DEMOCRACY IN HARD PLACES

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India's Democratic Longevity and Its Troubled Trajectory

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At the core of this chapter lies a paradox.[*] On one hand, India is the longest lasting democracy of the developing world; on the other hand, since 2014 a democratic decline has unquestionably set in. In their recent reports, the two most widely read annual assessments of democracy worldwide, by Freedom House and the V-Dem Institute, have noted India's democratic retrogression in no uncertain terms. Freedom House now calls India only "partly free," and the V-Dem Institute says India has become an "electoral autocracy" (Freedom House 2021b; V-Dem Institute 2021). Whether or not we find these terms precise, India's democratic diminution is not in doubt. With the rise of Narendra Modi to power, the world's biggest democracy has entered a manifestly shaky period. But how should we conceptually map the shakiness? My basic claim in this chapter is that India after 2014 is not a case of democratic collapse but one of democratic erosion or democratic backsliding.[1] I will use the latter two terms interchangeably.

The analytical task of this chapter is twofold. What explains India's democratic longevity? And how might one explain the recent downward trajectory? My attempt here is to provide an integrated argument, which seeks to answer both questions. But before the argument is presented and to anchor the detailed discussion, it seems fitting to present a brief overview of India's democratic record. For most democratic theorists, competitive elections are a necessary condition for the functioning of a democracy. "No elections, no democracy" is a theoretical dictum of widespread acceptability. So let us begin with India's electoral record.

Since independence in 1947, India has held 17 national and 389 state elections. Power has changed hands eight times in the national capital and tens of times at the state level. The latter phenomenon is by now so common that political scientists have stopped counting state-level government turnovers. Until 1992–93, the third tier of government—at the town and village level—was the only unelected tier, but a constitutional amendment finally filled that gap, too. Since the mid-1990s, roughly three million local legislators have been elected every five years. Other than a twenty-one-month period of nationwide authoritarianism (June 1975–March 1977) and a few electoral suspensions in areas of

unrest and insurgency, elections have decided who will rule India and its states and, after 1992–93, its local governments as well. This has been true even in the period of democratic backsliding since 2014. Several democratic institutions have been challenged, causing the erosion, but the integrity of elections has not been undermined.

Indeed, the idea that competitive elections are the only way to form governments has been the institutionalized political commonsense of the country. Such institutionalization means that for a long time now, no major political actor or organization has proposed a non-electoral way of coming to power. The question of whether there is more to democracy than elections has remained unsettled and contested, but there is no doubt that competitive elections have formed the core of India's democratic imagination. It is hard to predict whether the electoral core of democracy will remain unimpaired in the coming years, but as of now, despite the ongoing democratic erosion, the electoral principle remains intact. Modi may not have lost nationally since 2014, but he has lost a number of state elections, which include states that are, politically and economically, extremely significant. A Trump-like campaign, questioning election integrity in the face of defeat, something not uncommon in many parts of the world, has not been launched.

In the mid-1960s, Barrington Moore was among the first to note India's democratic credentials: "[A]s a political species, [India] does belong to the modern world. At the time of Nehru's death in 1964, political democracy had existed for seventeen years. If imperfect, the democracy was no mere sham. . . . Political democracy may seem strange in both an Asian setting and one without an industrial revolution" (Moore 1966, 314). Roughly half a decade later, in what has become a foundational text of democratic theory, Robert Dahl identified India as "a deviant case . . . indeed a polyarchy" (Dahl 1971, 68–69). About two decades later Dahl was even more emphatic, calling India "a leading contemporary exception" to democratic theory (Dahl 1989, 253). Finally, after a little over another decade, Adam Przeworski et al. (2000, 87) argued that in their 1950–90 international dataset, India's democratic longevity was the most surprising: "The odds against democracy in India were extremely high."[2]

A fairly substantial body of literature has sought to explain why India stayed democratic for so long in a theoretically counterintuitive setting (Chhibber 2014; Kohli 2001; Kothari 1970b; Moore 1966; Varshney 1998, 2013; Weiner 1989). In this chapter, I engage the comparative or theoretical literature of a more recent vintage, as well as probe the new datasets that measure democracy worldwide.

I advance two arguments. First, seeking a reexamination of how democratic India has been, I draw a distinction between India as an electoral democracy and India as a liberal democracy. Using political theory, India's political history, and the V-Dem dataset (Coppedge et al. 2021), I argue that India's electoral record is

considerably better than its performance as a liberal democracy. India has, on the whole, been electorally vibrant, but its democracy has substantial liberal deficits. Under the twice-elected Modi regime (2014–present), these deficits have widened quite alarmingly. Substantially eroding civil freedoms, minority rights, and institutional constraints on executive power, these deficits have primarily affected the liberal side of democracy, not the electoral side.[3] In my argument below, I will call competitive elections a minimal democratic requirement, while proposing that a fuller, or deeper, democracy also constrains governments between elections—by guaranteeing civil freedoms, protecting minority rights, and viewing executive authority as institutionally checked and delimited. India's recent democratic erosion is about the latter, not about the former, meaning that India remains electorally democratic but it has rolled back the democratic deepening that was under way for decades.

Second, for explaining democratic longevity, my argument concentrates on the primacy of *elite choices*, not on the *structural or cultural determinants* of democratic longevity that several democratic theorists have privileged, though not all. My focus on elites is divided into three parts: (1) the founding moment and the formative period of democracy, (2) the period since the only nation-wide collapse of democracy (1975–77) until 2014; and (3) the period of erosion, though not collapse, since the rise of Modi (2014–present). In the first period, I demonstrate how elite *values* played a big role in institutionalizing democracy. In the second period, I argue that while values explain the behavior of a segment of elites, especially those who led some of the constitutionally given independent institutions of oversight, such as the Supreme Court and the Election Commission, a large section of political elites developed serious *interest*s in the persistence of democracy. The bedrock of values that launched the democratic experiment acquired a serious core of interests. While dealing with the recent democratic decline under Modi, I return to the explanatory salience of elite values. Modi's values, and those in power with him in Delhi, privilege Hindu nationalism, or Hindu supremacy, over what India's Constitution says, especially with respect to citizen freedoms, religious equality, and minority rights. Right through, such elite choices, framed as values or interests, dominate my explanation of democratic persistence, not structural or cultural determinants.

Though I find the formative period hugely significant and analyze it in considerable detail, it is clearly not enough to leave the explanation at such strong beginnings. Founding moments do not last forever; elite generations change and their values evolve; and norms that got institutionalized can be broken, as happened during India's Emergency (1975–77) and might happen again.[4] Origins and persistence are analytically distinct, and need to be separately accounted for.

In the discussion below, using primarily the V-Dem dataset, I first examine India's democratic record, both over time and as compared to other countries. Next, I analyze in detail the inadequacies of structural and cultural explanations and, conversely, the superiority of elite-centric analytical accounts. I then turn my gaze toward India's democratic institutionalization in the early years of independence, dealing next with the return of a vigorous democracy (1977–2014) after the Emergency breakdown, and turning finally to the erosion of democracy with the rise of Modi after 2014. The concluding remarks recapitulate the argument.

What the Statistics Say

The V-Dem dataset (Coppedge et al. 2021) has five democracy indices: electoral, liberal, participatory, deliberative, and egalitarian. Of these, following standard democratic theory, I stick to the first two: the electoral (for V-Dem, that means free and fair elections, freedom of expression, and freedom of association[5]), and the liberal (which covers, in addition to electoral democracy, individual and minority rights, and constraints on the executive, both legislative and judicial).

India's Democracy over Time

Figure 2.1 presents India's electoral and liberal indices since 1950. The electoral index hovers around 0.7 for most of the period since then, with the exception of the 1975–77 Emergency and the recent decline. The liberal index is consistently below the electoral index, mostly staying between 0.5 and 0.6, with a lowering in the two periods noted above: 1975–77 and in recent years.

India's democratic record, thus, is marked by a consistent gap between the electoral and liberal dimensions of democracy. It might be suggested that this is not a specific ailment of Indian democracy. Rather, because of the way V-Dem measures the two scores and the more stringent requirements of a liberal democracy, the electoral–liberal hiatus is a general predicament of democracies. That is indeed true, but the gap is more pronounced in India. For the period 1950–2019, Figure 2.2 plots the decadal moving average of India's electoral–liberal hiatus against similar averages from some of the major world regions (Latin America and the Caribbean, Asia-Pacific, and Western Europe and North America) as well as the world at large. Compared to other regional and the world averages, India's gap is consistently larger, except for Latin America and the Caribbean since the decade of 1990–99.[6]
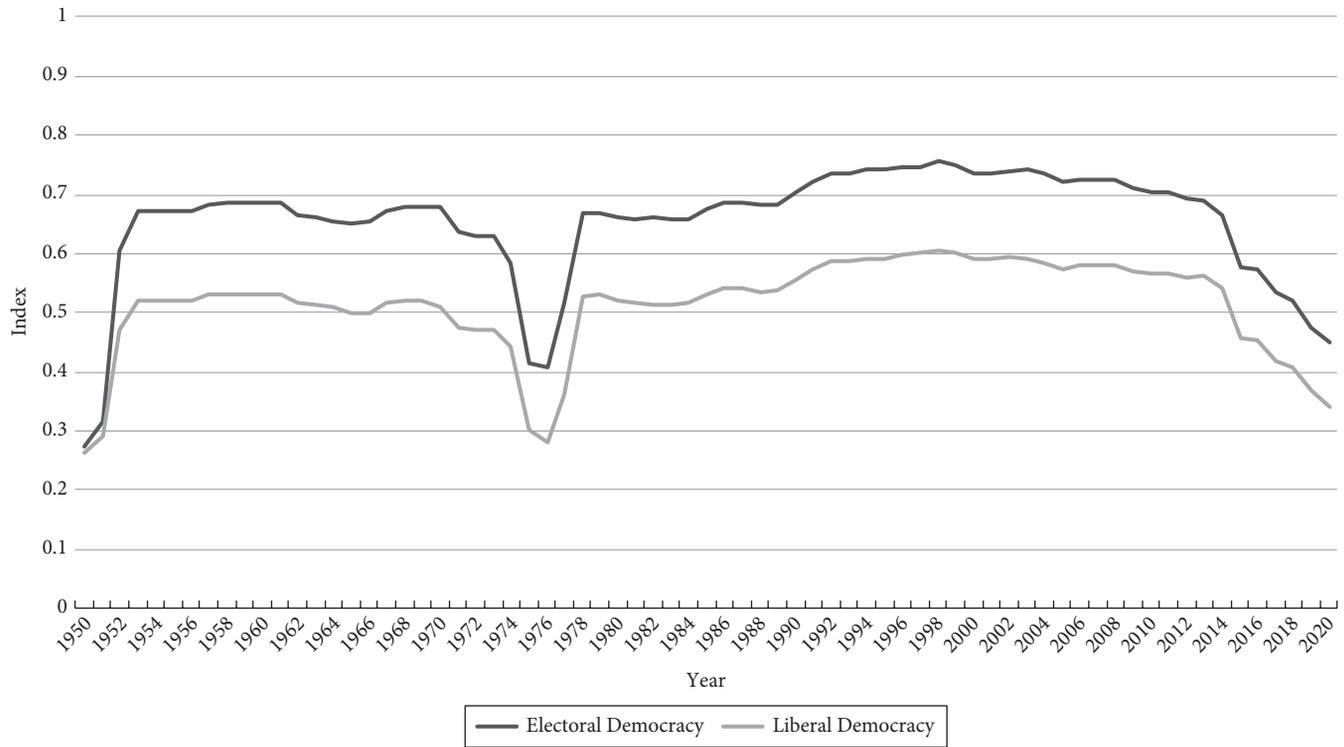
Figure 2.1. Electoral and liberal democracy index, India 1950–2020

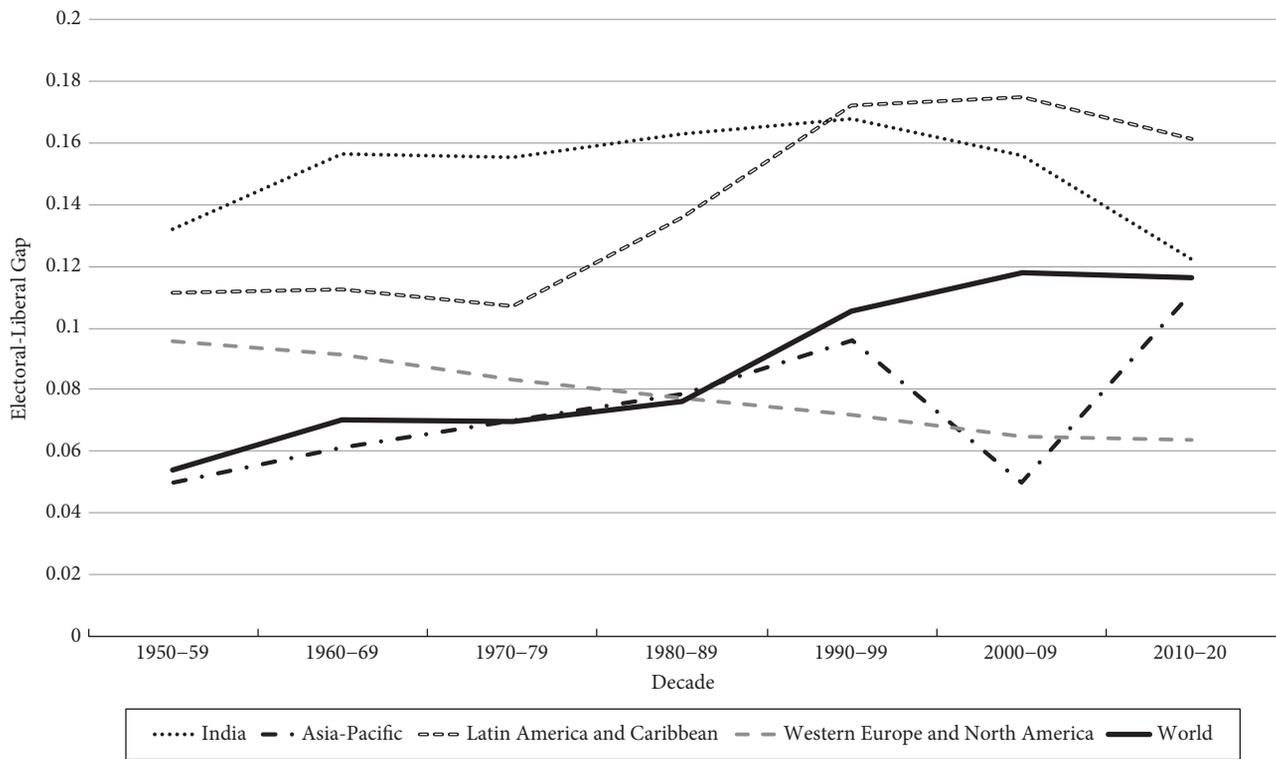Source: Coppedge et al. 2021

Figure 2.2. The electoral-liberal democracy gap—decadal comparison

Source: Coppedge et al. 2021

The legal foundations of India's liberal deficits are explored later (in the section entitled "New Elite Values and Democratic Decline"). Here it might be pertinent to note some typical patterns that have repeatedly emerged in post-British India.

Political parties are remarkably free at the time of elections. They are, of course, prohibited from inciting violence. Short of that, they can make virtually any argument in election campaigns.[7] Elections have been free and fair, and their verdicts are respected by all including, crucially, the incumbents. There have been arguments about how election finance might favor the incumbents, but poorer parties have quite often won, especially at state level but also at the national level.[8] A party's riches have not always helped, though it is undeniable that incumbents typically have an upper hand in garnering resources.

The election-time freedoms, however, coexist with their curtailments between elections. Once the winning party or coalition forms the government, restrictions are often placed on civil liberties, especially on freedom of expression. Governments generally make two kinds of arguments against free speech: that it offends the sentiments and honor of certain groups, or it hurts national interest. On these two grounds, writers, artists, students, and nongovernmental organizations have often been legally or administratively harassed, even jailed. In a society marked by deep-rooted ascriptive hierarchies, some group or another can always claim it has been hurt by a speech, an article, a cartoon, a piece of art, a novel, a play, or a film. When the argument about group injury or national interest enters politics, governments rarely defend the writer, the intellectual, the filmmaker, the artist, or the NGO.

These problems are common to all kinds of governments and parties. Consider some of the biggest examples. In 1988, the Congress Party government banned Salman Rushdie's *Satanic Verses* because of the protest of Muslim right, which argued that sections of the novel, by insulting Prophet Mohammed, had hurt the feelings of Muslims. Also under Congress Party rule, the late M. F. Husain, a leading painter with a stellar reputation for artistic excellence, had to emigrate to the UAE for the last years of his life because the Hindu right vociferously contended that his paintings of Hindu goddesses were obscene, and the obscenity gravely offended the Hindu community. But there is no doubt that the gulf between the electoral and liberal aspects of Indian democracy becomes especially wide when Hindu nationalists are in power. This was true between 1998 and 2004 and has been especially glaring since 2014. The final section ("New Elite Values and Democratic Decline") takes up this matter in detail.

More International Comparisons

Let us now turn to some more cross-regional and cross-country comparisons. On the electoral democracy index, Figure 2.3 compares India's performance with the following averages: for the world, for Western Europe and North America, for Asia-Pacific, and for Latin America and the Caribbean (Latin America hereafter). Generally speaking, after independence, India's index has only been lower than the average for Western Europe and North America, and higher than the average for the world, Asia-Pacific, and Latin America, including the period after the early 1980s, when democracy returned to Latin America. However, there is one set of exceptions worth noting.[9] After remaining ahead for all of the post-1950 period, India's index in more recent years has dipped below Latin America's—and has even fallen lower than the world average.

Figure 2.4 reproduces the preceding exercise on the liberal democracy index. The similarities with the electoral democracy comparison are evident. India's liberal democracy index, with no exceptions, is lower than that for Western Europe and North America. But, as above, it is on the whole higher than the indices for Latin America and Asia-Pacific. And, as was true for electoral democracy, India's recent performance as a liberal democracy turns out to be worse than that of Latin America. Indeed, its descent below the world average is also noticeable.

Figures 2.5 and 2.6 draw the comparison differently. Instead of comparing India to regions, they place India's indices against the well-known examples of democratic longevity in the Global South. Costa Rica and Botswana are often cited as the longest-surviving democracies in Latin America and sub-Saharan Africa; and Przeworski et al. (2000) also list Jamaica, Mauritius, and Papua New Guinea in the same category from their 1950–90 dataset.[10] Figure 2.5 compares all of these countries on the electoral democracy index: Costa Rica ranks consistently higher than India since 1950 and Mauritius after its independence in the late 1960s. Figure 2.6 compares their liberal democracy scores. Relative to India, Costa Rica again scores higher since 1950, and Mauritius and Botswana since the late 1960s. Also, India drops precipitously in more recent times.

In summary, the following inferences can be drawn from the empirical investigation above. First, India performs better as an electoral democracy than as a liberal democracy. Second, until recently, compared to regional averages, the electoral and liberal vigor of India's democracy has been generally behind only Western Europe and North America. Third, inter-country comparisons show that Costa Rica has been consistently ahead since 1950, Mauritius does unexceptionally better since its independence, and democracy in Botswana, too, displays greater liberalism in the last six decades. Finally, if Przeworski et al. are right and India is still a very hard place for democracy—arguably more so than

Figure 2.3. Electoral democracy index: India and some world regions, 1950–2020
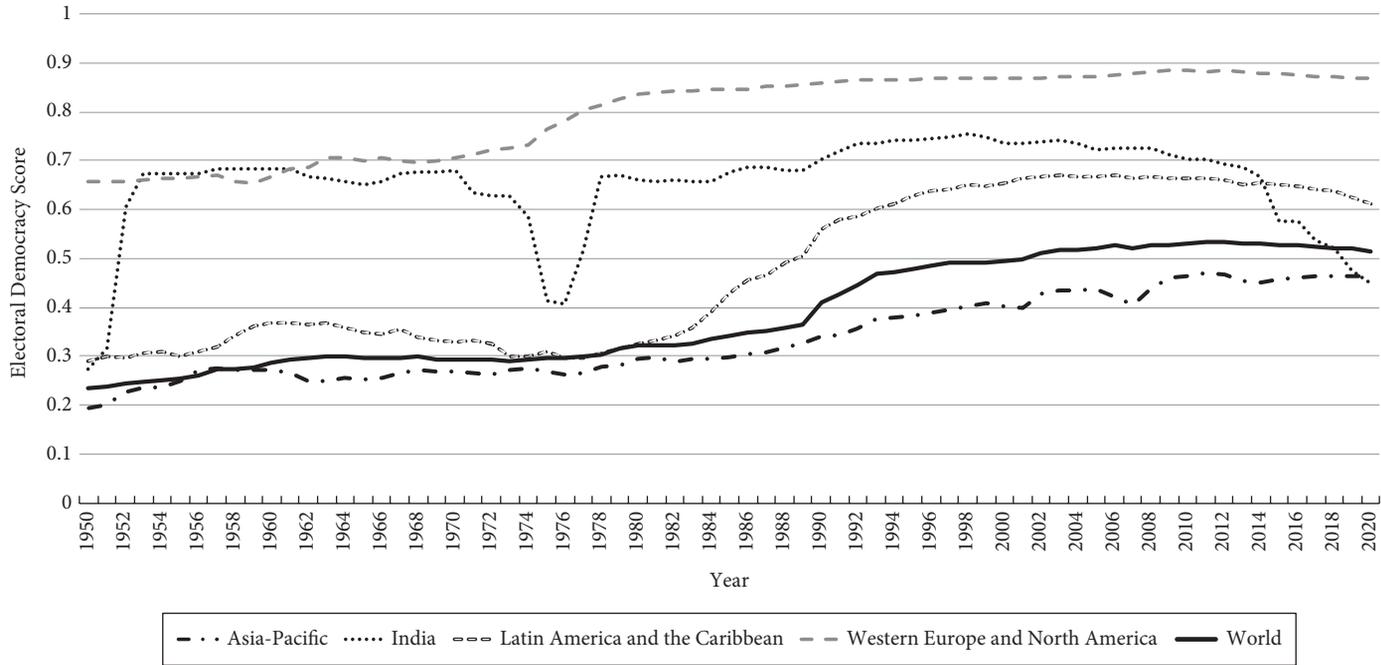
Source: Coppedge et al. 2021
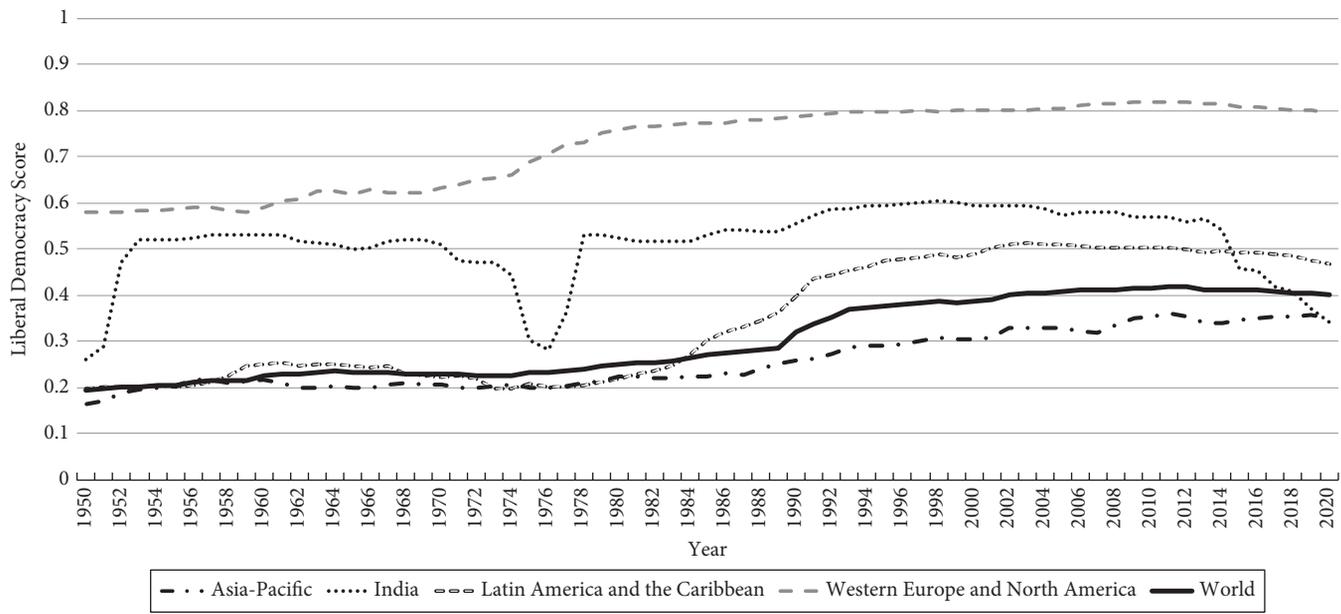
Figure 2.4. Liberal democracy index: India and some world regions, 1950–2020

Source: Coppedge et al. 2021
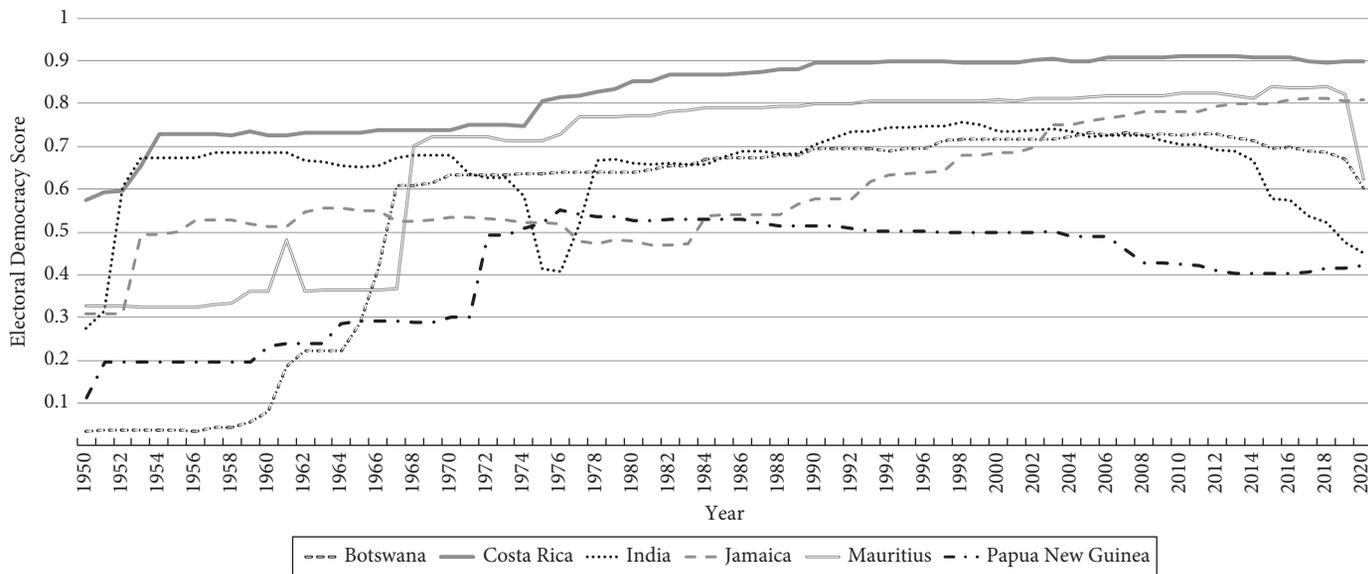
Figure 2.5. Electoral democracy index: India compared with selected countries, 1950–2020

Source: Coppedge et al. 2021
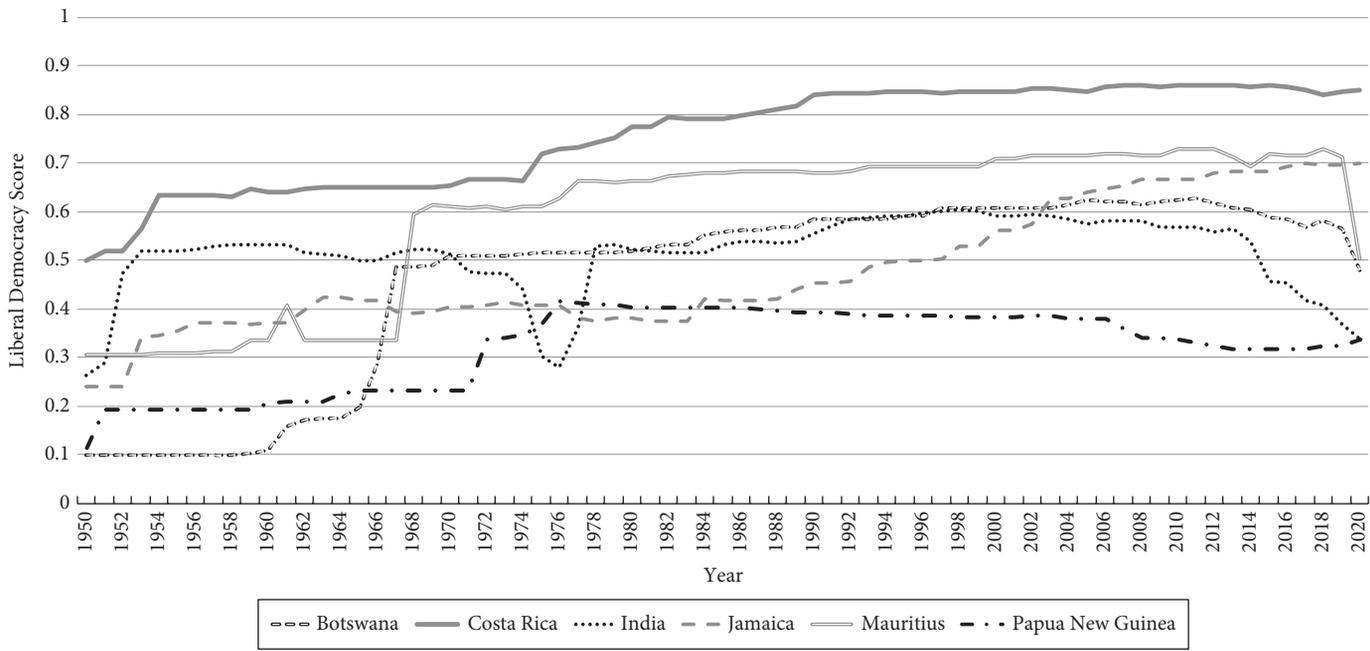
Figure 2.6. Liberal democracy index: India compared with selected countries, 1950–2020

Source: Coppedge et al. 2021

Botswana, Costa Rica, Jamaica, Mauritius, and Papua New Guinea—it can only be so because India's income, given their income-intensive explanation of democratic persistence, has been the lowest among all the longest-surviving democracies of the Global South, which turns out to be true. In 2020, the per capita incomes of these countries (in current US$) were: Botswana ($6,405), Costa Rica ($12,141), Jamaica ($4,664), Mauritius ($8,627), Papua New Guinea ($2,757), and India ($1,928).[11]

Toward Explanation

Let us now examine India's democratic persistence in light of the larger literature on democracy, theoretical and comparative. I divide up the explanations into two blocs: structural and elite-centered. I first examine the applicability of the mainstream democratic theory, which is mainly structural, to India. I then move on to what appears to be more a promising explanatory route—the elite-based explanations.

The Inadequacy of Structural (and Cultural) Explanations

A very large body of democratic theory has primarily pointed to structural factors that make it easier, or harder, for countries to institutionalize democracy: level of income (Lipset 1959; Przeworski et al. 2000), level of inequality (Acemoglu and Robinson 2006; Boix 2003), class structure (Moore 1966; Rueschemeyer et al. 1992), and degree of ethnic diversity (Lijphart 1977; Mill [1864] 1975). Some other scholars locate the explanation in the properties of political or societal culture (Almond and Verba 1963; Inglehart and Welzel 2007; Putnam 1993). If the alternative line of inquiry is labeled elite-centered, then it is not altogether analytically illegitimate to stick both structural and cultural explanations together. The latter explanations derive politics from the cultural structure, instead of the economy, class, or ethnic structure.

There is no doubt that, generally speaking, the structural factors have some validity. The correlation, for example, between high incomes and democratic survival is considerable. But two sorts of reservations emerge right away. One is simply epistemological. So long as we are not in the world of deterministic law-like generalizations, but in a stochastic realm, which is where social science theorizing normally belongs, the general claims about a group of states will not apply to each individual state. For instance, the fact that low incomes are not normally connected with democratic longevity does not mean that the relationship would

operate in each country. The statistical outliers will obviously not be on the trend line. This distinction between what may be true at a group level, but not at an individual level, can easily be applied to India.

Przeworski et al. (2000) argue that income correctly predicted the type of regime in 77.5 percent of the cases (Przeworski et al. 2000, 79). But it also means that in 22.5 percent of the cases, the relationship did not hold. India clearly belongs to this latter, smaller category. It had been a low-income country until roughly 2005, graduating to a middle-income category after that,[12] but a low per capita income did not undermine its democracy.

Similarly, Acemoglu and Robinson (2006) may well be correct in stating that "democracy has the best chance to emerge in societies with middle levels of inequality" (37), and that neither in egalitarian nor low-inequality societies (such as Singapore), nor for that matter in highly unequal societies (such as Sierra Leone), can democracies stabilize themselves. But they quickly add that this prediction "about inter-group inequality may not translate into statements about standard measures of inequality and income distribution (e.g., the labor share or the Gini coefficient)" (36–37). Given the statistical untranslatability of their concept of inequality, it is hard to know whether India's income Gini coefficient, estimated to be between 0.35 and 0.45 since independence, is low, middling, or high. But even if it is middling, in which case Acemoglu and Robinson could say India supports their theory, it is not clear why India's huge caste disparities should count for less than its middling income inequalities. In Britain or Latin America, class realities might have made universal franchise a means of obtaining the "right to a good coat . . . a good hat . . . a good roof . . . [and] a good dinner" (24), but in India, securing dignity from the daily insults of the caste system might well have been a larger impulse, as some have argued (Mehta 2003; Varshney 2000; Weiner 2001). Consider how the lower-caste Ezahavas were treated until the first three decades of the twentieth century.

> They were not allowed to walk on public roads. . . . They were Hindus, but they could not enter temples. While their pigs and cattles [sic] could frequent the premises of temples, they were not allowed to go even there. Ezhavas could not use public wells or public places. . . .
>
> An Ezhava should keep himself, at least thirty-six feet away from a Namboodiri Brahmin and twelve feet away from a Nair. . . . He must address a caste Hindu man, as Thampuran (My Lord) and woman as Thampurati (My Lady).. . . . He must stand before a caste Hindu in awe and reverence, assuming a humble posture. He should never dress himself up like a caste Hindu; never construct a house on the upper class model. . . . [T]he woemen [sic] folk of the community . . . were required, young and old, to appear before caste Hindus, always "topless." (Rajendran 1974, 23–24)

In conditions like this, lasting for centuries, the struggle of lower castes in India has been, first, for dignity and for being treated as human beings, and only later for higher income equality (Chakrabarti 2019). Indeed, lower castes, given their large numbers, have used India's democracy to press somewhat successfully for conditions of dignity; their success at income improvements have not been as great (Chauchard 2017; Jensenius 2017; Varshney 2000).

Let us now turn to the arguments based on class structure. If Barrington Moore (1966) is right about the "no bourgeois, no democracy" theoretical principle, or if it is generally true that the rise of middle classes moderates distributional struggles between the rich and the poor (Acemoglu and Robinson 2006), thereby making greater structural room for democracy than would be true otherwise, then it is noteworthy that India's middle class was minuscule at the time of independence, perhaps no more than 4–5 percent of the population, and it is only after the great economic turnaround over the last three decades that India has developed a substantial middle class, now widely believed to be about a third of the country. Yet democracy kept functioning even before the 1990s economic reforms increased the size of the middle class.

Political culture and ethnic diversity as explanatory factors run into similar difficulties. The political culture argument, both in its earlier (Almond and Verba 1963) and later forms (Inglehart and Welzel 2007; Putnam 1993), concentrates on the fit between certain enduring social or cultural characteristics and the type of polity. On the whole, it is argued that a more egalitarian social structure generates civic culture, or horizontal social capital, which makes democracy work. India's caste system, the defining feature of Indian social structure for centuries, is the antithesis of equality. It has viewed human beings, and the caste groups to which they belong, as fundamentally unequal. Along with racial stratification, the hierarchical caste system has been termed a prototypical form of vertical social order (Horowitz 1985; Varshney 2012). Such verticality has generally ruled out the idea and experience of human equality. In rural India, the caste system is more entrenched than in the cities, but even as late as 2011, India was 68 percent rural and as much as 83 percent in 1951. The hierarchies of the caste system have not prevented democracy from working in India.[13]

The argument that ethnic diversity is an unfavorable condition for democracy goes back to John Stuart Mill. Mill's original argument took the following form:

> Free institutions are next to impossible in a country made up of different nationalities. Among a people without fellow-feeling, *especially if they read and speak different languages*, the united public opinion, necessary to the working of representative government, cannot exist. (Mill [1864] 1975, 384; emphasis mine)

Thus, multiple languages, according to Mill, would make the creation of a nation highly improbable. A superordinate loyalty to a national center is necessary, or free institutions would simply fracture societies and thereby undermine democracy itself. Arend Lijphart (1977) developed a creative solution to the problem Mill posed by arguing that democracy in multiethnic societies was actually possible if it took a consociational, not a liberal, form.

India has undoubtedly departed from Mill's expectations. The country has fifteen languages spoken by more than ten million each, yet democracy was not stymied by a multi-linguistic society. Interregional communication across the nation has been possible because India developed a three-language formula for its school education, allowing citizens in different parts of the country to understand each other. As a result of the education policy, India's literates became bilingual or trilingual.[14] Moreover, multiple languages notwithstanding, India has managed to generate considerable loyalty to the national center, something Mill considered virtually impossible (Stepan, Linz, and Yadav 2011).

If Mill's apprehension has not come true, how does India measure up to Lijphart's reasoning about ethnic diversities and democracy? Two responses can be given. The first is strictly formal. In a formal or literal sense, India defies Lijphart's consociational model. Its liberal deficits notwithstanding, India has mostly been a liberal democracy, not a consociational one.[15] *Individuals, rather than groups, have been the fundamental unit of political representation.* Indeed, during the break-up of British India in 1947, a serious consociational argument was made in mainstream politics. In a consociational style, the Muslim League, which led the Pakistan movement, demanded that it be recognized as the only political party representing the Muslims of India, and that there also be a fixed share of legislative, administrative, and judicial seats reserved for Muslims.[16] The Congress Party, leading the independence movement, chose to take the risk of partition rather than accept the Muslim League's consociational demands to alter the fundamental nature of the polity. It went for a type of democratic polity, in which the individual would be the fundamental unit of political arrangements (Khosla 2020), with no political organization acting as a "sole spokesman" for any community, and no fixed religious quotas in the institutions of governance.[17] It argued in favor of an open interparty competition for each community's votes. And there would be no grand coalitions or minority vetoes. *Minority rights*—for education and religious personal laws for marriage, divorce, property inheritance, and so forth—would be constitutionally granted, but no *minority quotas* in government, parliament, or civil service would be permitted.

The second answer, however, is more about political practices that depart from the liberal model of individual-based representation and give India some power-sharing features. The two most important are federalism and caste-based reservations. India's federalism is linguistic, in that all major linguistic groups

have a state of their own in the federation. And the lowest castes in the Hindu hierarchy have guaranteed representation in legislatures as well as bureaucracies, in proportion to their weight in the population.

But neither of these features makes India a power-sharing democracy in a consociational sense. First, federalism is linguistically based, not religious. For over a century, if not more, religion has been the greatest fault line of Indian politics. Consociational polities are typically formed around the deepest cleavage patterns, but independent India rejected power-sharing on the basis of religion. Instead, it conceded power-sharing on linguistic lines. Second, the caste-based reservations were primarily for legislatures and civil services, not for the executives and cabinets, which is where most power resides.[18]

Bringing Political Elites In

If structural accounts are not fully adequate, where do we go next? Agent-centric explanations have been the standard alternative path to follow. In the main, the agents that carry democratic politics include elites and political organizations, especially political parties, and those related to movements. These are also often—and rightly—labeled as political, as opposed to structural, factors.

Some of this analytic spirit is evident in two relatively recent works on democracy. Mainwaring and Pérez-Liñán (2013) write:

> Political actors, not structures or cultures, determine outcomes, even though structures and cultures affect the formation and preferences of actors. We view presidents and organizations such as parties, unions, business associations, the military, and organized movements as the most important actors. . . .
>
> We emphasize the role of political factors that help political regimes survive or lead them to fail. By "political factors" we refer specifically to the impact actors' normative preferences about democracy and dictatorship . . . exercised. . . . We counterpose an emphasis on these political factors to analyses that argue that the survival or displacement of regimes depends largely on structural factors such as the level of development, the class structure, or income inequalities, or on mass political culture. (Mainwaring and Pérez-Liñán 2013, 5)

Ziblatt (2017) also points to the importance of elites. After noting that the three most widely cited accounts of democratizations have concentrated on (1) the level of economic development, (2) the emergence of a middle class, and (3) the demands of the working class for greater rights and a larger share of power, he favors the elite-centric account of O'Donnell and Schmitter (1986):

> If elites can be made secure with regard to their future wealth, status, and power as democratization unfolds, . . . critical portions of the elite will become reluctant but essential democrats. On the other hand, if elites remain insecure, politically fragmented, and fearful of major loses [*sic*] in their future, then they will support and even lead counterrevolution, creating a historic record of unsettled democratization. (Ziblatt 2017, 16)

Stating further—and rightly—that "a country's political regime is not simply a mirror of its economy" (17), Ziblatt concentrates on political parties as actors, arguing that "it is crucial to elevate political parties, the 'political carriers' of organized interests, to the status of a variable that shapes democratization" (20).

This line of reasoning invites a serious examination of what the political elites want and why. But we still have an important larger issue left to consider: should we focus on elite *values* or elite *interests*? It is not clear if we can answer this question generally, theoretically, or in the abstract. It may be an empirical, not a theoretical, matter.

Ziblatt's elite-centered argument is strictly about interests. European materials show, he argues, that if the incumbent elites, customarily represented by conservative parties, came to the view that democratization would hurt their power or wealth, they impeded its evolution, and whether or not that brought democratization to a halt at its moment of inception, democracy over the medium to long run stumbled as, for example, in pre-1945 Germany. A cooptation of conservative parties—and thereby the interests of traditional elites—augured best for a smooth democratic trajectory, as in post-1832 Britain.

Central to this argument is the idea of a clash between incumbent elites and emerging elites, each represented by a different political party, and a compromise between the two as the foundation of democratic stability. Whatever the relevance of this argument for Western Europe in the nineteenth century, its applicability to post-colonial democracies of the twentieth century is not straightforward. Colonialism accounts for the greatest political difference between nineteenth-century Europe and the European colonies in the tropics. Generally absent in the colonizing Europe, anticolonialism was a big political sentiment in the colonies. The latter gave political parties and groups fighting for independence extraordinary legitimacy. Local elites allied with the colonial masters, however socially powerful, were eventually no match for the anticolonial organizations and parties.

Furthermore, the colonial powers, even those that were democratic like Britain, argued that the colonies were unfit for democracy (see Mehta 1999; Mill [1864] 1975). As a result, in a late colonial setting, the biggest adversary of democracy was often the colonial power, not the conservative landlord pitted against a democracy-carrying middle class or the bourgeoisie, as in nineteenth-century

Europe. In countries like Pakistan, which came about as a result of a separatist, not an anticolonial, movement, feudal landlords could still be viewed as the incumbent elites, who had to assess their interests in an incipient democracy, as Tudor (2013) has argued. But where colonial departure was not accompanied by the colony's partition, the colonial rulers were, more often than not, the greatest political force opposed to democracy.[19]

Let us nonetheless suppose that the indigenous princes and landlords, key allies of the British, can be viewed as incumbent elites in India by virtue of their association with the colonial rulers. In Britain, as Ziblatt shows, the Conservative Party represented their interests and it had the power to block democratization, unless concessions were made by emerging elites. In India, conservative parties did emerge to protect the landlords in the late colonial period, but generally speaking the emerging elites squarely defeated them in the provincial elections.[20] Those who did not participate in the independence movement simply had no effective political space to be counted as powerful political actors. The Congress Party attacked landlordism as early as 1936–37, renewing the assault after independence, when it was firmly in control of state power.[21]

But there is a sense in which the claim that, for democracy to evolve smoothly, it is necessary to accommodate the interests of incumbent elites can be made for India as well. First, after independence, when the Congress Party enacted a land reform program, aimed at crushing landlord power, the landlords began to operate at a regional, vernacular level. As Weiner (1967) showed, the landlords penetrated the district and provincial levels of the Congress Party as party members, and managed to block land reforms with varying degrees of success in different states. In an India which was 83 percent rural at the time of independence, the Congress Party needed the landlords to expand its organizational presence in the countryside, as it is the landlords who were locally influential, not the peasantry, which was dependent on them for a whole variety of economic and social reasons and, therefore, quite powerless (Herring 1982). Basically, there emerged a contradiction between the political imperatives of party building and the economic policy goals of land redistribution and tenancy reforms (Varshney 1995). And once the landlords were inside the party, they could begin to impede the implementation of land reforms. Thus, conservative parties representing landlord interests might not have risen in a big way, as in Western Europe, but a functionally equivalent political form—penetration of the ruling party at lower levels—emerged to protect landlord interests.[22]

But these messy equations emerged later, not at the time of India's democratic commencement. Moreover, they affected the lower political levels. The decision to democratize was taken at the summit of the polity, which was firmly in the hands of the emerging, not incumbent, elites.[23] It is the emerging elites who devised India's democratic constitution. And in the vigorous debates of the

Constituent Assembly (CA), lasting nearly three years, one sees enough evidence of arguments based on values, not any recognizable display of interests.

One could, of course, say that the distinction between elite values and elite interests was only theoretical at the time of independence, given the Congress Party's hegemony. It could afford to talk in terms of values, for the party could not possibly visualize losing power. Establishing a democracy, therefore, could not conceivably hurt.

To be sure, it was not easy for the Congress Party to envisage a defeat at the hands of the opposition in the very near future, but a constitution is a statement about the enduring properties of a polity, not a device for short-term power distribution. Accepting the idea of elections meant that the party could lose them in the future. Indeed, powerful opposition parties had already appeared in South India. And within ten years of independence, the Congress Party would lose the state of Kerala to the opposition parties there (and another ten years later, it would be defeated in many other states).

Interests attached to democracy did emerge later at higher levels of polity. But at its inception, the tenor of debates about democracy do not provide evidence of interests. That is why it is important to draw a distinction between the origins of democracy in India, and its persistence. The former was heavily based in elite values, and the latter in a combination of values as well as interests, as we shall note later (see the section, "Democracy's Second Innings and the Birth of Elite Interests").

The Emergence of Democracy and Elite Values

India's post-independence elites began their political education in 1920, not at the time of independence in 1947. The former was the so-called Gandhian turning point in India's freedom movement, when the Congress Party, which led the movement, turned toward mass politics. Under Gandhi's leadership, it stopped being a lawyer's club, making legal arguments with the British in the Queen's English. Instead, it started mobilizing the vernacular masses against colonial power. The mass-based movement lasted nearly three decades before independence came. What were the values the movement promoted and the elites imbibed? How did those values shape the creation of democracy?

Let me first examine the elite views about elections and universal franchise. I will provide evidence with respect to (1) the entire class of political elites, where it is available. Where it is not, I will concentrate on (2) the ruling Congress Party, which lost elections in only one state in the first two decades of independence (but started losing in several states thereafter), and (3) Jawaharlal Nehru, India's Prime Minister from 1947 through his death in 1964, the winner of three

consecutive national elections—in 1952, 1957, and 1962—and the preeminent political figure of the first seventeen years of Indian independence. He did not always win policy or institutional struggles, but his stamp on the evolution of the democratic structure is beyond doubt. I will, therefore, combine three kinds of arguments: those at the level of all political elites in general, those dealing with the ruling Congress Party, and those covering the very summit of political leadership.

Universal Franchise

After nearly two hundred years of British rule, India's literacy rate at independence was a mere 17 percent. More than half of the country was below the poverty line (Ahmed and Varshney 2012).[24] The vastly poor and illiterate masses were in no position to demand democracy. Yet Indian elites committed themselves to universal franchise. Indeed, the commitment was made by the independence movement as early as 1928, the same year as universal franchise came to Britain.[25]

In the last decades of British rule, starting in 1921, Indians were allowed to vote, but franchise had three limiting aspects. First, voting was not a right but a privilege available on the basis of income, literacy, and landownership. Second, the first arena of voting was local government and, beginning in 1937, it was also extended to provincial assemblies. Before the British left in 1947, India had had two provincial elections, in 1937 and 1946. But at no point until their departure was the central legislature or government elected. Moreover, the highest British officials of the land could veto the legislation of provincial assemblies and executive acts of provincial governments. Finally, the electorate numbered thirty million in 1946, roughly 15 percent of the total adult population, but the entire country did not constitute a voting college. Rather, somewhat like what came to be called consociational democracy later, the British viewed India as a polity based on communities, not individuals. In particular, the electorate was divided on the basis of religion, with separate electorates for minorities. In such "separate constituencies," only the minorities could vote and only members of minority communities could run for office. Functional representation was also added to this legislative scheme. Some legislative seats were reserved for trade unions, business groups, the princely states, and so on.[26]

The freedom movement sought a radical overhauling of this institutional framework. One has to accept the great twentieth-century premise, argued Nehru, that "each person should be treated as having an equal political and social value" (Nehru 1942, 67). This became the defining statement about independent

India's universal franchise. It did not promise economic equality, only political equality. But that was enough to make the case that gender, income, property ownership, literacy, caste, religion, language, and tribe could not be the basis for allocation of voting rights. For decisions on who would rule India, voting was essential and all citizens had the right to vote. Nehru never gave up his belief in elections as the only way to determine which party will govern every five years. "Elections were an essential and inseparable part of the democratic process and there was no . . . doing away with them" (Nehru 1946, 53). He would also argue later: "Our democracy is a tender plant which has to be nourished with wisdom and care and which requires a great deal of understanding of its real processes and its discipline."[27]

Nehru, of course, was not alone. In 1945, an important committee of the Congress Party argued against those who thought that the poor and uneducated voters would make too many mistakes and would not be able to use the right to vote wisely and well. Although the voter's "judgement may be faulty, his reasoning inaccurate and his support of a candidate not infrequently determined by considerations removed from a high sense of democracy, he is yet no better or worse than the average voter in many parts of Europe where adult franchise has been in force for some time" (Sapru Committee Report, cited in Austin 1966, 147).

Nor was the sentiment confined to the Congress Party. In the early years of independence, the most important institutional site for India's political elites was the Constituent Assembly, which worked for over three years, from late 1946 to late 1949, to draft India's Constitution, a document that has survived until today. Consisting of 299 members, the Constituent Assembly was elected by provincial assemblies, and though most members were from the Congress Party, it also had several members whose ideology was different and who later became great critics of the ruling party. The latter group included some Hindu nationalists,[28] as well as the famous Dalit leader, B. R. Ambedkar, who was made the head of the Constitution drafting committee.[29] A Dalit leader, a bitter critic of Gandhi, thus became a father of India's Constitution. Ambedkar made a famous argument about why even literacy was not a condition for franchise which, he argued, had to be universal.

> Those who insist on literacy as a test and insist upon making it a condition precedent to enfranchisement, in my opinion, commit two mistakes. Their first mistake consists in their belief that an illiterate person is necessarily an unintelligent person. . . . Their second mistake lies in supposing that literacy necessarily imports a higher level of intelligence or knowledge than what the illiterate possesses. (Ambedkar's presentation to the Simon Commission, 1928, reproduced in Jaffrelot and Kumar 2018, 34)[30]

The claim here was not that the illiterate people should not be educated; only that illiteracy and intelligence are analytically separable, and even the illiterate understood their interests. The chair of the Constitution Drafting Committee and his firm voice mattered.

There were undoubtedly some voices of dissent. Some members continued to favor voting restrictions, especially those based on literacy. A member pleaded: "For the first ten years, just limit this right of voting to literate people .. . . . Otherwise, in my humble opinion, these elections will be a great farce. . . . My submission is that . . . we should have the provision of literacy" (Lok Sabha Secretariat 1949a).

But such views were few and far between. They could not win the day. With an overwhelming majority, across the political spectrum, the Assembly embraced universal adult franchise. The reasons for support were not identical,[31] but the support was nearly unanimous. And the final conclusion was unmistakably clear. "The Assembly . . . adopted the principle of adult franchise . . . with an abundant faith in the common man . . . and in the full belief that the introduction of democratic government on the basis of adult suffrage will . . . promote the well-being . . . of the common man" (Lok Sabha Secretariat 1949b).

As a consequence, India's electorate expanded from 30 million in 1946 to 173 million in 1951–52. The first elections, based on universal franchise, took four months, starting in October 1951 and concluding in February 1952. They were the biggest election exercise in history.[32] Two more elections were held before Nehru's death (1964)—in 1957 and 1962. The idea of elections as the only way to come to power deepened, becoming political common sense. The Congress Party could have used Nehru's death (and later a war with Pakistan in 1965) to suspend the idea of elections and announce that it was in power for the foreseeable future, if not in perpetuity. No arguments of this kind appeared in the political sphere. After Nehru's death, the fourth general elections, covering national parliament and all state assemblies, took place in 1967. The Congress Party did not lose power at the national level, but it was defeated in several states. It bowed out wherever it was defeated. It is only in 1975 that the deepening institutionalization was ruptured. This is discussed below.

Democracy's Second Innings and the Birth of Elite Interests

In June 1975, Indira Gandhi, prime minister since 1967, declared a state of emergency and suspended democracy. It was a brief interlude, lasting twenty-one months.

Two analytical questions are relevant concerning the 1975–77 rupture. Why did a break, however short, come about? And what was done to keep democracy

alive after the break? The first question is about the conditions under which democratic institutionalization crumbled, the second about its return. Paradoxically, in both, the Constitution played an important role. But it was not the only factor. The Constitution, an expression of elite values to begin with, started engaging elite interests in the mid-1970s and after.

Faced with a movement against her government, which had been under way for some time and was invigorated further when a High Court nullified her election victory on the grounds that her campaign expenses exceeded the ceiling prescribed by law, Indira Gandhi threw out democracy altogether in June 1975. Her regime arrested over 110,000 opposition leaders and activists, inaugurated the doctrine of the executive supremacy in lawmaking, curbed the power of judicial oversight, imposed press censorship, abrogated citizens' right to free speech and assembly, and allowed detention without trial.[33] All of this was done using Article 352 of India's Constitution, which allowed suspension of routine democratic processes if "a grave emergency exists whereby the security of India is threatened by internal disturbances." In other words, the Emergency was antidemocratic, but not unconstitutional. A Supreme Court judgment later, for all practical purposes, certified its constitutionality, when the Court said that detention without trial and a lack of judicial scrutiny of the executive and legislature were justified in a state of emergency.[34]

Eighteen months later, in January 1977, Indira Gandhi announced new elections, releasing jailed leaders and activists and restoring citizen and press freedoms. She was seeking to re-legitimize her rule. The best available hypothesis for why she did so suggests that even she found it hard to devise non-electoral arguments for continuance in power (Weiner 1989). She lost the elections, which were supposed to bolster political legitimacy, and bowed out after defeat, instead of canceling election results as an all-powerful head of government, something that has happened in many countries.[35] In March 1977, the first non–Congress Party government was formed in Delhi. (Since then, seven more non–Congress Party coalitions have run the national government.)

As a new government took charge, one of its most important activities was to ensure that the Constitution was not used to proclaim an internal Emergency again. *This was no longer a question of values alone.* Given that virtually all new cabinet ministers and their umpteen colleagues were jailed during the Emergency, it was in the interests of the newly empowered elites to amend the Constitution in such a way that a suspension of democracy in the future would become inordinately difficult and they would not be jailed for political reasons. The 43rd and 44th Constitutional Amendments sought to achieve this purpose. "Armed rebellion" replaced "internal disturbance" as the basis for declaring an Emergency which, from then on, would also require not just the recommendation of the prime minister to the president, the titular head in a parliamentary

system, but also the written advice of the cabinet, and would have to be endorsed by a two-thirds majority in parliament within a month of the proclamation. Moreover, the extension of an Emergency beyond six months would also require parliamentary approval, not simply executive wish. Finally, the power of the judiciary to investigate and judge the constitutionality of parliamentary legislation and executive decrees was restored.

If it was in the interest of Indira Gandhi and her colleagues in 1975 to use the Constitution to disable democracy, it was now in the interest of the new rulers and their parties to make democracy's suspension awfully difficult. "No Emergency ever again" was the political motto. The constitutional amendments, aimed at averting that eventuality, have stayed until now.

Indeed, India's Constitution has not been overturned at all, only amended from time to time. The Constitution has become an institutional bedrock of India's democracy. For India's democracy to end, the Constitution would have to be terminated, or radically amended to restore at least two ideas of the Emergency: executive supremacy unrestrained by judicial scrutiny, and detention without trial.

India's overall constitutional stability leads to two questions. Why has the Constitution not been overturned, only amended? And through which institutions does the Constitution maintain its centrality? Just because the Constitution exists does not mean that it can exert political power. Constitutions have repeatedly broken down, or been overthrown, in the developing world, which includes India's neighborhood (Pakistan, Bangladesh, Sri Lanka).[36]

Here, the fact that India consistently pursued a parliamentary system appears to have come to its democratic rescue. Accumulating comparative evidence makes this point clearer than ever before. In a widely read study, Stepan and Skach (1993) surveyed all democracies between 1979 and 1989. The world had forty-three consolidated democracies in this period, of which as many as thirty-four were parliamentary and only five were presidential. After analysis, they concluded that there was a "much stronger correlation between democratic consolidation and . . . parliamentarism than democratic consolidation and . . . presidentialism" (Stepan and Skach 1993, 5).

A more recent study, by Przeworski (2019), comes to a similar conclusion, though it approaches the question of longevity via its opposite: brittleness. Between 1918 and 2008, of the forty-four consolidated parliamentary democracies, only six fell, which gives us a mortality rate of 1 in 7.3. In the same period, there were twenty-six consolidated presidential democracies, of which seven fell, which yields a mortality rate of 1 in 3.7. That is twice as high as for consolidated parliamentary systems. "The weakness of presidential systems," concludes Przeworski, "is manifest" (Przeworski 2019, 35).[37]

Presidential democracies have both repeatedly broken down and often suspended constitutions. Corrales (2018) notes that since the early 1980s alone, when democracy returned to Latin America, there have been twenty-four attempts to elect Constituent Assemblies, all aimed at rewriting the entire constitution; eleven were successful, thirteen were aborted.

There is a good deal of literature on why parliamentary democracies and their constitutions are more durable.[38] The details of the literature need not detain us here, except to note a major recurring theme especially relevant to India. Being a parliamentary system, which organically connects the executive and the legislature, India has never witnessed politically crippling stalemates between the two separately elected summits of institutional power in a presidential system: the president and congress. Such institutional paralyses, it is argued, have led to more frequent democratic breakdowns in presidential systems. India's adoption of a parliamentary system and its ability to resist the temptation for a presidential conversion of its polity appear to have a lot to do with its constitutional as well as democratic longevity.

Of course, in and of themselves, constitutions do not act. To make their presence felt in active politics, constitutions require actors and institutions to stand up and extend fighting support. It is necessary to understand who these agents of constitutional and democratic stability were, and why.

Three kinds of actors have played this role in Indian democracy, especially after its awkward turn in 1975–77. First, armed with two constitutional amendments described above (43rd and 44th), which restored its power of judicial review, the judiciary acquired new teeth in the post-Emergency era. If the courts in the past assertively exercised judicial scrutiny of the executive and the legislature, those elected to power would often choose the method of constitutional amendment, or parliamentary supermajorities, to overturn unpalatable judgments. However, after the executive excesses of the Emergency and their electoral rebuff, the political space for an executive pushback declined for many years thereafter and the elected elites did not think it advisable to push back against the judges.[39]

In particular, the judiciary added two new forms of scrutiny for checking executive and legislative power. First, Public Interest Litigation (PIL) was institutionally promoted. In conventional citizen–government interactions in a democracy, the standard notion of *locus standi* allows only those aggrieved—by executive or legislative action—to challenge the injury in a court. This requirement often works to the disadvantage of the poor and the marginalized because they either might not have the resources to reach courts directly, or might not even know that courts could invalidate government action. By allowing individuals or organizations to argue on behalf of those who can't afford litigation or are unaware of its possibilities, PIL made a huge intervention into the democratic

political process, repeatedly pushing governments on behalf of the citizenry. This practice took off in the early 1980s.[40]

Second, in arenas of national life, where no prior laws existed, the judiciary adopted a quasi-lawmaking role, or initiated court-supervised executive action. Using this new mode of intervention, the judiciary issued to the governments guidelines on how to deal with sexual harassment in the workplace, on the rights of sexual minorities and slum dwellers, and on a whole host of environmental matters, including air and river pollution, forests, and wildlife.

Polls repeatedly showed in the 1990s and 2000s that the courts were more popular than parliaments, assemblies, and political parties (Krishnaswamy and Swaminathan 2019). This situation may not last forever, as the relationship between the judiciary on one hand and the executive/legislature on the other tends to be more pendulum-like than static in democratic polities. But it is important to note that the popularity of courts lasted long enough in India for the judiciary to check executives and legislatures on behalf of the citizenry, or what has sometimes been presented as national interest. While the independence of the judiciary might have come under a cloud since the rise of Modi, as analyzed in the next section, its power in the three-and-a-half decades after the Emergency unquestionably increased. The term "judicial sovereignty" was used to describe the power of courts after the 1990s (Mehta 2007).

The Election Commission is the second institution which started taking its power seriously. Unlike the US and perhaps several other polities, India's Election Commission is set up by the Constitution as an independent institution. The Election Commissioners are appointed by the executive for a fixed term, which can't be altered by governmental changes. The primary responsibility of the Election Commission is to conduct free and fair elections, which includes preparation of election rolls, registration of political parties and election contestants, watching election campaigns, checking voter intimidation, and supervising the behavior of election officials. As McMillan (2010) has argued, the Election Commission has gone through three phases in its evolution: a phase of confident establishment during the first elections under Nehru (1947–64), a phase of subservient quiescence under Indira Gandhi (1967–84), and a phase of assertive activism after the late 1980s. Modi's rise may have raised some doubts about the continuing independence of this institution, too, but there is no denying the fact that it has maintained the integrity of the election process for very long.

The quiescence of the middle period, listed above, was because Indira Gandhi exercised fearsome power, and the constitutionally independent institutions were either unwilling or unable to stand up to her. This included both the judiciary and the Election Commission. And the activism of the last period was driven by two interconnected factors, both leading to the greater consolidation

of the idea that free and fair elections were the only device for coming to power and forming governments.

The first factor was the end of Congress Party hegemony and the emergence of a fluid party system, leading to coalition governments, which lacked the overwhelming power of an Indira Gandhi. And the second factor was the continued popularity of the Election Commission, repeatedly evident in polls. Generally speaking, the Election Commission and the judiciary kept receiving the highest trust rating in polls during the 1990s and 2000s (de Souza, Palshikar, and Yadav 2008). As a result, much like the judiciary, the Election Commission also felt bold enough to discipline both election officials whose behavior it deemed unfair and prejudiced and politicians whose campaign violated the legal canons, or widely accepted norms. When it suspected voting fraud, it also "countermanded" elections in some constituencies, ordering re-polls. Like the courts, the assertive behavior of the Election Commission may also not last forever, but the assertion has lasted long enough to generate strong citizen faith in the freedom and fairness of elections. For decades now, no significant challenges to the election verdicts have been launched, and the incumbents who lose elections routinely bow out.

A third set of actors, in addition to the courts and the Election Commission, is simply the political parties. So many parties have been in power since the early 1980s, mostly at the state level but also in Delhi, that serious stakes in the persistence of democracy have been created. Parties not in power in Delhi have sometimes run half of the state governments. As a result, if the ruling party at the center—and sometimes at the state level, too—egregiously breaks democratic norms, countervailing power is, in principle, available in the system to oppose the violation and seek to correct it, substantially if not wholly. Parties mobilize citizens for mass protests, launch court challenges, and mount press campaigns. This does not always, or fully, prevent the abuse of political power or eliminate predatory governmental conduct, but the generally available balance of power means that either the excesses can be reduced in frequency or their severity can be checked. All political parties swear by the Constitution, and use that as a resource to challenge governmental excesses.

More important for our purposes, democracy could not easily be suspended, for it would constitute the kind of executive excess that would touch off legal challenges by political parties and countermobilization sponsored by them. Democracy's suspension would hurt the interests of simply too many elites, and they have so far had power in the system to hit back.

Another way of conceptualizing this phenomenon is to say is that by giving a taste of power to a large number of political parties, *federalism in effect has become a mainstay of democracy*. Democracy would potentially be under a serious threat if the same party ruled in Delhi and all states, unless the party was

committed to democratic values, not to perpetuation in power by hook or by crook. A multiplicity of parties in governments, at the center and states, creates countervailing power in the polity, if not an exact balance of power. As argued in the following section, federalism has become a real problem for Modi's desire for greater control of the polity; for a collapse of India's democracy, if not its erosion, federalism would also have to come apart.

New Elite Values and Democratic Decline:
Modi and Hindu Nationalism

In its 2021 report, Freedom House announced: "India, the world's most populous democracy, dropped from Free to partly Free status" (2021, 2). And putting its finger on the heart of the matter, it attributed the decline to the Hindu nationalist ideology of Narendra Modi, India's prime minister since May 2014, who has won two straight national elections, in 2014 and 2019. "Under Modi, India appears to have abandoned its potential to serve as a global democratic leader, elevating narrow Hindu nationalist interests at the expense of its founding values of inclusion and equal rights for all" (Freedom House 2021b, 8).

V-Dem Institute's 2021 report went further. Instead of calling India "partly free," it concluded that India in 2020 had become an "electoral autocracy" (V-Dem Institute 2021, 6). Its judgment is based on two criteria. First, "the overall freedom and fairness of elections . . . was hard hit" (20). And second, the "diminishing of freedom of expression, the media, and civil society have gone the furthest. The Indian government rarely, if ever, used to exercise censorship . . . before Modi became Prime Minister" (20). Hungary and Turkey, it adds, "became (electoral) autocracies in 2018 and 2014 respectively, and India now joins their ranks" (20).

V-Dem Institute is right about the second factor—the attack on freedom of expression, media, and civil society—but wrong about the first, namely, the corrosion of free and fair elections. Even under Modi, elections continue to be competitive. Ironically, a remarkable piece of evidence came just a few weeks after the publication of the V-Dem report in March 2021.

In West Bengal, Tamil Nadu, Kerala, and Assam, state elections took place. The BJP in general and Modi in particular fought very hard. They lost all states except Assam, but did not challenge the results. West Bengal was especially important. It is the third largest state of India; its historical significance is beyond doubt; and of all states, Modi campaigned most vigorously there, leaving Delhi twenty times in the space of roughly six weeks to address election rallies. When the results came, a regional party under a political archrival had clearly

defeated the BJP. Instead of questioning the integrity of election results, Modi conceded defeat.

To be sure, we can't predict whether Modi's acceptance of election results will continue to mark his conduct in the future as well. Moreover, some of Modi's appointees to the Election Commission, the body that not only conducts the elections but also certifies the results, continue to be civil servants, who have been close to Modi, serving him at various points in his political career. But that, in and of itself, is not a violation of democratic principles. Partisanship routinely accompanies democracy, parliamentary or presidential. It is the use of partisanship to undermine the basic processes, or the fundamental principles, of democracy that would constitute an unacceptable violation. If Modi's appointees to the Election Commission were to overturn the results of an election, or deprive voters opposed to Modi of their franchise, then it would be legitimate to claim that the fundamental tenets of an electoral democracy were transgressed.

But that has not happened yet. Modi and his party, the BJP, not only won the national elections of 2014 and 2019, widely viewed as free and fair, but what is even more critical for democratic theory, they also lost key state elections before the 2019 national victory and after. But the Modi government has not used its power, in a constitutionally unauthorized way, to annul any of the state elections.

To say that India is not an electoral democracy is therefore an overstretched claim. Instead, the best description would be that the electoral aspects of democracy notwithstanding, the basic structure of a liberal democracy, comprising freedom of expression, independence of civil society, and minority rights, is under severe erosion. The liberal deficits, though always present in India's democratic record, have widened to an alarming degree.[41] And that is because of the nature of the ideology that animates the Modi regime. The ideology of Hindu nationalism departs from India's constitutional values in two significant ways, each hurting the liberal aspects of democracy.

First, for Hindu nationalists, India is a Hindu nation, an idea the Constitution does not endorse. Demographically, Hindus are roughly 80 percent of the nation and Muslims, at just a little over 14 percent, are the largest minority. Given India's history, Muslims are a special object of Hindu nationalist ire. The Hindu nationalists have always viewed the Muslim community, with a few individual exceptions, as insufficiently patriotic, or even entirely disloyal to India. Hence their dictum that the Muslims should not have the same rights as the Hindus, who are the "original people" of India and must be accorded cultural and political primacy.[42] In its conception of the post-independence political order, India's Constituent Assembly (1947–50) did not even come close to the notion of Hindu primacy. The Constitution is rooted in the idea of religious equality

and equal rights for all citizens. If anything, it gives religious minorities manifest protections from the possible emergence of a majoritarian impulse in the polity, by guaranteeing a right to the maintenance of their religion as well as culture, including language and educational institutions, supported by state grants if necessary.[43]

Second, a muscular form of nationalism also accompanies the rise of Hindu nationalists in power. This kind of nationalism threatens not only the minorities but also the dissenting citizenry in general. According to Hindu nationalists, liberal freedoms can't build a strong nation; only national discipline and obedience to the state can. Modi has argued that citizen duties must be accorded preference over citizen rights (Modi 2019), whereas the liberals and leftists, according to Hindu nationalists, tend to celebrate only individual freedoms and minority rights, thereby sapping national strength, unity, and resolve. According to a popular Hindu nationalist discursive trope, heavily promoted by the Modi government, many liberals are "anti-nationals," who should be punished by the coercive arm of the state. Unrestrained argumentative freedoms cannot be granted to citizens and civil society groups, except perhaps at the time of elections. Nation-building ought to replace the idea of citizen freedoms, once elections are over. Aimed at taming citizen dissent, such state-supported discourse leads to an explicit or implicit attack on the institutions that cannot perform their legitimate roles without political and intellectual freedoms—courts, universities, civil society, and the press. It also privileges vigilante action if the vigilante groups seek to implement the governmental vision and harass dissenters.

India's great political paradox is that although the constitution does not permit abridgment of the rights of religious minorities, the push against civil liberties does have a constitutional anchorage that Hindu nationalists can, and do, exploit. While universal adult franchise attracted near consensus among the political elites in the Constituent Assembly, civil liberties—a cornerstone of liberal if not electoral democracy—did not. Most of the early independence elites did not want unconstrained civil freedoms for the citizenry. According to Article 19 of the Constitution, "libel, slander, contempt of court, . . . decency or morality . . . [and] security" specified limits on freedom of speech. And the First Amendment, going further, stated that civil liberties should not prevent the government from making any laws that restrict such liberties "in the interests of the security of the State, friendly relations with foreign States, public order, etc." Suspension of civil liberties at a time of emergency was also constitutionally allowed.

In other words, the idea of liberal deficits was written into the Constitution. Some governments have interpreted the restrictions on freedoms more liberally than others; others have simply viewed them more restrictively, including a use of such restrictions for targeting critics on grounds of public order or national

security. Courts have intervened, but not always in defense of citizens. Courts cannot violate the constitutionally enshrined restrictions; they can only interpret whether governments have applied them properly in a given case, if the violation is brought to litigation. For all practical purposes, the extent of permissible freedom in India has depended on the nature of the ruling party/governments. Since the Hindu nationalist construction of freedoms is highly restrictive and courts have only occasionally nullified the abridgement of freedoms, India's liberal deficits have increased under Modi. The kind of power and independence the courts exercised during 1977–2014 has been on the wane.

From Ideology to Action

The impact of Hindu nationalism on statecraft has evolved in two phases. The first phase concerned the everyday practices of the state; and the second phase has been about formal enactment of restrictive laws.

Under the first Modi government, India saw a new form of communal violence—lynching. The data show a spike in lynchings after 2014, with Muslims as the main target (Basu 2021). The perpetrators were often not caught by the police. Modi maintained silence on lynchings, and when he did speak, the comments were perfunctory. As if this were not enough, Modi also appointed Yogi Adityanath to the highest office of India's biggest state—as chief minister of Uttar Pradesh (UP), a state equal to Brazil in population. Before this high-level appointment, Adityanath, head of a Hindu religious order, had also created a large vigilante organization known for its anti-Muslim mob campaigns.

The ostensible aim of lynchings is to prevent beef eating and to stop young Muslim men from marrying Hindu women, even if their relationships are voluntary. But the underlying aim is quite clear. Lynchings are basically aimed at producing a political order premised upon the idea of Hindu primacy and relegation of Muslims to secondary citizenship. In BJP-ruled states, the police hardly catch the lynchers and if they do, the prosecutorial cases have been weak. Several BJP politicians have openly supported lynchers (Varshney 2019c, 75–76).

Since the return of Modi with a larger parliamentary majority in May 2019, this project has acquired a serious legal dimension as well. The BJP's parliamentary numbers can now allow the party to underwrite new legislation. Of the various pieces of legislation, the three that are most threatening to liberal democracy bear attention.

Among the first legislative acts of the second Modi government was the amendment of the laws related to terrorism and "public safety." The government now has the power to designate any individual as a terrorist (based on writings, speeches, even possession of certain kinds of literature), and the room for judicial

appeals against such detentions has been substantially reduced. A similar legal dictum applies to preventive detention on grounds of public safety. Essentially, with these laws, imprisonment for political dissent is perfectly possible, something not practiced on a significant scale since the Emergency but increasingly being practiced now.[44]

The change in laws about Kashmir was the second major legislative act. India is an asymmetric federation and compared to the other states, the Constitution had given Kashmir, the only Muslim-majority state of the country, greater autonomy and powers. In August 2019, consequent upon the passing of legislation introduced by the BJP in parliament, Kashmir lost its status as a state and was brought directly under Delhi's rule. And using the public safety act passed a few weeks earlier and summarized above, hundreds of Kashmiri politicians and activists were thrown into jail. In addition, civil liberties were suspended, making citizen protest illegal. What happened in Kashmir was a replica of the 1975–77 Emergency, but in one state, not nationwide.[45] The jailed political leaders have mostly been released, but they spent time in jail just for being critics of the Modi regime.

The third and final piece of legislation was an amendment to the nation's citizenship law, originally framed in 1955. Called the Citizenship Amendment Act (CAA), the new law provides fast-track citizenship to the members of "persecuted minorities," who entered India before December 31, 2014, from Pakistan, Bangladesh, and Afghanistan. The law not only specifies these three countries but also lists communities it designates as persecuted minorities: Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians. *It leaves out only one community: Muslim immigrants*. India's original 1955 citizenship law drew no religious distinction between Muslims and others.

The Minister for Home Affairs, second in command after Modi, also announced that a National Registry of Citizens (NRC) would be created as a sequel to the CAA. In principle, using CAA, the NRC can render virtually stateless a large number of Muslims, if they don't have the documents acceptable to the government for citizenship, even if they were born in India and have lived in the country for decades.[46] As the CAA was passed and the NRC was announced as a future move, nationwide protests, mostly peaceful, broke out for three months, continuing until the Covid-19 pandemic stopped large groups from getting together and protesting. Shaken by the strength and breadth of protests, the Modi government has said it will not implement the NRC. But one can't really be sure that the idea will not come back at a future date.

Three other points ought to be noted, two institutional, a third conceptual. First, of the principal institutional mainstays of democracy after Indira Gandhi's Emergency (see the previous section, "Democracy's Second Innings

and the Birth of Elite Interests"), the judiciary appears to be buckling under executive pressure. Normally shrouded in secrecy, the executive's push against the judiciary became public when four of the most senior judges of the Supreme Court gave an account of the pressures applied by the Modi government.[47] The signs of the emerging subservience of the Supreme Court are too prevalent to be missed. The legality of preventive mass arrests in Kashmir and the constitutionality of Kashmir's diminished status have been challenged in the Supreme Court. But even the *habeas corpus* cases, normally an object of instant hearing, are still to be fully heard, let alone judged. Though some of the courts have taken the Modi government to task for its decisions, those are generally lower down in the judicial hierarchy, and can be overruled by the highest court in Delhi. It is the behavior of the apex court, the Supreme Court, that is causing great anxiety in liberal circles. The idea of executive and/or legislative sovereignty, relatively unconstrained by judicial scrutiny, appears to have made a substantial comeback.

However, the role of federalism—and this is the second institutional point—as a check on the power of the central executive remains substantial. Virtually all non-BJP state governments took a clear stand against the CAA and NRC, publicly announcing their intention not to implement them in their respective states. Modi's government's withdrawal of the NRC proposal may have a great deal to do with the realities of federalism. The Modi regime has sought to truncate the power and authority of state governments, often interfering in their domains, but non-BJP governments have continued to push back.

Let me finally turn to a tricky conceptual matter. Modi's government's anti-Muslim legislative moves, both in the form of the CAA and the change in Kashmir's status, were part of the BJP's 2019 election manifesto that guided the party's election campaign. Though in the voting data it is hard to parse out how many citizens voted in favor of these specific measures in comparison to the other issues in the campaign, the Modi regime can claim, as it has, that the change in Kashmir's status and the amendment in citizenship laws were both electorally approved.[48] An apparently electorally legitimated attack on the liberal aspects of the polity has thus been launched, deepening the electoral–liberal gap.

If the national majority votes even more clearly for Hindu nationalism in the future and the state governments, one by one, fall to the BJP in state-level victories, it is politically possible to launch an attack on the Constitution, amend its basic commitment to religious equality, and turn Muslims legally into second-class citizens. It will be an electorally approved collapse of liberal democracy. That is what Hindu nationalist leaders would ideally desire, for it would show mass support, or citizen imprimatur, for their deeply held values. India has not approached that point yet. And it may not.

Conclusion

By way of conclusion, let me recapitulate the main arguments of this chapter. First, India's record as an electoral democracy is far better than its record as a liberal democracy. Electoral vitality coexists with liberal deficits. This is in part due to a founding ambiguity in India's Constitution. The Constitution vigorously supports the idea of universal franchise, but by making citizen freedoms subject to considerations of public order, not simply national security, the Constitution has installed a weaker notion of civil liberties. The ruling governmental regimes have basically determined how liberally, or restrictively, the idea of civil liberties would be interpreted and executed. The courts have not been a consistently strong exponent of civil freedoms.

Second, my argument about India's democratic longevity has centered on elite choices, not structural conditions. Elite choices, in turn, are a composite of two different aspects: values and interests. Reflected in the Constitution, values of the first generation of political elites accounted for the early institutionalization of democracy. However, elite values alone do not explain India's democratic longevity, as substantial elite interests over the last few decades have come to be associated with democracy. Power is no longer the monopoly of one party, and a variety of parties hold power at different levels of the polity. The multiplicity of parties and elites with a stake in power contribute to democratic perseverance. Those parties and political actors who would be hurt by the suspension of democracy have tended to fight for their interests.

Third, the electoral–liberal gap widens when Hindu nationalists come to power, as is true today. This happens because Hindu nationalists privilege Hindu supremacy over the protection of minority rights and liberal freedoms. The longer the Hindu nationalists remain in power, the weaker will India become as a liberal democracy. But whether it will also cease to be an electoral democracy remains uncertain.

Notes

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1. Further explanations of these terms are available in Haggard and Kaufmann (2020) and Levitsky and Ziblatt (2018).
2. It should, however, be noted that Przeworski et al.'s conception of democracy relies on only one of Dahl's two criteria. It is only about contestation, not participation (2000, 34–35).

3. It is noteworthy that for a democracy theorist like Przeworski, such deficits do not constitute a democratic disqualification so long as the criterion of competitive elections is satisfied. And for him, governmental turnovers are a key indicator of electoral competitiveness. The basic intuition here is that a non-democratic system would not allow incumbents to lose power, even if elections went against them.

4. Also relevant, in a comparative sense, is the fall of democracy in Chile (1932–73), Uruguay (1942–73), and Venezuela (1958–2000s). While 1932, 1942, and 1958 were not founding moments for these countries, as 1947 was for India, there was a collapse of democracy after decades of existence.

5. On the inclusion of freedom of expression and association under electoral, as opposed to liberal, democracy, see my comment in note 41.

6. Why Latin America and the Caribbean developed such a large gap after 1990–99 is interesting, but it need not detain us here. My focus is on India.

7. In the 2019 campaign for national elections, one of the key slogans of the opposition Congress Party was that Prime Minister Modi was a "thief." The leader of the opposition Congress Party believed that though Modi fought the 2014 elections on an anti-corruption platform, a defense deal he struck in France, after coming to power, unmistakably revealed corruption. The campaign went on for months. No one from the Congress Party was arrested during the campaign.

8. At the national level, the winners were poorer in 1977, 1989, 1996, 1998, and 2004. At the state level, the numbers are much greater, including the widely noted 2021 elections in West Bengal. A state-level party, Trinamool Congress (TMC), defeated the BJP, which outspent its opponents by a huge margin but lost decisively.

9. One more exception is for some years between the early 1950s and early 1960s, when India's index exceeded that for Western Europe and North America. Greater disaggregation of V-Dem data, not presented graphically here, shows that North America pulls the average down in those years. While the indices for Canada and the US are consistently higher than those for India, following the United Nations Statistics Division (UNSD) methodology, V-Dem also includes in the region of North America: Bermuda, Greenland, Saint Pierre, and Miquelon and Antarctica. It is not clear that Greenland should be counted separately because it is not an independent country. And Bermuda gained independence only in 1995. Because of these complications, it is perhaps not advisable to make too much out of India having a higher index than Western Europe and North America.

10. Two things should be added here. First, as noted earlier, for their definition of democracy, Przeworski et al. (2000) do not use the full Dahlian measures, concentrating only on contestation (not on participation, let alone the liberal freedoms). Second, their exceptional list also includes Belize, Solomon Islands, and Vanuatu. For ease of exposition, I only pick four from their exceptional list: Jamaica, Mauritius, Papua New Guinea, and India.

11. These numbers are based on the World Bank's open data site (data.worldbank.org). In principle, one should also look at per capita incomes at an earlier point. The World Bank gives us the following numbers at current prices for 1960: Botswana ($58), Costa Rica ($381), Jamaica ($429), Papua New Guinea ($115), and India ($81). Only

Botswana had a lower GDP per capita then, which should, in principle, complicate the assessment of Przeworski et al. The 1960 income statistics are not available for Mauritius.

12. The World Bank's middle income category ranges from a per capita annual income of $1,026–$12,375 (at 2018 prices). India entered the lower middle-income category in 2005. China had done so roughly a decade earlier.

13. The classics on how democracy and caste could coexist are still relevant. See Rudolph and Rudolph (1967) and Kothari (1970a).

14. In government schools, where a lot of Indians have been educated, pupils would be taught in their mother tongue and would additionally learn Hindi and English. Depending on the resources of a state, two languages were definitely taught virtually all over India, and attempts for a third were also made.

15. Lijphart (1996), however, argues that India is a consociational democracy, a claim not accepted by India specialists. The most systematic critique has come from Wilkinson, who flatly argues that "Lijphart miscodes post-independence India as consociational" (2004, 154).

16. Wilkinson (2004) argues that pre-independence India was consociational.

17. The quotas that were instituted were caste-based, not religious.

18. Lijphart (1999) puts India in the middle of thirty democracies in terms of the propensity to form coalition governments. Coalitions per se should not be viewed as a core feature of consociationalism. A key question is: do coalitions mirror the diverse groups in society? Only in recent years have India's coalition governments at the national level incorporated a lot of lower caste politicians. The upper castes have always had more ministers in the cabinet than their weight in the population.

19. Sri Lanka may be among the few exceptions. Its universal franchise was born in 1931, when the British were still the rulers.

20. The exception was the province of Punjab, where the Unionist Party triumphed in 1937. Elsewhere, the parties representing landlords could not win provincial elections.

21. In the 1950s, too, a party representing the interests of the propertied emerged. Called the Swatantra Party, it fought elections. But it played no role at the time of Constitution making in the 1940s, when democratic institutions were put in place. Moreover, it ceased to be a force after two elections. It could not successfully fight against the Congress Party, the institutional carrier of anticolonial nationalist sentiment.

22. In the case of the indigenous princes, the accommodation of interests worked differently. The British had sovereign powers over the entire country, but they left Indian princes to administer their own territories, constituting a third of India. The Congress Party steadfastly opposed the power and authority of the princes, but offered them an olive branch: a government-funded allowance to the princes, called privy purse, would be granted in return for the formal accession of their territories to independent India. Almost all princes accepted the arrangement, and those very few who did not were militarily crushed. Privy purses were a small compensation for the authority and

powers to tax that the princes lost, but they understood that the winds of change and legitimacy were with the Congress Party.

23. In her comparison of India and Pakistan after 1947, Tudor (2013) also argues that power was in the hands of middle-class leaders in India, not the landlords, a class that dominated western Pakistan.

24. Poverty rates were more reliably calculated after 1961.

25. The commitment was made by the Nehru Committee (1928), which worked, among other things, on the kind of polity India should have.

26. The legislature was split into "no less than thirteen communal and functional compartments for whose representatives seats were reserved" (Austin 1966, 144).

27. Nehru's letter to chief ministers, March 21, 1951. Quoted in Khosla 2014, 115.

28. Syama Prasad Mukherji was among the most prominent Hindu nationalists to be a member of the Constituent Assembly, as was the Communist politician Somnath Lahiri. Congress Party members, however, were roughly 80 percent of the Assembly.

29. Ambedkar was not only the most educated Dalit in history until then, but also the most educated leader across the entire political spectrum. His first PhD, combining law and political theory, was from Columbia University, and the second, in economics, from the London School of Economics.

30. Ambedkar made this argument as early as the late 1920s, an argument he never changed.

31. See the summary of the debate in Austin (1966, 46–49).

32. Here is a description of the scale of the exercise: "At stake were 4,500 seats—about 500 for Parliament and the rest for the provincial assemblies. Some 224,000 polling booths were constructed and equipped with two million secret ballot boxes, requiring 8,200 tons of steel. To type and collate the electoral rolls by constituencies, 16,500 clerks were appointed on six-month contracts. About 180,000 reams of paper were used for printing the rolls. To supervise the voting, 56,000 presiding officers were chosen. They were aided by 280,000 lesser staff members; and 224,000 policemen were put on duty to stop violence and intimidation" (Guha 2007, 144). In addition, Shani (2018) gives a detailed account of how the huge electoral rolls were prepared, and how the elections took place.

33. All of this was primarily done though the 42nd Constitutional Amendment, passed without the presence of most opposition leaders in parliament. Prakash (2018) provides a detailed account of the Emergency.

34. This was the 4–1 decision of the Supreme Court in *ADM Jabalpur v. Shivkant Shukla*.

35. She did bounce back in the next elections in 1980, but she obviously did not know that in 1977, when she lost.

36. The divergent constitutional histories of Pakistan and India are perhaps worth noting. Carved out from the same British colony which also led to the birth of independent India, Pakistan has witnessed three constitutions since its birth. Indeed, it could not finalize a constitution for the first decade of its existence, by which time India not only had a constitution in place, but also had conducted two national and many state elections. See Tudor (2013).

37. For how he defines "consolidated democracies," see Przeworski (2019, 29–32).
38. See especially Linz (1990), but also the critique of Linz by Mainwaring and Shugart (1997).
39. Rajamani and Sengupta (2010) compare the pre- and post-emergency history of judicial review.
40. For more details, see Divan (2016).
41. Based on V-Dem measurements, Figure 2.2 (in the first section of this chapter) does not show the widening gap between the electoral and liberal dimensions since 2014. It suggests India's decline on both fronts. Moreover, the descent looks symmetrical. It turns out that this symmetrical decline is, in fact, an artifact of the way V-Dem measures electoral and liberal democracy. V-Dem's electoral democracy score is not simply based on Robert Dahl's two minimal criteria—contestation and participation—which are widely viewed as the best ways to measure the electoral core of modern democracy. V-Dem's electoral score also includes "freedom of expression . . . and association" (Coppedge et al. 2020a, 35). And its liberal democracy index, in addition to the electoral democracy, takes note of "the importance of protecting individual and minority rights" (Coppedge et al. 2020a, 43). The concept of liberalism in modern liberal theory certainly includes individual and minority rights, but also freedom of expression and association (Ryan 2012). It is unclear how to conceptually separate freedom of expression from individual civil rights. Similarly, to include freedom of association under electoral democracy raises conceptual awkwardness, for it includes both freedom to form and operate political parties and freedom for non-party civil society organizations. An electoral democracy may privilege freedom for political parties over freedom for civil society, as has become true of India under Modi. Generally speaking, if a democracy provides freedoms both to parties and to civil society, it is a deeper democracy, or a deeper polyarchy, as Dahl would put it, but it is best to stick to a minimal notion of electoral democracy and a more comprehensive notion of liberal democracy.
42. For details, see Varshney 2002, 2013, 2019b.
43. See Agnes 2016; Reddy 2016.
44. The V-Dem reports it as follows: "The Modi-led government in India has used laws on sedition, defamation, and counterterrorism to silence critics. For example, over 7,000 people have been charged with sedition after the BJP assumed power and most of the accused are critics of the ruling party" (V-Dem 2021, 20).
45. For more details, see Mehta 2019.
46. For a definitive analysis of the original citizenship law, see Jayal (2013). For details of the new changes, see Varshney (2019a).
47. This is discussed at some length in Varshney 2019b.
48. See the analyses in Varshney (2019c) and Jaffrelot and Vernier (2020).