

The Contradictory Statements of Democracy in India

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The triumph of democracy in a historically improbable environment such as India is nothing short of extraordinary. For over half a century India has been a constitutional democracy with a parliamentary system of government. Indians are justly proud to be citizens of the world's largest democracy and see it as a precious national accomplishment. Indeed, democracy has become such an indelible part of nation's political consciousness, that despite the disillusionment with "politics as usual" most Indians continue to maintain a deep philosophical commitment to democracy and embrace the fundamental democratic idea that the state's authority must derive solely from the uncoerced consent of the majority, tested regularly through open competitive elections. Between September and October 1999, India held its thirteenth general elections since gaining independence in 1947¹. The elections, the fifth held within the past decade produced for the eight time since 1989 a coalition government made up of some eighteen disparate parties. Yet, even as India has secured virtually all of the requirements associated with a mature and resilient democracy, the nation's ability to provide effective governance have hardly improved. Indeed, many believe that the problems of governability have actually worsened (Kohli 1990). Arguably, the progressive empowerment of popular sectors and the deepening of democratic practices have created new sets of problems. That is, paradoxically, even as India's subaltern sectors enjoy the rights to exercise popular sovereignty, and its parliament has become ever-more representative of society, this "deepening of democracy" also seems responsible for exacerbating political fragmentation and the nation's inability to produce stable and effective government and efficacious governance. In fact, rampant corruption and violence has infected the

body politic. In 1999, former prime minister Narasimha Rao was found guilty of illegal financial transactions, while Laloo Prasad Yadav, a former chief minister of Bihar (India's most economically backward state), is out on bail after being charged with looting the exchequer in a state-run animal fodder scheme. Large numbers of elected legislators in Bihar and in Uttar Pradesh (India's most populous state), have criminal records or have criminal investigations pending against them. Moreover, participatory democracy has not translated into a compelling programmatic alternative to the top-down developmental models. Indeed, the accentuation of socioeconomic inequalities mock the formal political equality of democratic citizenship (Sharma 1999). What explains this? What explains both the resilience of democracy and the growing problems of governability in India? This paper provides a broad analysis of India's Janus faced democracy and its ramifications for governance and political economy. First, an overview of India's governing democratic structures and institutions is necessary.

The Constitution of India, adopted in 1950 following three years of intense debates in the Constituent Assembly (elected indirectly from the various provinces in 1946), proclaimed India as a sovereign federal democratic republic. The Constitution's 395 articles and ten appendixes (known as schedules), make it one of the longest and most detailed in the world. Following the British parliamentary pattern, the constitution embodies the Fundamental Rights, similar to the United States Bill of Rights. The Fundamental Rights guarantee to all citizens basic substantive and procedural protection. These civil rights take precedence over any other law of the land, and include individual rights common to most liberal democracies -- such as equality before the law, freedom of speech, association, assembly and religion, the right to constitutional remedies for the protection of civil rights such as habeas corpus, and the right to property. In addition, the constitution

outlaws the traditional Indian system of social stratification based on caste and prohibits discrimination on the grounds of religion, language, race, ethnic background, sex or place of birth -- including the right of minorities to establish and administer their own educational institutions and to conserve a distinct language, script and culture. An interesting feature of the constitution is the "Directive Principles of State Policy," that delineate the obligations of the state towards its citizens. The precepts of the Directive Principles are not justiciable, that is, they are not enforceable by a court, as are the Fundamental Rights. The Directive Principles admirable goals (some say platitudes) such as the injunction that the state "shall direct its policy towards securing... that the ownership and control of the material resources of the community are so distributed to subserve the common good," or that "the state shall promote the interests of the weaker sections of society" are there to guide the government in framing new legislation. The key institutions of national governance are the executive, composed of the President, the Council of Ministers (headed by the Prime Minister), the Parliament and the highest judicial system in the land: the Supreme Court. It is important to note that, while under the Indian constitution, executive power is formally vested in the President (also the head of the state), the President exercises these powers on the advice of the Council of Ministers headed by the Prime Minister². Hence, both in theory and practice, power is concentrated in the hands of the Prime Minister, the de facto head of the Indian executive. Theoretically (and in practice), it is the Prime Minister who determines the composition of the council of ministers, and assigns departmental portfolios to the "inner circle" or the cabinet, made up of between fifteen to twenty individuals. In India, the nature and composition of the council of ministers and cabinet has varied according to the Prime Minister in power. The Prime Minister's office is also supported by a "secretariat", a large body (currently over 300 strong), headed by a principal secretary, senior bureaucrats, technocrats, economists, politicians and their assistants³. India's Parliament, the supreme legislative body of the country consists of a bicameral legislature made up of the Lok Sabha (or the House of the People -- the lower house) and the

Rajya Sabha (Council of States-- the upper house). The Lok Sabha in 2002 constitutionally had 545 seats, and with the exception of two members that are nominated by the President as representatives of the Anglo-Indian community, all seats are popularly elected on the basis of "first-past-the-post" system, similar to that in the United States⁴. Seats in the Lok Sabha are allocated among the states on the basis of population, each roughly divided into several electoral districts made up of around 1.5 million people. The usual term is five years, and under the rules of the constitution it must meet at least twice a year, with no more than six months between sessions. However, the President may dissolve the house and call new elections if the sitting government loses its majority in Parliament. The Rajya Sabha, on the other hand, like the United States Senate is a permanent body and meets in continuous session. It has a maximum of 250 members, and all but twelve are elected by the state legislative assembly for six year terms⁵. The Rajya Sabha (like the British House of Lords) permits more extended debates. Home to a large number of elder states-people, it is designed to provide stability and continuity to the legislative process (that is, it is not subject to dissolution as is the Lok Sabha). Nevertheless, since it rests on the confidence of the popular assembly, the authority of the Rajya Sabha in the legislative process is subordinate to that of the Lok Sabha.. Decision making on public policy in India is concentrated at the highest levels of authority, with the Prime Minister, his inner Cabinet and high-level officials and bureaucrats via their control of the various ministries of government taking the initiative. The government of the day has primary responsibility to draft legislation and introduce bills into Parliament -- in either house -- albeit, financial bills for taxing and spending (known as money bills) can only be introduced in the Lok Sabha. The central government (or the Center) is aided in its activities by some 17 million central government employees (known as Public Services), around 5,000 of whom are officers of the elite Indian Administrative Service⁶. Finally, an independent judiciary is an important component of the Indian state system. The Supreme Court as the highest legal tribunal is the ultimate interpreter and guardian of the constitution and the laws of the land⁷. Headed by a Chief Justice and twenty-five associate

justices, the Supreme Court oversees that all legislation passed by the central and state governments must be in conformity with the constitution, and the constitutionality of any enactment is determined under the power of judicial review by the Supreme Court -- which has original as well as appellate jurisdiction⁸. While in practice, the executive branch of government has often prevailed (especially during Mrs. Gandhi's tenure) in limiting the Supreme Court's powers of judicial review, and while the Supreme Court has not always effectively adjudicated cases, including those dealing with religious minorities, or the rights of women, it is nevertheless, an institution of some significance -- and as will be discussed later -- in recent years once has begun to assert its authority. While India's federal system has vested significant powers of legislation with the central government, the constitution has also provided for enumerated powers divided between the union or central government and the provincial or state governments. Below the central government are twenty-nine state governments and six union territories, with populations ranging from 400,000 for the union territory of Sikkim, to 140 million for the largest and most populous state of Uttar Pradesh. While states do not have their own separate constitutions, they are governed by the provisions of the constitution of India. The constitution specifies that all the states shall have similar governmental structures and provides for popularly elected bicameral or unicameral legislature in each state and territory, headed by a chief minister responsible to the assemblies⁹. A governor is appointed by the central government with the power to dissent from a bill and refer it to the President of India and the power to appoint with the approval of the legislature, the state's chief minister. The strength of the central government relative to the states is further apparent in the constitutional provisions (laid down in the Seventh Schedule of the Constitution) for central intervention into state jurisdictions. The central government has exclusive authority over matters of national importance -- the 97 items includes defense, foreign affairs, transportation, communications, interstate trade and commerce, and finances. Moreover, Article 3 of the constitution authorizes Parliament, by a simple majority vote, to establish or eliminate states and union territories or change their

boundaries or names. The central government can also dismiss any state government through President's Rule. The center also exerts control over state governments through the financial resources at its command. In a real sense, it "acts as a banker and collecting agent for the state governments" (Hardgrave and Kochanek 1993: 130). Under the rules of the constitution, financial resources flows from the central government to the states through a system of discretionary divisible taxes and grants-in-aid -- making the states dependent on the center for their regular budgetary needs, as well as for their capital expenditures. The central government also allocates and distributes substantial "development funds and grants" through its Five Year Plans. The resources available under the plans are substantial given the center's exclusive control over taxable income and foreign financial flows. Although India's federal government exhibits all features of a highly institutionalized modern unitary state, appearances can be deceiving. Despite the constitutional powers of the central government, the provincial governments are not without significant constitutional powers¹⁰. In the words of Dr. B.R. Ambedkar, the chairman of the Constitution drafting committee, "the states of the union of India are as sovereign in their field which is left to them by the Constitution as the Center in the field which is assigned to it" (Palmer 1961: 97). Under the constitution, states have exclusive authority of 66 items, including public order, welfare, health, education, local government, industry, agriculture and land revenue. In regards to the agricultural sector and land revenue, the constitution in assigning primary responsibility to the state governments (while placing constitutional and legal limitations on the powers and jurisdiction of the central government), reduced the center to providing guidelines, leaving the actual task of translating rural development policies into legislation, including their implementation, to the state governments. In other words, the development of the rural sector has depended in large measure on the actions of the state governments. In fact, Professor Paul Appleby (1953), who at the request of the Government of India conducted a comprehensive review of the country's administrative system was astounded to discover how much the center was dependent on the states for the

actual implementation of major national programs and how little real authority the center seemed to have in the vital areas of policy and administration. Appleby (1953: 21), lucidly captured this paradox: "No other large and important government... is so dependent as India on theoretically subordinate but actually rather distinct units responsible to a different political control, for so much of the administration of what are recognized as national programs of great importance to the nation." Below the state governments exist an array of formal and informal governance structures known simply as "Local Self-Government" -- ordinarily understood as the administration of a locality (a village, town, city, or any other area smaller than a state) by a body representing the local inhabitants. The idea behind local self-government, articulated most forcefully by the 1957 Mehta Study Team Report¹¹, argued that local-self-government or "democratic decentralization" could play a vital role in the process of political legitimation and offer a means for developing a sense of participation in the citizenry.

References:

1. Between February and March of 1998, India held its twelfth general elections. Given the daunting logistics, the twelfth general election was held over 13 days in four stages, starting on February 16, 1998.
2. The President of India occupies in the Indian constitutional system the same position as the Crown does in the British Constitution. India's Presidents, with a few exceptions, have usually been distinguished elder statesmen (no women so far), who have generally performed their rather perfunctory duties with dignity. The President is elected by the elected members of the Lok Sabha, the Rajya Sabha and the Vidhan Sabhas for a five-year term (although they can stand for re-election) are also subject to impeachment by Parliament for violation of the constitution.
3. Malik (1993: 86), notes that "in some ways the prime minister's secretariat resembles the U.S. president's executive office. It is entrusted not only with preparation of the agenda for cabinet meetings and maintenance of the records of cabinet proceedings but also with coordination of the administration of different departments of the government headed by the members of the council of ministers."
4. Under this system, political parties can gain commanding positions in the Parliament without gaining the support of a majority of the electorate. For example, the Congress Party that has dominated Indian politics till recently, never won a majority of votes in parliamentary elections. The best-ever Congress performance in parliamentary elections was in 1984 when it won 48 percent of the vote but garnered 76 percent of the parliamentary seats. In the 1991 general elections, Congress won 37.6 percent of the vote and 42 percent of the seats.
5. The members of the Rajya Sabha are elected indirectly, rather than by the citizens at large. As in the United States, the terms in the upper-house are staggered, so that one-third of the members stand for election every two years.
6. Officers of the Indian Administrative Service (IAS) are an elite corp, drawn primarily from the affluent and educated upper castes. In 1990, only about 150 out of a candidate pool of approximately 85,000 recruits received appointments in the IAS.
7. Unlike the United States, India has a single judicial system (not a system of dual courts), with the Supreme Court at the head of the judicial hierarchy, with High Courts in each of the states, followed by District Courts. According to the Constitution, the Supreme Court should consist of a Chief Justice and not more than seven other judges -- albeit Parliament is authorized to change the number of judges, and has done so.
8. It is important to note that India has a unified judicial system. That is, there are no separate state courts, but each state has a high court that is subordinate to the Supreme Court. The Supreme Court also covers the disputes arising between the central and the state governments, as well as cases involving two or more states. Hardgrave and Kochanek (1993: 101), aptly note that while "the scope of judicial review in India is not as wide as in the United States... the Court [has nevertheless] held more than 100 Center and state acts invalid, either in whole or in part, and most if its decisions have been unanimous."
9. Most states have unicameral legislatures, however Andhra Pradesh, Maharashtra, Tamil Nadu, Uttar Pradesh, Bihar and Jammu and Kashmir have bicameral legislatures, with the lower house or legislative assembly (or the Vidhan Sabha) is the real seat of power. The upper house or legislative council (or the Vidhan Parishad) serves as an advisory body. The largest Vidhan Sabha is for Uttar Pradesh, with 425 members, the smallest Pondicherry, with 30 members.
10. Some have argued that the "Indian union is not strictly a federal polity but a quasi-federal polity with some vital and important elements of unitariness". See Palmer (1961: 94).
11. The team's report is named after its chairman, Balwantray Mehta, an ex-chief minister of Gujarat state. For the report's detail see (Government of India (GoI) 1957).