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Colonial Institutions and Constitutional Adaptation: The Foundations of the Indian State in the First Decade after Independence

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ABSTRACT

The wave of decolonisation that occurred in the middle of the 20th century resulted in the emergence of several new states in Asia and Africa. Political independence, however, did not mean a complete rupture of colonial rule. The new states were given the administrative structures, the rule of law, and boundaries that had been transformed by colonial powers. This paper will discuss how this transition was negotiated by the Indian state and the role played by the British Empire's legacy in the process of postcolonial state formation. The paper will use postcolonial theory and historical literature to state that it is through transformation, not rejection of colonial institutions, that the Indian postcolonial state has come into existence. The embrace of a democratic Constitution, the evolution of parliamentary institutions, and the perpetuation of bureaucracies all indicate how the colonial administrative systems were remodelled in a democratic, nationalist paradigm. As the paper puts India in the context of the larger discussion on decolonisation and postcolonial rule, it is important to note that past experiences of colonialism still play a role in the present-day political institutions and democracy. The Indian state has shown that the transformation from an empire into a nation-state was not a straightforward process but a complicated one where the state inherited structures were tailored to meet the objective of democratic legitimacy, national integration, and

constitutional governance.

Introduction

The initial decades post-Second World War represented one of the greatest political changes in modern history. During the period of 1945-1965, dozens of territories in Asia and Africa received formal political independence and destroyed the foundations of European imperialism and opened the era of decolonisation (Young, 2003). However, the concept of independence did not mean total severance of ties with the colonial past. The new states that were formed continued with the intricate structures of administration, law, and territory that had been created through centuries of colonial rule.

India gaining independence in August 1947 became one of the defining moments of this era. At the end of almost two hundred years of British rule, India emerged as a sovereign state by negotiating a transfer of power that left unsolved a basic question of what the new state would do with the institutions that it had inherited. The key to the Indian postcolonial experience has been this question: whether political independence was an institutional rupture or an institutional adaptation?

This paper states that Indian development was not characterised by the total rejection of the colonial forms, or mindless continuity, but by the creative adaptability of legacy institutions to democratic, nationalist, and constitutional purposes. It is all a testimony to this logic of adaptive transformation in the drafting of a republican constitution, the building up of a parliamentary democracy, the maintenance and modernisation of a professional civil service, and the development of a federal structure. To develop this argument, the paper uses the resources of postcolonial theory, specifically, Frantz Fanon and Robert Young, and historical and institutional sources, such as the Constituent Assembly Debates (1946-1949) and the Constitution of India (1950).

The first section of the paper elaborates on the theoretical framework that is based on postcolonial theory and the formation of the state as a continuity-in-change process instead of a clean institutional rupture. Part two examines the background of colonial institutions on which independent India was formed. The third section evaluates the constitutional settlement of 1950 as an institutional change. In the fourth section, the paper looks at the democratic consolidation within the first decade of independence. There is a reflection on the long-lasting presence of colonial legacies on the Indian governance system.

Colonial Legacies and State Formation

Any effort to comprehend the construction of the Indian postcolonial state should start with a theoretical account of reckoning with colonialism, as it is not merely a system of economic extraction, but a form of institutional domination that reorganised the societies that it controlled. Following Frantz Fanon in his seminal work *The Wretched of the Earth*, colonialism was a Manichaean order, the order that split the world into settlers and the natives, set hierarchies of administration, law, and knowledge that were implanted deep into the social structure (Fanon, 1963, p. 70). Decolonisation, as perceived by Fanon, is a psychological, institutional break, a need to reconstitute the self and the state since their very beginning.

However, the structural problem that Fanon was faced with in his demand for radical rupture was that the institutions by which a new state must rule have been formed by colonialism: bureaucracies, courts, legislative bodies, territorial frontiers. This is the very entanglement that Robert Young (2003) has observed that postcolonial theory is interested in. It is an attempt to cognise how even after real independence, the politics, culture, and governance of a region remain influenced by the legacies of colonial power. The postcolonial state is never just the one that follows colonialism but is in some way being influenced by it.

The description of modern bureaucracy by Max Weber can be viewed as a complement. According to Weber, rationalisation of authority, the processes of organising it into legal-bureaucratic forms of rule by written law and professional knowledge, was a characteristic of successful statehood (Weber, 1946, pp. 329-336). More importantly, the systems once in place are highly path-dependent: once they are there, they are maintained even at a change of regime since they supply the administrative structure without which there is no governance possible. This Weberian meaning of bureaucracies is that they established institutional facts that could not be merely wished out of existence by newly independent states.

This observation has been nurtured by theorists of comparative politics and postcolonial history. Kaviraj (2010) has attempted to suggest that the Indian nation never existed, but was, in some measure, created by colonialism: the experience of administrative categories, census categories, and written legal codes gave the form of the very conceptual language with the help of which Indian nationalists were able to formulate demands of self-determination. Similarly, in a connected manner, the story of nationalism that Benedict Anderson (1983) narrates, highlights the service of print capitalism and administrative maps as tools of colonialism in facilitating the visualisation of a unified community of people. On this reading, the Indian nation was a partially unwanted by-product of colonial modernity.

The conceptual implication of this is that decolonisation in India cannot be viewed as the restoration of some pre-colonial authenticity but should be viewed as a selective and challenging use of colonial institutional forms to new political ends. The postcolonial state did not receive an unbiased administrative toolkit. It received the institutions filled with relationships of power, which had to be changed, not renamed. What remained untouched by that transformation, as well as how it was accomplished, is the analytical puzzle that this paper is seeking to answer.

Foundations of State Institutions in India.

In order to understand the institutional structure that independent India inherited, one needs to follow the institutional framework that British colonialism came to build during the last two centuries. Instead of ruling India by ad hoc arrangements, the British Raj had created an elaborate and sustainable system of administrative, legal, and legislative systems, which, ironically, laid the groundwork on which would later come a democratic republic.

Colonial administrative and legal frameworks

One of the most far-reaching legacies of British rule in terms of institutions was the Indian Civil Service (ICS), which was founded in its modern form in the middle of the nineteenth century and later subjected to a competitive test. The ICS was created based on a few cadres of well-trained generalist administrators to ensure law and order, raise revenues, and administer justice within a large and diverse territory. Its working ethos was hierarchical discipline, rule compliance, and political neutrality, the features which Weber (1946) defined as the features of rational-legal bureaucracy. According to Guha (2007), the ICS, despite being a tool of colonial rule, established an administrative culture and a system of institutional practices, which, in the opinion of the nationalist leadership, were essential to this task of ruling a new continental-size state. Although Jawaharlal Nehru (the first Prime Minister of India) had his doubts regarding the class structure and colonial loyalty of the ICS, he never decided to break it down. Rather, it was reestablished as the Indian Administrative Service (IAS), which retained the generalist ethos and its examination-based recruitment process as well as its all-India nature, albeit subordinated to elected political power. This was, in miniature, the logic of transformation that characterised Indian state-building more generally.

The codified legal system of extraordinary scope was also left by British colonialism to India. A system of positive law, law made by one body and administered by a system of professional courts, transformed but not fully into customary and personal law by giving rise to the Indian Penal Code (1860), the Civil

Procedure Code, and a network of High Courts. Such legal infrastructure had the features of what Young (2003) refers to as the ambivalence of colonial modernity: it was not only an instrument of power, but it also provided the language with which people under its control could express rights and challenge power. To the framers of the Indian Constitution, the colonial legal inheritance was an asset as well as a liability. The constitutional judicial review, being an independent judiciary, and enforceable fundamental rights were both of British constitutional origin and American ancestry, but were superimposed on a system of legal institutions already known to Indian administrators and lawyers. The continuation was structural, but the content was changed to suit the democratic Indian setting.

Parliamentary system continuity and change

The evolution of the parliamentary system in India reflects a clear pattern of continuity alongside gradual change. The system of legislative councils was initiated, in stages, by the Indian Councils Acts of 1861 and 1892, and developed significantly by the Government of India Act, 1919, the Montagu-Chelmsford Reforms, and most decisively by the Government of India Act, 1935 (Basu, 2011, pp. 3-13). The 1935 Government of India Act, which is clear in the debates of the Constituent Assembly, was a major model in the framing of the Constitution of India. It came up with provincial autonomy, federalism whereby powers were shared between the central and the provinces, and a bicameral central government (Constituent Assembly Debates, 1946-1949, Vol. VII). By the time the Constituent Assembly convened in December 1946 to start working on the drafting of the Constitution, they were not inexperienced. A large number had served in provincial legislatures under the 1935 Act, had participated in the popular elections and had took part in parliamentary proceedings. The colonial legislature had in effect prepared the democratic politicians who would create a republican state. While the institutional structures remained, their purpose fundamentally changed.

Adoption of constitution after Independence

The institutional act of the postcolonial Indian state was the promulgation of the Constitution of India on 26 January 1950. It also was the clearest and most conscious instance of the transformation-rather-than-rejection logic which this paper claims typified Indian state-building. The Constitution was not created in an institutional vacuum. It was a conscious process of adaptation, which appealed to the colonial tradition, to comparative constitutional ways of governing, to the nationalist ideal of a sovereign, democratic, and secular republic.

The Constituent Assembly and the process of drafting

Formal independence came with the Constituent Assembly meeting in December 1946, based on its own structure, also based on the Cabinet Mission Plan of that year. It was not universally elected through adult franchise, but its membership was based on the provincial assemblies, which were constituted with references to the Government of India Act, 1935— another sign that shows its continuity in institutions. In the view of deliberations in the monumental Constituent Assembly Debates, a highly developed interest in the colonial legacy can be seen as well as a nationalist ambition (Constituent Assembly Debates, 1946-1949). A process that has also been interpreted as a deeply participatory and contested democratic exercise (De & Shani, 2025). The proceedings were predetermined by the ideological tone of the Objectives Resolution of December 1946 presented by Jawaharlal Nehru. It declared India as a sovereign, independent republic where all authority was of the people and that guaranteed the basic rights of all citizens and that the new state was dedicated to justice, social, economic, and political (Constituent Assembly Debates, 1946-1949, Vol. I). The Resolution was not a judicial but a programmatic document, which placed the normative framework in which inherited institutions were re-tooled. The chairman of the Drafting Committee was B. R. Ambedkar, who relied extensively on the Government of India Act, 1935 in the drafting of the structural features of the Constitution, the separation of legislative power, the provisions on emergency, and the model of central-provincial relationships. Which was largely presented in the Constitution, as he himself admitted in the Assembly, had colonial precedents. What changed these antecedents was that they were incorporated into a system of basic rights, directive principles, and political accountability of which the colonial state had not even considered (Constituent Assembly Debates, 1946-1949, Vol. XI).

In January 1946, pre-formal independence, the Constituent Assembly met, based on a structure based on the Cabinet Mission Plan of 1946. It was not an institution which was universally elected by the adult franchise, but the membership was based on the provincial assemblies created under the Government of India Act, 1935, another sign of continuity as an institution. The discussions of the Assembly which have been published in the monumental Constituent Assembly Debates demonstrate an advanced contact with both the colonial legacy and the nationalist desire (Constituent Assembly Debates, 1946-1949). The ideological colouring of proceedings was determined by the Objectives Resolution of December 1946 prepared by Jawaharlal Nehru. It declared India to be an independent sovereign republic where all authority was vested in the people, rights of the people were ensured and the new state was committed to justice, social, economic and political (Constituent Assembly Debates, 1946-1949, Vol. I). The Resolution was programmatic and not juridical but it laid down the normative framework within which inherited institutions would be remodelled. The structural provisions of the Constitution, i.e. the division

of legislative powers, the emergency provisions, the central-provincial relations, were mostly borrowed by the chairman of the Drafting Committee, B.R. Ambedkar, from the Government of India Act, 1935. Most of what he admitted in the Assembly had a colonial precedent in the Constitution. The difference between these antecedents, however, was the fact that they were incorporated into a system of basic rights, guiding principles and democratic accountability that the colonial state never thought of (Constituent Assembly Debates, 1946-1949, Vol. XI).

Federal structure and continuity in bureaucracy

The fact that the Constitution was modelled along Westminster-style parliamentary system, was no mistake. The parliamentary procedure with the colonial legislative councils had decades of experience with the Indian nationalist leadership. Parliamentary democracy did not just provide a known form of institution but also a political responsibility system that was very well adapted to the need for popular legitimacy that any post-colonial state had to face. The decision by the framers to have the parliamentary system of government instead of the presidential system to ensure checks and balances (Guha, 2007).

The federal form of the Constitution, splitting legislative and executive powers between the Union and the states by three lists (Union, State, and Concurrent), is also heavily based on the structure of the 1935 Act, but with a greater centre of power. Kaviraj (2010) has also stated that this centralising tendency was informed by the experience of Partition and the necessity to have a powerful centre that would handle the centrifugal forces of India that were seen to be extraordinary in terms of diversity. In this regard, federalism was a tool of national integration as well as a means of assuring regional independence.

One of the most far-reaching institutional decisions of the early republic was the decision to keep the all-India services, which included the IAS, the Indian Police Service, and others, as an everlasting meritocratically recruited corps of civil servants. Article 312 of the Indian Constitution ensured the continuation of these services and subjected them to the joint control of the Union and the States and secured them by constitutional shields against interference on partisan political lines in their conditions of service. This was a typical example of Weberian rationalisation put into the service of democracy. The same bureaucracy that governed colonial India remained, and its political lords and masters were now elected by a free and independent people. The IAS officer had the same administrative role as the ICS collector; but the power whereby that role was given its validity was democratic, not imperial. The political power was changed; the institutional form did not suffer a change.

Democratic Consolidation in the First Decade

The institutional decisions of India were tried not during the drafting of the Constitution but during its implementation. The initial ten years of independence, between the general elections of 1952 and the death of Nehru in 1964, were ten years of democratic consolidation during which the institutional structure established in 1950 revealed its ability to cope with the unprecedented demands of the huge and diverse polity, the majority of which were poor.

First general elections and conflict absorption

The initial general elections of 1951-1952 were an impressive democratic institution-building exercise by any standard. The number of citizens eligible to vote, the vast majority being illiterate, amounted to some 173 million persons, and about half of them voted. An independent Election Commission, created under Article 324 of the Constitution, conducted the election. It was in charge of the logistics of polling in a subcontinent of bewildering complexity (Guha, 2007). The effective manner in which the elections were conducted proved that even when democratic institutions, which had been imported into a colonial context and restructured to suit popular sovereignty, the institutions could work under circumstances which most modern observers considered hostile to democracy.

The elections also saw the Indian National Congress become the political powerhouse in the new republic, a powerhouse that it would carry on well into the 1960s. A powerful example of such a democracy is the influential analysis of the ‘congress system’ by Rajni Kothari, who emphasises that such a domination was not one-party authoritarianism but a very specific form of democratic accommodation (Kothari, 1964). The Congress was not an ideologically minded disciplined party but rather a large umbrella coalition, a party of consensus, which took assorted social interests, regional identities, and ideological leanings under one organisational roof. It was a political tool that was most appropriate in keeping tensions of a plural society that were going on in the initial years of independence.

The analysis of the system of Congress as presented by Kothari (1964) identifies another more fundamental aspect of Indian democratic consolidation: that political institutions are able to absorb and redirect social conflict instead of repressing it. This was available not through some special ideological concurrence but through the institutional architecture *per se*, through competitive elections, parliamentary representation, judicial review, a free press, and a federal system, which opened up numerous areas of political contention. Kaviraj (2010) provides an alternative explanation, claiming that the Indian state was able to cope with diversity, because of creating a type of political modernity that was not an imitation of

the European nation-state, but a hybrid that used both of the traditions. It is a postcolonial assemblage, fashioned out of the tools of colonial modernity, but with an opposite political agenda that was the imaginary of the Indian nation, which was united by the collective desire to achieve democracy, development, and social justice.

The magisterial narrative of the early decades of independence in India by Guha (2007) focuses on the importance of individual political agency in the process of Indian independence. The fact that Nehru personally adhered to the principle of democracy, did not exercise emergency powers in the state of clear crises, and was willing to tolerate opposition in the Congress, as well as in the legislative body, played a major role in the establishment of the democratic culture at a time when the institutional underpinnings of democracy were still weak. In this interpretation, democratic organisations need more than merely structural requirements: they need political leaders.

Managing diversity through federalism

The decades that followed independence were faced by the Indian state with intense pressures that came up due to linguistic, regional, and caste-based identities. The restructuring of interstate borders along linguistic lines, a recommendation of the States Reorganisation Commission, which happened in 1956, was a critical trial of the federal model. Instead of repressing linguistic nationalism in favour of national unity, the state absorbed it into the constitution by redefining internal boundaries in such a way that states were formed that in rough terms reflected the major linguistic communities (Guha, 2007).

Such a choice reflected the pragmatic reasoning of Indian state-building. Imperial convenience had made the colonial state create administrative boundaries without much consideration of linguistic or cultural geography. The redrawing of the boundaries to the post-colonial state was to reflect the social realities of the national community. The content of the institutional form, which was a federal system of internally self-governing states, was carried over into the colonial system; its form was adjusted to democratic legitimacy and national integration.

Conclusion

Thus, the making of the Indian postcolonial state was characterised not by rejection of colonial institutions, but rather by their transformation. India gained a completely developed administrative, legal, and legislative system at independence, which could not be merely scrapped away. Rather, these structures were deliberately redesigned to support the agenda of democratic governance. The central figure in this process was the Constituent Assembly, which redesigned the colonial institutional forms

into a constitutional structure based on popular sovereignty, rights, and accountability. This approach proved to be strong in the first decade of independence. Institutions were found to be able to contain diversity-induced challenges, implement large-scale democratic practices, and deal with social and political pressures without making the system unstable. The legacy of colonialism did not fade away; however, it was transformed. The process of the replacement of the empire with the nation-state was a complicated process of institutional adjustment. This transformation is the backbone of the independent Indian state.

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