India’s democratic adaptations and experiments

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The joy of the crowd is there, but not in me is any satisfaction. Anything lacking in me?

Mahatma Gandhi on independence in a letter to his disciple Mirabeau (Madeleine Slade) a few days after independence. (Payne 1997, 537)

Long years ago we made a tryst with destiny, and now the time comes when we shall redeem our pledge, not wholly or in full measure, but very substantially. At the stroke of the midnight hour, when the world sleeps, India will awake to life and freedom. A moment comes, which comes but rarely in history, when we step out from the old to the new, when an age ends, and when the soul of a nation, long suppressed, finds utterance. [...] The achievement we celebrate today is but a step, an opening of opportunity, to the greater triumphs and achievements that await us. Are we brave enough and wise enough to grasp this opportunity and accept the challenge of the future?

Jawaharlal Nehru on 15 August 1947

We must make our political democracy a social democracy as well. Political democracy cannot last unless there lies at the base of it social democracy. What does social democracy mean? It means a way of life which recognises liberty, equality and fraternity as the principle of life. [...] On the 26th of January 1950, we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. [...] We must remove this contradiction at the earliest moment, or else those who suffer from inequality will blow up the structure of political democracy which this Assembly has so laboriously built up.

B.R. Ambedkar on 25 November 1949

(Constituent Assembly Debates Vol. IX 1989, 979)

Introduction

The three epigraphs depict three moods of the new Indian nation born on 15 August 1947 after two centuries of colonial rule following the horrors and tragedies of partition. The vivisection of the subcontinent on the All India Muslim League’s (AIML) ‘two-nation theory’ and the resultant brutal violence dividing, aside from the territory, individuals, families and communities saddened the father of the nation, making him sombre, with a void within
and without any jubilation or a perspective on independent India. Jawaharlal Nehru, the first prime minister, in cautious optimism, considered independence as ‘a step, an opening of opportunity, to the greater triumphs and achievements’. B.R. Ambedkar, a jurist with a key role in drafting the constitution, cautioned about the prospects of protecting the constitutional and democratic edifice crafted following two years, three months and twelve days (834 days) of intense debate due to prevailing socio-economic inequity. Each of the three genuine sentiments reflected multiple challenges filtering out of the independence prism. This chapter attempts to analytically record the challenges India faced as she embarked on her democratic republican journey on independence by reviewing her democratic engagement with framing the constitution and the dynamics of political processes that came to life with institutions over decades.

In real terms, the challenge was to stabilize a socially and economically backward, but culturally rich and diverse country with an equally diverse huge landmass inhabited by 345 million persons, the second largest in the world. It was for the first time in 200 years that India was going to shape its own future, keeping in view the needs of the people. However, before that, it had to survive the challenges of partition, which witnessed millions crossing the newly drawn Radcliffe Line on the British India’s eastern and western boundaries amidst communal violence, killing over a million on both sides who needed to be resettled with shelter, employment and livelihood. The country withstood the challenges.

Despite the interplay of numerous ideological currents that displayed suspicion remnant of partition (Nigam 2008), in less than five years, the world’s largest constitution was drafted, enacted and inaugurated, general elections were successfully conducted at both the levels and the first Parliament and state Legislative Assemblies were constituted. At both the levels, there were elected governments by May 1952, and Indian constitutionalism based on popular sovereignty came into operation. Granville Austin has described the Indian Constitution as a social document aiming at ‘social revolution’ based on consensus and accommodation, despite having been framed by a one-party assembly, which ‘was representative of India and its internal decision-making processes were democratic’ (1966, 2). In fact, ‘(t)he Assembly, the Congress and the government were, like a point of a triangle, separate entities, but, linked by over-lapping membership, they assumed a form infinitely for India’ (Austin 1966, 9).

In the days, months and years to follow, the institutional structure supporting constitutional democratic government in India was designed and put in place. In the process, the framers of the constitution dealt ably with the three challenges they faced: first, the maintenance of national unity with the bitter experience of partition; second, social issues that crippled the nation, such as untouchability, poverty and illiteracy; and third, India’s standing in the international arena (Mehta 2010, 15–27). Constitutions are meant to bridge democratic deficit (Baxi 2008). The Indian Constitution was created in a situation in which constitutional democracy had to be implanted. Thus, it was part of multiple and frequent transitions that the country and the society were making towards greater democratization. Though sure that it provided a solid base to the new polity, Nehru aptly described the flux in the Indian case: ‘While we want this Constitution to be as solid and as permanent as we can make it, nevertheless there is no permanence in Constitutions’ (CAD, Vol. 7, 1999, 322).

India took giant steps in a short span to settle gigantic issues of transition of a traditional society to a constitutional democratic republic amidst the mayhem of violence caused by partition. Indeed, partition itself was a highly charged sociopolitical as well as a prickly managerial issue of dividing the economic, even quotidian housekeeping, assets (Collins and Lapiere 2011). The leadership managed the social, political and democratic adaptations deftly.3
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The constitutional framework

Framing a republican constitutional architecture, where none existed, was the biggest challenge India faced that had to be achieved while providing stability to the polity. The draft constitution signed by 284 of the 299 members (fifteen were absent on that day) of the Constituent Assembly (CA) on 26 November 1949 was arguably the greatest political venture since the feat achieved by the Philadelphia Congress in 1787. As it was enacted, the expert opinion was that ‘The Indian constitution expresses the will of many, rather than the needs of the few’ (Austin 1966, 9). The Preamble of the constitution, underlining the prevailing liberal democratic values of justice, equality, freedom, fraternity and dignity, underscored the attempt to achieve administrative and political unity, and an economic and social revolution, and is a celebration of popular sovereignty. So substantive is this statement that Sir Ernest Barker opened his book Principles of Social and Political Theory (1951, ix) with the Preamble of the Indian Constitution without a comment. The Supreme Court of India has ruled through three cases – Berubari (1960), Kesavananda Bharti (1973) and Bommai (1994) – that spells the philosophy of the constitution and thus is of value to interpret its provisions, and it indicates the ‘basic structure’ of the Constitution.

Importantly, the Preamble eloquently asserted the Indian republic’s popular sovereignty: ‘We the people of India … adopt, enact and give to ourselves this Constitution’. Equally significantly, by overriding the clause of the Indian Independence Act, 1947, which did not allow the government of independent India either to proclaim India’s constitution or to proclaim India a republic, and which were to be done by the British parliament, the popular will was asserted. The Gazette of India Extra-ordinary of 26 January 1950, under the signature and seal of Governor General C. Rajagopalachari and in his presence, wiped off the colonial yoke and invoked popular sovereignty (Chaube 2009, 19–20). This assertive invocation with the parliament as its institutional colonnade on the foundation of republican constitutionalism, the Constituent Assembly in its role as the provisional parliament laid the tradition and foundation of a responsible government in India (Sen 2007, 1–40).

The assertion of popular sovereignty would not have been realized had citizenship and the electorate of the young republic been qualified with any socio-ethnic or economic considerations. Since involvement and greater participation of the citizens were prerequisites for the nascent democracy, political equality was considered a major prerequisite. Thus, universal identity of the ‘citizen’ was incorporated into Part II of the constitution that empowered all the people of India with a single identity, irrespective of their religion, caste or gender. Over the course of intellectual churning during the independence movement, the Motilal Nehru Committee Report (1928) and Karachi Congress (1931) had affirmed universal adult franchise in independent India. Thus, despite the apprehensions amongst a few members that ‘an illiterate populace would fail to exercise its choice in the “correct” way’, the CA overwhelmingly opted for ‘adult suffrage’, clearly ruling out any discrimination ‘on grounds of religion, race, caste or sex’ (Article 325), and but for mandatory legal disqualifications, Article 326 entitled the voting rights to ‘every person who is a citizen of India and who is not less than 21' years of age on such date’ (CA Debates Vol VIII 1999, 915–32). This expression of faith in the ‘subjects’ of the ‘Raj’ being transformed into active and participative ‘citizens’ of a new ‘republic’ erected on the foundation of an old tradition-bound society deepened the democratic process through recognition of new demands expanding the democracy at the grassroots (Datta Gupta 2013). By instituting mass adult suffrage, the framers of the constitution opted for ‘full democracy’ as well as tolerance for religious and cultural diversity, which strengthened the foundations of modern democratic India (Kohli 2001, 19).
The construction of republican citizenship with universal voting rights made a bold constitutional statement of political equality and the empowerment of the postcolonial India. Since citizenship sans rights, particularly given the Indian reality of a chasm between social and political equality, is not complete, the Constitution focussed on the entire spectrum of rights. Part III’s elaborating the justiciable rights and Part IV’s containing rights as well as policy directives to the Indian state that were made non-justiciable were innovative adaptations of individual and group rights in the evolving Indian constitutionalism. Even though the entire tradition of evolution of rights was taken into consideration, the CA adapted the available body of rights to end the social stratification and deep-rooted discrimination in the Indian society. The CA had to go beyond the US model of individual rights and focus on group and community rights given inequalities, discrimination and exploitation rooted in Indian history. The right to equality was particularly used for this purpose.

Of greater significance in this context was the use of the Irish constitution’s Directive Principles of Social Policy to factor in positive and welfare rights in Part IV of the constitution that elaborate The Directive Principles of State Policy (DPSP) that have been accorded sanctity equal to the Fundamental Rights by the Supreme Court of India since the 1970s. The apex court has looked at the DPSP as supplementing the rights and recommended that they work in harmony so much so that a policy framed in accordance with the DPSP must not be struck down on the grounds that a Fundamental Right has been violated (Bakshi 2014, 13–110; Mehta 2002, 180).

**Constitution and democratic adaptations**

Rather than being an inert document, the Indian Constitution has been alive to India’s democratic dynamics. The changes in the constitution since 1950 combine the desire and compulsions of the political leadership and demands arising from the society. Thus, the country’s interactive ‘living constitution’ has created tussle between the executive and the judiciary on the one hand and the political parties of different hues on the other. Two examples of this dynamic are the basic structure doctrine (Chopra 2006; Krishnaswamy 2009) and Public Interest Litigation (PIL) on the one hand and an attempt to change/review the constitution during the Bharatiya Janata Party (BJP)-led National Democratic Alliance (NDA) rule in 1998–2004 on the other (Government of India 2002; Kashyap, Khanna and Kueck 2000; Mehra 1999, 2000a).

The Supreme Court of India’s pronouncement of the basic structure doctrine in *Kesavananda v. State of Kerala* in 1973 transformed the constitution and its discourse. On 22 February 2000, the Atal Bihari Vajpayee government appointed a National Commission for the Review of Working of the Constitution under the chairmanship of Justice (retd.) M.N. Venkatachalliah, which submitted its report on 31 March 2002. In fact, the desire to modify the constitution to meet the aims and objectives of the executive has been on since the First Amendment Act, 1950, and later, in the 1970s, the unease with the basic structure doctrine led to the Swaran Singh Committee, which made a comprehensive recommendation to alter the constitution. Of course, the Forty-Second Amendment Act, 1976 during the emergency, which was partially undone by the Forty-Third and Forty-Fourth Amendment Acts in 1978, as well as Supreme Court judgement in the Minerva Mills case, used the Swaran Singh Committee Report to substantially change the powers of the judiciary and several other aspects of the constitution.
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Diversity and asymmetrical citizenship

Religion and caste were significant aspects of India’s social and civic life that needed engagement both at political and constitutional levels in the new democratic set-up. The leadership obviously expected social engagement to naturally emerge from political and constitutional initiatives. Second, the role of the political sphere in bridging the gulf with civic interactions and policy initiatives would have to be put under the microscope.

The CA’s engagement with religion had to be significant. The constitution needed to neutralize the logic of the partition that religion could be the basis of nationhood in the new multi-religious and multi-ethnic country, where 35.4 million (9.8 per cent of the total population as per the 1951 census) Muslims had still opted to stay on. For the emerging Indian nation, a delicate balance was needed in the land where multiple religions, faiths and beliefs criss-crossed at various points (Mehra 2000b). Walking a tightrope keeping individual, communities, the society and the state in an unprecedented synergy at a time when the British India was bifurcated on the two-nation theory 10, and an unprecedented communal violence engulfed the subcontinent in 1946–47, the constitution linked equality, freedom and justice with fraternity in the Preamble, the fundamental rights and the DPSP.

However, the word secularism was avoided in the Preamble, which was declared as part of the basic structure of the constitution in the Kesavananda Bharati case (1973). Secularism was added in 1976 through the Forty-second Amendment, making secularism part of the basic structure. Further, the chapter on fundamental rights appears to take off from the equality, freedom and justice to create space for ‘religion in the public domain as also for state intervention in matters of religion’ (Mahajan 2008, 308). In directing the Indian state not to discriminate against religious institutions and exclude them from public resources, the Indian adaptation seeks to subsume religion in its scheme of ‘secularism’, defined in Gandhian discourse as sarma dharmambhav or treating all religions equal. However, despite the declaration that the Indian state has no religion, paradoxically, ‘State involvement in religious institutions and, to some extent, in facilitating the practice of religion…’ (Mahajan 2008, 308) is a reality in India.

Article 29(1) of the Indian Constitution lays down that ‘Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same’. Read with Articles 30, 25 and 28, the Indian Constitution, this provision guarantees protection to group rights in general, as also a range of protection to religious groups. Indeed, the assertion of ‘cultural nationalism’ based on Hindutva, more particularly since the 1980s, has created stresses on India’s ‘unity in diversity’ project, particularly with regard to religion. The questions of individual and groups rights have been discussed intensely, and they continue to be part of public discourse, the constitutional debates, judicial pronouncements and, of course, various layers of politics (Chandhoke 2000).

The engagement with caste came with ceding social, political and policy spaces to the marginalized who had been exploited for centuries. However, beyond the ‘untouchables’, a caste-class debate confounded the debate and politics. Even though affirmative action was experimented with since 1925 (in the Madras Presidency) during British rule, the communal award (4 August 1932) awarding seats to different communities, including the Scheduled Castes (Dalits) in various provincial assemblies and Mahatma Gandhi’s fast unto death against separate electorate to Dalits, resulting in the Poona Pact (24 September 1932), had changed the political equation between the leadership of the Congress and Ambedkar.
The CA witnessed a tussle on how to reconcile the demands for undoing historical wrongs without granting separate electorate. Eventually, a system of reserved seats on a population basis was agreed upon for the Scheduled Castes (former untouchables, also addressed as Harijans or Dalits) and the Scheduled Tribes (also known as Adivasis or Girijans) for ten years, which has since been renewed every ten years. Despite some resentment amongst the upper castes, these reservations have had political acceptability. However, despite strong support from Ambedkar, a decision on affirmative action for backward classes and minorities did not succeed in the CA, which has been attributed to a strong upper caste dominance of the country’s politics and the resulting bias (Jaffrelot 2008; Jaffrelot and Kumar 2009, 2–4).

Marc Galanter (2000) has pointed out that decades of churning since the 1920s to deal with India’s century-old caste-based discrimination and inequalities was reduced to ‘reservations’ both in terms of political discourse and policy initiatives as much for political mobilization, as in common perception. It still continues to be so in India’s public sphere. Terminologies such as affirmative action, protective discrimination and compensatory discrimination emerged later with Western academic influence and are used interchangeably in academic discourse. Beyond the nomenclature, this policy initiative nonetheless attends the critical question regarding creating a fast track for economic development and status upgradation for the historically and structurally marginalized communities in democratic polities committed to meritocracy, and it is a major instrument of democratization too. Despite an agreement on its need, there have been controversies over its extent.

Additionally, the extension of this policy to the Other Backward Classes has been a controversial measure. Though Article 340 of the constitution empowers the President to appoint a Commission to investigate the condition of the backward classes and suggest measures for their upliftment, very early in the life of the Indian republic, the government was faced with the need to tweak the section on Right to Equality (Article 15 in the part on Fundamental Rights) to empower the government to make ‘special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes’ (First Constitution Amendment, 1951). It was further buttressed over five decades later (Ninety-third Constitution Amendment, 2005) to enable the government to make a special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions.

Nehru was opposed to making caste the criterion for determining and seeking the solution to backwardness. Aware as he was that caste and class overlapped in the country, he thought that caste-based backwardness would be taken care of by attending to backwardness in class terms. The first Backward Classes Commission (appointed on 29 January 1953, submitting its report in 1955; chair Kaka Kalelkar) used caste as the sole criterion and looked for a ‘reservation’-based solution. Of course, the Commission also looked at broader measures to mitigate the conditions of those caught in the whirlpool. Kalelkar had reservations with caste as the basis for backwardness as also with several recommendations, which the government rejected. The issue, however, continued in the policy realm, and in 1961, the Union government asked the states to prepare their own Other Backward Classes list; some even had their own backward classes commissions and job reservation based on them.
post-emergency Janata Party government (1977) appointed the second Backward Classes Commission chaired by B.P. Mandal in 1979. Its 1980 report recommended 27 per cent reservation in public employment for the OBCs on caste criteria. Indira Gandhi, back in power in 1980, did not accept the report. In 1990, Prime Minister V.P. Singh decided to implement the report that was broadened further in 2006 by then Human Resource Development Minister Arjun Singh for enrolment in educational institutions. The assessment of these measures has been mixed. Thus, India’s democratic experiments with preferential discrimination have been interesting, and they have achieved some results, but their limits have been succinctly summarized by Galanter (2000, 306): ‘It is time to upgrade its effectiveness while acknowledging the limits of what can be accomplished with it’.

**Elections and political parties**

Representative and processual democracy received the top most priority since the enactment of the constitution in 1950. The evolution of India’s electoral system since 1951–52 has been unique, effective and sustained in its own boisterous fashion; it continues to be an unflagging and ever-evolving process with periodic reforms for greater efficaciousness. The party system that crystallized with the national movement also evolved into a dynamic, complementary network reflecting the Indian plurality (Mehra 2003, 2013a; Mehra and Sharma 2009).

The Constitution of India provides for an independent Election Commission (Article 324), which was set up on 25 January 1950 as a one-member body with a Chief Election Commissioner. Following debates on impartiality and increasing intensity of the elections, it was enlarged to a three-member body on 1 October 1993.

Before The Two-Member Constituencies (Abolition) Act, 1961, the general election in India was conducted with a combination of single- and multi-member constituencies. The first general election (1951–52) elected 489 Members of Parliament (MP) from 401 constituencies (314 with one seat, 86 with two seats and one with three seats). Fourteen national parties took part in the election. The second general election (1957) witnessed contest for 494 seats in 403 constituencies (312 single-member and 91 two-member). The number of national parties was reduced to four. From the third general election 1962, India’s First Past the Post (FPTP) simple majority system has been in operation.

India has since held 16 general elections to constitute the Lok Sabha (House of the People), the popularly elected house of Indian Parliament, 363 election to Legislative Assemblies of States, biennial elections to the Rajya Sabha, several bye-elections as well as 14 Presidential and Vice Presidential elections during 1951–2016. The elections to the two layers of India’s democratic institutions during the past 66 years reveal adaptations around transformation of the electoral process, representative democratic institutions, the electoral system, patterns of electoral participation and representation and the party system.

Electoral reform has been a recurring theme in India, as the change to single member constituency since 1961 showed. Among the major lacuna emerging early in the election process was impersonation, known as ‘bogus voting’. The introduction of electronic voting machines since 1989–90 (first on an experimental basis in six constituencies and then countrywide) has done away with this anomaly. The FPTP system has been intensely debated for deficiencies in giving a representative result. That an elected candidate getting the largest number of votes in plurality does not have majority support in the constituency also causes wastage of a large percentage of votes. The system also produces vote-seat disproportionality and even a small swing in votes can effect a much larger swing in seats. Two proposals were made in 1999 by the Law Commission of India – first, the German model of
a mixed FPTP-cum-PR system that has introduction of a list system along with the existing FPTP system, and, second, a two-ballot majority run-off system. In effect, this means an increase of 25 per cent seats (138), to be filled in on the basis of list PR, in the current 550 Lok Sabha seats, bringing the total to 688. The second system that was considered by the Law Commission of India, which it did not recommend, is a majority run-off system where only candidates polling over 50 per cent of the votes cast would get elected in the existing single member FPTP system. This was, however, recommended in the consultation papers of the National Commission to Review the Working of the Constitution in 2001 (Sridharan 2002, 346–52). Even though electoral processes in India – electoral rolls, ballots (earlier papers and boxes, now electronic voting machines), allotting election symbols, scheduling (at times in several phases), codes of conduct for political parties and candidates, certain aspects of accountability structures – have been streamlined, substantive issues of electoral reforms await political consensus.

Successive elections since 1951–52 at each level have broadened participation as well as deepened representation. The voter turnout in general elections to the Lok Sabha has fluctuated between 61.2 per cent in the first general election to 66.38 per cent in the sixteenth general election in 2014. Voting percentage in the state Legislative Assembly elections, however, has crossed 70 per cent in some instances. This participation upsurge among the poor, marginalized and lower castes, beginning 1967 and intensified since 1989, has significantly transformed elections (both the processes and the result), the party system, representation in the parliament and the legislative assemblies (Jaffrelot and Kumar 2009) and the Indian democracy. Yadav (2000) describes this process as the second democratic upsurge. The new patterns of political organization and electoral mobilization and consequent increasing community-based (caste included) voting since 1989 have been characterized as the Third Electoral System. The characterization emanates from the transformation of the electoral participation from what it was during 1952–67, to what it emerged during 1971–89 and what it stabilized as between 1991 and 2014 as well as fundamental changes in the party system (Yadav 1991, 2393–99). The sixteenth general election witnessed both changes and continuity in the electoral system as well as in the party system. However, a theorization on a possible advent of a Fourth Electoral System has not emerged despite post-2014 elections in states, which according to experts on Indian elections have ‘emerged as the effective arena of electoral choice’ (Yadav and Palshikar 2008), throwing results indicating that despite certain features of the Third Electoral System persisting, the Indian electoral behaviour is throwing up fresh patterns.

The party system in India that shaped up with the electoral system evolved since the founding of the Indian National Congress on 25 December 1885 in Bombay. As this platform organized by A.O. Hume, a retired British civilian, for the educated urban Indians to air their grievances became the fulcrum of the Indian National Movement and emerged post-independence as the Duvergian epochal party (Duverger 1979, 308), it also gradually became the nucleus of a party system since 1906 during the national movement, soon after independence and since 1951 when the electoral process began (Mehra 2003). As the Congress towered over India’s political scene in the first three general elections (1952, 1957 and 1962) with several national and state parties competing alongside, many of them had originated from the Congress, the Indian party system was theorized as ‘one-party dominant system’, ‘Congress system’, with little competition, lack of alternation and opposition from within (Kothari 2012; Mehra 2003; Morris-Jones 1978, 196–232; Weiner 1957, 16–17). The highlight of the analyses was organization of the Congress and the social coalition it built during the independence movement and during the general elections and its conciliatory role in the society (Manor 1988, 65; Morris–Jones 1978; Weiner 1964, 830–49).
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India’s setback in the Indo-China war in 1962 and Nehru’s failing health amidst paling popularity a year later, and his death in May 1964, prompted a process of wearying and implosion within the party reflected in reversals in the fourth general election (1967) nationally and in states despite two smooth transitions of power and a military victory (1965 against Pakistan). The ‘Congress system’ still in place ended with the party’s eventual implosion during 1967–69. Indira Gandhi’s return in the fifth general election (1971) with a two-thirds majority in the Lok Sabha and in most of the states in 1972 brought back a one-party dominant system, with a multiplicity of parties around that were unable to stir popular imagination, but her stranglehold and the shallow roots of the Congress she led were unlikely to bring back the Congress system. The bracket-suffixed Congress – Congress (J), (R), (I), et al. – she created and predominated was not the Indian National Congress founded in 1885 and led the national movement. The national emergency she imposed in 1975 was as much due to crisis of governance as a reflection of a brittle party and a fragile party system that was weakened further as the Congress turned into a familial party with the induction of her younger son Sanjay Gandhi as the heir apparent, and brought in her elder son Rajiv Gandhi after Sanjay’s air crash death in 1980.

The post-emergency interlude – 1977–80 – of emergence of a two-party system nationally with a multiparty system in states only flattered to deceive. The come-back Congress under Indira Gandhi (1980–84) and after her assassination in 1984 under her son Rajiv Gandhi (1984–89) were replicas of the 1970s minus some of the towering grass roots leaders it had in the earlier decade. Though this period witnessed growth of state/regional parties in different parts of the country, the national party system was without any possibility of an alternation during the 1980s.

The end of the Congress as the largest umbrella party by the end of the 1980s, despite its return to the Lok Sabha as the single largest party and to power in the tenth general election (1991), triggered a tussle for power between the parties at the centre and left of the centre and at the right of the centre BJP. The latter, having displaced the Congress as the single largest party in the eleventh general election (1996), emerged as the pivot of a winning coalition named NDA in the twelfth (1998) and the thirteenth (1999) general elections. As the state/ regional parties emerged key to government formation since 1996, the party system was theorized as being federalized (Arora 2003). As the new millennium dawned, the Congress was back with its version of pacts with state/regional parties in the fourteenth (2004) and fifteenth (2009) general elections as United Progressive Alliance (UPA). The party system was analysed as consisting of two nodes, simply described as centring point of two component parts, i.e. binodal, which did not symbolize any serious ideological or principled differences (Arora 2003; Arora and Kailash 2013), and bipolar (Shastri 2013), implying an alliance system with two rival alliances with one key player in each that represented opposites, not just ideologically but in terms of political choices, styles, priorities and/or policy priorities. Congress and BJP formed the two nodes/poles. However, with the sixteenth general election (2014) approaching the party system appeared getting out of these formulations as not only the idea of a third front backed by the Left parties appeared alive, there were attempts to raise a fourth alliance as well (Mehra 2013b).22 The victory of the BJP in the sixteenth general election (2014), first time for the rightist party advocating Hindutva23 and for any single party since the ninth general election in 1989, broke the myth of a plural India decisively entering a coalition era. It also brought out the significance of leadership in party politics and electoral success as Narendra Modi emerged as the first leader since Indira Gandhi with a national appeal. The BJP nonetheless retained the alliance NDA nurtured since 1998–99 to keep a two-thirds majority edge in the Lok Sabha. It also underlined that the political surface was
still fragile and the party wanted to keep its alliance flock intact lest they are poached and weaken the party in case of a future setback as well as to maintain a regional reach.

The coalition system since 1989 and the bipolar/binodal system since 1998 were built with state/regional parties, which arrived on national stage with considerable influence on policy-making (Mehra and Sharma 2008). Such parties have been varied in character and their expanse, some have had reach in one, two or a few states, some have been ethnic in composition and some have also been technically granted national status. Only six of the 464 political parties that contested the sixteenth general election (2014) were accorded national party status and 39 were recognized as state parties; 419 were registered (unrecognized) parties. Such parties have had varied leadership (origin, appeal and political sustenance), organizational structure, strategies of political mobilization, social base and political appeal. While some originated before independence, many soon after, many others since the 1980s when disenchantment with the Congress grew without any faith in other alternatives. Some of them have had ethnic, even religio-ethnic, origin, some originated with ethno-territorial claims. Some have had ephemeral existence, while many have survived for decades despite splits. Most such parties have grown with patronage politics that continues to be their strategy even now. These continue to be integral to Indian politics, as also in redefining India’s democratic adaptation.

Some of the oldest parties, such as Dravida Munnetra Kazhagharam in Tamil Nadu, Shiromani Akali Dal in Punjab and Jharkhand Party in Bihar/Jharkhand, are ethnic parties. Of the parties that have emerged since the 1980s, Samajwadi (socialist) Party and Rashtravadi Janata Dal (even though not professedly ethnic, the support base is expressly ethnic for both), Bahujan Samaj Party, Asom Gana Parishad, Mizoram National Front are some of the ethnic parties. Aam Aadmi Party, which grew out of an anti-corruption movement since 2011, is a state party with national ambition.

India’s electoral system and the party system, which have been evolving with Indian democracy since the independence movement and particularly since independence, have both been impacting India’s democratic upsurge and being impacted by it. Indeed, the questions of institutional and democratic deficits have arisen, discussed and reform processes have also been set in motion; some of which have been successful, some not, but they make India’s continuing democratic adaptations unique in the developing world, as also in the democratic world.

Political institutions

Political institutions are key to democratic adaptations, stabilization and experimentations. And institutionalism begins with a dynamic constitution, which India was able to frame and enact in a record time. The world’s largest constitution supporting democracy in the world’s largest democracy combines some paradoxical features, particularly the provision relating to ‘procedure established by law’ (Article 21), which was mysteriously preferred over therecommended ‘due process of law’, but following the ‘basic structure’ doctrine enunciated by the Supreme Court of India in 1973 in the famous Kesavananda Bharati case, the ‘due process’ has been brought in through the judicial back door, some experts feel (Chopra 2006). Yet the Indian constitution, like the constitution of the United States, which originally gave ‘due process’ to constitutionalism, has been described as a living constitution. In fact, what Howard Lee McBain observed about the US constitution, characterizing it as a living constitution, in 1927 applies to the Indian Constitution as well:

The constitution of the United States was not handed down on Mount Sinai by the Lord God of Hosts. It is not revealed law. It is no final cause. It is human means. The system
of government which it provides can scarcely be read at all in the stately procession of its simple clauses. Yet its broad outlines are there sketched with deft strokes. Through long unfolding years it has been tried in the crucible of men’s minds and hearts. It lacks alike perfection and perfectibility. But it has been found good – exceedingly good. It is not to be worshipped. But it is certainly to be respected. Nor is to be lightly altered, even if that were possible.

(McBain 1927, 272)

The Indian Constitution too has not been inert and as living document it has made the Indian polity, the system of government and institutions as evolving entities not only in terms of years and decades but also in terms of how they have been looking at and approaching the issues that have been arising since the constitution came into existence. The last three sentences of McBain on lack of ‘perfection and perfectibility’, it having been found ‘good – exceedingly good’, it should be respected and not worshipped and it must not ‘be lightly altered, even if that were possible’, applies to the Indian Constitution too. The institutional structure designed by the constitution has also developed with the times, perceived needs and politics of the country.

Following an intense debate over the Westminster parliamentary and the US Presidential systems, the CA opted for the former because, as Dr Ambedkar said,

The Parliamentary system differs from a non-Parliamentary system in as much as the former is more responsible than the latter but they also differ as to the time and agency for assessment of their responsibility.... The Draft Constitution, in recommending the parliamentary system of executive has preferred more responsibility to more stability.29


Even though this clinched the issue in favour of parliamentary system, there were equally strong sentiments in favour of the presidential system too, for it was felt that the former had ‘failed in the west and it will create hell in the country’ (CAD Vol. VII, 32–37).

In incorporating the Westminster model into the constitutional framework of the nascent Indian republic, aside from a bicameral parliament with an indirectly elected ‘upper house’ (a 250 member Council of States/Rajya Sabha) and a directly elected ‘lower house’ (a 55030 member House of the People), the Cabinet system and an indirectly elected (by the elected members of the two houses of parliament and Legislative Assembly of states and two Union Territories by proportional representation by means of single transferable vote – Article 55[3]) President of India.

The President as the Head of the State – in place of a hereditary Crown – was designed to represent the republic and the nation and be the conscience keeper of the Indian democracy. Originally mandated to work with the ‘aid and advice’ of the Council of Ministers, the controversial Forty-second Amendment during the emergency in 1976 made it mandatory for the President to work on such an advice. The Forty-fourth Amendment brought in (1978) by the post-emergency Janata government (the first non-Congress government at the Centre) committed to undo the ‘excesses’ of the emergency, modified the concerned Article 74, providing for the President to ask her/his Council of Ministers to reconsider the advice tendered, but if after a reconsideration the same advice is tendered again, the President is bound to assent the advice.31

The ‘cabinet system’ inherited from the British has been deepening and strengthening since independence in 1947 with all its Westminster baggage.32 Hence, the collegial executive
vs. prime ministerial predominance continued to be an intense discourse in India at least till the 1980s. The competitive leadership structures of the ruling party at different points of time governed whether India had a cabinet government in true sense, or it had given way to prime ministerial hegemony. Coalition politics changed the way this system functioned under Nehru, Shastri, Indira Gandhi and Rajiv Gandhi. Morarji Desai, V.P. Singh, P.V. Narasimha Rao, H.D. Deve Gowda, I.K. Gujral, Atal Bihari Vajpayee and Dr Manmohan Singh functioned with different kinds of compulsions imposed by smaller partners asserting substantially in politics and policies. In any case, this continually evolving structure of governance has adapted to the homogenous politics. Indeed, the issue of centralization and decentralization of power indicating stresses and strains between the professed collegiality and collective responsibility of the cabinet and increasing ‘prime-ministeriality’ threatening the primus inter pares status of the prime minister has continued to be a major discourse from Nehru through Indira Gandhi to Narendra Modi (Mehra 1998; Pai Panandiker and Mehra 1997).

The Indian Parliament celebrated its diamond jubilee in 2012 and the review of the six decades and since have been mixed. The *Manchester Guardian* comparing the Indian Parliament with the disappointing Asian experience observed, ‘All that is happening in Asia throws a spotlight on the Parliament in Delhi as the one institution of the kind which is working in an exemplary way…. Mr. Nehru without boasting may say that Delhi is the school of Asia’ (Quoted by Morris-Jones 1957, 327). That W.H. Morris-Jones in his comprehensive study found the first Indian Parliament positive and ‘earnest’, despite ‘a perceptible difference of atmosphere between the House and the Council’, meant that parliamentary democracy in India began on a sound footing in the best Westminster tradition and carrying forward the optimism in the CA:

> The result is a less tense and more friendly tone of debate – to which the urbane and good humoured personality of the Chairman contributes greatly…. This is not to say that the House of the People is ill-tempered or unfriendly. It is simply that it is busy and has serious work to do, and that it is main arena of struggle. Seriousness, however, does not make for dullness. In fact, the House is dull neither to look at or to listen to. (Morris-Jones 1957, 143)

Despite a few hiccups arising out of economic backwardness, inequality and lack of education, parliamentary government took root in India and the Parliament shaped as a vibrant representative institution, enthusing the voters to come out in large numbers to participate in elections. Not only the voting percentages have risen in parliamentary elections and in the legislative assembly elections in the states, citizens on the margins have come out in large numbers (Palshikar, Suri and Yadav 2014; Shastri, Suri and Yadav 2009), impacting the socio-economic base of representatives (Jaffrelot and Kumar 2009; Prakash 2003; Shankar and Roderigues 2011).

The fourth general election (1967) is a benchmark for politics, government, constitutionalism as well as the institution and politics of parliament. If we cross-refer the discussion here with those on elections and parties earlier, the legislatures in New Delhi and in state capitals were in for a major power shift as well as parliamentary courtesies and culture. They became more cacophonous and rambunctious, even cantankerous, which eventually began impacting transaction of their representative and legislative functions. Surya Prakash (1995) was the first to analyse increasing tendency of ‘street politics’ within the two houses of Parliament, leading to less and less business being transacted. Analyses of the business transacted in the Parliament since then revealed that irrespective of party in power – since 1995 most of the political
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parties have occupied space on both sides of the parliamentary aisle – the situation has not changed substantially, even though during 2014–16 the utilization of parliamentary time was better (Mehra 2006, 2007, 2013c, 2014). The stance on their parliamentary role has changed for the parties depending on which side of the aisle they were sitting (Mehra 2018).

A report by a Government of India appointed committee (October 1993; Chair: then Union Home Secretary N.N. Vohra) on nexus among criminals, politicians and bureaucrats, which continues to be confidential but portions of it were released, rocked the parliament and public conscience. Interestingly, over two decades since the report, the country has witnessed six prime ministers belonging to three parties, some of whom cried hoarse for making it public, but none put it in public domain. The report has expositions from Director Intelligence Bureau, Director Central Bureau of Investigation and the heads of some key departments, which expose Achilles’s heel of Indian democracy (see Mehra 2015b for a detailed discussion).

A PIL was filed by a voluntary group of ex-academics Association for Democratic Reforms (http://adrindia.org/) in Delhi High Court for disclosure of criminal cases pending against each candidate contesting parliamentary or a state legislative assembly election to file affidavit regarding criminal cases pending against them. Based on this, the Supreme Court of India, on 2 May 2002 made such a disclosure necessary. Following this, the Election Commission of India issued a notification to that effect on 28 May 2002. The analyses of the criminal cases pending against the law makers in India since then, which the ADR and parliament put on their websites regularly, have given alarming figures and triggered intense debates, even political acrimony, on the extent and nature of criminalization of politics in India (Mehra 2015b). Leading politicians combatively questioning the fingers raised at them and deflecting the charges against them has stalled any preventive measure. Even though discussed extensively in the context of the Parliament since, the need for a qualifier has been felt as some marginalized groups have claimed over the years that the dominant and upper castes implicate their leaders in false cases; also some of the cases result from protest politics (Mehra 2007, 2013c, 2017b). These nonetheless expose a persisting major crack in the edifice of Indian democratic experiment.

Indian Judiciary has played a significant role in transforming constitutionalism with its pronouncements on several constitutional amendments, the doctrine of basic structure and bringing justice closer to the people with PIL. Indeed, its judgments in the Golaknath (1967) and the Kesavananda Bharati (1973) transformed both constitutionalism in India as well as relationship between the state and citizens. In the former, the court took the view that the Parliament could not amend or alter any fundamental right in Part III of the constitution and asserted that no constitution could allow its own subversion. Kesavananda six years later qualified the parliamentary power to amend any part of the Constitution so long as it did not alter or amend ‘the basic structure or essential features of the Constitution’. The case that was heard by the full constitution bench of the Supreme Court (thirteen judges) in a 7:6 wafer thin majority judgement made a difference between the legislative power of the parliament and its constituent powers. It pronounced the constituent powers superior to the legislative powers, for under this the constitution is amended with prescribed special majority vote in parliament. Since then the doctrine has been invoked in different cases a couple of dozen times and has restricted parliamentary supremacy within the constitution’s basic structure as interpreted by the judiciary.

A logical progression held the judiciary from putting the constitution at par with the parliament in bringing in substantive ‘due process’ parallel to ‘procedure established by law’ has been to undertake ‘activism’ by situating the citizens and their interests as the centre of legislation and governance. PIL is one of the seminal contributions of the Indian judiciary.
in democratizing the judicial process and services. The PIL emanates from Article 39A of the Indian constitution dealing with legal aid to poor that was inserted by the Forty-second Constitution Amendment in 1976. In fact, even before the Amendment, the 1970s witnessed judicial concern for the hiatus poverty caused in achieving justice. In a report in 1971 Justice, P.N. Bhagwati spoke of changes 'whereby the judge is given participatory role in the trial so as to place the poor, as far as possible, on a footing of equality with the rich in administration of justice'. The Committee on Legal Aid Justice presided over by Justice V.R. Krishna Iyer (1973) mentioned the PIL option to bridge the poverty law gulf. A committee consisting of Justice Iyer and Bhagwati in 1977 recommended a draft legislation on Social Action Legislation, to bring justice to the underprivileged. During the rest of the 1970s and the 1980s, the concept and practice of PIL was encouraged and developed by the judiciary as the Supreme Court used the American Supreme Court’s initiative of the 1960s to give a go by to complex legal procedures and accept even a post card as a formal complaint in the form of 'epistolary jurisdiction'. On 1 December 1988, the Supreme Court issued a notification with a detailed guideline as to what could be considered a PIL (Desai and Muralidhar 2011). However, the judicial activism through the PIL, through the use of social science research to arrive at a judgement on social issues and on its *suo motu* cognizance of issues, many arising out of the executive’s remission of its designated functions, has come under a critical lens (Mehra 2001, 2011).

The judiciary’s institutional stress, however, has not been more acute ever before as in recent years as the system of appointment of judges to the higher judiciary in practice since 1993 through the collegium system, consisting of the Chief Justice of India and four senior-most judges, has been challenged by the executive. The Parliament came up with a National Judicial Appointments Commission that was challenged in the Supreme Court, and a five-judge Constitution Bench struck down the concerned Ninety-ninth Constitutional (Amendment) Act on 17 October 2015, though it admitted shortcomings in the Collegium System and stressed its reform. The current controversy preceded two major cases of supersession of senior judges in the appointment of the Chief Justice of India – the first in 1973 when three judges were superseded and the second in 1977 when one judge was superseded. Through the three Judges’ Case in 1983, 1993 and 1998, the Collegium System came to be established. In the first (S.P. Gupta vs. Union of India), the executive supremacy in appointment of judges was asserted; in the second (Supreme Court Advocates-on Record Association vs. Union of India), the Collegium System of the CJI and four senior-most judges of the SC recommending candidates to the President for appointment to the higher judiciary was established, and it was reaffirmed in 1998 in a presidential reference from the then President of India Dr. K.R. Narayanan. The debates and controversies are yet not over; for, the executive thinks that the appointment of judges to the higher judiciary must be more transparent and the collegium system is translucent, if not opaque, and the judiciary too has lately admitted that it calls for some reforms to make the system transparent.

The growth of the Indian judiciary, which is today burdened with 25 million pending cases and is struggling with its own bench strength, into an innovative people-centric institution in India has been slow but steady. Its judgments and judicial interpretations have been integral to democratic adaptations and experiments, yet its efforts to assert and maintain its own status has not been without controversy.

In the Indian case, the court’s concern for their own authority has meant a reading of the political tea leaves, as it were; the judicialization of politics and the politicization of the judiciary have turned out to be two sides of the same coin. 

(Mehta 2006, 165)
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Local democracy

Among the most paradoxical aspects of the Indian project on representative democracy is a suspicious approach to local democracy adopted by the CA, which was divided between the Gandhians, who would press for the realization of his dream of gram swaraj (rural self-governance) and those who were focussed on modernism where the Gandhian model of village republic was utopian. Two major complementary strands that considered local democracy not conducive to post-independence nation building were Nehru’s altered view of democracy and devolution in India as the Chairman of the Union Powers Committee:

Now that partition is a settled fact, we are unanimously of the view that it would be injurious to the interests of the country to provide for a weak central authority which would be incapable of ensuring peace, of coordinating vital matters of common concern and of speaking effectively for the whole country in the international sphere. At the same time, we are quite clear in our minds that there are many matters in which authority must lie solely with the Units and that to frame a constitution on the basis of a unitary State would be a retrograde step, both politically and administratively. We have accordingly come to the conclusion – a conclusion which was also reached by the Union Constitution Committee – that the soundest framework for our constitution is a federation, with a strong Centre. {Italics intended}.  

(CAD: I-VI 1999, 58–59)

While the apprehensions of centrifugal forces following partition, brought in a ‘strong centre’ federal structure, the local went missing in this exercise.

When Ambedkar, chairman of the Drafting Committee, explained the design of the draft constitution on 4 November 1948 to the CA, he stressed why individual, rather than village, was the basis of the proposed constitution and why the confidence in villages among the Indian intellectual community, based on Charles Metcalf’s analysis on self-sufficiency of village communities, was misplaced:43

The love of the intellectual Indians for the village community is of course infinite if not pathetic…. The question is on what plane they have survived. Surely on a low, on a selfish level. I hold that these village republics have been the ruination of India. I am therefore surprised that those who condemn Provincialism and communalism should come forward as champions of the village. What is the village but a sink of localism, a den of ignorance, narrow-mindedness and communalism? {Italics intended] I am glad that the Draft Constitution has discarded the village and adopted the individual as its unit.  

(CAD: VII 1999, 38–39)

Indeed, local democracy is not about the ‘rural’ alone but the ‘urban’ as well, constituting only 20 per cent then. Both the constituents of the local as the locus of democracy in the post-independence Indian constitutionalism and governance architecture went missing. Though local governance was conceived as early as 1870 in Viceroy Lord Mayo’s resolution and organized further following the Ripon Resolution (1882), but both focussed on towns and cities as the British and the Europeans were concentrated there. They provided for local bodies consisting of a large majority of elected non-official members (sic!) and presided over by a non-official chairperson. Hence, on independence, India had a legacy of urban local bodies that could not trickle to the ‘rural’ and provide a democratic platform at any level.
The Indian efforts between 1957 and 1993 to weave the ‘local’ into the governance structure and democratizing has been half-hearted at best. The Balwant Rai Mehta Committee (1957) recommended democratic decentralization, which was meant to create apolitical institutional structures to reach the developmental programmes descending down from the Planning Commission as the uttermost level of the delivery chain. It recommended a three-tier Panchayati Raj System with Gram Sabha (Village Assembly) as the grass root unit with non-party elections and Panchayat Samiti at the intermediate level and Zilla Parishad at the district level. The system initiated since 1960 by state governments began crumbling within a decade in the absence of a constitutional guarantee, indifference of the state units of political parties, leaders and the bureaucracy. In any case, there was little democracy in it. The structural deficiencies leading to the absence of democracy in decentralizing to the local were highlighted in a major review by the first non-Congress government in 1977. The Asoka Mehta Committee (1978) constituted to review the local democracy and recommend measures to revamp and revitalize it said,

Part of the disappointment arises from the syndrome that they have not been assigned significant functions and tried continuously and with zest. The development programmes were not channelled through them. Some of the comments like the emergence of oligarchic tendencies are inherent in the social milieu, and some others are common to other tiers of the polity also.

[Italics intended]

After fits and starts of several committees and an attempt by Rajiv Gandhi to bring the Sixty-fourth Constitutional Amendment Bill 1989 that could not get through the Rajya Sabha, the 73rd and 74th Constitutional Amendment Acts, 1993, gave statutory protection to the local democracy in India. Inserted in Part IX (The Panchayats; Articles 243–243O) and IX A (The Municipalities; Articles 243P–243ZG), the constitutional provisions that reserve one-third seats for the women and also provide for the chair (called Sarpanch) to be rotated amongst the women and the Dalits, are enabling Acts for the states to enact their own laws for local democracy in accordance with their objective situation.

However, the assessments of the local democracy in academic studies during the past two decades do not give an encouraging picture. First, there have been emphases on decentralization and governance, in that order as the latter concept developed in the 1980s and was refined in the 1990s, and except for the use of ‘democratic decentralization’ in the 1960s, democracy has been the biggest void in India’s ‘local’. Over the years, there has been a proliferation of a variety of actors – omnipresent bureaucracy, politicians, contractors and the voluntary sector – who criss-cross the universe of democratic structure of the ‘local’ weakening the institutional and accountability dimensions. As Niraja Gopal Jayal says,

The emergence of these, along with the constitutional institutions of local self-governance, suggests that there has occurred a transformation in the complex interrelationships that obtain at the local level: between panchayat institutions, the local state and bureaucracy, the non-governmental organization, user committees, and self-help groups, among others.

She further observes,

In some cases we even find that communities that have historically negotiated their social relationships through indigenously evolved, reasonably egalitarian, mechanisms
India’s democratic adaptations become fractious and conflict ridden as decentralization brings with it development funds and new opportunities for the concentration of social power.

\[\text{(Jayal 2006, 2–5)}\]

Thus, while the states – their organized power structures at political, social and bureaucratic levels – have ensured deterioration of the institutions and their democratic fabric, the emerging institutions, social power relations and competition to corner development funds have throttled the local democracy. The Indian ‘local’, thus, now needs to emerge out of the post-independence/post-partition apprehensions of the centrifuge and make a better adaptation of the traditional structures to new democratic imperatives with innovative experimentation.

Overview

India’s modern democratic experiment and consequent adaptations began with the period of renaissance beginning in Bengal in early nineteenth century. A seven-decade period that witnessed, despite the great revolt in 1857, growth of reformation, awareness, ideas, the urge for knowledge and education and associations that eventually culminated in the founding of the Indian National Congress in 1885. The associational, ideational, ideological, political and democratic progression of the Congress since the beginning of the twentieth century witnessed dispersion (horizontally) and deepening (vertically) of democracy in India with the churning to throw off the colonial yoke and build democratic institutions brick by brick as well as simultaneously bring in the marginalized and the oppressed into the democratic process (Bandyopadhyay 2004; Desai 1976; Mehra 2003; Pande 1985; Ray, Kumar and Das 1985; Seal 1971). It also became the nucleus, literally, of the party system in India since 1906 till the 1980s, deepening and galvanizing the democratic process, as most parties emerged either as a result of splits from it or as a reaction to its politics (Mehra 2003). Put succinctly, rather more expansively, the period of Indian history since 1947 might be seen as the adventure of a political idea: democracy. From this perspective, the history of independent India appears as the third moment in great democratic experiment launched at the end of the eighteenth century by the American and French revolutions.

\[\text{(Khilnani 2012, 4)}\]

Lloyd and Susanne Rudolph described India in their classic study of Indian political economy in 1987 as ‘political and economic paradox: a rich poor nation with a weak–strong state’. They describe India thus because of

the paradox of state that has over the four decades since independence, alternated between autonomous and reflexive relations with the society in which it is embedded. The strength of this state derives from the institutions and expectations created by 350 years of Mughal and British subcontinental rule.

The resulting ‘stateness’ in India is part of the paradox (Rudolph and Rudolph 1987, 1). The paradox further accentuates as India’s ‘command polity’ backed by a strong party, a strong leadership and a strong state supported by a strong bureaucracy and institutional structure transforms to ‘demand polity’ where political mobilization takes place, even if by a deinstitutionalized party and party system and a plebiscitary leadership, and there is greater stress on the system.\[46\]
The apprehensions on India’s cacophonous and volatile politics also bring in analyses on its ‘crisis of governability’. Expressing concerns similar to the Rudolphs, Atul Kohli (1990) refers to the decline and deinstitutionalization of the Congress and absence of such an institutionalized party structure. He refers to the rise of violence and a lack of conflict-resolving institutions. However, a decade later, Kohli (2001) focusses on ‘the success’ of India’s democracy along with nine social scientists to caution on a Cassandra approach to Indian politics. Concluding that Indian democracy is a well-established fact, Kohli thus sums up the nine well-researched essays in the volume: ‘… an important lesson from India’s successful democratic record is this: within the framework of a centralized state, moderate accommodation of group demands, especially demands based on ethnicity, and some decentralization of power strengthens a democracy’ (2001, 19).

Notes

1 An essay covering India’s seven-decade long political journey since independence, with occasional peep in the period that shaped both the independence movement and a vision for an independent democratic India, is an austere and humbling task. One is compelled to seek support of colleagues and peers to traverse this course. I acknowledge the support extended to me by Ms. Ankita Shree, Assistant Professor, Shaheed Bhagat Singh Evening College, University of Delhi in researching some crucial aspects of India’s constitutional history. I also gratefully acknowledge the comments and suggestions offered by Prof. Subrata Mitra, Director, Institute of South Asian Studies, National University of Singapore, and Prof. Sandeep Shastri, Pro-Vice Chancellor, Jain University, Bengaluru, India. Needless to say, if there are still certain weaknesses in the chapter, I alone remain responsible and would welcome suggestions.

2 Nehru ‘felt sure that the creation of the Constituent Assembly would give rise to such power in India that no one would be able to withstand it’ (Wolpert 1996, 240).

3 Sir Anthony Eden, former British Prime Minister, thus appreciated India’s beginnings in his memoir:

Of all the experiments in government, which have been attempted since the beginning of time, I believe that the Indian venture into parliamentary government is the most exciting. A vast sub-continent is attempting to apply to it tens and hundreds of millions a system of free democracy which has been slowly evolved over the centuries in this small island. It is … so far remarkably successful…. If it succeeds, its influence on Asia is incalculably for good. Whatever the outcome, we must honour those who attempt it.

(Quoted in Narayanan 2011, 159)


5 Sarbani Sen (2007) defines parliament, or representative institutions, as the expression of popular sovereignty and constitutionalism a product of people exercising their sovereign authority for collective self-determination.

6 Sixty-First Constitution Amendment Act (28 March 1989) lowered the voting age to 18.

7 This intensely debated doctrine given by the Supreme Court of India puts procedural limitations on the amending powers of the Parliament. Krishnaswamy (2008) justifies it as a sound doctrine, while it does introduce the due process doctrine in the Indian constitutionalism, which is based on ‘procedure established by law’ (Mehra 2006).

8 Set up by Congress President Dev Kant Barua in 1976 to review the constitutional scheme, Swaran Singh Committee’s objective was, ‘difficulties have been thrown up from time to time in the interpretation of some of its provisions, more particularly where they concern the right of Parliament to be most authentic and effective instrument to give expression and content to the sovereign will of the people’. http://www.ebc-india.com/lawyer/articles/76v2a4.htm (Accessed on 26 August 2016).

9 For a comprehensive analysis of this aspect, see Mehra (2015a).

10 Poet Mohammad Iqbal’s presidential address to the AIML on 29 December 1930 is seen by some as the first exposition of the two-nation theory in support of what would ultimately become Pakistan (Wolpert 2005).
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11 This has been brought out by several National Sample Survey Organization reports.
13 www.ncbc.nic.in/Writeredadata/Mandal%20Commission%20Report%20of%20the%201st%20Part%20English/63522815105764974.pdf (accessed on 31 August 2016).
14 Act No. 1 of 1961 [9 March 1961].
16 Bogus voting (i.e. impersonation in casting votes) and booth capturing developed into a major exercise to use muscle power to win an election by capturing voting booths. It was first reported in the second general election in 1957 in Ranchi village in Begusarai district in Bihar. http://timesofindia.indiatimes.com/city/patna/Where-booth-capturing-was-born/articleshow/1020435.cms (accessed on 2 September 2016).
18 www.lawcommissionofindia.nic.in/lc170.htm (accessed on 2 September 2016).
21 The motives, circumstances and events leading to the founding of the Congress conform to the formulation of LaPalombara and Weiner that political parties emerge in a political system ‘whenever the notion of political power come to include the idea that the mass public must participate or be controlled’. Their emergence at any given time also reflects the situation in which ‘the tasks of recruiting political leadership and making public policy could no longer be handled by a small coterie of men unconcerned with public sentiments’ (LaPalombara and Weiner 1966, 3–4).
22 For a comprehensive review of the Indian party system since the 1990s, see Mehra, Khanna and Kueck (2003) and Mehra (2013a).
23 Ashis Nandy describes Hindutva as the desire of those Hindus

living with the burning ambition of breaking into the upper echelons of modern India and yet fearful that they may be pushed into the ranks of the urban proletariat by the upper classes, not on ground substance, but of ‘style’. For the believers in Hindutva, the pseudo-secularists represent those who have the style and now doing the pushing; the Muslims represent the fear of being proletarianised.

24 For a comprehensive list of regional parties in India, see Mehra and Schmidt (2014).
25 Defining state/regional parties has been difficult, hence either an Election Commission of India-based definition has been used, or a characterisation of polity-wide parties for national parties and one-state, two-state (and so on) party has been used for smaller parties.
27 For a detailed discussion on regional parties, see Kumar (2003), Palshikar (2003), Chandra (2004), Mehra and Sharma (2008), Sridharan (2012) and Mehra and Schmidt (2014).
28 For a comprehensive discussion on this issue, the volume by Pran Chopra is among the best. For the discussions in the Constituent Assembly on this issue in the same volume, see Mehra (2006).
29 Both the Union Constitution Committee and the Provincial Constitution Committee recommended ‘parliamentary executive’ for the country. The latter said, ‘it would suit the conditions of this country better to adopt the parliamentary system of constitution, the British type of Constitution with which we are familiar’ (CAD, vol. IV, 578).
30 Article 81(a) and (b) provides for Lok Sabha consisting not more than 530 members elected from States and 20 from Union Territories. However, the Lok Sabha presently consists of 543 members. Seven seats allocated to the areas of Jammu and Kashmir in possession of Pakistan, remain vacant.
31 The structure was replicated at the state level with the Governor appointed by the Union Government as the Head of the state, a design emanating from the fear of the centrifugal forces.
32 The Constitution mentions only Council of Ministers to aid and advice the President, it has no mention of the Cabinet. However, the Cabinet emanates and draws its constitutionality from Article 77(3) that states that ‘The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business’. The Transaction of Business Rules and the Allocation of Business Rules framed under this provision mention Cabinet led by the Prime Minister as the main collegial executive body.
33 Muchaki Kosa, an illiterate Scheduled Tribe MP from Bastar in Madhya Pradesh, who could speak only in local Mari dialect, defeated the local Congress stalwart. He reached New Delhi helped by the Maharaja of Bastar, but his trials and tribulations in travel, the city and Parliament, where he was completely lost and was found sobbing in the corridor once, reflected the tough journey ahead for the Indian democracy! (Palmer and Tinker 1959: 115–36).
34 See http://blogs.wsj.com/indiarealtime/2015/05/14/indias-parliament-just-had-the-most-productive-session-in-years-heres-how-it-did-it/ (accessed on 15 September 2016).
36 On 31 August 1997, the Parliament passed a resolution commemorating golden jubilee of Indian independence that read, ‘That more especially, all political parties shall undertake all such steps as will attain the objectives of ridding our polity of criminalization or its influence’.

Mulayam Singh Yadav, the Samajwadi Party chief from Uttar Pradesh, the then Union Defence Minister (1996–98) and thrice Chief Minister of UP (1989–91; 1993–95; 2003–07), added a qualifier, as it were, to this resolution in the course of the discussion: ‘the N. N. Vohra Committee Report had talked of a nexus between judges and criminals, and bureaucrats and criminals as well. But only the nexus between politicians and criminals is mentioned’ (The Pioneer, 29 August 1997).
37 The perceptive comment by Professor Dietrich Conrad, formerly Head of the Law Department, South Asia Institute of the University of Heidelberg, Germany, in a lecture delivered in February 1965 must be read to comprehend the issue (Quoted by A.G. Noorani. ‘Behind the “Basic Structure” Doctrine’). www.frontline.in/static/html/th1809/18090950.htm; accessed on 18 September 2016).
38 Kesavananda had challenged a slew of constitutional amendments by Indira Gandhi, including the bank nationalisation abolition of the privy purses to former princes. The judgement did not clearly lay down the elements of the basic structure with different judges giving a different list. www.humanrightsinitiative.org/publications/const/the_basic_structure_of_the_indian_constitution.pdf (accessed on17 September 2016). Later verdicts have differently stated what basic structure is.
39 Article 39A: Equal justice and free legal aid—The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.
43 For Charles Metcalf’s observation on Indian villages, see Srinivas and Shah (1960, 1375).
44 Chaired by Balwant Rai G. Mehta, the ‘Team for the Study of Community Projects and National Extension Service’ was constituted in 1957 by the Committee on Plan Projects of the Planning Commission to decentralized the delivery system and enhance local participation in development and planning. See www.panchayat.gov.in/documents/401/84079/Balvantray_G_Mehta_Committee_Report.pdf (accessed on 25 September 2016).
46 For the analysis on command polity and demand polity, see Rudolph and Rudolph (1987, chs. 7–8).

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Also see rest of the fourteen essays on the party system in India in the volume.


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