

## ABHANDLUNGEN / ARTICLES

The dialectic of politics and law and the resilience of India's post-colonial governance: *Ultima ratio regum?*By *Subrata Mitra*, Heidelberg\*

Indian democracy, with its vitality, resilience and blemishes, is puzzling.<sup>1</sup> Many democrats and human rights activists around the world and in India itself, find it hard to reconcile the country's democratic achievements with its tragic failures. Over the years, sporadic but terrible attacks on members of minority communities, desecration of places of worship, pogroms, sometimes in connivance with employees of the state, the persistence of deep pockets of poverty and violent separatist movements have put a large question mark on the quality of Indian democracy. Balancing these, on the other hand, one can see irrefutable evidence of a vibrant electoral process, judicialization and social movements which hold the government accountable.<sup>2</sup> Several successful constitutional and legislative measures have helped promote the upward mobility of the lower social strata. Many find this mixed democratic record enigmatic.

India's democracy is counterfactual<sup>3</sup> in the sense that conventional theories of democracy, based as they are on the preconditions of high literacy, equality and prosperity that did not exist in India at the start of the transition to democracy and its consolidation, do not

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<sup>2</sup> The evidence of the resilience of India's democracy consists of regular, free, fair and effective elections with wide popular participation and survey findings of high efficacy, trust and legitimacy. See *Subrata K. Mitra /V. B. Singh*, *When Rebels become Stakeholders: Democracy and Social Change in India*, Delhi 2009. Public Interest Litigation – an innovative practice of fast track judicialization for socially relevant issues and the recent anti-corruption Anna Hazare Movement are examples of these corrective devices in the midst of Indian politics.

<sup>3</sup> For an elaboration of the concept of 'counterfactual democracy', see *Subrata K. Mitra*, *Democracy's Resilience: Tradition, Modernity and Hybridity in India*, Symposium: India in Transition: The State of the Subcontinent, *Harvard International Review* 32 (2011), pp. 46-52.

explain the Indian case satisfactorily.<sup>4</sup> In contrast to conventional theory, the article explains the ‘counterfactual’ nature of India’s democracy and governance in terms of the ability of India’s political actors to conflate the indigenous sense of *dharma* – righteous conduct – with modern concepts of rights, both individual and collective – acquired in course of British colonial rule. Several generations of political leaders who straddle the worlds of modern India – her legislatures, courts of law and sprawling bureaucratic agencies – and the traditional worlds of castes, religions, ethnic groups and regional language communities have striven to devise new rules and institutions that would connect the modern and traditional faces of this complex country. This, I argue here, has led to the deepening of democracy, which is contingent on the political process that draws as much on the indigenous norms and colonial modernity as on the extension of representation down to the level of the village community, and the empowerment of marginal social groups, lower social classes, religious minorities and women.

#### A. *Ultima ratio regum?* Power, authority and legitimacy in changing societies

Asked what might produce a state of orderly rule state theorists and systems analysts would be quick to note the importance of a widely shared culture of rights and the availability of a neutral enforcer to punish rules infringement as both the necessary and sufficient conditions of this desirable state of affairs.<sup>5</sup> Such a system, with equality before the law as a binding norm, can sustain democratic governance. However, most societies, particularly those undergoing rapid change from tradition to modernity, do not meet these conditions. As such, many analysts, particularly in the heyday of the modernization approach of the early decades following the Second World War have seen a necessary dose of strong leadership as a necessary step towards the transition to orderly rule.<sup>6</sup> However, in the wake of the Arab Spring, *ultima ratio regum* – the last argument of kings is war<sup>7</sup> – has ceased to be the universal panacea that it used to be for the wishful thinking of an earlier generation of theorists of modernization. The first lesson one draws from the worldwide spread of mes-

<sup>4</sup> See *Seymour Martin Lipset*, Some social requisites of democracy: Economic development and political legitimacy, *American Political Science Review* 53 (1959), pp. 69-105; *Aurel Croissant / Wolfgang Merkel* (eds.), Consolidated or defective democracy? Problems of regime change, *Democratization* 11 (2004) (Special issue).

<sup>5</sup> Concepts such as ‘diffused legitimacy’ ‘stateness’ and ‘political system’ capture the juxtaposition of rewards – both material and symbolic – and punishment by the way of sanctions against rule-breaking capture the essential ingredients of orderly rule. See *David Easton*, An Approach to the Analysis of Political Systems, *World Politics* 9 (1957), pp. 383-400; *Subrata K. Mitra* (ed.), *The Post-colonial State in Asia: Dialectics of Politics and Culture*, New York 1990; *Mitra*, *The Puzzle of India’s Governance*, note 1.

<sup>6</sup> *Samuel Phillips Huntington*, *Political Order in Changing Societies*, Yale 1968 is one of the most widely cited sources of this argument.

<sup>7</sup> This was the motto engraved on the cannons of Louis XIV, which was later taken up by the Prussian king Friedrich II. (*Mitra*, *The Puzzle of India’s Governance*, note 1, p. 295).

sage of democracy and human rights is that until the ruler succeeds in balancing credible sanctions for rule infringement with the legitimacy and righteousness of the rule, no order will be sustainable in the long run.<sup>8</sup>

This basic insight forms the core of the model of India's transition from a colonial political system, ensconced in an authoritarian traditional society, to one based on democratic governance. I argue here that India's political elites, who strategically combine selected aspects of the traditional society and modern political institutions in order to further their interests, have largely succeeded in holding the political system together, and lead it towards the deepening and broadening of democratic governance. The Indian political system has successfully coped with these challenges, thanks to the structure of a hybrid state that blends modernity and tradition together in the form of political norms that underpin social and political transactions. The combination of these norms, structures and processes accounts for the puzzling fact that India has indeed held together for sixty-three years since Independence, and pulled the country from the brink of dictatorship after the short-lived national Emergency of 1975-1977 whereas others such as Pakistan, which also emerged from British colonial rule as a free-standing member of the international community, split in 1971.

The analysis below, aimed at this puzzle, continues with a brief introduction to the context of state-society relations in India (section B), followed by a discussion of the main norms of Indian politics that underpin political transactions. This section is followed by an analysis of the origin of these norms in course of state-society interactions during colonial rule and in post-colonial politics (section C). Next I discuss the institutions that provide the liminal space between the modern state and traditional society for political action and transactions (section D). These, I argue, help generate orderly governance and resilience of the political system. The conclusion (section E) considers the prospect of any generalization that one might make on the basis of state-society interactions in India.

## **B. The context of state-society interaction and democratic governance in India**

Politics in contemporary India can come across as exotic and confusing to those who are unfamiliar with its distinct style. Though in most senses a modern state with an emerging market, India still retains some features of a 'third world' country. Modern politicians in ethnic garb function in a 'third space', generated by the constant inter-penetration of tradition and modernity. Mass poverty, urban squalor, traditional rituals and subsistence agriculture which exist next to state of the art technology, mark the landscape of the vast country. Five norms account for these puzzling facts of Indian politics.

<sup>8</sup> The classic antonym of 'ultima ratio regum' is 'quis custodiet ipsos custodios?' – who will guard the guardian. The full quotation is significant for the tenuous link between force and righteousness in the creation of order. "Keep your wife under guard, but who will guard the guardians?" The cynical answer to the question is, "Unless the Lord watches over the city, the watchman stays awake in vain". (de Jouvenel) cited in *Mitra, The Puzzle of India's Governance*, note 1, p. 154.

### I. *Democracy and Elite Agency: The 'Room to Manoeuvre in the Middle'*

India has been a subject of fascination for visitors.<sup>9</sup> My approach puts the main burden of explanation on the role of the state as *both* neutral and partisan. India's leaders and followers are *rational* actors in the sense that they consciously pursue their goals and combine all the resources – material, symbolic and moral – at their command to bring influence to bear on the decision-maker, hoping for an outcome favourable to them.<sup>10</sup> These leaders – *netas* in Hindi – are located at the crucial nodes of the political system. Socially, they are a heterogeneous body, comprising men as well as women (though, fewer than men), the old and young, people from upper social classes just as those from the middle and lower castes, (some of whom are recruited through 'reservations' the name by which India's quota system is known) and people of different religions and ethnic origins. What distinguished them from their fellow citizens is accountability, both horizontal and vertical. Their ability to act as intermediaries between the traditional society and the modern state explains the success of India's democracy and governance in large measure.<sup>11</sup>

The existence of the room to manoeuvre between tradition and modernity in a third world democracy<sup>12</sup> is by no means automatic, universal or self-evident. Nor is elite capacity, which is crucial to our analysis only a matter of political will. It is influenced by an ensemble of factors such as the political context and culture in which the decision-making body is ensconced, the institutional arrangement, the vertical and horizontal accountability of the elites and the method of their recruitment.<sup>13</sup> Compared to Marxist models of politics in India which see conflict as natural and necessary, society as bi-polar and choice as foreordained, the model in Figure 1 introduces the additional parameters of choice on the part of the decision-makers and policy responsiveness (including strategic reform) as a tool of intervention. The perception of elites by ordinary people as responsive and efficacious can lower the incentive for breaking the law and taking things into their own hands.<sup>14</sup>

<sup>9</sup> See for example *Edward Luce*, *In Spite of the Gods: The Strange Rise of Modern India*, London 2006.

<sup>10</sup> Rationality is used to imply both 'instrumental' and 'value' rationality as defined by *Max Weber*, in: *Guenther Roth and Claus Wittich* (eds), *Economy and society: an outline of interpretive sociology*, Berkeley 1978.

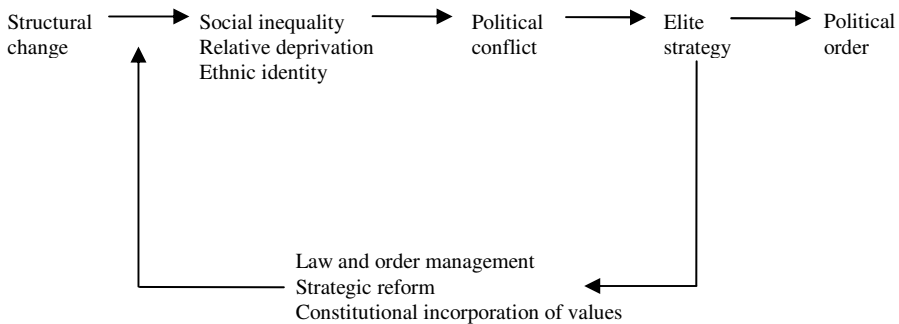
<sup>11</sup> For an illustration of the structure, functions and social origin of such elites at the local level – the *gaon ka neta* – see *Mitra* (ed.), *The Post-Colonial State in Asia*, note 5.

<sup>12</sup> See *Subrata K. Mitra*, *The room to maneuver in the middle: Local elites, political action and the state in India*, *World Politics* 43 (1991), pp. 390-413.

<sup>13</sup> The availability of free, fair and effective elections based on universal adult franchise is crucial for this.

<sup>14</sup> *Mitra /Singh*, note 2.

Figure 1

**The tool kit: A rational choice, neo-institutional framework of analysis**<sup>15</sup>

The model provides the key argument such as the capacity of decision makers to intervene in the social and political process through law and order management, strategic reform and constitutional incorporation of values as crucial parameters in the making of orderly rule (see the tool kit in figure 1) to the analysis of the structure and process of the Indian political system and the consolidation of Indian democracy. The country's significant achievement in the area of positive discrimination, – politically divisive, but, in the long run, legitimacy enhancing – provides an illustration of how the country has successfully severed the cultural and economic links between caste and occupation, and transformed rebels into stakeholders.<sup>16</sup> Legislative reform and administrative measures have whittled away social privilege, and introduced punitive measures against discrimination. The institution of quotas in education, legislatures and government jobs has permitted former *Untouchables*<sup>17</sup> who have suffered from centuries of discrimination to climb the social and political ladder.<sup>18</sup> When elite initiatives result in redistributive policies and constitutional change,

<sup>15</sup> Source: Mitra, Puzzle, note 1, p.16.

<sup>16</sup> See Mitra /Singh, note 2.

<sup>17</sup> For a definition of this key term and others used in this article see Subrata K. Mitra / Siegfried W. Wolf /Jivanta Schoettli (eds.), *A Political and Economic Dictionary of South Asia*, London 2006, p. 397.

<sup>18</sup> Quotas produce clientels and vested interests that seek to freeze social justice at a particular level. The dynamics of Indian politics can be seen in the fact that the process of challenging the system of reservations – of jobs, seats in legislatures and admission to educational institutions for Scheduled Castes, Scheduled Tribes and Backward Classes – has already set in. See Krishna Kumar, Fine-tune positive discrimination regimes, *The Hindu* (Indian daily newspaper), 14.03.2009 ( at <http://www.hindu.com/2009/03/14/stories/2009031460301500.htm> ).

they lead to the reduction of perceived inequality and accommodation of normative issues such as that of collective identity. Once abstract issues like values and identity are incorporated into the constitution through appropriate changes in the rules of the game and creation of new arenas, political conflict on values and symbols reverts back to the everyday politics of conflict over material interests.

The account of Indian politics offered in this essay is based crucially on the premise that orderly social and economic change as the key to legitimacy and democratic governance. The process of democratic social change has acquired a steady character in India because, despite occasional lapses, the country's leadership has succeeded in carrying out this task most of the time, and in most places of the vast landscape. The functioning of India's elections, judiciary and the media has ensured that elites remain politically accountable. The fact that most of India's elites, rather than being social notables born to power and privilege are professional politicians who have risen from the ranks makes them a crucial intermediary between the modern state and traditional society.

The availability of this 'room to manoeuvre in the middle' sets India sharply apart from many other post-colonial societies which are deeply polarized. India is different in the sense that cleavages of caste, class, region, language and religion are cross-cutting and not cumulative. Political stability in the locality and region in post-independence India, like in most post-colonial societies, was sharply challenged by social marginal groups empowered by competitive electoral mobilization as one could notice in the caste, ethnic and regional secessionist movements. However, the response of the decision-making elites to crises through law and order management, strategic reform and redistributive policies, and constitutional change in order to give legitimacy to contested, embedded values and to induct rebels as stakeholders into the political system, acted as a corrective measure that contributed to the resilience of the democratic political system. Crucial to this story are India's new political elites emerging from the lower social orders who, unlike old-style social notables whom they have increasingly replaced, act as binding factors between tradition and modernity. This is different from Africa where modernization and the emergence of new social elites appears to have given a boost to tribalism rather than creating new overarching networks – a function that political parties have performed. They link the diverse and continental dimensions of India's political system together into a functional and cohesive whole.

## II. *Level Playing Fields: The Multiple Roles of the State in India*

India's institutional arrangement consisting of the modern bureaucracy, legislative bodies and the judiciary comes across simultaneously as neutral and partisan between competing social interests, and, in practice, can take many different forms. Beyond that, there are the usual paraphernalia of the liberal state such as various commissions such as the National Commission for Minorities, the Backward Castes commission and so on, committed to the dignity of man, and more recently, to the freedom of individual enterprise from bureau-

cratic meddling. The core institutions of the state also embody the tradition of European social democracy in terms of a commitment to social justice. Finally, there is also the specter of the occasional breakdown of the liberal superstructure, and the abuse of the authority of the state for personal benefit.<sup>19</sup>

Creating a level playing field is the quintessence of the ideology of the post-colonial state in India. In their characterization of the state in India, Lloyd and Susanne Rudolph show how it has successfully incorporated some apparently contradictory values in order to create a space where different social groups can enhance their status by periodically renegotiating the priorities for the politics of the day<sup>20</sup>. The 'negotiation' itself takes many different forms – stretching from participating in elections to the responses of the state to mass uprisings and collective violence. These political transactions take place under the watchful eyes of the public, the media, politicians and civil servants. In their inimitable metaphor, the Rudolchs describe the Indian state in terms of "Hindu conceptions of the divine," "polymorphous", and "a creature of manifold forms and orientations." The state shuttles between contradictory roles of being a neutral referee between competing social groups, and occasionally becomes partisan – leaning in favour of political groups in the name of positive discrimination, secularism, democratic rights, or dominant local or regional power.<sup>21</sup> In extreme cases of conflict, or secessionist movements, the state takes an active and forceful initiative, and responds to challenges with a mixed strategy that combines both repression and accommodation.<sup>22</sup> In their attempts to get the best deal, both leaders and followers mobilize their social networks, engage vigorously in electoral campaigns, transform traditional customs and innovate new political norms.

### III. *Eternal, Enduring and Changing: India's non-linear Modernity*

The concept of time that underpins Indian politics is non-linear and multiple. Over the recent past, particularly since the nuclear tests of 1998 and the emergence of India as the world's back office, thanks to outsourcing, and new economic openings and closer integration with the international market economy, India's stock image as a desperately poor third world country has changed radically. However, with India's 'third world society' and democratic institutions comparable to the 'first world'- liberal democratic states of the

<sup>19</sup> Tilly has described this as 'organized criminality'. See *Charles Tilly, War Making and State Making as Organized Crime*, in: Peter Evans / Dietrich Rueschmeyer / Theda Skocpol (eds.), *Bringing the State Back In*, Cambridge 1985, pp. 169-187.

<sup>20</sup> *Lloyd I. Rudolph / Susanne Hoeber Rudolph*, in: *Pursuit of Lakshmi: The Political Economy of the Indian State*, Chicago 1987, p. 400-401.

<sup>21</sup> See Atul Kohli (ed.), *The success of India's democracy*, Cambridge 2001.

<sup>22</sup> Stephen Cohen, an American specialist of India's defence and security policy quotes a senior member of the Indian Police Service (IPS) to explain Indian strategy with regard to secessionist movements as 'hit them hard over the head with a hammer then teach them how to play the piano!' (*Stephen P. Cohen, India: Emerging Power*, Washington 2002, p. 112).

West, and the living presence of religion in the public sphere, many see India as unique and attribute the success of democratic institutions to India's 'exceptionalism'.

#### IV. *Competition for Power as the Cutting Edge of social mobility*

The competition through party competition and elections supported by the check and balance of *countervailing forces* – where power meets counter-power – has led to the remaking of a traditional society into a modern design. The approach taken here juxtaposes India's political dynamism to the image of a traditional, essential, hierarchic and static world view that has long held sway in the European imagination of India. I argue that India is no more unique or special than any other major country with a long historical tradition and religious beliefs deeply anchored in society. If India has succeeded in establishing a sustainable democratic process, it is because an unusual set of factors has come together to create a political environment that has made stakeholders out of ordinary citizens. (Mitra and Singh 2009) The competition for power – an ineluctable fact of organized life – has neatly dovetailed into the interstices of the Indian society. Keeping in tune with the changing social structure is the political system whose outer reaches occasionally spill over from conventional politics into anti-system behaviour. But the manner of its happening actually reinforces the strength and efficacy of the political process. Incredible as it may sound, the legitimacy of the post-colonial state in India issues from the struggle for power in the everyday life of Indian politics.

#### V. *Juxtaposition of traditional and modern methods of politics*

India's *style* of politics, which draws on symbols from culture and religion on the one hand, and modern political institutions and the market on the other is both complex and sophisticated. After six decades of post-independence politics based on democratic participation, protest movements, and accommodation within the framework of modern institutions, this dialectic of old and new of politics has come to characterize virtually all the arenas of the state. There are numerous examples of this. Most ethno-nationalist movements attract media attention when they first appear with their customary fury, mass insurgency and military action, but most of them, with the exception of Kashmir and the North East have found an institutional solution within the Indian political system. And though continued political unrest in Kashmir continues to challenge this thesis, the case of Punjab in the 1990s and Tamil Nadu in the 1960s both of which, after a spate of political turbulence, have settled down to normal parliamentary politics illustrate this mode of successful conflict resolution in India.

The strategic modes of India's politicians range between the peculiarly Indian, like *gherao*, *dharna*, *rasta roko*, *bhukh hartal* – various forms of individual and collective protest – and familiar forms of modern politics like electoral campaigns, lobbying and



petitions.<sup>23</sup> Very much in the tradition of the 'two-track politics' of Mahatma Gandhi in which he sought to combine institutional participation with political protest, India's political actors combine both modern institutions and traditional forms of politics based on social networks. One consequence is the emergence of the state, both as the quintessential mediator between competing social forces, but crucially, the mentor of specific, under-privileged groups, promoting them from subject-hood to citizenship of the Indian Republic. Turbulent political 'activists', in the long run, become catalysts of social change.

### C. Historic conditions for Indian politics today

Two connected process – British rule and Indian resistance to it – jointly account for the evolution of the norms of state-society interaction in India that we have seen so far. The British, who were masters of indirect rule innovated a number of hybrid institutions based on a re-use of traditional norms in a modern garb, to rule India in an orderly manner. While this sustained the raj over two centuries – never in history have so few ruled so many with such little use of overt force – this came at the cost of arrested growth, and the severing of India's colonial present from the pre-modern past. Whereas in pre-modern India the rule prescribed different punishments for the same crime where as the Constitution of India not only prescribes equality before the law; it actually seeks to root out the fundamental cause of that in-equality linked to the practice of untouchability, achieving this remarkable political change through the instrumentality of law.

Kautilya's "Arthashastra" which laid down the legal basis of the pre-modern state drew its legitimacy from drama, the binding character of religious norms.<sup>24</sup> The shared belief in righteous conduct as the basis of good life has provided the form of orderly life to which new content has been poured by modern India, reflecting the spirit of a different age. The credit for this must go to the modernizing leadership of Jawaharlal Nehru and his band of reformers who knew how to strategically combine elements of the past and the present to generate an endogenous modernity.<sup>25</sup>

<sup>23</sup> The genealogy of these unconventional forms of political participation in a modern context can be traced to India's Freedom Movement under the leadership of Mahatma Gandhi. I have analysed the origin of this two-track strategy which combines participation in conventional politics and protest in *Mitra*, note 14, pp. 390-413.

<sup>24</sup> The *Arthashastra* (The Science of material power), written by *Kautilya* (fourth century BC), edited, rearranged, translated, with an introduction by *L.N.Rangarajan*, Delhi 1992 is a key evidence of the existence of traditional methods of statecraft in India.

<sup>25</sup> "An *Arya* man having relations with a *svapaka* woman was branded and exiled while a *svapaka* man having relations with an *Arya* woman was put to death." *Kautilya* (by Rangarajan), note 24, p. 52. Contrast this to Article 17 of the Constitution of India: "'Untouchability' is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of 'Untouchability' shall be an offence punishable in accordance with law."

### I. *Hybridisation as strategic re-use*

We learn from scholarly accounts of everyday life in pre-modern India that the society, polity and the economy evolved in continuous symbiosis in course of the millennia of its early, settled existence.<sup>26</sup> While self-contained, India was not insulated from external inspiration because there were various forms of conceptual flow that continuously enriched Indian life. There were pilgrims and visitors from abroad, some international trade and military invasions. However, society had mastered the art of accommodation of difference, and re-use of the past to construct new, hybrid structures that could cope with changing times.<sup>27</sup> With the loss of political autonomy and destruction of the knowledge-generating universities, and scholarly communities around temples through Islamic invasions that began in the 8<sup>th</sup> century, India started losing this capacity for endogenous self-renewal. There were local instances of fusion and innovation in art and architecture between Islam and Hinduism, Jainism and Buddhism, a process which reached a national scale under the rule of the Great Mughals. But society as a whole – with the loss of autonomy to alien invaders – had lost the vibrant capacity for efficient, endogenous evolution. The *coup de grace* to this moribund structure was dealt by the colonial intrusion from Europe, starting in the eighteenth century. By 1858, with the defeat of the Sepoy Mutiny, the victorious British proclaimed the ultimate intellectual, moral and political subjugation of the Indians at the Delhi Durbar.

The hybridisation of the Mughal Durbar was part of the successful strategy of ruling the Empire through native intermediaries with very little use of overt force. The successful experiment spawned its variations in many other areas of administration, architectural design and city planning and in public life. Though not always so clearly visible to those who are unfamiliar with India's colonial interlude, specialists recognize the British derivation of the rules, procedures and rituals of the Indian Parliament.<sup>28</sup> The *Devaswam Boards* in South India and their equivalents in other parts of the vast country – departments of religious property, also set up during the British rule – in charge of administration of old temples show how the modern state and its bureaucracy cope with the vital presence of the traditional in its midst. Government ministers of democratic India hold court – much like

<sup>26</sup> See *Jeannine Auboyer*, *Daily Life in Ancient India from 200 BC to 700 AD*, London 1965; *Michael Edwardes*, *Everyday Life in Early India*, London 1965.

<sup>27</sup> This spirit of renewal, essential to the conservative dynamism of pre-modern India, is summed up in an oft-repeated *sloka* from the Gita: Whenever, scion of Bharatas! righteousness declines and unrighteousness prevails, I manifest Myself (Bhagavadgītā 4.7).

<sup>28</sup> The signs of the lingering British presence – Sunday as the official holiday of the week, left-hand-drive of the Indian traffic, and the ubiquitous Ambassador car, a hybrid British Austin Rover adapted to Indian roads which has become the sturdy emblem of Indian officialdom, are everywhere. The Dak Bungalows, outposts of the British Raj out in the country, temporary homes for the British civilian officers on tour, are tended with the same attention to details by the PWD – the Public Works Department, also of British vintage – just as are the post-independence guest houses of the national and State governments.

their colonial and pre-colonial predecessors held *darbar* – and transact state business with a motley crowd of visitors, with the same display of power, privilege and pomp. Independent India has clearly moved on, and shown, once again, the country's capacity to achieve change without revolution.

## II. *Satyagraha: the Gandhian conflation of Modernity and Tradition*

This trend of uninterrupted and unhindered conceptual flow from Europe mediated by colonial rulers was challenged once Gandhi got to the centre stage of India's politics, fresh from the successful application of *satyagraha* as a novel, hybrid form of peaceful political resistance. Under his moral and political leadership, Indian freedom fighters learnt to gain new insights on their home ground. The process of introspection and selective re-use intervened during the process of the writing of the Indian constitution. The defining moment came with the celebrated Nehru speech 'Freedom at Midnight' in which he announced to a sceptical world the birth of a nation when he said, "when the soul of a nation, long suppressed, finds utterance". Today, the Indian state – cutting edge of the process of self-assertion of Indian society – is both structure and agency of the indigenous evolution and resilience of the political and social systems.

The Congress party, at the height of colonial rule, had become the vehicle of the synthesis of the two main strands of Indian nationalism – the liberal constitutionalists like the 'moderate' Gopal Krishna Gokhale – and the radical 'extremists' led by Bal Gangadhar Tilak.

*Mahatma Gandhi* developed the method of *satyagraha* – a quintessentially hybrid concept that re-used a Jaina ritual, turning it into a tool of nonviolent resistance. The South African experience also taught Gandhi the importance of cross-community coalitions, a theme that he subsequently transformed into 'Hindu-Muslim unity'. This became a salient feature of Gandhi's politics upon his return to India in 1915, and a hallmark of the politics of the Congress party which found it useful as a political instrument to fend off its challengers – the Hindu Right, the Muslim League and their British patrons. Under his leadership, the Indian National Congress became increasingly sensitive to the gap between the predominantly urban middle-class Congress-party and the Indian masses, and shifted its attention to the Indian peasantry. Under Gandhi's leadership, the Indian National Congress steadily broadened its reach both in terms of social class and geography. To mobilize mass support, Gandhi also introduced a number of indigenous political practices like fasting and general strikes or *hartal* (a form of boycott accompanied by a work stoppage). He combined the techniques of political negotiation with more coercive direct action (such as *hartal*, *satyagraha* etc.) and derived both the political resources and the methods from within Indian culture and history.

### III. *Reform: Law as the instrument of social change*

A number of early books on the subject of India's potential for political and economic development were pessimistic about the ability to maintain democratic institutions while enabling mass mobilization and delivering governance and development. Barrington Moore for instance was highly negative about the Indian model, attributing poor performance to a dysfunctional 'trickle-down, felt-needs' model. Democracy in Moore's eyes simply complicated the matter. In his words, "only one line of policy that seems to offer real hope, which, to repeat, implies no prediction that it will be the one adopted. In any case, a strong element of coercion remains necessary if a change is to be made. Barring some technical miracle that will enable every Indian peasant to grow abundant food in a glass of water or a bowl of sand, labor will have to be applied much more effectively, technical advances introduced, and means found to get food to the dwellers in the cities. Either masked coercion on a massive scale, as in the capitalist model including even Japan, or more direct coercion approaching the socialist model will remain necessary. The tragic fact of the matter is that *the poor bear the heaviest costs of modernization under both socialist and capitalist auspices*" (emphasis added).<sup>29</sup> Faced with such pessimistic scholarship on the link of mass poverty and non-sustainability of democracy, one needs ask: how did India's poor get into the political radar screen, and with what consequences?

By the mid-1950s, Jawaharlal Nehru's model, the 'socialistic pattern of society' had gained precedence. The Socialist goal was to be attained through measures such as land reform. However, this early momentum soon met its roadblock in the form of rural landlords who were important king-makers in local party politics. As a result, it has been documented by various scholars that land reform remained mostly as rhetoric, making little headway in terms of actual implementation. There was simply a dearth of land available for distribution to the landless. India's Five Year Plans directed public funds towards private enterprise, infrastructure building, not employment generation. Egalitarian measures such as land reform eventually gave way to more populist and direct measures of poverty alleviation that at the same time did not involve confronting the landed elite. This was done through government subsidies, preferential credit in the form of programmes such as the Small Farmers' Development Agency (SFDA) programme (1971-79), the Integrated Rural Development Programme (IRDP) (1979-99), the Swarnjayanti Gram Swarozgar Yojana (SGSY) (1999).

Nehru's model of import substitution, industrialization, modernization of agriculture, planning, was a model based on the 'felt needs, trickle-down theory'. During the first three five year plans over the years, 1951 – 1966, the prime emphasis was placed on the need to achieve higher growth rates in the belief that capital accumulation and enhanced savings/investment would create a 'trickle-down' effect of growth. However, the plans were over-

<sup>29</sup> Barrington Moore, *Social Origins of Dictatorship and Democracy: Lord and Peasant in the Making of the Modern World*, Boston 1966, p. 410.

ambitious, misguided and quickly ran into bottlenecks, particularly during the third plan when inflation, war with Pakistan, drought created massive dissatisfaction. By the late 1960s the land situation had become polarized. Bullock capitalists on the one side and radicalized peasantry on the other, were both contributing to an environment of hostility and resentment, that many thought would be ripe for a Maoist revolution. The split in the Communist Party of India, giving birth to the Communist Party of India (Marxist), rise of Naxalite violence and political instability in many Indian States, indicated deep, inherent problems within the Indian model of development although the much-heralded revolution did not materialize.

What followed the radical sixties was a spate of reformist legislation, nationalization laws and some conspicuous programmes for instance, the Twenty Point Programme, land to the landless, homestead land, target group programmes - measures that were introduced by Prime Minister Indira Gandhi during the eighteenth month of the Emergency. Many of these social-democratic policies were put on hold when the Janata party came to power after the end of Emergency and the fall of Indira Gandhi. However, the general tendency towards direct action programmes continues for instance through the Integrated Rural Development Programme (IRDP) which aimed at providing assets to the asset-less (small and marginal farmers, agricultural labourers, rural artisans) through income-generating activities. During the 1980s this scheme was extended to cover schedule castes and tribes, women and rural artisan. Various structural problems plagued the IRDP. For instance unskilled landless labourers were offered credit to develop entrepreneurship without being provided the experience to manage and enterprise as a result of which banks were disinterested in providing credits to the poor. Recognising the failings of the IRDP, the government launched *Swarnjayanti Gram Swarozgar Yojana* (SGSY) in 1999 that aimed at creating 'self-help groups' rather than focusing on individuals in the bid to develop micro-enterprises. The strengths of such an approach included the linking with existing banking institutions, providing banks also with the opportunity to penetrate into rural areas.

Laws regarding wage employment programmes have aimed at providing rural poor with a livelihood during a lean agricultural season as well during drought and floods. Continuing into the post-1991 reform era, these programmes have been revised and re-launched. For instance a new emphasis has been placed on the need to create economic assets and infrastructure for villages with the idea that the creation of employment will follow as a by-product. The Public Distribution System (PDS) has been modified as a result of which it adopts a much more targeted approach, identifying households below the poverty line and providing them with subsidized food grains. A number of problems have dogged the PDS including costing challenges, wastage, pilferage and diversion to the open market that occurs at different stages from procurement to distribution.

Purchasing power of rural people was a major hurdle to poverty alleviation programmes such as the PDS where people were simply unable to purchase the grains even at subsidized prices. In response to this, the government's National Rural Employment Guarantee Act, enacted by legislation on August 25, 2005 sought to ameliorate the problem of purchasing

power by providing a legal guarantee for one hundred days of employment in every financial year to adult members of any rural household. As the various programmes briefly outlined above, have demonstrated the government has faced a whole host of structural and technical problems. What has however, emerged centre stage also in terms of government-formulated programmes is a focus on the *political* and *social* dimensions of poverty. Hence the attention given to Panchayati Raj Institutions (PRI) and the function they can play in financing, planning and implementation of poverty-alleviation schemes. The following brief sketch of development discussions and policies within India captures the oscillations.

*Table 1*  
**Laws, policy reform and incremental economic change**

Period	Environment surrounding policy discussion.	Policy decisions / directions
1947 – 1951	Policy debate within Congress party and in the Constituent Assembly > ‘Socialistic Pattern of Society’	Nehru’s mixed economy emerges victorious over Gandhian ideas about Community Development.
1952 – 1963	Planning emerges as the primary tool of government policy formulation and implementation. Political control over resources, import-substitution, public sector, industry as leading sectors: ‘the commanding heights of the economy’.	Public Distribution System as a mechanism for providing price support to producers and providing food subsidy for consumers.
1963 – 1969	The policy debate is revived and institutional reforms re-emerge.	Green Revolution and indications of a shift towards the right.
1969 – 1973	The populist comeback and counterattack.	Land Reforms, Price Policy Reforms, Nationalization of Commercial Banks and Administrative reforms
1974 – 1984	Surreptitious and incremental liberalization	Direct action privileged: launching of <i>Integrated Rural Development Program</i> .
1985 – 1991	Half – hearted liberalization or ‘liberalisation by stealth’	Innovations such as induction of elected village <i>panchayats</i> in financing, planning & implementation functions & the creation of Self-Help Groups as recipients of micro-loans.
1991 – 2004	Towards ‘non-reversible’ liberalization.	New paradigm of ‘growth taking care of distribution’.
2005 –	The ‘India Shining’ reality check.	National Rural Employment Guarantee Act.

#### D. *The hybrid state and resilience of the democratic political system*

India, thanks to the mismatch between pre-conceived categories and her empirical complexity<sup>30</sup>, occupies an ambiguous position in global ranking of democracies. The empirical analysis of the features of the Indian state show, however, that rather than being merely a *diminished sub-type of liberal democracy*, the state in India is a modern state in its own right, but one which diverges from the western state “in the importance it accords to ‘pre-modern’ political forms [...] because they express different cultural values and traditions that form part of the cultural heritage”<sup>31</sup> It is the quintessential unity in diversity, for the state is the fulcrum around with diverse ideologies, cultures, beliefs and economic regimes revolve. In the words of Lloyd and Susanne Rudolph, the state in India is a manifold – an embodiment of the “*avatars* [incarnations] of Vishnu”.<sup>32</sup>

The hybrid elements in the modern state of India are the outcome of the historical genealogy of the state tradition and its discontinuities, cultural and geographic diversity, and the deep class conflict that underpins Indian society. Before we analyse these conditions that have affected the emergence of the state, we need to consider the concepts that connects the process of state formation to its ultimate product, namely the institutional structure of the state.

The research on hybridity runs parallel to the concept of *re-use*, emanating from art history, which has gradually found its way into the larger field of social and political investigation.<sup>33</sup> Referring to the presence of the past in the interstices of the present, Morris-Jones, a leading early chronicler of politics in India says, “India’s political leaders inherited under this heading of government still more than the accumulated sum of psychological capital; they received the more tangible equipment and machinery of government. These may be considered first as organization, structure and procedures, and, secondly, as personnel.”<sup>34</sup>

The hybrid institutions and practices are empirical evidence of what Bhabha calls the ‘third space’. Hybrid institutions are necessarily a part of a larger political project, one where elites and counter-elites seek to amend the rules to produce new designs and imbue them with a new spirit, geared to a political goal. The flow diagram in Figure 1 depicts how elites might seek to do this in the context of a changing or challenged society through the

<sup>30</sup> Subrata K. Mitra, “Flawed Paradigms: Western Representations of Indian Politics”, in: T.V. Sathyamurthy (ed.), *Political Discourse in India*, Delhi 1994, pp. 219-245.

<sup>31</sup> Mitra, note 5, p. 6.

<sup>32</sup> Lloyd Rudolph / Susanne H. Rudolph, *In Pursuit of Lakshmi: The Political Economy of the Indian State*, Chicago 1987.

<sup>33</sup> Julia Hegewald / Subrata K. Mitra (eds.), *Re-use: the art and politics of integration and anxiety*, Delhi 2012.

<sup>34</sup> Wyndraeth Humphrey Morris-Jones, *The Government and Politics of India*, London 1964, p. 17.

combination of three tactics, namely, the political management of identity, strategic reform of laws and the constitutional incorporation of core social values.

Not bound by doctrine or ideology, India's colonial rulers, the nationalist leaders and subsequently, the leaders of the post-colonial state could afford to be 'trans-lingual, trans-cultural and trans-disciplinary' in the sense that there was no political or scientific taboo against the search for things that would work. These huge experiments in colonial dominance, anti-colonial resistance, nation-building, democratic transition, economic growth and justice, governance and legitimacy produced hybrid political institutions and practices.

With the coming of independence, the state emerged both as the structure within which nation-building and development were to take place, and the main agency for these projects. Just like their British predecessors, the leaders of independent India put the institutions of the state to task to achieve these political objectives. But democracy made the difference; the national agenda got taken over by the subaltern social groups who increasingly moved on to the offices of power and prestige. However, the game continued to be played on the rules laid down by the independence generation. In the following diagram, these new elites – people with ambition and skills, emerging from lower social orders – became the vital link between the modern and the traditional India, and, as a hinge group in Indian society, charged with the task of acting as culture-brokers, innovated new political practices, implemented through hybrid institutions. The arguments below discuss why and how the post-colonial state has come to play a catalytic role in reviving the interrupted links of the present to the past, and through it, to restore the vital process of self-reflexive and authentic evolution through its hybridisation.

### *I. Ontology of the state: individualist and communitarian*

Though the constitution of India was greatly influenced by its British origin (two thirds of the written constitution came from the Government of India Act, 1935, passed by the British Parliament), it nevertheless established its departure from colonial practice by conflating the individual and the community, modernity and tradition, the exogenous cultural flow and the indigenous tradition in a novel manner. Article 1 of the constitution announced: (1) *India*, that is *Bharat*, shall be a Union of States, thus affirming the dual origin of the Indian political system from the cultural flow from Europe through the conduit of colonial rule, and the resurrection of the ruptured links with *Bharat* – the mythical kingdom of pre-modern India. The hybrid constitution, part liberal, part communitarian, provides a third space between the rational, utility maximizing individual and the collectivity, keen on solidarity and policing the common bonds.

The Indian state moved beyond the canon of its liberal name-sake and ascribed to itself a variable space between the ideals of the neutral enforcer of norms – the essential feature of Weberian, bureaucratic modernity – and the partisan defender of the traditional, marginal and the patrimonial.



Like Hindu conceptions of the divine, the state in India is polymorphous, a creature of manifold forms and orientations. One is the third actor whose scale and power contribute to the marginality of class politics. Another is a liberal or citizens' state, a juridical body whose legislative reach is limited by a written constitution, judicial review, and fundamental rights. Still another is a capitalist state that guards the boundaries of the mixed economy by protecting the rights and promoting the interests of property in agriculture, commerce, and industry. Finally, a socialist state is concerned to use public power to eradicate poverty and privilege and tame private power. Which combination prevails in a particular historical setting is a matter of inquiry.<sup>35</sup>

## II. *The party system: bridging modern state and traditional society*

The transition from colonial rule to competitive party politics within a democratic framework was facilitated by a conglomerate of interests, personalities and beliefs that drew as much on the indigenous idiom as on liberal democratic politics. With Jawaharlal Nehru at the helm of affairs, the Indian National Congress, located at the fulcrum of national politics, constituted the core of a one-dominant-party system. For about two decades, the INC ruled from Delhi and practically in all the Indian federal States. Elections were free and held regularly but the Congress which never won a majority of votes, thanks to the first past the post voting system, regularly won a majority of seats, and came to be known as the party of governance. The opposition parties, scattered around it, practically never held office but exercised power and influence in implicit coalition with factions within the Congress party. This made it possible for India to reinforce a political culture of bargaining, reform and orderly social change without party alternation. This unique constellation of forces came to be known as the Congress System, which, in retrospect, was the vital link between despotic and democratic rule. This tradition of institutional innovation and hybrid political processes have continued all the way to our times where a competitive multi-party system has found its way to all the cleavages of Indian society and place itself as the intermediary between the modern state and traditional society.

## III. *The liberalisation of India's 'Mixed Economy'*

The 'Mixed' economy, combining features of Soviet style planning and the free market became the main frame of India's economic life. The 'Indian' model of democratic development emerged from a series of strategic choices made during the early years after independence. These choices, in turn, were based on a set of compromises that attempted to blend the experience of wartime planning and controls, domestic pressures for a policy of economic nationalism, and the liberal, Gandhian and socialist ideological crosscurrents that existed within the nationalist movement. The model that grew out of these strategic choices evolved incrementally into a set of policies that became the basis of India's development

<sup>35</sup> Rudolph /Rudolph, note 20, p. 400 f.

consensus. It called for a system of centralized planning and a mixed economy in which a government owned public sector would dominate basic industry and the state would control, regulate, and protect the private sector from foreign competition. Foreign capital would be permitted, but only under highly controlled and restricted circumstances. The objectives of India's development were to achieve rapid economic growth, self-reliance, full employment and social justice.

These key concepts were understood in the same sense much as the European social history during the period of rapid change which witnessed the rapid transformation of traditional agricultural society into the modern industrial society. The former was characterized by the predominance of ascription, multiplex social relations where one individual would play a variety of roles, a deferential stratification system, ensconced within primordial kin networks. A modern society, on the other hand, was seen as one based on the predominance of universalistic, specific and achievement norms, high degree of social mobility, specialization and occupational differentiation, an egalitarian class system based on generalized patterns of occupational achievement and the prevalence of association of specific groups not based on ascription.

The mixed economy gave an institutional shape to the liberal, socialist and communitarian values that constituted the three main strands of the Freedom Movement and dominated the proceedings of the Constituent Assembly. The liberal values were given a clear and incontrovertible shape in the Fundamental right to the freedom of trade, occupation and ownership, Article 19 of the Constitution. The socialist values were less explicit, but nevertheless, clearly discernible. Instead of the concept of due process – open to judicial interpretation – the Constitution settled for the concept of 'procedure established by law' which made 'national' interest more compelling than the interest of the individual, a doctrine that paved the way for land reforms, and laws aimed at curbing the full play of capitalist enterprise. Articles 39, 41, 43, 46 of the Directive Principles of state policy recommended that the state pursue policies aimed at bringing about right to an adequate means of livelihood, the distribution of the ownership and control of material resources of the community in a manner that best serves the common good, and to avoid the concentration of wealth, a living wage, decent standards of living and full enjoyment of leisure and social and cultural opportunities for the entire population. Finally, even though there was no staunch 'Gandhian lobby' in the Constituent Assembly, communitarian values such as welfare of Harijans, backward classes, women and children, village and cottage industries, educational and economic interests of weaker sections, cattle welfare, banning slaughter of *milch cattle* found their way into the body of this elaborate text!

#### IV. *Self rule and shared rule: combining cultural diversity and the federal structure*

Apart from academic disputation about the nature and even the ‘authenticity’ of India’s federal system as defined in the constitution<sup>36</sup> lies the reality of an enormous country whose cultural heterogeneity is expressed in the federal organization of power. Since state reorganization in 1953 and 1956, state boundaries have roughly coincided with historically rooted linguistic and cultural regions. The differences reinforce the effects of size and continue in the federal system the tensions between regional kingdoms and subcontinental empire that have characterized the history of the state in India. Federalisation – the subject of numerous studies, conferences, and commissions – beginning in the early seventies with the Rajamannar Committee (1971) in Tamil Nadu<sup>37</sup> and continuing into till today – reflects the crucial role it plays in national politics. The fact of the matter is that Indian federalism is very much a hybrid Indian creation, combining imported concepts of power-sharing with indigenous methods of consensus and accommodation. During the dominance of the Congress party the ‘Union’ government (a sign of hybridity – for the constitution recognized the federal government simply as the Union) and most State governments were ruled by the same party and conflict resolution could take place informally within party channels, causing some specialists to question the purity of the Indian brand as authentically federal. However, federalism Indian style has gained endurance and legitimacy; found a new lease of life by developing an intricate set of informal channels and formal mechanisms to continue effective conflict resolution. The territorial state has seen many changes, particularly at the level of the regions. New regions have been created to give more salience to regional identity, language and economic needs. But, unlike in neighboring Pakistan, which mainly as a result of regional imbalance, split into two in 1971, the territorial integrity of India continues to be stable.

*Table 2*  
**Countervailing forces: Separation and Division of Powers in India**<sup>38</sup>

<i>Levels of Government</i>	<i>Powers</i>		
	<b>Executive</b>	<b>Legislative</b>	<b>Judicial</b>
National	President-in-Council	Parliament	Supreme Court
Regional	Governor-in-Council	Assembly	High Court
Local	District Magistrate	Zilla parishad	District Court

<sup>36</sup> See *Subrata K. Mitra*, *The Nation, State and the Federal Process in India*, in: Ute Wachendorfer-Schmidt (ed.), *Federalism and Political Performance*, London 2000.

<sup>37</sup> *Government of Tamil Nadu*, Report of the Centre-State Relations Inquiry Committee, Madras 1971.

<sup>38</sup> *Mitra*, *Politics in India*, note 1, p. 68.

V. *Indian Personal Law: conflating the secular state and sacred beliefs*

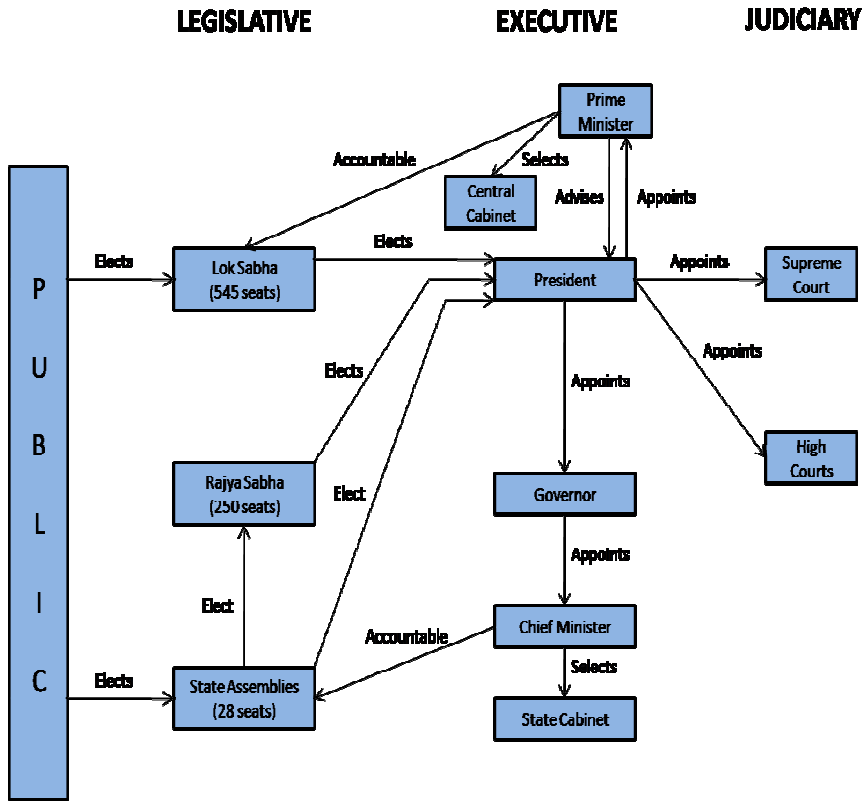
India's Personal Law, governing family, marriage, divorce, adoption and succession is a unique blend of the double commitment of the state to the rights of the individual and commitment to group identities. Ironically, the collective rights and group identities were rooted in the history of representation under British rule. The British, who at home conceived of the political community in terms of equal citizens, in India saw it in terms of distinctive groups, which was taken to be a unique feature of Indian society. The same held also for the leaders of India's freedom movement who sought to realize a political community composed of equal citizens but early on realized that they could not build a nationalist movement without recognizing cultural and territorial communities. Political safeguards to minorities were a key element of British efforts to represent groups in Indian society. They were first elaborated in the Morley-Minto constitutional reforms of 1906, then in the Montagu-Chelmsford scheme of 1919, and finally in the constitutional framework that received the royal assent in 1935.<sup>39</sup>

The constitutional design and the structure of institutions that were intended to give concrete shape to the idealistic goals of the Republic, enshrined in the preamble, adopted methodological individualism as the cutting edge of social change. However, such principles as individual rights, representation based not on group identities but individual interests and structured along the lines of political majorities, seen in the context of a society based on hierarchy and tightly-knit social groups, could only lead to conflicts based on values and interests of everyday politics. Free and fair elections, universal adult franchise and extension of the electoral principle into all realms of social power were intended to articulate, aggregate and eventually incorporate endogenous political norms and alien political institutions within the structure of the political system of the post-colonial state.

The fuzzy, hybrid practice of combining individual rights and group identity came to a sore test in the Shah Bano case where the Supreme Court upheld the appeal of a divorced Muslim woman for her individual right to alimony against the practice prevailing in the Muslim community of India of leaving such matters to the community. However, in the face of strong opposition to the extension of a 'pure' construction of individual rights to the Muslim community, Prime Minister Rajiv Gandhi introduced the [Muslim Women (Protection of Rights on Divorce)] bill in 1986, and restored the hybrid solution to the complicated relationship of Islam and the secular state.

<sup>39</sup> See *Reginald Coupland*, *The Indian Problem: Report on the Constitutional Problem in India*, Oxford 1944, pp. 1, 47, 128, 134, 151, for the evolution of statutory communalism.

Figure 2  
India's Institutional Arrangement<sup>40</sup>



#### VI. *The modern state and cultural diversity: three language formula*

Many post-colonial states, following independence, set up a single national identity – one state, one legal system, one national language and one state religion – as the basis of their statehood. Pakistan – the land of the pure – became an advocate of this form of purity whereas India stood for a more inclusive identity. In its solicitude to distinguish itself from secular and diverse India, Pakistan opted for Urdu as the national language, refusing to dilute this unity through official recognition to other major languages like Bengali. India, on the other hand, after a brief spell of disorder on the issue of national language, devised a

<sup>40</sup> Source: Mitra, *Politics in India*, note 1, p. 67.

formula in course of the States' Reorganization commission to encourage large sections of the people to learn a language other than one's mother tongue. The idea of hybridity has found a hospitable corner.

### VII. *Social hierarchy and rational bureaucracy*

The modern men and women to whom the British transferred power in 1947 had their task cut out for them. Echoing the spirit of the times, India's first Prime Minister Jawaharlal Nehru, outlined his vision of the future of Indian state, society and the economy, in a famous oration that has since become a landmark on modern India. Nehru, a quintessential renaissance man, had presented this modernist agenda on the background of the carnage that followed the Partition of British India into Pakistan, carved out as a homeland for India's Muslims, and the Indian republic that chose to remain a secular state. As India's first Prime Minister, Nehru, a social democrat by temperament, intensely aware of the urgency of a concerted effort to remove mass poverty and ignorance, sought legitimacy through the promotion of general welfare. Democracy, a sense of community and modernisation were values that were to lead the way into the promised future. The fact that these principles were of alien provenance did not matter at that moment of euphoria.

The modern message of Nehru and his generation of leaders was carefully wrapped in traditional, Indian symbols, and conveyed through the hybrid institutions that formed part and parcel of the Indian political system. Nehru's generation of leaders who took over the mantle of hybrid modernity from their predecessors has been able to institutionalize the genre of the *Neta* - typically Indian leaders. At the crucial nodes of this complex system, one increasingly found the quintessential Indian *neta* – the ubiquitous leaders that I have alluded to above (see figures 1 and 2)– who became a two-way culture broker, constantly conflating the modern and traditional idioms of Indian politics. As much in their rhetoric, as in their person, these netas represented a typical Indian genre. The hybrid *neta*, much like Mahatma Gandhi before Independence, shows how these political entrepreneurs combined traditional symbols and modern institutions and technology to produce a superb conduit for the flow of power, communication and legitimacy.

### VIII. *Public buildings and images of the hybrid state*

The architecture of public buildings of India, and city planning provide more evidence of hybrid modernity. In the two images below one can see how the British colonial rulers laid down the plans of capital buildings with broad avenues (optimal for military marches as much as for showcasing the street plans of modernity) but nevertheless, adorned with symbols of traditional India (in this case, the Mughal water garden, the Buddhist stupa, the Islamic minarets and the Hindu *chhatris*) that would make the native feel comfortable in the modern set up. The 'traditional' designs and architectural forms that the British drew on

were themselves hybrid in nature, based on a re-use of local and regional forms as well as conceptual and cultural flow from outside the country.<sup>41</sup>

The British strategy of domination which took into account the enormous gain in legitimacy through the re-use of the institutions and sacred symbols of those defeated by it, consisted of selected incorporation of some elements of the Indian past and conspicuous rejection of the rest. Imperial design and utilitarian ideology converged in the *Anglo-Indian style* – in architectural as much as institutional – design. The sole opportunity for colonized Indians to advance, as they saw it, consisted in the acceptance of modern (i.e. European) science, technology and values. The coming of Gandhi, and subsequently, India's independence, challenged it, opening up, in the process, the flood-gates into India's pre-modern past for those fighting for freedom from colonial rule.

Colonial aesthetic and colonial politics were of one piece. The architecture of colonial rule worked to one common purpose – of selective incorporation, de-linking traditional elites from their ancestral moorings, and justifying their power in terms of the common purpose of Progress, of which colonial rule was but an instrument. The Archaeological Survey of India preserved India's monuments – both sacred and administrative – in a state of "arrested decay",<sup>42</sup> isolated and distanced from the community of which they used to be an integral part. So did the new British established political and administrative institutions which presented the Indian past as inferior to the British present, and by the same analogy, the modernity symbolized by colonial rule as the superior future.

The designers of India's capital and the public buildings drew on the designs and symbols of modernity, as well as traditional symbols of India – the Hindu *chhatra*, the Islamic *minars*, Buddhist stupas and the Islamic water garden.<sup>43</sup> The intention here was to make the subject feel comfortable in his new abode, and generate legitimacy for British rule in the process. The 'Transfer of Power' to the successor regime of Nehru passed on this hybrid structure. The new stakeholders – many from lower social orders who quickly adapted themselves to their new social and political circumstances – found a useful tool of order

<sup>41</sup> Tillotson comments: "The visual culture of the Mughals, so distinctive and instantly recognizable, was not conjured out of nothing. Its success was the product of the skilful blending together of the many different traditions that were available to the artists to draw on, including the Mughal's own central Asian heritage and the expertise and many long-established styles of India itself. The empire's greatest legacy is perhaps this composite culture; and that culture's most outstanding masterpiece is the building [Taj Mahal]." (p. 44) The architectural designs "drew inspiration from three related traditions: the architecture of the Mughals' central Asian homeland; the buildings erected by earlier Muslim rulers of India, especially in the Delhi region; and the much older architectural expertise of India itself." *Giles Tillotson*, *Taj Mahal*, London 2008, p. 46.

<sup>42</sup> *Thomas R. Metcalf*, *Ideologies of the Raj*, Cambridge 1998, p.18.

<sup>43</sup> See *Julia Hegewald*, *Building Citizenship: The Agency of Public Buildings and Urban Planning in the making of the Indian Citizen*, in: Subrata K. Mitra (ed.), *Citizenship in the era of globalisation: Culture, Power and the Flow of Ideas*, New Delhi 2012 (forthcoming).

and legitimacy in these new, modern institutions, and re-used them by incorporating minimal but necessary changes in the inner architecture of space.

### E. Conclusion: beyond India

What can the politics of India teach the students of German and Comparative Law with regard to the conditions that might produce orderly rule? I have argued that new norms of orderly rule have emerged out of negotiation, power-sharing, strategic reform and of course, credible sanctions against rule-infraction. It is through the application of these methods, fortuitously available to a reform-minded modern leadership which understood tradition and respected it enough to be able to draw on it for an endogenous modernity that India made the successful transition from colonial rule to her counter-factual democracy. There is a general lesson here for students of society, law and comparative studies.

Idiosyncrasy is the bane of area studies, for the author of a case study has a natural tendency to think of 'his' case as rather special. India is no more special than any other country. Instead of casting Indian democracy as unique or essential to India's culture and context, contemporary India, like the democratic systems of the United States, the United Kingdom, France, Germany and other liberal democratic states, has its special features. But, on the whole, the Indian political system is no more 'unique' than that of the politics of any other major, socially diverse state. The successes of India's democracy, as much as its failures, are explicable in terms of general rules.

The focus on hybrid structures generates the space for the understanding of phenomena of cultural and conceptual flow, and the emergence of hybrid institutions as a consequence of the conflation of the indigenous and the alien categories and institutions. With the state and the political system of India as the main focus, this article has explored the components of India's hybrid state, and attempted to account for them in terms of the strategies followed by the main political actors of India. I have argued here that hybridization is part and parcel of politics as actors, in their search for autonomy, coherence, resilience and development, transform rules and designs as they see fit. A stable, equilibrium solution is reached when the bulk of stake-holders simultaneously reach or expect to reach their best outcomes. Once achieved, this solution yields a 'lock-in' from which the parties to the arrangement would find it difficult to exit. Each hybrid institution carries a 'lock-in' at its core.<sup>44</sup> Not all innovations or amendments work, of course, but when they do, or as North puts it, when a cluster of actors 'lock-in' around a particular design or set of rules, the result – a new hybrid institution – can become enduring.

Left to their own devices, people connected to these hybrid institutions do not necessarily see them as aberrations, or diminished forms of the real thing. Despite their stretched,

<sup>44</sup> Douglass North, *Institutions, Institutional Change and Economic Performance*, Cambridge 1990, p. 94. I have drawn on North to ask, "why do institutions work in South Asia, sometimes?" See *Mitra*, *Effects of Institutional Arrangements on Political Stability in South Asia*, *Annual Review of Political Science* 2 (1999), p. 422.



mixed or altered forms, or, perhaps, because of them, hybrid political structures have a real life, full of vitality, social significance and the capacity for self-regeneration. Rather than being merely transient, many flourish over long stretches of time and space. Not all are treated kindly by different scientific disciplines; their academic standing varies from one discipline to another.

Looking back at the Indian past through hybrid eyes yields surprises. One comes to realize that modern institutions of India, nationalist sentiments notwithstanding, are a true British legacy. A critical analysis of British rule and Indian resistance to it help explain why democratic institutions have worked more effectively in India as compared to her neighbors.<sup>45</sup> That the synthesis of British constitutional norms and political forms with India's indigenous political tradition led to a different outcome than the other successor states ensues from India's tradition of re-use, where the past often continues within the present by deliberate design. In the hands of British architects and designers of political institutions, the British tradition of re-use met its Indian equivalent, leading to the creation of new capital cities and an array of legislation.

Avid re-users, post-independent India's leaders have appropriated many of the symbols and institutions of their predecessors, and cloaked them in Indian garb. This blending of indigenous tradition and imported institutions explains both, the ability of the British to rule for so long with little recourse to overt force, as well as the smooth transition from colonial rule to multi-party democracy.

Effective accommodation of the past within the structure of the present is not necessarily a problem of mechanical accumulation. It also entails the need for leaders to strategically pick and choose; the process is marked by violence and leaves behind a trail of bitterness and anxiety. This helps explain the juxtaposition of successful state formation and persistence of inter-community conflict and regional secession movements in India.<sup>46</sup>

Norms – best seen as a conflation of the political and the moral, are essential to political order. Their efficacy and legitimacy are contingent on the structure and process of politics at the federal, regional and local levels. That there has been a 'lock-in' of the modern state and traditional society in the shape of hybrid political institutions that offer the best possible deal to political adversaries – the winners get ministerial office while the

<sup>45</sup> Purists like Jinnah and Bandaranaike, following their pure visions of Islam and Buddhism respectively, have run their states – Pakistan, the land of the pure, and Sri Lanka, the sacred land of Sirindip – to political deadends.

<sup>46</sup> "Two salient areas of Indian politics that call for critical attention and possible re-evaluation are the relations of the state and the market, and the attitudes of the state towards religion. The former has attracted some attention already. The Indian economy has belatedly come to terms with the necessity of taking painful decisions about restructuring and accepted the need for internal and international competition. But considerable confusion and outmoded assumptions still dominate the attitudes of the state towards religion". *Subrata K. Mitra*, *Postcolonial State*, note 5, p. 92. "For its survival and growth, the state in India will need to go beyond simple accommodation and to transcend some contentious interests – religious, social, economic and political – when the occasion so demands", *Mitra*, *Postcolonial State*, note 5, p. 93.

losers bide their time from the benches of the opposition – and do not perish in the dungeons of the secret service might explain why the stakeholders have become so numerous in Indian society. The crucial fact here is not to lose sight of the fact that modern political institutions are *political* constructions and as such, their efficacy and legitimacy are contingent on a cluster of interests, stakeholders, their contextual setting and the shared value of *Rechtsstaatlichkeit* – which can be imperfectly rendered into English as the sense of law and order.

Where, then, does comparative politics go from here? A number of theoretical developments in the social sciences and humanities since the halcyon days of structural functionalism – conceptual stretching, bounded rationality, two level games, entangled history, reuse, and the flow of culture and concepts – point in the direction of new pastures that one can visit in order to enrich the basis of comparison that is relevant to our times.<sup>47</sup>

<sup>47</sup> Several articles point in the direction of the wider dimensions of this project. These include: *David Collier /James Mahon*, Conceptual ‘stretching’ revisited: Adapting categories in comparative analysis, *American Political Science Review* 97 (1993), pp. 845-855; *David Collier /Steven Levitsky*, Democracy with Adjectives: Conceptual Innovation in Comparative Research, *World Politics* 49 (1997), pp. 430-51; *Staffan I. Lindberg*, Institutionalization of Party Systems? Stability and Fluidity among Legislative Parties in Africa’s Democracies, *Government and Opposition* 42 (2007), pp. 215-241; *Alfred Stepan*, Comparative Theory and Political Practice: Do We Need a ‘State-nation’ Model as well as a ‘Nation-State’ Model?, *Government and Opposition* 43 (2008), pp. 1-25