIPTION

Public Interest Litigations (PILs) in India, many of which were spurred by social movements, have driven numerous public policy reforms, revealing their exceptional emancipatory potential achieved. As a dynamic form of litigation, their use has opened the gates for the adjudication of a plethora of diverse social issues including healthcare, LGBTI rights, and food scarcity. PIL began as an effort, on the part of the courts, to address and speak to the poverty, social exclusion, and powerlessness that a majority of Indian citizens experience. However, the law, as a normative institution, appears to be a strange bedfellow for social movements that primarily concern themselves with socially excluded, disenfranchised groups of people. This course will critically explore the landmark Constitutional Law cases in the Indian Supreme Court on issues of Caste, Food, Health, Transgender Rights, and Sexual Minority Rights among others.

The central question this course seeks to raise/address are: What is the relationship between Courts and Social Movements? What are the strategies employed by activists and social movements in India to engage with litigation? What is the role of the Lawyers, Petitioners and Judges in such litigations? Does legal mobilization impact litigation and result in transformative social change? Are there simultaneous legal strategies beyond the Courtroom? The course will draw from a wide range of materials including law review articles, fiction, non-fiction, newspaper articles, films etc.