

India's Communal Constitution

This book speaks to debates on law, constitutionalism and the contested terrain of political identity in modern India. Set against the overwhelmingly liberal design of the Indian Constitution, the book demonstrates a tendency in the Constitution and its practice to identify the Indian people in parochial and especially in religious terms. Named India's Communal Constitution, this tendency is illustrated by drawing on constitutional debates and practice as they address religious freedom, personal law, minority rights and the identification of caste groups.

Thus, casting the Constitution and its practice as a field of contestation, the aspiration to define the Indian people as a community of individual citizens is brought face to face with one of its most significant antagonists – the tendency to cast the Indian people as an embodiment of religious communities, which this book examines and details as India's Communal Constitution.

Mathew John is Professor of Law at the Jindal Global Law School, O.P. Jindal Global University, Sonapat, Haryana. This book grew out of his doctoral work at the London School of Economics on the role that law has played in managing and organising religious tensions in South Asia. He works and publishes on issues bearing on public law, constitutionalism, constitutional theory, pluralism and the legal history of modern India.

India's Communal Constitution

Law, Religion and the Making of a People

Mathew John



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Acknowledgements

This book is an attempt to answer in some detail a question that has plagued me from as long as I can remember: How is it possible to demarcate the profound diversity of India (perhaps even South Asia) into the clearly demarcated legal and administrative identities we have now come to call Hindu and Muslim? As legally bounded administrative entities, these identities have become important axes along which Indians have been demarcated and walled off from each other. Social experience, however, has always been more complex, and continues even to this day to be porous across these boundaries. Straddling social experience and the straightjacket of administratively organised identities, this book details a Communal Constitution that elaborates law's participation in fastening India and Indians to religious identity.

The problem of religious identity that this book addresses traces back to my doctoral dissertation on the practice of secularism in the Indian constitutional state. Taking forward the dissertation, this book reworks and extends the intellectual journey that began with my doctoral work. Over these years I have accumulated innumerable intellectual debts, some of whom I must explicitly acknowledge.

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