



ILS Law College, Pune

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REMEMBERING PROF. S. P SATHE

14TH PUBLIC MEMORIAL LECTURE

&

**INTERNATIONAL CONFERENCE ON
CONTEMPORARY TRENDS IN COMPARATIVE
PUBLIC LAW**

06-08TH March, 2020 | ILS Law College, Pune



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I. ABOUT INDIAN LAW SOCIETY

The Indian Law Society was established in 1923 as a Public Charitable Trust registered under the Societies Registration Act. It is a non-profit organization established with the sole purpose of imparting legal education. The Society is a voluntary association of persons, who came together with a pledge to launch courses on law, formal and informal, where law and legal doctrines are taught with social utility, purpose, impact and social relevance. The founder members of the Indian Law Society were the legal luminaries like Sir Narayanrao Chandavarkar, Shri J. R. Nanasaheb Gharpure, Diwan Bahadur and P. B. Shingane. Indian Law Society established ILS Law College in 1924, with a view of facilitating infrastructure essential for the study of law. Establishment of the Law College by the Indian Law Society was indeed a pivotal moment in Indian Legal Education as the College exemplified academic excellence, social relevance, and professional competence. Imaginative realignment of written law or the hard law with a view to reorient them with the Indian social milieu has always been the strength of the Indian Law Society.



II. ABOUT ILS LAW COLLEGE

Established in 1924, ILS Law College (<https://ilslaw.edu/>) is one of the oldest law schools in India and has been playing a pioneering role in legal education and scholarship in the country. Ninety six years since its establishment, the Law College has acquired the reputation of being a premier institution imparting quality legal education. Since its inception, ILS Law College has produced some of the most highly regarded contributors in the field of law.

- Justice P.B. Gajendragadkar: Chief Justice, Supreme court of India (1964-66);
- Justice Y.V. Chandrachud: Chief Justice, Supreme court of India (1977-85);
- Justice E.S. Venkataramaih: Chief Justice, Supreme court of India (1987-89);
- Justice Mridula Bhatkar: Former Judge, Bombay High Court;
- Shri K. M. Reddy: Former Governor of Maharashtra;
- Shri Y.B. Chavan: Former Deputy Prime Minister of India;
- Shri Mohan Dharia: Former Minister of Commerce;
- Shri Sushilkumar Shinde: Home Minister, Govt. of India & Former Chief Minister of Maharashtra;
- Shri Vilasrao Deshmukh: Former Chief Minister of Maharashtra;
- Shri Arun Kirloskar: Industrialist;
- Dr. Prabha Atre: Indian Classical Vocalist;
- Prof. S.P. Sathe: Former Director, Institute of Advanced Legal Studies (IALS) and Ex-Principal, ILS Law College;
- Dr. Alice Jacob: Former Director of Indian Law Institute and Ex-Member, Law Commission of India; and
- Dr. A.T. Markose: First Director of Indian Law Institute & Former Professor, Cochin University.



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With its illustrious history and heritage, the institution has contributed immensely to the growth of legal profession and has upheld its tradition of producing meritorious legal scholars who dedicate themselves to public service and reform. The generations of distinguished legal luminaries who have been nurtured by this unique institution have made a seminal contribution globally to the evolution of the esteemed field of Law.



III. REMEMBERING PROFESSOR S.P. SATHE

Professor Satyaranjan Purushottam Sathe was a distinguished legal luminary and a renowned academic in the judicial universe of India. He held various positions in Universities and Law Institutes of repute. Professor S.P. Sathe had a long association with the Indian Law Society. He was the Principal of ILS Law College from 1976 to 1991. He was also the Secretary of the Indian Law Society until 2002. He was the Founder Director of the Institute of Advanced Legal Studies. He was also the President of the Maharashtra People's Union for Civil Liberties, and a Vice President of the National PUCL. Professor S. P. Sathe has been an authority on Constitutional Law, within the country and abroad. He contributed extensively to the field of legal education. His recent work on 'Judicial Activism is appreciated worldwide. More than 100 articles written by him were published in national and international legal periodicals, magazines and journals. Books to his credit are, 'Administrative Law', 'Judicial Activism in India: Transgressing Borders and Enforcing Limits', and 'Right to Know'. He also wrote in Marathi. He contributed to the Marathi VishwaKosh published by the Government of Maharashtra. He was invited to deliver lectures, and to participate in seminars as a resource person to different law universities, institutions within and outside India. Known for his humility, Professor Sathe endeared himself to his colleagues and students alike. His commitment to Rights and Liberties of the people was deep and abiding. Every year, Professor S. P. Sathe Foundation, set up by the Indian Law Society, organizes "Remembering S.P. Sathe an event that consists of Public memorial lecture, National Moot Court Competition and a Conference at ILS Law College, Pune on a specific theme with a view to commemorate his contribution to Indian Jurisprudence and Social Action and to encourage academic pursuit of law students.



IV. THE CENTRE FOR PUBLIC LAW

Continuing his legacy, the college established the Centre for Public Law (<https://ilslaw.edu/centre-for-public-law-cpl/>) in 2009 with a view to:

- Promote Constitutional studies through innovative means;
- Train the students to engage with core concepts underlying Indian Constitutional Law in particular and public law in general;
- Analyze and critique judgments of Supreme Court and High Courts touching Public Law;
- Identify interface of Public Law with other disciplines of Law; and
- Nourish a Constitutional Culture.



VI. REMEMBERING PROF. S. P. SATHE 14TH MEMORIAL PUBLIC LAW LECTURE

Every year, Remembering Prof. S.P. Sathe Memorial Public Law Lecture is delivered on a specific area of law by a legal luminary.

This year, Remembering Prof. S. P. Sathe 14th Memorial Public Law Lecture will be delivered by **Hon'ble Justice Jasti Chelameswar** (*Former Judge, Supreme Court of India*) on 'Fundamental Constitutional Principles in light of R (Miller) v. The Prime Minister and Cherry v. Advocate General for Scotland, also known as Miller II.'

Venue: Conference Hall, ILS Law College, Pune

Time: 16:45 - 18:30



VII. INTERNATIONAL CONFERENCE ON CONTEMPORARY TRENDS IN COMPARATIVE PUBLIC LAW

A. Concept Note

ILS Law College under auspices of Remembering SP Sathe Foundation (set up by the Indian Law Society) and Centre for Public Law announces a three day “International Conference on Contemporary Trends in Comparative Public Law” from 6th to 8th March 2020 at ILS Law College, Pune. The conference attempts to engage legal scholars, law teachers, practitioners and students in a threadbare discussion of niche areas in public law. The theme of the conference challenges the traditional notions of law and the antiquated mono-dimensional structure of public law. Inclusiveness and participation must inform and reform the traditional notions of the exercise of public power. In an era of liberalization, privatization and globalization (LPG) the traditional boundaries of public law have been pushed to a vanishing point. The focus is now weaning away from traditional state structure to supra-national institutions. No longer can the normativity of law be evaluated to the exclusion of evolving international and supra-national rules and standards. The standard reference to state constitutions or law for validation of exercise of public power by the authorities is increasingly under the scanner of supra-national institutions like WTO etc. Increasingly the absolute character of state sovereignty is downplayed by conceiving a trans-national legal order.

Contemporary debates in public law have also demonstrated the benefits of assessing the social impact of state institutions on individuals and marginalized groups. Current trends demonstrate a shift away from positivist constitutionalism to global constitutionalism. The focus is now on culture of authority rather than on the authority of culture. India is also not free from metamorphosis of its public law with idea of



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composite culture coming into play and with calls being given for uniformity of norms and regulations throughout India in respect of governance.



B. Objectives

- To examine the viability of societal and global constitutionalism to redesign and realign public law;
- To conceive epistemic strategies for reconstruction of jurisprudence in a globalized world;
- To critically analyze overwhelming influence of purposive interpretation on the text of the constitutions;
- To examine the viability of expanding the contours of basic structure doctrine evolved by the supreme court of India beyond amendment review;
- To examine the existing doctrines that carves out a space for marginalized minorities like disabled and LGBT communities so as to enhance their quality of life and representation as equal members of the society.



C. Key Speakers

We are very fortunate to have received kind consent from the following to be key speakers at the conference:

- **Justice Jasti Chelameswar (Former Judge, Supreme Court of India)**
- **Prof. Paul Craig (Oxford University);**
- **Mr. Arvind Datar (Senior Advocate);**
- **Mr. Shreehari Aney (Senior Advocate);**
- **Prof. Shirish Deshpande (Professor MNLU Nagpur)**
- **Prof. Rosalind Dixon (University of New South Wales);**
- **Dr. Alexander Christoph (Associate Professor and Associate Dean, Jindal Global Law School);**
- **Dr. Shreya Atrey (Oxford University);**
- **Dr. Aparna Chandra (National Law University, Delhi);**
- **Mr. Arvind Narrain (Founder, Alternative Law Forum, Bangalore);**
- **Mr. J Sai Deepak (Advocate, Supreme Court of India)**
- **Dr. Shivprasad Swaminathan (Associate Professor, Jindal Global Law School);**
- **Ms. Jhuma Sen (Associate Professor, Jindal Global Law School);**
- **Mr. Sharath Chandran (Advocate, High Court of Judicature at Madras);**
- **Mr. Amit Pai (Advocate on Record, Supreme Court of India)**



D. Consolidated Schedule

Day One: Friday, 06th March 2020

Session	Theme	Speakers	Time
<i>Registration of Participants</i>			08.00 – 09.30
I.	Opening Ceremony and Welcome Address by the Principal		09.30 – 10.30
	Tea Break		10.30 – 10.45
II.	Workshop on Intersectionality	Dr. Shreya Atrey Dr. Aparna Chandra Dr. Jhuma Sen Dr. Jaya Sagde (Chair) Prof. Shirish Deshpande Dr. Sanjay Jain	10.30 – 01.00
<i>Lunch</i>			13.00 – 13.45
III.	Paper Presentations (<i>to run in parallel</i>)		14.00 – 16.15
<i>Tea Break</i>			16.15 – 06.45
IV.	Prof. S. P. Sathe 14 th Public Law Memorial Lecture	Hon'ble Justice Jasti Chelameswar	16.45 – 18.30



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Day Two: Saturday, 07th March 2020

Session	Theme	Speakers	Time	
I.	Reconceptualizing the Concept of Law (09.00 - 11.00)	Justice J. Chelameswar (Chair)	09.00 - 09.10	
		Mr. Arvind Narrain	09.10 - 09.35	
		Dr. Shivprasad Swaminathan	09.35 - 10.00	
		Dr. Sanjay Jain Ms. Rajalaxmi Joshi	10.00 - 10.25	
		Dr. Alexander Christoph (as a Panelist)	10.25 - 10.40	
		Q&A	10.40 - 11.00	
<i>Tea Break</i>			11.00 - 11.30	
II	Basic Structure Constitutionalism (11.30 - 13.00)	Ms. Sathya Narayan (Chair)	11.30 - 11.40	
		Mr. Arvind Datar	11.40 - 12.10	
		Mr. Shreehari Aney	12.10 - 12.40	
		Mr. Amit Pai	12.40 - 13.00	
	<i>Lunch</i>			13.00 - 13.45
	Basic Structure Constitutionalism (<i>contd.</i>) (14.00 - 15.00)	Prof. Rosalind Dixon (<i>over Skype</i>)	13.45 - 14.05	
		Dr. Arghya Sengupta	14.05 - 14.25	
		Prof. Shirish Deshpande (Panelist)	14.25 - 14.35	
Q&A		14.35 - 15.00		
III.	Models of Constitutional Power (15.00 - 16.30)	Mr. Madhav Godbole (Chair)	15.00 - 15.10	
		Mr. J Sai Deepak	15.10 - 15.35	
		Dr. Nitish Nawsagaray	15.35 - 16.00	
		Mr. Shrikant Paranjape (Panelist)	16.00 - 16.10	
		Q&A	16.10 - 16.30	
<i>Tea Break</i>			16.30 - 17.00	



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IV.	An Open Discussion Forum: Dialogue on Comparative Public Law	Prof. Paul Craig (Chair) Justice Chelameswar Justice P.N. Prakash Mr. Arvind Datar Dr. Sanjay Jain Prof. Shirish Desphande Mr. Sharath Chandran	17.00 – 19.00
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Day Three: Sunday, 08th March 2020

Session	Theme	Speakers	Time
I.	Re-Aligning Discrimination Law (09.00 – 11.00)	Dr. Shreya Atrey (Chair)	09.00 – 09.15
		Dr. Alexander Christoph	09.15 – 09.55
		Dr. Santosh Jaybhay Ms. Madhura Sawant	09.55 – 10.30
		Dr. Aparna Chandra (Panelist)	10.30 – 10.45
		Q&A	10.45 – 11.00
<i>Tea Break</i>			11.00 – 11.30
II.	New Directions in Comparative Public Law (11.30 – 13.20)	Ms. Vaijayanti Joshi (Chair)	11.30 – 11.45
		Prof. Paul Craig (Judicial Techniques fostering and protecting the Ordering of Values underlying Domestic Constitutions in terms of	11.45– 12.15



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		autochthony with focus on UK and India)	
		Mr. Sharath Chandran (Doctrine of Arbitrariness)	12.15 – 12.45
		Dr. Aparna Chandra (Panelist)	12.45 – 13.00
		Q&A	13.00 – 13.20
<i>Lunch</i>			13.20 – 14.15
III.	Transformative Constitutionalism and Constitutional Morality (14.15 - 16.10)	Justice Chelameswar (Chair)	14.15 – 14.30
		Dr. Alexander Christoph	14.30 – 15.00
		Mr. Arvind Datar	15.00 – 15.30
		Prof. Paul Craig (as Panelist) Justice P.N. Prakash (as Panelist)	15.30 – 15.50
		Q&A	15.50 – 16.10
<i>Closing Ceremony</i>			16.10 – 17.00
<i>Conference Culminates</i>			

E. Scientific Committee

The scientific committee of the conference shall consist of::



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1. Ms. Vaijayanti Joshi (Director - Academic & Administration, ILS Law College, Pune)
2. Dr. Sanjay Jain (Associate Professor) Acting Principal, ILS Law College, Pune
3. Mr. D. P Kendre (Assistant Professor, ILS Law College, Pune)
4. Ms. Rajalaxmi Joshi (Assistant Professor, ILS Law College, Pune)
5. Ms. Divya Mittal (Assistant Professor, ILS Law College, Pune)



F. Plenary Sessions

Day One: Friday, 06th March 2020

Workshop on Intersectionality

Workshop on Intersectionality	Dr. Shreya Atrey Dr. Aparna Chandra Dr. Jhuma Sen Dr. Jaya Sagde (Chair) Prof. Shirish Deshpande Dr. Sanjay Jain	10.30 - 01.00
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Article 15 and Article 16 of our constitution connote extraordinary farsightedness and in terms of drafting, both these provisions were way ahead of time with incorporation of principle of intersectionality through the words or “any of them” as a part of their phraseology. To date, neither judiciary nor the legislature has made any earnest efforts to engage with the same. With the entry into the force of specialized Human Rights conventions like UNCRPD, CEDAW etc by the UN and with adoption of general comments and recommendations by the committees overseeing the implementation of these conventions, anti discrimination regime has made remarkable advances. In this process, the role of academicians, philosophers and lawyers cannot be understated. Intersectionality transforms the notion of anti discrimination and brings into sharp relief the structures and the systems of discrimination. It enables a thorough investigation into how various grounds of discrimination intersect with one another in compounding and aggravating the impact of discrimination. However, around 30 years down the line after its first invocation by eminent scholar Kimberley Craneshaw, the principle of intersectionality has become complex and like all other doctrines and standards has been subjected to criticisms. In this session, we would engage with all its nuances and would also examine criticisms against the same.



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Session: Paper Presentations: Themes

Themes

Comparative Constitutionalism and Theory
Disability rights, Judicial Activism and Feminist Constitutionalism
Equality rights, Child Rights and Sexual Minority Rights
Rights Constitutionalism
Fundamental Rights and Rule of law
Constitutional Morality

Remembering Prof. S. P Sathe Public Memorial Lecture

Every year, Remembering Prof. S.P. Sathe Memorial Public Law Lecture is delivered on a specific area of law by a legal luminary.

This year, Remembering Prof. S. P. Sathe 14th Memorial Public Law Lecture will be delivered by **Hon'ble Justice Jasti Chelameswar** (*Former Judge, Supreme Court of India*) on '**Fundamental Principles of the Constitution in light of R (Miller) v. The Prime Minister and Cherry v. Advocate General for Scotland, also known as Miller II.**'

Venue: Conference Hall, ILS Law College, Pune

Time: 16:45 – 18:30



Day Two: Saturday, 07th March 2020

Reconceptualizing the Conception of Law

Reconceptualizing the Concept of Law (09.00 - 11.00)	Justice J. Chelameswar (Chair)	09.00 - 09.10
	Mr. Arvind Narrain	09.10 - 09.35
	Dr. Shivprasad Swaminathan	09.35 - 10.00
	Dr. Sanjay Jain Ms. Rajalaxmi Joshi	10.00 - 10.25
	Dr. Alexander Christoph (as a Panelist)	10.25 - 10.40
	Q&A	10.40 - 11.00

In view of rapid and intensive inter-connectivity between the people of the world diversity has assumed exceptional significance for the purpose of jurisprudence. The notions of modern jurisprudence like essentialism, foundationalism need to be revised thoroughly in order to sensitize law and make its institutions, purposes and processes more relevant, meaningful and sensitive for the infinite variety of experiences of individuals and groups. For example, in the area of feminist jurisprudence, questions have been raised about essentialism being necessarily bad and anti-essentialism being necessarily good. However, the critical race theory has demonstrated the inadequacy of both these perceptions. Similarly, in the area of disability jurisprudence there have been perfunctory attempts to question and revise the abelist epistemology, which is the standard way of looking law's institutions, purposes and processes in terms of existence of PWDs.

The institutions and processes in Public law must also be examined in the light of the role played by supra-national institution's norms and processes. For example, whether constitutional law can still be considered within the Westphalian conception of a State is



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a seminal question that needs to be revisited in the light of emerging concepts and doctrines like transformative constitutionalism and constitutional morality.



Basic Structure Constitutionalism

Basic Structure Constitutionalism (11.30 - 13.00)	Ms. Sathya Narayan (Chair)	11.30 - 11.40
	Mr. Arvind Datar	11.40 - 12.10
	Mr. Shreehari Aney	12.10 - 12.40
	Mr. Amit Pai	12.40 - 13.00
<i>Lunch</i>		13.00 - 13.45
Basic Structure Constitutionalism (<i>contd.</i>) (14.00 - 15.00)	Prof. Rosalind Dixon (<i>over Skype</i>)	13.45 - 14.05
	Dr. Arghya Sengupta	14.05 - 14.25
	Prof. Shirish Deshpande (Panelist)	14.25 - 14.35
	Q&A	14.35 - 15.00

In this session the doctrine of basic structure, as evolved by the Supreme Court, will be re-examined. In particular, an attempt would be made to explore the invocation of the doctrine to invalidate regressive interpretation of constitution by Parliament by evolving global human rights standards. Another seminal question is the invocation of the doctrine to test the validity of the original provisions of the original constitution.



Models of Constitutional Power

Models of Constitutional Power (15.00 - 16.30)	Mr. Madhav Godbole (Chair)	15.00 - 15.10
	Mr. J Sai Deepak	15.10 - 15.35
	Dr. Nitish Nawsagaray	15.35 - 16.00
	Mr. Shrikant Paranjape (Panelist)	16.00 - 16.10
	Q&A	16.10 - 16.30

This session will focus on the recent decision of Government of India to withdraw special constitutional status of Jammu and Kashmir and its merger in the Indian Union. Whether Right to Self Determination of people can be recognized and protected in the light of existing conceptions of autonomous arrangements within the provisions of Constitution of India is a question which requires serious introspection.



Dialogue on Comparative Public Law

An Open Discussion Forum: Dialogue on Comparative Public Law	Prof. Paul Craig (Chair) Justice Chelameswar Justice P.N. Prakash Mr. Arvind Datar Dr. Sanjay Jain Prof. Shirish Desphande Mr. Sharath Chandran	17.00 - 19.00
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During this dialogue inter-alia, the discussion will be centered on the following themes:

Populist Constitutionalism

Varying shades of democracy

Proportionality

Scope of executive/Prerogative power

Judicial Overreach



Day Three: Sunday, 08th March 2020

Re-aligning Discrimination Law

Re-Aligning Discrimination Law (09.00 - 11.00)	Dr. Shreya Atrey (Chair)	09.00 - 09.15
	Dr. Alexander Christoph	09.15 - 09.55
	Dr. Santosh Jaybhay	09.55 - 10.30
	Ms. Madhura Sawant	
	Dr. Aparna Chandra (Panelist)	10.30 - 10.45
	Q&A	10.45 - 11.00

The idea that constitutions can not only be conceived for imagination and formation of societies but can also be deployed for bringing transformation therein has to be explored threadbare in the light of jurisprudence of the Courts. In fact, our Supreme Court has, in a number of recent judgments, broken new grounds of judicial review and opened up the straight jacketed notion of anti-discrimination in India. However, it is necessary to inquire whether the notions of transformation and constitutional morality have truly emancipated the disabled and other marginalized groups who were, hitherto, regarded as outliers. Even in respect of women and LGBT community to what extent transformative constitutionalism could make a dent in stereotypical and paternalistic conceptions of law is a seminal question.



New Directions in Comparative Public Law

New Directions in Comparative Public Law (11.30 - 13.20)	Ms. Vaijayanti Joshi (Chair)	11.30 - 11.45
	Prof. Paul Craig (Judicial Techniques fostering and protecting the Ordering of Values underlying Domestic Constitutions in terms of autochthony with focus on UK and India)	11.45- 12.15
	Mr. Sharath Chandran (Doctrine of Arbitrariness)	12.15 - 12.45
	Dr. Aparna Chandra (Panelist)	12.45 - 13.00
	Q&A	13.00 - 13.20

Emerging doctrines, standards and principles will be the main focus of this session.



Transformative Constitutionalism and Constitutional Morality

Transformative Constitutionalism and Constitutional Morality (14.15 - 16.10)	Justice Chelameswar (Chair)	14.15 - 14.30
	Dr. Alexander Christoph	14.30 - 15.00
	Mr. Arvind Datar	15.00 - 15.30
	Prof. Paul Craig (as Panelist)	15.30 - 15.50
	Justice P.N. Prakash (as Panelist)	
	Q&A	15.50 - 16.10

Conception of constitutional morality has broken new grounds of judicial review by directing the constitution for attainment of certain goals and values. It is different from popular morality in that the latter is evolutionary and crystallizes gradually whereas constitutional morality is a conscious action/act conceiving transformation of society by developing visions through the espousal of certain standards and values. Thus, constitutional morality facilitates the roadmap for transformation of society and the same is characterized as transformative constitutionalism.

Transformative Constitutionalism nurtures the belief that constitutions can imagine and re-imagine the societal structure. In this session, we will explore how various jurisdictions have invoked both these ideas for re-alignment of societal designs and redressal of discriminatory regimes.



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