

# “The great tragedy in India today is that there is little political will to do away with conservative laws” – Madhav Khosla

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*At the second LSE India Summit **Madhav Khosla** took part in the Constitution Panel, which explored India’s constitutional founding and the extent to which the principles of the Constitution of India have been realised to date. After the panel **Alexander Spalding** probed him further about the capacity for progressive constitutional reform in India.*



## **What does Ambedkar’s idea of ‘constitutional morality’ mean to you?**

There’s been a lot of writing on it, but one way to think about it is that the Constitution embodies a certain set of practices relating to democratic functioning and practices of constitutionalism that are not so much driven by particular phrases in the text, but that are simply driven by the way in which certain constitutional forms of engaging in governance are organised and work in practice.

## **You’ve written a lot on the idea of ‘constitutional consciousness’ and you draw some really interesting contrasts between the way that the Indians and Americans envisage their constitutions. Could you perhaps tell us more about where the differences lie?**

I think that the Constitution in the United States maintains a very particular place in the minds of American citizens because there have been so many interpretive debates about its meaning and whether or not it alludes to something that has been fixed in a particular place in time. We don’t really have this kind of interpretive debate in India; we don’t have that same culture of stylised debates about the nature of Constitutional interpretation, and so we have not had that kind of intense identity-based discussion around the text.

I don’t necessarily think that’s a bad thing. In many ways it means that there is a certain kind of pluralism that’s just associated with the text and its practical wisdom. What is troubling though is that a lot of the values and associated practices around constitutionalism and the creation of Ambedkarian constitutional morality are much less vibrant today than what one might hope for.



Image: B.R. Ambedkar, founder of the Indian Constitution. Credit: [José Fernandes Jr.](#) CC BY 2.0

**The contemporary corpus of Indian law is peppered with jurisprudential remnants from the British colonial administration. Do you think that a reformulation of the Indian Constitution would afford the chance for Indian society to move beyond anachronistic laws like Article 377?**

I certainly think so but those are simply questions of political will. The great frustration in this case is that — across the spectrum — there is very little political will to do away with conservative laws like Article 377, sedition laws, and a whole host of other illiberal laws and policies. But I don't think that their current existence can be accredited to the colonial administration; we're the ones who have kept them on the books. We have the power to change them.

**Do you think that the current administration, which is so heavily reliant upon an ideology of Hindu nationalism, can protect the Constitution's 'ideological integrity' i.e. the vision of an India underpinned by values of universal humanism?**

The tragedy here is that there doesn't seem to be any political party in India that can undertake such a widespread Constitutional reformulation seriously. This is not something that is only true of the current political administration; the Congress is just as bad as the BJP, sometimes in different ways but sometimes in similar ways as well. I think that there is a much deeper crisis across the Indian political spectrum where there are no takers at the moment for that kind of visionary politics.

**And how do you think we might be able, if at all, to collectively move in a direction through which it could be possible for an Indian administration to undertake these kinds of radical Constitutional amendments?**

It's impossible for that to occur unless the leadership is willing to become a force of change and is actually willing to articulate those sentiments. It's going to take a very particular kind of leader to enact this particular kind of

progressive political change.

Watch the India @ 70: LSE India Summit Water Security Panel [here](#).

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## About the Authors

**Madhav Khosla** is the inaugural B R Ambedkar Academic Fellow at Columbia Law School, and a doctoral student in political theory at Harvard University. Beginning August 2017, Madhav will be a Junior Fellow at the Harvard Society of Fellows. His research focuses on topics in modern Indian political thought and intellectual history, and in Indian and comparative constitutional law.



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