Dilemmas of Democratic Deepening in India: Notes from two North Indian states*

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Abstract

The political assertion by subalterns (specifically lower and backward castes) that India witnessed from the 1990s onwards, and the formation of governments by parties representing these groups in Uttar Pradesh and Bihar, two electorally critical North Indian states, contributed significantly to the deepening of India's democracy. But these lower caste governments met with vehement resistance from privileged strata, and from a section of state actors themselves, in particular, the bureaucracy. These governments adopted a range of strategies to counter this resistance in turn, which had the effect of bringing the procedural and substantive elements of democracy into sharp conflict. The project of lower and backward caste empowerment was defined by a politics of levelling, which placed great value on instantly visible egalitarian outcomes, even when these could only be achieved by denting the rule of law and weakening public institutions. But it was precisely on account of its ability to deliver instant egalitarian fixes (albeit on an ad-hoc and sporadic basis) that this politics commanded so much legitimacy among subordinate groups. Drawing on ethnographic research conducted in Uttar Pradesh, and secondary literature on backward caste politics in Bihar, this article explores the consequences that this prioritizing of right outcomes over proper procedures had on public culture in North India. It argues that this prioritizing of consequences over means bred a widespread impatience with a procedural conception of democracy, which was seen as obstructing the modalities that went to secure justice in real life.

Introduction

This article analyses some specific dilemmas that the process of democratic deepening in India has thrown up for the theory and practice of democracy. The formation of governments by political parties representing subaltern strata, specifically lower and backward castes,[1] in the states of Uttar Pradesh (UP) and Bihar in North India several times from the 1990s onwards, and the entry of large numbers of representatives from these groups into the legislative assemblies of these states,[2] has contributed significantly to the process of democratization in this region. But these governments have encountered stiff resistance from some quarters, most notably, the bureaucracy, as they have sought to challenge various facets of upper caste dominance in public life. They have, in turn, responded to this bureaucratic obduracy in ways that have damaged public institutions, dented the rule of law, and brought the procedural and substantive elements of democracy into sharp conflict. Drawing on ethnographic research undertaken in UP and secondary literature on backward caste politics in Bihar, this article argues that the 'politics of levelling'—a key feature of lower and backward caste assertion in North India—has had the effect of undermining democratic procedures, weakening institutions, and even deprioritizing development, as it has sought to force through egalitarian outcomes in the face of bureaucratic resistance.

The empirical analysis of UP undertaken here draws on two rounds of fieldwork, conducted with an interval of ten years separating them, in September 2003–August 2004 and June 2014–March 2015. The fieldsites remained the same for the two phases of research. The following four

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[1] The term 'lower castes' refers to the formerly Untouchable castes, who have been designated 'Scheduled Castes' (SCs) by the Indian Constitution. SCs, who remain listed in a separate schedule of the Constitution, were made eligible for affirmative action benefits (reservation of jobs in the public sector and seats in state-funded educational institutions as well as in national and state legislatures) right from the time the Constitution came into effect in 1950. The term 'backward castes' refers to those groups that are located above SCs in the caste hierarchy, but who have also lagged behind. Backward castes are also referred to as 'Other Backward Classes' (OBCs) and have been awarded reservations on a national scale since 1990. I use the terms 'lower castes' and SCs interchangeably, and the terms 'backward castes', 'backwards', and OBCs interchangeably as well.

[2] The resulting change in the sociological profile of these legislatures is documented in Christophe Jaffrelot and Sanjay Kumar (eds), *Rise of the Plebeians? The Changing Face of Indian Legislative Assemblies* (New Delhi: Routledge, 2009).

districts were studied—Meerut and Muzaffarnagar in western UP and Jaunpur and Azamgarh in the east. Two fieldwork villages—one main and one subsidiary—were selected from each district. Interviews were conducted with lower and backward caste respondents, as well as respondents from upper caste groups resident in the fieldwork villages. Cadres of the Bahujan Samaj Party (BSP), which successfully mobilized lower caste voters and ruled UP several times from 1993 onwards, were also interviewed. I interviewed cadres active in the fieldwork villages and in the party organization in the four districts. Interviews were conducted with selected officials in the district administration and in the *tehsils* (district subdivisions) within which the fieldwork villages were located.[3] For the discussion on Bihar, the second North Indian state analysed here, and the politics of the Rashtriya Janata Dal (RJD), a Bihar-based party that offered a platform to backward castes, I rely primarily on Jeffrey Witsoe's excellent study of backward caste politics in the state.[4]

The article has five sections, organized as follows. The first section argues that India's post-colonial democracy is marked by some contradictions which arise from the uneven pace at which the representative and non-representative arms of the state have democratized. The seeds of this imbalance were sown by the compulsions and strategies of colonial rule. The tension between the representative and non-representative realms remained latent in North India in the first few decades following Independence, but became sharply manifest in the 1990s, when lower caste parties formed governments in UP and Bihar. In both these states, the non-elected, administrative arm of the state had little subaltern representation and was unwilling to work towards empowering subaltern strata. A deadlock consequently ensued, which lower caste governments resolved through methods that have had grave consequences for the rule of law. Thus, it was the historically conditioned conflict between the bureaucratic and the elected domains of the state that explain why the deepening of representation engendered a crisis of procedures in North India.

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[3] In this article, I only cite interviews conducted in Jaunpur and Azamgarh districts. The names of the fieldwork villages have been altered to protect the identity of respondents. I refer to the main fieldwork village in Jaunpur as Dehri and to the subsidiary village as Dumri; and to the main village in Azamgarh as Baraipar, and to the subsidiary village as Sakatpur. Fieldwork in the subsidiary villages helped verify the findings emerging from fieldwork in the main.

[4] See Jeffrey Witsoe, *Democracy against Development: Lower-Caste Politics and Political Modernity in Postcolonial India* (Chicago and London: University of Chicago Press, 2013).

The second section discusses the idea of caste-based 'social justice', which has significantly shaped the theory and practice of democracy in India, and locates the rise of lower and backward caste parties in the context of the politics of social justice. These parties' central contribution lay in reversing the hierarchical patterns of mobilization that had hitherto been used to integrate subaltern groups within structures of electoral competition, most notably, by the Indian National Congress (henceforth the Congress Party, or the Congress). These parties also sought to correct the bias against lower castes that had pervaded state institutions thus far; significantly, however, they did not merely correct this bias, but also supplanted it with their own. But unlike the Congress, which had mouthed a discourse of neutrality while discriminating between different caste groups in practice, the caste-based parties refused to keep up with the pretence of equal and symmetrical treatment. This outright denigration of the norm of neutrality triggered a significant shift in popular thinking about 'power' and 'the state' in North India. For a vast swathe of ordinary people, it now appeared legitimate for the state to function, and for political power to be exercised, in the narrow interest of specific groups.

The third section draws on material gleaned from fieldwork to demonstrate the nature of the obstruction faced by successive BSP governments in UP from segments of the state. The state in UP was fragmented during BSP rule; the BSP was pitted against its own ally, the Bharatiya Janata Party (BJP), as well as the administration. This explained the difficulty BSP governments faced when attempting to deliver lasting policy gains to lower caste constituencies. It also explained why the BSP, and other lower and backward caste parties, found it necessary to court gangster-politicians, known as *bahubalis* in local parlance. The hold *bahubalis* exercised over the local state, through bribes and terror, allowed the parties to which they remained affiliated to bend the otherwise recalcitrant administration to their will. The resolute institutional obstruction routinely encountered by governments with social justice mandates, thus, helped to explain the influence *bahubalis* commanded in the realm of electoral politics.

The fourth section discusses RJD rule in Bihar and demonstrates how the compulsions of backward caste empowerment led to the shrinking of bureaucratic capacity and the deprioritization of development there. To the RJD, clipping the wings of the bureaucracy appeared the most effective way of stripping elite strata of their influence. The bureaucracy was staffed overwhelmingly by upper caste personnel and had systematically channelled resources to upper castes located outside the

state. As the vast majority of the resources at the disposal of the bureaucracy comprised funds earmarked for development, the RJD government decided to freeze those funds, which led to a developmental shutdown.

The concluding section argues that it was in the realm of public culture that the politics of caste-based levelling in North India had its most decisive impact. Following the onset of this politics, procedures came to be considered entirely dispensable when they obstructed the instant delivery of 'just' outcomes. Itself the handiwork of a few institutions, this culture went on to constrain some others, among them the judiciary and the Election Commission of India (ECI), tasked respectively with upholding the rule of law and the sanctity of electoral democracy. It was not the social justice parties alone that violated the rule of law in the electoral arena. However, the rationale driving the violations committed by these parties diverged in important ways from the rationale driving others, in particular, the Hindu nationalist BJP. The section discusses these divergences. It also argues that while the legacy of the colonial state shaped the functioning of the bureaucracy in UP and Bihar for many decades following Independence, this legacy was mitigated very early on in the South Indian states of Tamil Nadu and Kerala, where disadvantaged groups, capturing power in the 1950s and 1960s, made the administration more representative of lower and backward castes.

Colonial rule and the contradictions of post-colonial democracy

In an essay on the post-colonial state in India, Sudipta Kaviraj argues that the prefix 'post-colonial' indicates 'not the trivial fact that this state emerged after the colonial regime departed, but … that some of its characteristic features could not have arisen without the particular colonial history that went before'.[5] He further asserts that '[t]he entire story of the state for the half-century after Independence can be seen in terms of two apparently contradictory trends … that can be schematically regarded as the logic of bureaucracy and the logic of democracy', and that '[t]he antecedents of both these trends can be

[5] Sudipta Kaviraj, 'A State of Contradictions: The Post-Colonial State in India', in his *The Imaginary Institution of India* (Ranikhet: Permanent Black, 2012), pp. 210–33, at p. 212.

found in the history of colonial rule'.[6] This conflict between bureaucracy and democracy is precisely what came to mark the rule of the RJD in Bihar (discussed later) and what accompanied, more generally, the political ascendancy of lower and backward caste parties in North India.

While simultaneously continuing to be an instrument of repression, the colonial state in British India underwent some degree of democratization when representative institutions began to be slowly introduced from the early twentieth century onwards, spurred by a series of constitutional shifts that eventually led to a transfer of power to Indians in 1947.[7] The pressure exerted on the colonial administration by Indian nationalist elites proved instrumental in triggering this chain of events, with these elites being aided in no small part by the contradictions inherent in Britain's 'liberal imperialism'. As Kaviraj puts it:

The time of the greatest expansion and power of British colonialism in India coincided with the time when principles of modern liberalism were being established in British political culture … Liberal political theorists [in Britain] were arguing passionately against the substantial remnants of despotic power, and advocating dramatic expansion of citizens' freedom … In the colonial context, liberal writers were often at pains to oppose precisely such extensions of freedom to colonial subjects. Educated Indians by now had gained considerable fluency in the theoretical arguments of liberalism … They were quick to convert to universalist liberal doctrine and demand their instant extension to India.[8]

In the last election conducted in British India, the electorate had comprised just 14 per cent of the adult population. As such, when the Constitution adopted by the new Indian republic embraced universal adult suffrage, the extension of representation that resulted was radical and dramatic. In a country where the vast majority of people were illiterate, this move, moreover, had the potential to engender conflict between the masses and the elites ensconced within representative institutions, who had very little in common with ordinary voters. As it happened, North India did not witness any such conflict in the early post-Independence period, partly on account of the long-standing habits of deference that a caste society had bred among subaltern groups.[9] It was not until the 1970s that backward castes began to mobilize against

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[6] Ibid., pp. 222–3.
[7] Ibid., p. 221.
[8] Ibid., p. 220.
[9] Ibid., pp. 225–6.

upper caste dominance, and only in the 1990s that lower and backward caste parties came to form governments on a regular basis in UP and Bihar.

The state that emerged following the attainment of Independence in 1947, however, bore the imprint not only of the Indian nationalist movement but also of the colonial state that preceded it; it was precisely in this sense that its inheritance was contradictory. The coercive apparatuses of the colonial state—the police and the bureaucracy—survived more or less intact in post-Independence India, despite the Congress (which led the nationalist agitation and formed independent India's first government) having promised to reform them. This was mainly on account of the bloodshed and mayhem that accompanied the partition of British India and the birth of the new states of India and Pakistan. In such a political climate, clamping down on any centrifugal tendencies that could further emerge, and zealously protecting what was, at the time, a fragile unity, became a matter of utmost priority for the Congress leadership. This helped to buttress the logic for a strong and centralized state with considerable repressive capacity. Speaking of the bureaucracy specifically, however, it was the rationale of development more than any other that justified its remarkable expansion in the first few decades of the post-Independence period.[10]

Jawaharlal Nehru, India's first prime minister, and chief architect of the developmentalist ideology of the early years, firmly wedded development to redistributive concerns and identified the state as the best instrument for realizing this vision. State-managed development led to a massive extension of the bureaucracy and the public sector, which came to command vast economic resources in Nehru's time. However, the public sector enjoyed a relative decisional and managerial autonomy, and remained more or less insulated from the political process in this phase. Its influence, furthermore, was justified with reference to the arguments of distributive justice. 'If the state managed heavy industries, the argument went, existing inequalities of income would not increase; and it would also act against the concentration of resources in a few private hands.'[11]

The insulation from politics was, however, to wane rapidly following Nehru's demise in 1964. Under Indira Gandhi, Nehru's daughter and successor, who took over the leadership of the Congress and the central

[10] Ibid., p. 222.
[11] Ibid., p. 224.

government, ministers started interfering in the operation of public enterprises, which made for unproductive activity and inefficiency. Anxiety over inefficiency made managements dependent for their survival on political support; for providing this, the political class cynically extracted a price, namely, access to development funds, which they channelled for political ends.[12] In other instances, the spoils were divided between politicians and bureaucrats, with the latter being rewarded for facilitating illicit transfers. Over time, this quid pro quo that developed between bureaucrats in charge of the developmental state and elected representatives acquired a persistent and systemic character. Thus, 'the developmental state increasingly had little to do with realistic redistributive objectives, but became utterly dependent on a disingenuous use of that rhetoric',[13] which was invoked to spirit away public money into the pockets of state employees and their clients outside the state.

While economic liberalization provided some impetus for the dismantling of the development bureaucracy from the 1990s onwards, the restructuring of the state proceeded slowly and unevenly across sectors and regions in India. Thus, Akhil Gupta and Aradhana Sharma argue that liberalization had very little impact on sectors other than industry, finance, and high-end services. The small-scale sector, which employs a large number of workers, was hardly touched, and governments, without exception, continued to adopt welfare policies that targeted the agricultural sector and the rural poor. That liberalization did not bring about a sharp disruption in policy, particularly from the point of view of welfare, was not very surprising in a country where vast numbers of the electorate remained poor and were likely to vote out governments that accelerated reforms to an extent where they hurt those at the bottom of the pile. In a nutshell, then, the development bureaucracy continued to be relevant in some politically significant sectors of the economy and quite powerful in the North Indian states which, being poorer and more rural than those of the south, provided opportunities for it to loom much larger.[14]

It will be clear, then, how the logic of bureaucracy came to collide with the logic of democracy; the size, ethos, and culture of the development

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[12] Ibid., p. 225.

[13] Ibid.

[14] Akhil Gupta and Aradhana Sharma, 'Globalization and Postcolonial States', *Current Anthropology*, vol. 47, no. 2, 2006, pp. 277–307, at p. 280.

administration all militated against its serving ordinary citizens well. But there was one other factor—the sociology of the administration, whose contours took shape in the period of colonial rule—that facilitated this collision further. Much has been written about the efforts of the colonial state in British India to enumerate and classify colonial subjects. At the heart of the curiosity driving these efforts lay the institution of caste, identified early on as the singular marker of this society's 'otherness' and Oriental character.[15] Logistical considerations (that is, the need for enumerators to be familiar with local social structures and languages) meant that the enumerative exercise could proceed only with assistance from Indian officials; what was remarkable, however, was the colonial administration's specific reliance on Brahmans, who presided atop the caste hierarchy.

The reliance on Brahmans could, in part, be explained by the bias prevailing among some high-ranking British officials who privileged a Brahmanical mapping of the Indian social world. Foremost among them was H. H. Risley, census commissioner of India for the 1901 Census, who was also appointed director of ethnography in 1901.[16] As Nicholas Dirks argues, 'In retrospect, Risley's reliance on a Brahmanical sociology of knowledge is astounding … [H]e organized his entire understanding of caste structure and rank according to Brahmanical indices … [and came to rely on] the clerical Brahmanical opinion that permeated the middle echelons of colonial administration in the localities'.[17] But it was not just the worldview of officials like

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[15] Nicholas B. Dirks and Bernard S. Cohn provide two excellent accounts of the social mapping exercises undertaken by the colonial state in British India. See N. B. Dirks, *Castes of Mind: Colonialism and the Making of Modern India* (Princeton and Oxford: Princeton University Press, 2001), and B. S. Cohn, 'The Census, Social Structure and Objectification in South Asia', in his *An Anthropologist among the Historians and Other Essays* (Delhi: Oxford University Press, 1987), pp. 224–54.

[16] Another official was J. A. Baines, census commissioner for the 1891 Census. Baines and Risley argued against the view that caste was a system of occupational specialization. They believed race to be the basis of the caste system, and traced the origins of caste to the ancient colonization of India by the Aryans. A parallel thus emerged between Aryan and British colonialism, with racial difference coming to be 'seen as a … laudable basis for the genesis of an imperial social system based on separation …'. Given these beliefs, it was not surprising that Brahmans—who presided over the caste hierarchy and whose fair skin was attributed to their Aryan descent— were identified as the most reliable source of information on the caste order. See Dirks, *Castes of Mind*, p. 210.

[17] Ibid., p. 218.

Risley that accounted for the preponderance of Brahmans and other upper castes within the colonial bureaucracy. A broader, structural logic was also at work. Brahmans were priests and had access to scriptures, and were the most educated of all caste groups at the time of the advent of the British. This advantage allowed for an early mastery of the English language when it was introduced by the colonial administration, which facilitated an easy socialization into the values of colonial rule. Thus, Brahmans were recruited to clerical and administrative positions in the colonial state in large numbers. As Donald L. Horowitz puts it, it was 'the felt necessity of the Europeans to govern their vast territories with the aid of local people they found to be particularly capable. Ruling as they did with little manpower, all the colonial powers from time to time designated members of particular groups as their agents.'[18] This policy had severe repercussions. It bred resentment among the groups left out and, as the privileged community used its advantage of occupation to steadily accumulate socio-economic gains over time, an 'advanced-backward' dichotomy crystallized, which spilled over from the colonial phase into the post-colonial period, often triggering an aggressive politics of 'catching up' on the part of those groups that saw themselves as 'backward'.[19]

It was not merely the colonial, but also the post-colonial, state that saw upper castes entrenched in important administrative positions. Studies of the Indian Administrative Service (IAS),[20] which replaced the Indian Civil Service of British India, and from which post-Independence India draws its top-ranking bureaucrats, amply demonstrate this upper caste predominance. As per one study, which obtained data pertaining to 3,675 of the 4,284 officers who made up the IAS on 1 January 1985, 2,205 (60 per cent) of these officers belonged to the upper castes.[21] There were 1,218 Brahman officers alone, accounting for 33 per cent of

[18] Donald L. Horowitz, *Ethnic Groups in Conflict* (Berkeley and Los Angeles: University of California Press, 1985), p. 159.

[19] Horowitz argues that the 'advanced-backward' dichotomy triggered ethnic conflict across several post-colonial contexts. Ibid., pp. 147–228.

[20] The IAS is an all-India service. Its recruits are central government employees who are assigned to specific states, but who can also be deputed to other states and to the centre in Delhi.

[21] Santosh Goyal, 'Social Background of Officers in the Indian Administrative Service', in *Dominance and State Power in Modern India: Decline of a Social Order*, (eds) Francine R. Frankel and M. S. A. Rao (Delhi: Oxford University Press, 1993), Vol. I, pp. 425–33, at pp. 429–31. The term 'upper castes' refers to Brahmans, Kshatriyas (or Thakurs), Kayasths, and Vaishyas (or Baniyas).

the sample; the next largest upper caste group was the Kayasths, who numbered 431, accounting for 12 per cent.[22] The study further found that the affirmative action provisions of the Constitution, which granted Scheduled Castes (SCs or the formerly Untouchable castes) 15 per cent reservations in public sector jobs, had fallen far short of serious implementation in the IAS. '[T]hrough the early 1970s, vacancies were being carried over from one year to the next, that is, prescribed quotas were not being met', with data for 1978–9 indicating 'that only one-third of the posts reserved for Scheduled Castes … were being filled annually'.[23]

Studies of the IAS cadres of UP and Bihar, the two North Indian states of concern here, show these cadres to be sociologically skewed in much the same way as the IAS overall, which is not surprising, as state-level cadres are drawn from the national pool. Thus, Jeffrey Witsoe, on examining the Bihar cadre of the IAS in 2002, writes that of the 224 officers about whom he had information (there were 244 IAS officers in Bihar at the time), 143 (64 per cent) belonged to the upper castes. There were only 25 SC and 16 Other Backward Class (OBC) officers, making up 11 and 7 per cent of the pool respectively.[24] Likewise, Sebastiaan Maria van Gool, in his study of the bureaucracy in UP, found that of the 541 IAS officers making up the UP cadre in 1999, as many as 353 (65 per cent) came from upper caste backgrounds.[25]

State-level administrations in India do not consist only of IAS personnel; several posts therein are occupied by Provincial Civil Service (PCS) officials, who are recruited and employed by their respective state governments.[26] Nevertheless, IAS officers do end up manning the most important positions in India's civil bureaucracy. Available evidence further suggests that in UP, the top tiers of the PCS tend to be upper caste-heavy as well.[27] So, given this predominance of upper castes in

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[22] Ibid., pp. 429–30.

[23] Ibid., p. 426.

[24] Witsoe, *Democracy against Development*, pp. 84–5. Further, only seven IAS officers came from the OBC groups (Yadav and Kurmi) that were politically dominant in Bihar at the time. This highlighted the discrepancy between the caste profile of the legislature and that of the bureaucracy.

[25] Sebastiaan Maria van Gool, 'Untouchable Bureaucracy: Unrepresentative Bureaucracy in a North Indian State', PhD thesis, Leiden University, 2008, p. 135, fn. 143.

[26] In contrast to IAS officers, officers in the PCS serve in their home state alone.

[27] Thus, van Gool notes that '[b]etween 1984 and 1990, upper castes … predominated in all important Group 1 and 2 positions in the UP bureaucracy', which are distributed between IAS and PCS officers. They accounted for 'never less than two-thirds of

the bureaucracy overall, it is not surprising that the development administration in the post-Independence years functioned to the dictates of a distinct caste bias. In North India, this bias remained unchallenged all through the time that the Congress remained electorally dominant. This electoral dominance translated into the political dominance of landed, upper caste elites, who made up the party's leadership in the North Indian states. With upper castes commanding influence in both the political and administrative domains, collusion between upper caste representatives and bureaucrats followed, and development funds came to be siphoned off and steered to co-caste clients located outside the state.

The lower and backward caste parties that captured power in UP and Bihar in the 1990s disrupted this long-standing harmony between the political and administrative spheres. The bureaucratic obstruction these parties faced while in government forced them to resort to extra-legal means to push through redistributive outcomes, in a sporadic and uneven way. This had immense implications for the tone and tenor of India's post-colonial democracy and its political culture. It is telling that it was precisely at the moment when political representation deepened significantly in North India after decades of elite dominance that a severe setback occurred on the procedural front. This was a fallout of the imbalance that prevailed between the bureaucratic and the

principal secretaries and secretaries (the senior-most positions in government departments), 80 per cent of the heads of department, 72 per cent of special secretaries, 90 per cent of joint secretaries, 80 per cent of district magistrates, 75 per cent of deputy and under-secretaries, 84 per cent of class 1 secretariat officers and 79 per cent of section officers'. See van Gool, 'Untouchable Bureaucracy', pp. 134–5, fn. 143. However, SC representation in the PCS did increase between 1985 and 1996; the percentage of SC employees in Group A, B, C, and D jobs in 1996 stood at 9, 10.9, 16.4, and 20.6 per cent respectively, in contrast to 6.8, 7.5, 13.6 and 17.8 per cent in 1985. See van Gool, 'Untouchable Bureaucracy', p. 133, Table 2. This is probably because of the priority given to the implementation of SC quotas by the BSP, which ruled UP twice in coalition in the early 1990s. Given that the BSP ruled twice more in coalition between 1996 and 2003, and on its own in 2007–12, SC presence in the PCS may have risen still further. Likewise, the 27 per cent OBC quota that came into force in 1990 was zealously implemented by the Samajwadi Party (SP), which catered to backward castes, when it governed UP, in coalition in 1993–95 and on its own in 2012–17. Yadavs, the OBC community that formed the SP's base, were accorded preferential treatment by the party in the filling of reserved posts, and there were innumerable media reports alluding to 'Yadav raj'. However, with no available recent study of the PCS in UP that tracks any changes that may have occurred in its caste profile over the last 20 years, there is no hard data confirming that the service now accommodates more lower and backward castes.

representative arms of the state vis-à-vis the extent of democratization they had each undergone.

In the last phase of colonial rule, the colonial state had been marked by an imbalance of a somewhat parallel nature. The nationalist leadership, breaking the hold of race as a factor that determined eligibility to govern, had forced the colonial administration to allow Indians a say, albeit limited, in the matter of their own rule. But the bureaucratic apparatus of the colonial state had continued to be governed by an ethos that was much less egalitarian and which saw in caste status a reliable measure of worth. This tension, spilling over to the post-colonial state, ripened fully and came to a head in the 1990s in North India, when the politics of lower caste assertion and its electoral manifestations meant that it could be contained no further.

Lower and backward caste parties and the politics of 'social justice'

The idea of 'social justice' is an integral component of the vocabulary of democratization in India. It is associated with an ethical-political project that took shape in the run-up to the achievement of Independence and in the course of drafting the Indian Constitution, several of whose provisions gave it tangible form. This project sees communities (rather than individuals) as units between which parity must be achieved and defines these communities in terms of caste. The initial thrust of the project was to address the disparities arising from historically accumulated injustices and from the practice of 'Untouchability', in particular. It was this rationale that underpinned the affirmative action provisions for SCs, or former Untouchables, that the Constitution laid down, and which came into effect at the founding moment of the republic.[28] Much later, in 1990, the project of social justice broadened to address the wider problem of 'backwardness'; social justice provisions now came to target a plethora of lower castes who were located above SCs in the caste hierarchy and who had, despite not enduring the practice of Untouchability, lagged behind—economically, socially, and educationally—and who came to be referred to as the 'Other Backward Classes' (OBCs) or, simply, 'backward castes'. Unlike SCs, OBCs were not identified purely on the basis of caste criteria, but socio-economic

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[28] For the benefits that affirmative action provides, see fn. 1.

criteria as well; however, it was well-recognized that caste served, in most cases, as an effective measure of backwardness.

It is worth noting that the OBC category has long had a constitutional life in India. Using the term 'other backward classes' to refer to these groups, the Constitution that came into force on 26 January 1950 recommended in Article 340 that the president of India appoint a commission that would both investigate their condition and propose measures to ameliorate their backwardness.[29] However, it was only following the implementation of the recommendations of the second Backward Classes Commission (also known as the Mandal Commission) by V. P. Singh's National Front government in 1990 that the OBC category came alive politically and administratively nationwide.[30] The Mandal Commission recommended that, over and above the 22.5 per cent reservations accorded to SCs and Scheduled Tribes (STs)[31] taken together (15 per cent to SCs and 7.5 per cent to STs), OBCs should be accorded an additional quota of 27 per cent.

The implementation of this recommendation marked a watershed moment in Indian politics. It made for a remarkable broadening of the scope of state intervention in favour of social justice and unleashed a dynamic that paved the way for the electoral dominance of lower and backward caste parties in the critical North Indian states of UP and Bihar.[32] In UP, this dominance lasted from the early 1990s up to 2017, whereas Bihar saw backward caste parties rule up to 2005 and dominate alliances with upper caste parties for a good ten years after that. This

[29] Christophe Jaffrelot, 'The Rise of the Other Backward Classes in the Hindi Belt', *Journal of Asian Studies*, vol. 59, no. 1, 2000, pp. 86–108, at pp. 87–8.

[30] The first Backward Classes Commission, appointed in 1953, established 2,399 castes as being socially and educationally backward and in need of affirmative action. The Commission's report was rejected by Nehru's government, which objected to the use of caste as a criterion for identifying backwardness. The second Backward Classes Commission, appointed in 1979, also concluded that the OBCs were coterminous with lower castes. The Commission's report was ignored by successive Congress governments as they were worried that the implementation of its recommendations would alienate the party's upper caste base. It was not surprising that it was the National Front coalition, which included socialist parties, that finally implemented OBC quotas. Socialists in India believed that caste-based discrimination could not be eliminated by addressing material inequality and economic injustice alone. Ibid., pp. 88, 94.

[31] The Indian Constitution also schedules tribal communities and makes them eligible for affirmative action benefits.

[32] UP and Bihar are considered critical states electorally. UP sends 80 representatives to the Lok Sabha, the lower house of the Indian parliament, while Bihar sends 40. The Lok Sabha has 543 elected members in total.

spell proved critical to the empowerment of subaltern constituencies in both North Indian states. By provoking vehement opposition from upper caste groups, the central government's implementation of the OBC quota set the ground for a counter-mobilization of all communities benefiting from reservations, leading to an unprecedented polarization around forward caste identities, on the one hand, and backward and lower caste identities, on the other.

Within the umbrella category of the OBC, there was considerable socio-economic differentiation and hierarchy, with some backward caste groups (Yadavs and Kurmis) oppressing others. These divisions were further exacerbated by the politics of the Samajwadi Party (SP) in UP and the RJD in Bihar. These parties, which came to power several times over the next two decades, while seeking to mobilize all OBCs, ended up privileging Yadavs. Nevertheless, coming before this phase, the moment of the early 1990s saw a consolidated and overarching OBC identity crystallize. Likewise, the fractures among SCs—particularly the divide between Chamars (who were the most economically advanced and politically conscious) and other lower castes—were subsumed within a solidarity that developed at this time and which bound together SCs in reaction to the backlash against quotas. With consolidated SC and OBC identities emerging, and both groups mobilizing against a common upper caste enemy, it became impossible for any party to hold together an alliance embracing backward and forward castes in the early 1990s. This severely affected the fortunes of the Congress, which had depended, right up to the 1980s, on a coalition of SCs, Muslims, and upper castes to win elections in UP and Bihar.[33]

In UP, the BJP now emerged as the representative of upper castes, the constituency threatened by reservations, while the SP and the BSP emerged as the champions of quotas, and as electoral platforms for

[33] The legitimacy it earned from having led the national movement allowed the Congress to rule unchallenged in many Indian states for the first few decades of the post-Independence period. It ruled UP more or less continuously up to 1989, with the Janata Party being in power once from June 1977 to February 1980, and the Bharatiya Kranti Dal ruling the state twice, in 1967–68, and again in 1970. In Bihar too, Congress rule was broken by the Janata Party, which governed from June 1977 to February 1980; earlier, the Janata Kranti Dal and the Socialist Party had ruled in 1967–68 and 1970–71 respectively. In both UP and Bihar, it was parties with socialist orientations, representing backward castes, that ousted the Congress for short periods in the 1960s and 1970s.

OBCs and SCs respectively, with the Muslim vote divided between them. With its base taken away and split between these three parties, the Congress was now set for a decimation, which turned out to be so thorough that it has not once succeeded in governing since.[34] The SP and the BSP emerged as the two principal ruling parties, though the BSP shared power with the BJP three times over the period 1995–2003, exercising considerable influence within the coalition. Indeed, the run of the social justice parties remained uninterrupted in UP until 2017, with the BJP capturing a decisive majority in the state assembly election held that year.

In Bihar, 1990 marked the beginning of 15 years of rule by a backward caste platform whose core base comprised Yadavs (a numerically and economically predominant backward caste), but which also attracted Muslims, and had at its helm a charismatic politician, Lalu Prasad Yadav. Lalu Yadav initially headed a Janata Dal (JD) government, but in 1997, in response to a challenge from senior party leaders, split the JD, forming his own party, the RJD, which ruled Bihar up to 2005.

Both UP and Bihar had seen backward caste parties challenge the dominance of the Congress and rule briefly in the 1960s and 1970s.[35] But the backward caste politics of that phase failed to disrupt the networks of vertical mobilization deployed by the Congress, which returned to power soon after. It was precisely its vertical mobilization capabilities that had allowed the Congress to project itself as an umbrella party while catering to upper castes for the first four decades of the post-Independence period. It had integrated lower castes (and, initially, backward castes as well) into political structures dominated by upper castes by making clever use of the feudal relations still prevailing in agriculture, and of the material dependence of low caste groups (most of whom were landless agricultural labour) on the high caste ex-tenants of the zamindars and *talukdars*[36]—a landed class

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[34] For a detailed account of the Congress's decimation, see Kanchan Chandra, 'Post-Congress Politics in Uttar Pradesh: The Ethnification of the Party System and its Consequences', in *Indian Politics and the 1998 Election: Regionalism, Hindutva and the State*, (eds) Ramashray Ray and Paul Wallace (New Delhi: Sage, 1999), pp. 55–104.

[35] See fn. 33.

[36] Zamindars and *talukdars* were the two classes of tax-collecting intermediaries, placed between the cultivator and the state, that the British established in the United Provinces, from which the state of UP was formed. Both classes were eliminated by Zamindari Abolition, undertaken by the Indian government in the 1950s, following which cultivators established direct contact with the state. There was one class of cultivators who were also tenants. Of this class, occupancy tenants particularly benefited from

firmly affiliated to the party. By leveraging agrarian relations of domination and subordination in this way, the Congress was able to mobilize the low caste poor without offering them political representation or leadership benefits. As Paul R. Brass argues in his 1960s study of the UP Congress, the party's electoral support in the state was far wider than its leadership, with SCs being its most reliable constituency.[37]

The politics of vertical mobilization thus drew sustenance from a skewed distribution of material power in the countryside, and the disproportionate political influence this allowed landed upper castes to exercise. But in the 1960s and 1970s, economic power began shifting down the ladder of caste and class, and flowing into the ranks of the middle peasantry, most of whom were backward castes. Freed from the shackles that had tied them to the landowning strata from which the Congress drew its leadership, these newly empowered groups abandoned the party now. Land reforms and the Green Revolution worked in tandem to effect this democratization. In UP and Bihar, despite doing little for those at the bottom of the agrarian class structure, land reforms enabled a large class of former tenants to become peasant-proprietors. Since most tenants came from backward caste communities, this undermined the power of upper castes, who made up the majority of the old landowning class. The Green Revolution was associated with 'the introduction of high-yielding seeds between 1965 and 1966' and 'the development of irrigation and the use of chemical fertilizers'. It thus 'served the interests of those among the landowners who had some investment capacity' and helped the relatively better-off sections of the middle peasantry achieve economic ascendancy in the countryside.[38]

For the landless SC poor though, it was the processes of industrialization and urbanization that—by bringing them alternative employment opportunities—allowed them to sever economic ties with landed groups and bypass their political control.[39] But the critical factor

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Zamindari Abolition, which upgraded their status to that of landowners. The reference here is to this category of landowners. See Paul R. Brass, *Factional Politics in an Indian State: The Congress Party in Uttar Pradesh* (Berkeley: University of California Press, 1965), pp. 11, 229.

[37] Ibid., p. 230.

[38] Jaffrelot, 'The Rise of the Other Backward Classes', p. 91.

[39] Sohini Guha, 'Ethnic Parties, Material Politics and the Ethnic Poor: The Bahujan Samaj Party in North India', PhD thesis, McGill University, 2008, pp. 116–20.

driving the breakdown of vertical networks and the forging of horizontal solidarities, both for SCs and OBCs, was the implementation of the OBC quota in 1990. The upper caste hostility to reservations that erupted immediately afterwards helped forge a radical oppositional consciousness among subalterns that refused any truck with vote-bank politics. This consciousness was shaped in significant ways by lower and backward caste parties, for whom this moment presented a much-awaited opening. It would be pertinent to mention here a slogan coined by the early BSP: *vote hamara, raj tumhara/nahi chalega, nahi chalega* (our votes, your rule/this will not do, this will not do).[40] This was a pithy variation of the speech—constructed around the trope of a ballpoint pen—that Kanshi Ram, the BSP's founder, was known to deliver often. Producing the pen from his pocket with a flourish, atop rally platforms and before massive crowds, Kanshi Ram would argue that the cap represented the metaphorical 15 per cent—the upper castes—who, despite being in a minority, ruled the country, while the body of the pen represented the remaining 85 per cent—the subaltern masses—who had yet to become aware of their numerical strength and what it could accomplish for them.[41] The mobilizational discourses that began circulating in the 1990s exhorted voters to support only those parties that offered them representation, that is, awarded tickets to their co-ethnics, and that actually served the interests of their caste groups, rather than only promising to do so. The point of reference here was the vote-bank politics of the Congress variety, which had been committed to exactly the reverse.

I end this section by discussing how the electoral ascendancy of lower and backward caste parties transformed the grammar of politics in North India and affected popular understandings of 'power' and 'the state'. As Kanchan Chandra points out, these parties explicitly represented themselves as champions of the cause of particular ethnic groups to the exclusion of others, that is, they mobilized ethnic 'insider' groups by identifying and excluding ethnic 'outsiders'.[42] This refusal to

[40] Zoya Hasan, 'Representation and Redistribution: The New Lower Caste Politics in North India', in *Transforming India: Social and Political Dynamics of Democracy*, (eds) Francine R. Frankel, Zoya Hasan, Rajeev Bhargava and Balveer Arora (Delhi: Oxford University Press, 2000), pp. 146–75, at p. 155 (translation mine).

[41] Christophe Jaffrelot, *India's Silent Revolution: The Rise of the Low Castes in North Indian Politics* (New Delhi: Permanent Black, 2003), pp. 396–7.

[42] Kanchan Chandra, *Why Ethnic Parties Succeed: Patronage and Ethnic Head Counts in India* (Cambridge: Cambridge University Press, 2004), p. 3.

accommodate the ethnic 'other'—specifically, the caste 'other'—within one's party translated into a refusal to share the state with that 'other' as well when these parties captured power. The state thus came to be invested with a militant particularity; indeed, the whole point of capturing the state was to make it one's 'own' and stamp out its civic potential. This was not wholly different from how state power was exercised at the time of Congress rule. With upper castes then controlling the legislature, having long since established a grip over the bureaucracy, the state machinery was effectively under elite control. When Congress governments undertook to distribute welfare to the poor, it was with a view to putting a human face on a state committed to maintaining elite dominance over the long term. Even during the Congress's populist phase under Indira Gandhi, who bypassed local elites and established direct contact with the masses, and which saw welfare provisions for the rural poor increase, it was 'dominant landowning castes [who] remained in control of the institutions charged with implementing these [new welfare] measures, and the poor received whatever development resources were not siphoned off on the way down'.[43]

But the image of itself that the Congress sought to project made its politics quite different from those of the caste-based parties. The Congress took care to portray itself as a catch-all party that catered to constituencies across caste, class, and religion. Critical to this portrayal was a discourse of neutrality; party leaders were careful never to be seen as catering to any one constituency at the cost of another.[44] This discourse was at sharp variance with the Congress's actual functioning—its use of the strategy of vertical mobilization and discriminating between constituencies while in government. When the caste-based parties took the stage in the 1990s, they sought to supplant the bias that the Congress had injected into state institutions with their own. But in a marked departure from the Congress, these parties abandoned the pretence of neutrality; they were unapologetic about their claims to represent specific caste groups exclusively and their designs to deploy state power to damage the caste enemy. This change in the language of politics was remarkable and indicated a new normal. The divergence between discourse and practice that prevailed during

[43] Witsoe, *Democracy against Development*, pp. 48–9.
[44] The tactics the Congress adopted to portray itself as neutral are discussed in Chandra, 'Post-Congress Politics in Uttar Pradesh'.

the time of the Congress served, in a sense, to establish the discourse as the norm and the practice as deviation. Thus, neutrality and a civic ethos continued to be regarded as valuable, notwithstanding their betrayal in lived public life. But the caste-based parties, by vehemently disparaging these norms, legitimized the narrow and sectarian use of both power and the state to large sections of the public.

The shift in popular thinking that resulted left its mark on everyday political discourse. The SP and the BSP had alternated in power in UP over the period 1995–2017, which had fostered a rivalry between them. This rivalry spurred animosity between Yadavs, the backward caste that provided the SP with its core support, and Chamars, the SC community that formed the electoral base of the BSP. This animosity, apart from being driven by party competition, also had a material foundation. Chamars possessed no land and worked as agricultural labour on fields owned by upper castes (Brahmans and Thakurs) and OBCs (Yadavs and Kurmis, who owned the most land among backward groups). Thakurs and Yadavs, in particular, frequently harassed Chamars, and conflict erupted between them and Chamar labour over the issues of low wages, late payments, and molestation of Chamar women working on the fields. Much of this abuse was, however, curtailed by the BSP when it implemented the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act (in short, the SC/ST Act) upon coming to power. The Act, which made the harassment of SCs an offence punishable by law, had been passed by the parliament in 1989. But it had existed only on paper in UP up to the time Mayawati, the BSP chief minister, enforced its provisions—for the first time in 1997 and whenever the BSP formed the government subsequently.

The BSP's firm stance on the Act created a great deal of controversy, as it led to the imprisonment of Thakurs and Yadavs, who committed the most atrocities. However, there were also allegations that SCs were fabricating charges to harass other castes and benefiting from the financial compensation the Act provided to victims.[45] Consequently, one of the first changes to follow from the SP's assuming power after a spell of BSP rule was that SCs no longer succeeded in lodging complaints at will at police stations across UP. With the state changing hands and not willing to 'tolerate attempts to land Yadavs in trouble'

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[45] For a discussion of the politics of the SC/ST Act, see Guha, 'Ethnic Parties, Material Politics and the Ethnic Poor', pp. 91–2, 178–9, 193–4.

('*Yadavon ko phansane ka kaushish bardasht nahi karenge*'),[46] SCs now found themselves at the receiving end—with charges of harassment being reversed, those earlier imprisoned being set free, and the latter keen to demonstrate, to Chamars in particular, 'who was now boss' ('*ab kaun malik hai*').[47] The SP's lax enforcement of the SC/ST Act was, indeed, one reason why Thakurs preferred the SP to the BSP. It was also in the expectation that the BJP (which they took to be their party) would keep Mayawati from implementing the Act too zealously that Thakurs backed a BJP-BSP coalition in UP.[48]

There were several other instances where a decision taken by one government was immediately overturned by the other when the latter acceded to power. In each case, the decision in question was understood to have benefited a narrow constituency, at the cost of another, and the act of overturning served to injure the constituency earlier advantaged and benefit its enemy. There were two factors at work here. One was the decision of the party in power to align the state with its own supporters and make it work for them alone. The other was the public perception that this was good and right, and the expectation nurtured by each constituency that the state, when captured by the party that represented them, would be 'theirs'—a particularistic instrument shorn of all civic purpose. In such a climate, it was entirely fitting for Chamars in Dehri, my main fieldwork village in Jaunpur, to taunt Thakurs with the question, '*ab kya karoge?*' ('What will you do now?') when the BSP won a majority in the 2007 state assembly election.[49]

Reversing the upper caste bias of state institutions was, however, no easy task. In attempting to make the state serve subaltern groups, the biggest obstacles that lower caste parties faced were posed by the bureaucracy and, in the BSP's case, additionally by the BJP, its coalition partner. In the following two sections, with a focus on BSP rule in UP and JD/RJD rule in Bihar, I show how the resistance emanating from the bureaucratic-political nexus was sought to be countered through strategies that, while they succeeded in chipping away at elite privilege, jeopardized the procedural foundations of India's democracy.

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[46] Interview with the coordinator of the Azamgarh District Unit of the SP, Azamgarh, 6 July 2004 (translation mine).

[47] Interview with a Yadav respondent in Dehri, Jaunpur District, 16 May 2004 (translation mine).

[48] Guha, 'Ethnic Parties, Material Politics and the Ethnic Poor', pp. 91–2.

[49] Interview with a Thakur respondent in Dehri, Jaunpur District, 20 June 2014 (translation mine).

Bureaucratic resistance and the *bahubali* politician

The BSP's formation of a government in UP was, in each instance, followed by a large-scale transfer of senior bureaucrats and police officers. Mayawati—the Chamar leader who heads the BSP and was chief minister all four times the party ruled the state—transferred 62 IAS officers and 105 Indian Police Service (IPS)[50] officers during her first term as chief minister,[51] and 1,350 officers, drawn from across the IAS, the IPS, and the PCS, during her second.[52] She was widely understood to have undertaken these reshuffles, which placed SC officials in key bureaucratic posts, for symbolic reasons, in the expectation that it would make her SC base proud to have lower caste officers head prestigious departments. But interviews with BSP officials revealed that these administrative transfers were driven not merely by a symbolic logic, but also by a pragmatic one. Mayawati had correctly predicted that the policy efforts of her government were unlikely to succeed in the face of bureaucratic obstruction and had thus placed departments she considered key to her effective performance in the hands of lower caste officers, relying on transfers at the top to discipline the middle and lower rungs of the administration.[53] Apart from carrying out actual transfers, she also resorted to the threat of transfers and made unannounced visits to the districts to tame a recalcitrant bureaucracy.[54]

That the administration in UP was indeed recalcitrant is borne out by the account, drawn from my fieldwork, that I provide here, which illustrates the attempts it made to sabotage government policy in three distinct spheres. The first pertained to the Ambedkar Village Programme (AVP),[55] the BSP's flagship rural development effort that sought to develop infrastructure (build primary schools and link-roads

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[50] The IPS, like the IAS, is an elite, all-India service.

[51] Venkitesh Ramakrishnan, 'Cracks to the Fore', *Frontline*, 28 July 1995, p. 25.

[52] Hasan, 'Representation and Redistribution', p. 160.

[53] Interview with the coordinator of the Azamgarh District Unit of the BSP, Azamgarh, 2 August 2004.

[54] Mayawati's 'surprise' visits to the districts had the lower administration on tenterhooks. Several officials working in the district administration in my fieldsites mentioned these visits to me.

[55] The programme was named after B. R. Ambedkar, one of the leaders of the Indian national movement, who belonged to the formerly Untouchable Mahar caste. An eminent jurist, Ambedkar played a critical role in framing the Indian Constitution and securing the constitutional guarantee of affirmative action for SCs.

connecting SC hamlets to main roads) and provide basic amenities (potable water, toilets, drains, and electricity) to villages with large SC populations, with the SC segments being the primary beneficiaries. The AVP met with fierce disapproval from upper castes, as it tended to shift power relations in the selected villages to their disadvantage. With the construction of toilets and hand-pumps in SC quarters, SCs no longer needed to fetch water from upper caste hamlets or defecate on upper caste fields, which reduced opportunities for harassment and humiliation. The building of schools in SC neighbourhoods, again, saved SC children from having to walk through upper caste localities and, still more significantly, allowed for voting booths to be located in SC areas (primary schools in rural UP often serve as voting booths during elections), which lowered chances of 'booth capturing'[56] by dominant strata. The construction of link-roads, again, would often require individuals, usually from landed backgrounds, to vacate plots they had forcibly occupied and were cultivating illegally, which led to standoffs between SCs and upper castes in the countryside.[57]

In order to resist the AVP successfully, upper castes needed to enlist the support of officials within the district administration. This they succeeded in doing quite often; Thakurs in Jaunpur district would frequently be warned by their co-caste bureaucratic contacts that their village was about to be selected for the coming fiscal year, with this advance knowledge helping them deflect the programme elsewhere. In a telling instance that illuminated the networks binding upper castes located inside the state to those outside, the district magistrate[58] of Jaunpur, a Brahman by caste, when confronted by an irate Thakur who refused to vacate a plot to make way for a link-road, persuaded the man to cooperate, with the guarantee that he could resume cultivation elsewhere.[59]

The second BSP policy effort that the bureaucracy attempted to thwart related to the issue of land. On forming the government in 1995, and

[56] 'Booth capturing' refers to an electoral malpractice whereby voters are prevented from casting their votes at the polling booth and have their ballots stamped in favour of candidates they do not support.

[57] Interviews with Chamar and Thakur respondents in Dehri, Jaunpur District, 15–25 May 2004, and Dumri, Jaunpur District, 28–30 May 2004.

[58] Each Indian state has a number of administrative districts. A district administration is headed by a district magistrate.

[59] Interview with the coordinator of the Jaunpur District Unit of the BSP, Jaunpur, 2 May 2004.

again in 1997, Mayawati sought to enforce the possession of *gaon sabha*[60] plots that had been allotted to landless SCs by previous governments, but that they had failed to claim due to forcible occupation by landed castes. This effort faced overwhelming resistance, with dominant strata tapping their co-caste contacts in the land administration to evade being identified as transgressors. A close collusion between *patwaris* (officials responsible for maintaining village land records) and landed strata ensued, with the former falsifying records to protect the latter. On occasion, the middle tiers of the administration were involved as well. *Tehsildars* (who oversaw all revenue-related functions in the *tehsils* under their charge and who supervised the functioning of *patwaris*) were at times party to these conspiracies and guilty of doctoring data pertaining to enforcement.[61]

Nothing, however, compared to the uproar that ensued following the BSP's implementation of the SC/ST Act. This was the third programmatic component of BSP rule that evinced hostility, this time not just from the bureaucracy but also from the BJP, the BSP's three-time partner in government. The BJP's hostility had to do with the adverse consequences that the Act's enforcement had for upper castes. The unyielding stance Mayawati adopted on the issue of prosecution did away with the impunity with which dominant strata, and Thakurs in particular, had committed atrocities against SCs for so long. This, and the enhanced opportunities for strike action (to raise wages and secure better terms of work) that the Act's enforcement secured for low caste agricultural labour, made for a great deal of unhappiness among upper castes, who formed the BJP's base.[62]

Upper castes threw their weight behind a BSP-BJP coalition in 1997, calculating that the BJP would succeed in tempering Mayawati's zeal once she needed its support to govern. But this calculation failed and upper caste disenchantment with the BJP followed. It was in a desperate attempt to salvage upper caste support (particularly Thakur support, which showed signs of shifting to the SP) that Kalyan Singh—the BJP politician who succeeded Mayawati as leader of the governing

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[60] *Gaon sabha* land refers to village wastelands and arable non-holding land in the allocation of which landless SCs and STs are accorded the highest priority as a matter of government policy.

[61] Interviews with BSP cadres in Dehri, Jaunpur District, 14 May 2004, and the coordinator of the Azamgarh District Unit of the BSP, Azamgarh, 2 August 2004.

[62] Interviews with Thakur respondents in Dehri, Jaunpur District, 15–25 May 2004.

coalition[63]—sought to amend the working of the SC/ST Act upon assuming office. Singh issued a government order stipulating that an accused was not to be jailed while charges were being investigated and a plaintiff was not to receive money to help him fight the case in court. The BSP responded immediately, withdrawing support from the government.[64]

It will be evident from this account that the state in UP was badly fragmented during BSP rule. The fragmentation went beyond a simple political/administrative binary; with a BSP-BJP alliance in place three times, the political arm of the state was sharply fractured within. This divided state played a critical role in preventing a lower caste-dominated legislature from delivering substantive and lasting policy gains to lower caste constituencies. The bureaucracy in UP demonstrated a remarkable capacity to defy emerging representational logics and to resist the pressures that these generated. This defiance was aided by the biases prevailing in both the political establishment and society at large. The systemic resistance to the political ascendancy of SCs and OBCs, and the successful obstruction of policy initiatives aimed at empowering these groups, provides an important context against which to understand the phenomenon of the *bahubali*.

The Hindi term *bahubali* connotes physical strength and aggressive masculinity, and is used in North India to refer to a brand of politicians who are established criminals, with proven records of murders, kidnappings, extortion, smuggling, and the like. These figures, despite their several run-ins with the law, have no fear of the police and the administration, for two reasons. The first is the easy recourse to violence for which they are notorious, and their capacity to unleash it even as they remain lodged behind bars, by activating the criminal networks that they control, which has the effect of terrorizing government servants no less than ordinary citizens.[65] The second is their money power, drawn from the largely illegal businesses in which they remain

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[63] A power-sharing arrangement had been worked out, by which the chief minister's office would be held by the BSP for the first six months, by the BJP for the next six, and so on.

[64] Venkitesh Ramakrishnan, 'Divided they Rule', *Frontline*, 4 October 1997, available at https://frontline.thehindu.com/other/article30160152.ece, [accessed 28 August 2020].

[65] Thus, Mohammed Shahabuddin, a notorious criminal and RJD politician, ordered several murders from jail. See Kumar Anshuman, 'Mohammed Shahabuddin: The Jail Superintendent', *Open Magazine*, 26 May 2016, available at https://openthemagazine.com/features/india/mohammad-shahabuddin-the-jail-superintendent/, [accessed 28 August 2020].

involved, which they use to buy off a wide gamut of state agents—police officers, bureaucrats, judges, jail wardens, and officials overseeing the conduct of elections. It is precisely this hold that *bahubalis* exercise over state employees, through a combination of bribes and terror, that accounts for why parties representing SCs and OBCs are so eager to have them aboard their platforms. It allows these parties to circumvent, in part, the bureaucratic obstruction they typically encounter when channelling resources to subaltern groups. The BSP thus offered parliamentary and state assembly tickets to an entire spectrum of hardened criminals, with most of them emerging winners, often several times in a row. A few of these criminals were: Nafeez Kalia, Kadir Rana, and Yogesh Verma, operating out of Meerut, Muzaffarnagar and Saharanpur districts in western UP; and the brothers Afzal and Mukhtar Ansari, and Ramakant and Umakant Yadav, operating out of Azamgarh, Ghazipur, Mau and Jaunpur districts in the east.[66] The RJD in Bihar likewise inducted the following: Pappu Yadav, operating out of Purnea and Madhepura districts; Vinod Yadav, operating out of Bhagalpur district; Surendra Yadav, operating out of Gaya district; Mohammed Shahabuddin, operating out of Siwan district; Makhi Paswan, operating out of Khagaria district; and Mohammed Suleiman, operating out of Kishanganj district.[67]

Bahubalis from SC and OBC backgrounds typically leveraged their grip over the local state to empower lower castes and the poor, and damage the powerful. They invariably had a social justice component to their politics

[66] Aman Sethi, 'Rule of the Outlaw', *Frontline*, 30 December 2005, available at https://frontline.thehindu.com/static/html/fl2226/stories/20051230004301700.htm, [accessed 28 August 2020]; Arvind Singh Bisht, 'BSP Tops List in Fielding Candidates with Criminal Background', *Economic Times*, 26 March 2009, available at https://economictimes.indiatimes.com/bsp-tops-list-in-fielding-candidates-with-criminal-background/articleshow/4318186.cms?from=mdr, [accessed 28 August 2020]; and 'BSP Candidate Yogesh Verma "Leads from the Front" with 28 Criminal Cases', *Times of India*, 28 March 2019, available at https://timesofindia.indiatimes.com/elections/lok-sabha-elections-2019/uttar-pradesh/news/bsp-candidate-yogesh-verma-leads-from-the-front-with-28-criminal-cases/articleshow/68603896.cms, [accessed 28 August 2020].

[67] Tarique Anwar, 'The Gangs of Purnea: The Journey of Gangsters from Intimidation to Elections', *Firstpost*, 12 October 2015, available at https://www.firstpost.com/politics/the-gangs-of-purnea-the-journey-of-gangsters-from-intimidation-to-election-2465124.html, [accessed 28 August 2020]; 'Dreaded Bahubali from Bihar: All You Need to Know about Shahabuddin, the Don Who Made Siwan Tremble', *India Today*, 12 September 2016, available at https://www.indiatoday.in/fyi/story/mohammad-shahabuddin-criminal-record-bihar-siwan-all-you-need-to-know-340582-2016-09-12, [accessed 28 August 2020]; and Arvind N. Das, *The Republic of Bihar* (New Delhi: Penguin, 1992), p. 136.

and took on a Robin Hood persona in the constituencies they represented; it was precisely this element that aligned their functioning with the programmatic agenda of lower caste parties. These *bahubalis* empowered subaltern constituents by getting the bureaucracy to award them public sector jobs and lucrative government contracts, involving the construction of public infrastructure and housing. They also instructed the police to expressly pursue cases that involved upper caste offenders and SC and OBC victims, and bring the former to justice. But the *bahubali* idiom was not in any way circumscribed by the political parties to which *bahubalis* remained affiliated. Thus, *bahubalis* frequently held *jan durbars* (mass assemblies) where they addressed the concerns of constituents directly, settled local disputes through informal mechanisms that turned on their exercise of charismatic authority, and helped poor voters by distributing largesse from their own pockets.[68] In this sense, *bahubali* politics constituted an autonomous domain, marked by practices not expressly sanctioned by political parties and which exceeded the legal and institutional limits usually ordering the conduct of elected representatives in liberal democracies. It was symptomatic of this autonomy that the *bahubali* did not derive legitimacy from the political party; rather, it was to harness the legitimacy that adhered to his figure, prior to and independently of party affiliation, that the party wanted him on board. It was also this autonomy that allowed *bahubalis* to contest elections as independent candidates—and win.[69]

While we are concerned here with *bahubalis* from the lower and backward castes, and the logic underlying their affiliation with the social justice parties, it needs to be pointed out that not all *bahubalis* came from subaltern backgrounds and it was not SC and OBC parties alone that awarded them tickets. There were several *bahubalis* from the dominant castes who were courted and accommodated by parties across the spectrum, the Congress and the BJP included. Thus, in the last state assembly election held in UP in 2017, 137 out of 383 (36 per cent) BJP candidates and 36 out of 114 (32 per cent) Congress candidates had criminal cases pending against them. The figures for the BSP, the SP, and the Rashtriya Lok Dal (a state-based party with a base in western UP) were 150 out of 400 (38 per cent), 113 out of 307

[68] Amitanshu Verma, 'The Figure of "Bahubali": Politics, Criminality and Violence in Uttar Pradesh', MPhil thesis, Jawaharlal Nehru University, 2014, pp. 26–9.

[69] Ibid., pp. 29–31.

(37 per cent), and 56 out of 276 (20 per cent) respectively.[70] Likewise, in the last state assembly election held in Bihar in 2015, 95 out of 157 (61 per cent) BJP candidates and 23 out of 41 (56 per cent) Congress candidates had criminal cases pending. The figures for the RJD and the Janata Dal (United)[71] were 61 out of 101 (60 per cent) and 58 out of 101 (57 per cent) respectively.[72]

The question thus arises as to why it made sense for parties across the board to grant such a considerable number of nominations to criminal-politicians. *Bahubalis* generically, irrespective of caste background, contributed handsomely to party coffers and also financed their own campaigns. They further commanded resources—money and muscle, and hold over the local state—that bestowed on them a definite electoral edge. All of this gave them a clear advantage, across parties, in the competition for tickets. But when, upon being elected, *bahubalis* from dominant strata used their grip over the administration to channel benefits to co-caste constituents, they merely reinforced the ties that were already in place, connecting upper castes within the state to those outside it. The political logic driving the functioning of SC and OBC *bahubalis* was exactly the reverse. These figures sought to weaken the bureaucratic-societal nexus that had serviced dominant strata for decades; their success in this regard, consequently, had politically subversive effects.

I end this section by briefly describing the efforts made by the ECI (which administers parliamentary and state assembly elections and is

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[70] Association for Democratic Reforms (ADR), 'Uttar Pradesh Assembly Elections 2017 (Phase 1–7): Analysis of Criminal Background, Financial, Education, Gender and Other Details of Candidates', ADR, New Delhi, 2017, p. 8, available at https://adrindia.org/content/uttar-pradesh-assembly-elections-2017-phase-1-7-analysis-criminal-background-financial, [accessed 28 August 2020].

[71] The Janata Dal (JD) was formed in 1988 when the Janata Party merged with some smaller parties. In 1994, two members, George Fernandes and Nitish Kumar, quit the JD and formed the Samata Party. The JD split again in 1997 when Lalu Yadav quit and formed the RJD. In 1999, the JD decided to support the BJP-led National Democratic Alliance coalition at the centre. This move was opposed by Deve Gowda, a JD leader, who quit the party to form the Janata Dal (Secular). What remained of the JD was designated the Janata Dal (United), or JD(U). In 2003, the JD(U) was reconstituted following its merger with the Samata Party and other smaller parties.

[72] ADR, 'Bihar Assembly Elections 2015: Analysis of Criminal Background, Financial, Education, Gender and Other Details of Candidates', ADR, New Delhi, 2015, p. 4, available at https://adrindia.org/research-and-report/election-watch/state-assemblies/bihar/2015/analysis-criminal-and-financial-4, [accessed 28 August 2020].

responsible for upholding the sanctity of the electoral process) to address the entanglement between *bahubalis* and electoral politics. In what amounts to a substantial handicap, the ECI does not have the power to ban criminals from contesting elections; it can only make recommendations in this regard. Constrained thus, the ECI has sought to ensure that voters remain informed about the criminal antecedents of candidates; it has also sought to keep *bahubalis* from attempting to influence the outcomes of electoral contests. As I argue in the concluding section, the effort to keep voters informed has failed to achieve much in a context where many constituents vote for *bahubalis* precisely because they are criminals and in the full knowledge that they are so. On the other hand, the measures undertaken to keep *bahubalis* from bribing officials, intimidating voters, and capturing booths have had some impact, although it is only during the ECI's more proactive phases that these have been implemented with sufficient force. One such phase was in 1990–96, when the ECI, headed by T. N. Seshan,[73] took the following steps: staggered polling across several phases in every state, thereby allowing paramilitary forces from outside the state (who were available only in limited numbers) to be deployed for election duty, which made it difficult for candidates to buy off the law and order machinery and resort to booth capturing; placed people with criminal records in preventive detention on the day of the polls, which limited the number of associates *bahubalis* could mobilize; issued identity cards to voters, which sharply reduced the scope for 'bogus voting';[74] and transferred bureaucrats and police officers whom the ECI had reason to think were of doubtful integrity and in the pay of specific politicians and parties.[75] These measures produced results in the 1993 state assembly election in UP. The booth capturing count in this election fell to 255, from 873 in the 1991 state assembly election. The number of constituencies in which polling had to be suspended or deferred also came down—from 17 in 1991 to three in 1993, with the number for

[73] Seshan was the chief election commissioner (CEC) at the time. The ECI was headed by one official, the CEC, up to October 1993, when two additional election commissioners came to be appointed.

[74] 'Bogus voting' refers to an electoral malpractice whereby dead and absent voters have ballots cast in their name.

[75] Indo-Asian News Service, 'Former CEC T. N. Seshan: A No-Nonsense Man, He Cleaned up India's Electoral System', *India Today*, 11 November 2019, available at https://www.indiatoday.in/india/story/tn-seshan-no-nonsense-man-tn-seshan-cleaned-up-india-electoral-system-1617702-2019-11-11, [accessed 28 August 2020].

murders committed on polling day improving as well—down from 36 to three.[76] M. S. Gill, who succeeded Seshan as chief election commissioner (CEC), continued with several of his predecessor's practices and took the further step of 'transferring all district-level civil servants and police officers … who had been in their posts for four or more years' at the time of the announcement of polls.[77] It has to be said, however, that the ECI did not always succeed in countering the operations of criminal-politicians. This was not very surprising, given an environment in which almost all political parties found it convenient to award criminals tickets, and where many voters were attracted by those very attributes in candidates that derived directly from their criminality.

To tease out the implications that the operation of *bahubalis* from subaltern backgrounds had for the process of democratic transformation in India, it is important to recall the context in which the *bahubali* emerged as an instrument of levelling. This was one in which democratically elected governments with a social justice mandate had immense difficulty in getting regular institutional channels to translate that mandate into concrete policy outcomes. It was this institutional obstruction that compelled lower and backward caste parties to rely on gangster-politicians to force through a redistribution of resources, in those pockets where their criminal operations were based and their writ over the state ran. It was precisely because they were able to bring the local state to its knees, and force state officials to work for those subaltern groups they otherwise remained reluctant to serve, that *bahubalis* commanded so much legitimacy among lower caste voters. Remarkably, this legitimacy accrued to them despite their unabashed flouting of the law and practically every procedural norm governing democratic politics. *This pointed to the growth of a public culture in North India that valued right consequences, or outcomes, over correct procedures, or means—that was impatient, in other words, with a procedural conception of democracy that could not accommodate the modalities that went to secure justice in real life.* But this attrition of procedural sanctity could not be simplistically traced to the onset of SC and OBC assertion in the 1990s. Its triggers went further back in history, to India's colonial

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[76] Ibid.

[77] E. Sridharan and Milan Vaishnav, 'Election Commission of India', in *Rethinking Public Institutions in India*, (eds) Devesh Kapur, Pratap Bhanu Mehta and Milan Vaishnav (Delhi: Oxford University Press, 2017), pp. 417–63, at p. 441.

past, from which the post-colonial state and its institutions inherited prejudices that affected their functioning in independent India.[78]

I have argued in this section that governments representing subaltern groups deliberately overlooked, and sometimes actively encouraged, the infringement of procedural norms when this helped them overcome bureaucratic resistance and arrive at bounded egalitarian outcomes. In the next section, I illustrate how the unfolding logic of backward caste assertion made way for the decimation of institutions, the attrition of bureaucratic capability, and the shelving of the development agenda.

OBC assertion and the animus against development

The 1990 state assembly election in Bihar, held in the aftermath of V. P. Singh's implementation of the OBC quota, decimated the Congress and brought the JD to power. It also transformed the caste make-up of the Bihar legislature, with the proportion of backward caste MLAs (members of the Legislative Assembly) being higher than that of upper

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[78] Milan Vaishnav argues that the financial heft accruing to criminals from their illegal activities allows them to finance their own election campaigns and contribute to party coffers, and that this is precisely why parties accommodate them: see M. Vaishnav, *When Crime Pays: Money and Muscle in Indian Politics* (Noida: Harper Collins India, 2017), Chapter 4. This overlooks the constraint (resistance from the bureaucracy) that lower caste parties specifically face when governing and the powerful incentive for nominating criminals that this provides them. In Chapter 5, Vaishnav argues that criminals have an advantage over other candidates where social cleavages are politically salient due to group contest over local dominance and where, additionally, the rule of law is weak and the state is unable to provide basic goods and services. Here, opportunities arise for politicians to step in as substitutes for the state; again, with social conflict being sharp, they have reason to serve constituents from their own group exclusively. Leveraging their money and muscle allows criminals to excel at extracting benefits from the state; they are hence preferred to other candidates by co-ethnic voters in these circumstances. I have only one disagreement with the above analysis. Vaishnav assumes that the state in India remains neutral between groups. It follows from this assumption that where voters rely on ties to individual politicians, those voters who have co-ethnic representatives in positions of power fare better than others. This ignores the systemic bias against subalterns that has skewed the functioning of the state in North India, and which has persisted even when lower castes have, in a significant reversal, elected co-ethnic representatives in droves. To be fair to Vaishnav, my argument regarding state bias pertains to North India, whereas his is a general, pan-Indian analysis. He does further admit that the demand for criminal-politicians responds to highly contextualized factors, the salience of which may vary within a single country (ibid., p. 22).

caste MLAs for the first time (36.11 per cent and 32.40 per cent respectively). With Lalu Yadav becoming chief minister, the ministry also came to bear the marks of this reversal, with Yadav selecting ministers from OBC ranks. This spurt in backward caste representation gained further momentum in 1995. The assembly election held that year brought the JD back to power; Yadav became chief minister again, and the proportion of backward caste legislators rose dramatically to 49.69 per cent, with that of upper caste legislators falling to 17.28 per cent.[79] This set the stage for a confrontation between a bureaucracy dominated by upper castes and a legislature dominated by OBCs, triggering intra-state fragmentation much like the one marking BSP rule under Mayawati in UP.

This fragmentation manifested itself, first and foremost, in a steep hike in corruption as upper caste bureaucrats exploited the opportunities presented by the rise of a new generation of politicians who had no knowledge of administrative procedures. Further, some officials 'used this knowledge advantage to stealthily subvert and sabotage through bureaucratic foot-dragging the few constructive policy interventions that the RJD government attempted'.[80] This obstruction aimed at protecting the interests, not only of the bureaucrats in question, but of the socio-economic strata they represented—a landed-cum-administrative class composed of Brahmans, Thakurs, Kayasths, and Bhumihars,[81] the upper castes in Bihar. Lalu Yadav's regime defined the curtailing of their dominance as its prime objective. The politics of backward caste empowerment thus threw up a juxtaposition, pithily described in common parlance as 'democracy versus bureaucracy',[82] that saw the contradictions of India's post-colonial politics come to a head. The bureaucratic apparatus, and in particular its higher echelons, stood determined to resist the project of caste-based social justice, and defy the government of the day in order to reinforce the status quo. Consequently, this apparatus came to be thoroughly undermined by the government in question, which had been voted to power on a platform of OBC empowerment, and which had every intention of delivering to its base, even if this meant having to bear the costs that a defunct administration imposed.

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[79] Witsoe, *Democracy against Development*, pp. 58–9.

[80] Ibid., p. 106.

[81] Bhumihars, a landed caste, are found specifically in Bihar and eastern UP.

[82] This is how some of Witsoe's respondents summed up the situation. See Witsoe, *Democracy against Development*, p. 81.

It was not simply the administration, but also the judiciary (whose social composition mirrored that of the administration) that came into conflict with Lalu Yadav's government. The year 1996 saw a major scandal (popularly known as the 'fodder scam') erupt, in which Yadav stood implicated, which involved the embezzlement of nine and a half billion rupees from the Bihar Animal Husbandry Department. The fodder scam was initially being investigated by the Bihar Police, who report to the state government. But after hearing a public interest litigation, the Supreme Court of India[83] turned the case over to the Central Bureau of Investigation (CBI),[84] India's premier law enforcement agency, stipulating that powers of oversight be retained by the Patna High Court, the apex court in Bihar. Thus began a phase of protracted conflict between the government, on the one hand, and the CBI and the courts, on the other, which culminated in Lalu Yadav's arrest. It is telling that Yadav portrayed the entire investigation as an elite, upper caste conspiracy that sought to rob him of the mandate he had received from the masses. He further alleged that it was because he remained invincible in the arena of 'democracy', that is, electoral politics, that his enemies had to use the bureaucracy (referring to the CBI) and the judiciary to subjugate him. This contrast, once again, pitted the representative realm of politics, where he held sway, against the unrepresentative institutions of the state, where elites reigned supreme.

Yadav, indeed, went so far as to accuse the ECI of also being part of the upper caste conspiracy against him. The JD under his leadership had led a campaign in 1993 against the electoral reforms introduced by T. N. Seshan, the chief election commissioner, and had sought to have him impeached. Yadav again crossed swords with Seshan in the run-up to the 1995 state assembly election in Bihar. He refused to meet the December 1994 deadline for issuing identity cards to voters, following which Seshan threatened to postpone the polls. Yadav then took the issue to the Supreme Court, which reminded Seshan that his powers did not allow for such postponement.[85] Seshan did, however, succeed in staggering the polls beyond the constitutional deadline of 15 March

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[83] Each Indian state has a High Court, which is the apex court for that state. The Supreme Court stands above the High Courts and is the highest court in India.

[84] The CBI has the legal mandate to investigate and prosecute offences anywhere in India and works under the jurisdiction of the central government.

[85] Farzand Ahmed, 'With CEC Likely to Postpone Polls in Bihar, Laloo-Seshan Confrontation Occupies Centre-Stage', *India Today*, 15 March 1995, available at https://www.indiatoday.in/magazine/cover-story/story/19950315-with-cec-likely-to-postpone-polls-

1995, when the term of the incumbent Bihar assembly expired. He did so by pointing to a severe law-and-order breakdown that had occurred during the first round of voting on 11 March, when 14 people had been killed in poll-related violence, and rigging and booth capturing had been rampant. Alleging that Yadav's promise to clean up Bihar's electoral process had proved completely insincere, Seshan, armed with inputs from senior bureaucrats and police officers, argued that 1,050 companies of central security personnel would be required to enforce the rule of law during the upcoming rounds of polling. Recognizing that the centre would need time to mobilize these forces, and that the latter would also have to be moved after every phase, he made the case to P. V. Narasimha Rao, the Congress prime minister, for rescheduling the voting to follow in Bihar—from 15 and 19 March to 15, 21, and 25 March.[86] Seshan's recommendation was accepted by Rao. Yadav (who did not want polling to occur after 15 March, as he would have ceased to be chief minister by then, and lost control of the electoral process) went on to denounce the 'tyranny of the Brahminical forces',[87] and accused the CEC of plotting with the Congress and the BJP to thwart his return to power.[88]

The fodder scam investigation led to Lalu Yadav's leadership of the JD being challenged by senior politicians in the party, following which he split the JD in 1997 and formed a new party, the RJD, taking with him the majority of JD legislators from Bihar. His consequent arrest and resignation as chief minister, furthermore, did not allow his detractors to take charge. In an unprecedented move, Yadav placed his wife, Rabri Devi, in the post of chief minister and proceeded to govern by proxy from jail.[89] While falling short of a majority, the RJD emerged as the single largest party in the 2000 state assembly election and, with Congress support, went on to form the government, again with Rabri Devi as chief minister.

in-bihar-laloo-seshan-confrontation-occupies-centrestage-807036-1995-03-15, [accessed 28 August 2020].

[86] Farzand Ahmed, 'CEC Postpones Elections in Bihar for Fourth Time', *India Today*, 31 March 1995, available at https://www.indiatoday.in/magazine/cover-story/story/19950331-cec-postpones-elections-in-bihar-for-fourth-time-laloo-asked-to-head-caretaker-government-807124-1995-03-31, [accessed 28 August 2020].

[87] As Seshan was a Brahman, this was, among other things, a reference to his caste.

[88] Ahmed, 'With CEC Likely to Postpone Polls in Bihar, Laloo-Seshan Confrontation Occupies Centre-Stage'.

[89] Witsoe, *Democracy against Development*, pp. 73–4.

The period 1990–2005—during which the JD and the RJD ruled Bihar —saw several measures being adopted to rein in a recalcitrant administration. The first was the transfer of bureaucrats, with critical administrative positions in the districts, especially the powerful office of the district magistrate, being handed over to OBC, Muslim, and SC officers. 'By 1995, twenty-six out of fifty district magistrates … in Bihar were lower castes.' Transfers took place in the upper tiers of the bureaucracy as well. In 1993, the JD 'government replaced both the chief secretary and the director general of police, both of whom were Brahman, with lower-caste officers, overlooking two IAS and three IPS upper-caste officers who were in line for the posts'.[90] But the strategy of transfers had its limits, as most government departments were staffed almost entirely by upper castes, and had only a very small pool of lower caste employees. This paucity resulted from the inadequate filling of job quotas by earlier governments. The RJD government was keen to do justice to quotas and appoint officers from subaltern backgrounds, but the impact of neoliberal reforms and the precariousness of Bihar's finances severely restrained its capacity to hire. Unable to recruit lower castes, and determined not to appoint upper castes to important positions, the RJD took to keeping posts deliberately vacant, creating 'state incapacity by design'. Thus:

[T]he positions of Engineer-in-Chief in the two principal engineering departments, the Road Construction Department and Rural Organization, both remained vacant for a long period of time, as did all 15 positions of Chief Engineer in the two departments, and 81 out of the 91 Superintendent Engineer positions. More than one third of postings for the key post of block development officer—the equivalent of the DM at the local level—were vacant … The Bihar Public Service Commission, which is responsible for … the posting of all Class I and Class II officers, had only three members, and the Chair position was vacant for a critically long period … In the government health service, 90 per cent of doctors' posts were vacant.[91]

Another strategy of containment consisted in shifting power away from the bureaucracy to the political class, comprised not only of elected representatives, but also party activists, political brokers, and

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[90] S. N. Chaudhary, *Power Dependence Relations: Struggle for Hegemony in Rural Bihar* (New Delhi: Har Anand Publications, 1999), pp. 241–2, cited in Witsoe, *Democracy against Development*, p. 88.

[91] Santosh Matthew and Mick Moore, 'State Incapacity by Design: Understanding the Bihar Story', Working Paper No. 366, Institute of Development Studies, University of Sussex, 2011, pp. 17–18, cited in Witsoe, *Democracy against Development*, pp. 89–90.

musclemen. This led to a spike in political interference in bureaucratic and police functioning at all levels.[92] Further, since upper caste bureaucrats had siphoned off development funds over the past several decades and channelled these to co-caste elites located outside the state, with these funds enhancing the patronage resources at their disposal, the RJD perceived these funds to have fed the concentration of power in upper caste hands and now proceeded to cut off their flow. At this juncture, it was not just bureaucracy, but also development that came to be juxtaposed with democracy and accorded low priority in a populist environment bent on effecting 'just' outcomes that were immediately visible.[93]

The cooperative movement had been a major component of planned agricultural development in Bihar. But since landowning castes had exercised tight control over the cooperative sector and drawn subsidized agricultural credit from cooperative banks, the RJD government targeted these banks, effectively making them insolvent.[94] The RJD also refused to provide agricultural subsidies, control prices of agricultural inputs, or ensure the steady supply of electricity that was necessary to keep irrigation costs low. Having the RJD in power also encouraged labour unrest in the countryside, with daily wage workers (most of them SCs and poor backwards) resorting to strike action to improve their terms of work. All of this made direct cultivation an increasingly unprofitable enterprise for the landowning class. Even sharecropping became unviable, as landowners found it impossible to enforce the oppressive sharecropping arrangements that had earlier prevailed, with their bureaucratic and police contacts (who had helped them control tenants) having been rendered toothless by the RJD government. RJD rule, thus, saw landowning households begin to disengage from agriculture, lease out their plots to tenants, and rely on fixed cash rents, of which there was a sharp increase in the countryside.[95]

A 'democratization of agriculture'[96] consequently occurred, with SCs and OBCs, particularly Yadavs, taking over cultivation in the capacity of tenants. This tenant-cultivator class, moreover, had easy access to the state, which was earlier a privilege enjoyed only by landed groups. But RJD rule did not succeed in institutionalizing and making permanent

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[92] Witsoe, *Democracy against Development*, p. 68.

[93] Ibid., pp. 67, 78, 91.

[94] Ibid., pp. 94–8, 173–4.

[95] Ibid., pp. 173–4.

[96] Ibid., p. 174.

the effects of this downward shift of power in the countryside. For tenants to be granted ownership rights, decisive policy interventions, in particular land reforms, were required, which could not be undertaken in face of the widespread bureaucratic incapacity the RJD had helped to engender. While the bureaucracy would have resisted land reforms vehemently, the important point is that Lalu Yadav, unlike Mayawati, chose to decimate the bureaucracy, rather than discipline it. Having made the bureaucracy altogether ineffective in an effort to empower his subaltern base, he could not render stable the gains he had secured for that base without bureaucratic action.[97] Furthermore, the RJD's backward caste constituency remained differentiated by class: while some better-off OBCs possessed land, an array of poorer OBCs possessed none. The former staunchly opposed redistributive agrarian policies, which exposed the contradictions of the RJD's politics and the inherent limits of any programme of social justice that pivoted around caste.[98]

Unlike other chief ministers in India, who chased corporate investment energetically and competed aggressively to keep their respective states ahead in the industry, services, and information technology sectors, Lalu Yadav remained hostile to private and corporate actors, whom he associated with the vile 'upper caste system'. As Witsoe points out, a politician with such views could reasonably have been expected to bolster the state sector and ensure a steady provision of public goods and services to offset the impact of neoliberal policies. But Yadav did precisely the opposite, shifting power away from the state to a subaltern political class. He had determined that the bureaucracy had to be crippled if the dominance of upper castes was to be dented. It was for this reason that he defined his agenda of lower caste empowerment in symbolic terms, which made empowerment out to be a matter of dignity, rather than in terms of substantive policy outcomes.[99] This last would have required the RJD to deliver tangible benefits to its base, which would have been impossible without a functioning administration in Bihar.

[97] Ibid., pp. 66, 188–9.

[98] Ibid., pp. 190–1. Overarching administrative categories, such as SC and OBC, inevitably remain differentiated by class within. These class-based differentiations come back to bite politicians who, while mobilizing these broad caste categories, attempt to address economically weaker sections within them.

[99] Ibid., pp. 63–4. The JD slogan '*vikas nahin, samman chahihye* (we need dignity, not development)' signalled the prioritization of the politics of dignity. Witsoe mentions this slogan on p. 63, citing Raj Kamal Jha and Farzand Ahmed, 'Laloo's Magic', *India Today*, 30 April 1995, p. 54 (translation original).

Conclusion

It was on public culture, and popular understandings of democracy, that the politics of lower caste empowerment left its most decisive mark. From the time that lower and backward caste parties gained ascendancy in UP and Bihar, large swathes of the public there found it acceptable that the rule of law should be bent to serve the compulsions of a rough and ready justice. The procedural norms underpinning democratic politics came to be seen as entirely dispensable when these stood in the way of 'just' outcomes, that is, some immediately visible egalitarian effects. The latter frequently proceeded not from any institutionalized change, but from an uneven and sporadic transfer of power and resources from elite strata to subaltern groups.

While this turn in public culture was precipitated by some institutions, specifically political parties mobilizing on a social justice platform, it went on to impose constraints for certain other institutions in turn. Thus, the Supreme Court of India declared in 2018 that 'it was not in a position … to bar people with criminal cases from entering politics or contesting elections', adding that it was for the parliament to address this issue.[100] Consequently, it is only those politicians who have been convicted for their crimes who stand barred from contesting the polls; politicians who face criminal charges can contest unhindered. Given that politicians facing charges vastly outnumber those convicted, and that criminal cases move through Indian courts at a glacial pace, not to mention the proven ability of *bahubalis* to buy the system off, public sentiment appears to have prevailed over the judiciary in this round.[101]

The Supreme Court did, however, attempt to widely publicize the criminal backgrounds of candidates. In a ruling delivered in 2003, it directed all candidates to file self-sworn affidavits revealing the full details of their educational, financial, and criminal backgrounds, which the ECI was to publish on its website prior to elections. In another

[100] Bhadra Sinha, 'Supreme Court Says it Can't Ban Criminals in Politics, Leaves it to Parliament', *Hindustan Times*, 25 September 2018, available at https://www.hindustantimes.com/india-news/should-netas-facing-criminal-cases-contest-elections-supreme-court-to-to-decide-soon/story-1Wu3771SusfAsUUu4eDatJ.html, [accessed 28 August 2020].

[101] S. Y. Quraishi, who was the chief election commissioner from July 2010 to June 2012, expressed profound disappointment with the SC's 2018 ruling. See his contribution to the debate: 'Has the SC Missed a Chance to Keep Criminals out of Polls?', *Hindu*, 12 October 2018, available at https://www.thehindu.com/opinion/op-ed/has-the-sc-missed-a-chance-to-keep-criminals-out-of-polls/article25194981.ece, [accessed 28 August 2020].

ruling delivered in 2018, it made it mandatory for political parties to publish all details pertaining to the criminal cases pending against their candidates in one local and one national newspaper, as well as on party websites and social media handles.[102] On the basis of this latter ruling, the ECI issued an instruction to the following effect: all contesting candidates with previous convictions and pending cases would publicize these details in widely circulated newspapers and on popular television channels, at least three times during the campaign period, and likewise with political parties regarding the criminal background of their candidates.[103]

These measures, however, had only a limited impact, as they had to contend with a public culture that associated criminality with competence.[104] In many cases it was not because voters did not know about a candidate's criminal status, but because they did, and found the candidate eligible for that very reason, that they decided to support him. As Milan Vaishnav argues, when 'social scientists … recognized that voters … [were] perfectly capable of voting *in*, rather than kicking *out*' criminal candidates, they explained this in terms of an information deficit, that is, a lack of information pertaining to candidates' criminal backgrounds. In this specific context, however, the 'ignorant voter thesis' failed completely; here, 'information about a candidate's criminality … [was] not only *available* to voters, but it … [was] *central*' to their assessment of his candidacy as viable.[105]

Apart from rendering the efforts of the ECI and the courts ineffective, the context provided by UP and Bihar in the 1990s also made these institutions vulnerable to the charge of elitism. Where criminality connoted an unsurpassed ability to bend the system, and make it work for lower castes against all odds, efforts to curb the influence that criminals wielded in politics ran up against a significant section of public opinion; those making such efforts, moreover, were seen as being aloof to the concerns of subordinate groups. This was, if we recall,

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[102] Aneesha Mathur, 'Publish Details of Candidates' Criminal History on Websites, SC tells Parties', *India Today*, 13 February 2020, available at https://www.indiatoday.in/india/story/supreme-court-election-candidates-criminal-background-1645982-2020-02-13, [accessed 28 August 2020].

[103] Press Trust of India, 'Criminal Record? Advertise Thrice', *Telegraph*, 11 March 2019, available at https://www.telegraphindia.com/india/criminal-record-advertise-thrice/cid/1686607?ref=also-read_story-page, [accessed 28 August 2020].

[104] Vaishnav, *When Crime Pays*, p. 306.

[105] Ibid., pp. 160–1 (italics original).

precisely the accusation that Lalu Yadav levelled at the courts and the ECI. Yadav adroitly projected these institutions as being hopelessly out of touch with the masses, and the rule of law that they sought to uphold as an elitist encroachment—couched in the language of procedures—on democratic politics.

It was, of course, not the social justice parties alone that stood opposed to banishing *bahubalis* from electoral politics. As I have argued before, it served practically all parties well to host *bahubalis* on their platforms. They helped swell party funds in multiple ways; besides, they frequently guaranteed their own electoral success without the party having to make any effort or contribution. The propensity for parties across the board to award nominations to *bahubalis* is well borne out by figures from India's last two parliamentary elections. In the 2014 election, 128 out of 463 (28 per cent) candidates nominated by the Congress had criminal cases pending against them; the figures for the BJP were 139 out of 426 (33 per cent); for the BSP, 115 out of 502 (23 per cent); and for the Communist Party of India (Marxist) (CPI(M)), 32 out of 92 (35 per cent). In the 2019 election, the figures for the Congress were 164 out of 419 (39 per cent); for the BJP, 175 out of 433 (40 per cent); for the BSP, 85 out of 381 (22 per cent); and for the CPI(M), 40 out of 69 (58 per cent).[106] Further, the BJP—which won an absolute majority in both elections—had a large proportion of criminals among its members of parliament (MPs). In 2014, 98 out of 281 (35 per cent) BJP MPs had criminal cases pending against them, and in 2019 this figure was 116 out of 301 (39 per cent).[107]

These numbers suggest that a consensus prevails across political parties in India, to which the present ruling party is very much privy, that

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[106] ADR, 'Lok Sabha Elections 2019 (Phase 1–7): Analysis of Criminal Background, Financial, Education, Gender and Other Details of Candidates', ADR, New Delhi, 2019, p. 10, available at https://adrindia.org/content/lok-sabha-elections-2019-phase-1-7-analysis-criminal-background-financial-education-gender, [accessed 28 August 2020].

[107] ADR, 'Lok Sabha Elections 2014: Analysis of Criminal Background, Financial, Education, Gender and Other Details of Winners', ADR, New Delhi, 2014, p. 14, available at https://adrindia.org/research-and-report/election-watch/lok-sabha/2014/lok-sabha-2014-winners-analysis-criminal-and-finan, [accessed 28 August 2020]; and ADR, 'Lok Sabha Elections 2019: Analysis of Criminal Background, Financial, Education, Gender and Other Details of Winners', ADR, New Delhi, 2019, p. 23, available at https://adrindia.org/content/lok-sabha-elections-2019-analysis-criminal-background-financial-education-gender-and-other, [accessed 18 February 2020]. The BJP had 282 MPs in 2014 and 303 MPs in 2019. ADR analysed the data for 281 MPs in 2014 and 301 in 2019.

bahubalis are useful to have in politics. However, to reiterate a point made earlier, the logic that drives the social justice parties to nominate *bahubalis* is a distinctive one, as is the political purpose served by these *bahubalis*, who are from SC and OBC communities. The challenge to the rule of law that they pose has to be understood differently from the challenge posed by *bahubalis* from dominant castes nominated, say, by the Congress or the BJP. In this instance, the rule of law is thwarted to distribute power and resources to subaltern groups, when the bureaucracy, defying an elected government, refuses to do so. This situation poses a conundrum; it sets up a tension between formal procedures and substantive equality, both of which are valued by democrats. The operation of upper caste *bahubalis* poses no conundrum. Here, the rule of law is infringed to buttress elite dominance, furthering no democratic purpose and amounting to a straightforward infraction.

The ruling BJP's violation of the rule of law in the electoral sphere has gone much further than the nomination of criminals alone. The BJP is a Hindu nationalist party, which harbours the goal of transforming India into a Hindu state and whose politics thrives on projecting religious minorities, particularly Muslims, as 'outsiders', 'infiltrators', and 'anti-national'. In electoral terms, this politics requires the cobbling together of a winning Hindu majority, which has led the party to engage in an ongoing process of Hindu–Muslim polarization that is ratcheted up prior to elections. The BJP has—in violation of the Model Code of Conduct promulgated by the ECI which guides the behaviour of parties, candidates, and incumbent governments during elections— engineered Hindu–Muslim riots before polls and used incendiary anti-Muslim rhetoric in the course of campaigning. There is also widespread suspicion that it has abused the state machinery to manipulate results, in particular by tampering with the electronic voting machines presently in use in India. Remarkably, the ECI did very little to check these transgressions, which fuelled speculation that it has allowed the BJP's overwhelming parliamentary majority to compromise its autonomous functioning.[108] As E. Sridharan and Milan Vaishnav

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[108] The ECI's failure to check the BJP's violations of the Model Code of Conduct is discussed in Siddharth Bhatia, 'The Reputation of the Election Commission Has Been Severely Tarnished', *Wire*, 20 May 2019, available at https://thewire.in/government/ elections-2019-election-commission, [accessed 28 August 2018]; and 'Election Commission Weak-Kneed, Say Former Officials', *Telegraph*, 9 April 2019, available at https://www.telegraphindia.com/india/election-commission-weak-kneed-say-former-officials/ cid/1688448, [accessed 28 August 2020].

argue, the ECI has tended to be at its most assertive when the distribution of power at the centre has been multipolar in nature.[109] It was no accident that its extraordinarily forceful spell under T. N. Seshan (1990–1996) and subsequent proactive phases under the chief election commissioners M. S. Gill (1996–2001) and J. M. Lyngdoh (2001–2004) all occurred post-1989, when the Congress's electoral hegemony had faded, strong opposition parties had emerged, and an era of coalition politics had commenced.

There is a sharp divergence in the visions of community espoused by the BJP and the social justice parties, and in their mobilizational strategies, with this divergence having consequences for the rule of law. Central to the BJP's goal of forging a Hindu electoral majority was the self-identification of SCs and OBCs as Hindus. An upper caste consolidation by itself rarely sufficed to see the party through, which made it critical to mobilize the lower and backward caste vote. But the BJP's firm commitment to caste ideology and the maintenance of upper caste dominance has made its approach to lower and backward caste constituencies largely instrumental in nature.[110] The social justice parties, on the other hand, sought to disrupt a Hindu consolidation, arguing that caste was a key element of the teachings of the Hindu scriptures and that the emancipation of lower castes called for a sharp critique of Hinduism and its abandonment. These parties sought to craft a radically different political community of subaltern groups, which encompassed lower and backward castes and religious minorities, and identified Hindu upper castes as the oppressor and enemy. The politics invoking this second category of community was far more democratizing in its effects than the politics invoking the first and, further, never necessitated rioting to be deployed as an electoral strategy prior to polls. It must also be remembered that the BJP violated procedures with the objective of winning elections. The

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[109] Sridharan and Vaishnav, 'Election Commission of India', pp. 425–43, 462.

[110] The BJP winning the 2017 UP assembly election led to a remarkable surge in upper caste representation. Upper castes make up 44.3 per cent of MLAs in the new assembly, 12 percentage points more than in the previous assembly, elected in 2012. This is also the highest share upper castes have had in the assembly since 1980. The BJP's resurgence thus reversed the gains in representation made by SCs and OBCs under the BSP and the SP. Significantly, this happened despite the BJP projecting itself as a party keen to empower these groups. See Gilles Verniers, 'Upper Hand for Upper Castes in House', *Indian Express*, 20 March 2017, available at https://indianexpress.com/article/explained/bjp-narendra-modi-rajnath-singh-adityanath-devendra-fadnavis-upper-hand-for-upper-castes-in-house-4576599/, [accessed 28 August 2020].

motivation underlying the violations committed by the social justice parties was more complex. Simply winning elections did not allow these parties to see their policy agenda through. It was to negotiate the bureaucratic resistance that lay ahead, which they inevitably encountered after coming to power, that the social justice parties thwarted the rule of law.

I conclude by arguing that the ECI and the courts were not in a position to tackle the most intractable dimension of the problem posed by the 'criminalization of politics', which was the popularity and legitimacy criminals enjoyed among parties and voters, and the latter's eagerness to support their electoral bids. It was the persistent failure of state institutions, and the bureaucracy in particular, to serve lower castes that induced parties representing them to nominate *bahubalis* from these communities and lower caste voters to enthusiastically endorse their candidacies. At the root of this failure lay the upper caste bias that conditioned the functioning of the bureaucracy in the North Indian states, which was the result of the overwhelming predominance of upper castes within its ranks. That this bias and this predominance persisted throughout the post-Independence years, right up to the present moment, is a testimony to the enduring hold the legacy of the colonial state exercised over public institutions in independent India. The colonial bureaucracy, in this sense, can be understood to have cast a very long shadow indeed.

In a few parts of India, however, the legacy of the colonial bureaucracy was disrupted quite early on. In the South Indian states of Tamil Nadu and Kerala, the governments that came to power in the 1960s and 1970s—the Dravida Munnetra Kazagham (DMK) and the All India Anna Dravida Munnetra Kazagham (AIADMK) governments in Tamil Nadu, and the Communist Party of India (CPI) and the CPI(M) governments in Kerala —represented broad subaltern coalitions, and were committed to the welfare of these constituencies. These governments instituted reservations for backward castes and implemented them sincerely.[111] This changed the caste profile of the state-level bureaucracy, which until then had been dominated by Brahmans, much like in North India. Once the

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[111] Marc Galanter, *Competing Equalities: Law and the Backward Classes in India* (Delhi: Oxford University Press, 1984), pp. 179–87, and Narendra Subramanian, *Ethnicity and Populist Mobilization: Political Parties, Citizens and Democracy in South India* (Delhi: Oxford University Press,1999), pp. 207–8.

administration had been democratized thus, the chances of a recalcitrant bureaucracy rearing its head were scarce.

The question arises: what accounts for the different trajectories experienced by these northern and southern states? First, upper castes were present in UP and Bihar in far larger numbers than in Tamil Nadu and Kerala and were thus more difficult to mobilize against and dislodge from positions of power. Second, as the South Indian states were more developed and industrialized, those upper castes who were pushed out of public sector employment by backward caste quotas were able to find employment in the private sector. In the North Indian states, the private sector offered few opportunities and upper caste resistance to quotas was ferocious. Third, and most importantly, the Congress was edged out of the political space very early on by the Dravidian parties in Tamil Nadu and was forced to alternate in power with the CPI and the CPI(M) in Kerala. In contrast, in UP and Bihar, it had a tenacious hold on the political arena and dominated electorally right up to the 1980s. Given the predominance of upper castes within the Congress organization, as well as the Congress's commitment to maintaining upper caste dominance overall, Congress governments in the two North Indian states had very little incentive to implement reservations seriously.[112] This helped perpetuate the numerical predominance of upper castes in the bureaucracy, and the administrative bias against subaltern strata.

To sum up, the legacy of the colonial state was not ultimately an inexorable one and was mitigated where circumstances allowed for subaltern coalitions to form governments and make the bureaucracy more representative of lower castes. In the North Indian states of UP and Bihar, however, it was not until the 1990s that parties representing SCs and OBCs came to power. When this happened, they encountered an administration which was used to working with upper caste governments and which put up a resistance that split the state. In the face of this resistance, it was only by subverting democratic procedures and bypassing state institutions that these lower caste parties stood any chance of empowering their constituencies.

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[112] Jaffrelot, 'The Rise of the Other Backward Classes', pp. 86–7.