

THE CHANGING STATUS OF INDIAN DEMOCRACY: A CASE OF ADVERSE SELECTION AND LIMITED POLITICAL ACCESS

Yashoroop Dey¹

Abstract

A democracy is widely accepted to be a system that efficiently manifests public opinion of the electorate while also maintaining a checks and balance on power through free elections. However, India continues to show an increasing incidence of rent-seeking and criminal politics, even while the exercise of democracy remains intact. This paper employs North, Wallis and Weingast's conceptualisation of social organisation as access orders in a society to show that Indian democracy has a system of political representation with an inefficient system of political access. The analysis further contributes to the literature by conceptualising the means of access in societies and argues that India is a society of limited access orders. Using this framework, the paper argues that the limited access in Indian democracy occurs as a result of manipulation of the means of access by a small politico-economic elite, using a system of privileged and personal inter-elite relationships that results in a growing convergence of rent-seeking practices in Indian politics.

INTRODUCTION

A common sentiment about multi-party democracies has been that the democratic mechanism allows voters, media and opposition parties to act as checks and balances to the power of the ruling governments in order to best provide and protect the public good (Sen, 1981,1999). The system of elections and political representation is argued to have an inbuilt correction mechanism through the people's political access and expression wherein political access is

¹ Can be reached at ypoopad@gmail.com

not merely the ability of the electorate to cast their vote but also the capacity of the electorate to communicate their political opinions through channels such as the media, access to political representatives or demonstrations (Austin and Pinkleton 1999; Baum and Lake 2003; Deacon 2003; United Nations Human Rights Council, Resolution 39/11). Multiple studies have shown that democracies are likely to produce more public goods and invest more in public services (Ross 2006; Acemoglu and Robinson 2006; Ghobarah et al. 2004; Niskanen 1977).

However, according to widely accepted indicators of democracy, India continues to record high rates of voter turnouts and robust elections even as its status as a democracy worsens. A significant area of inefficiency in Indian democracy lies in political rent-seeking² and criminality, which remains prevalent and unchecked; instances of criminality or rent-seeking seem to be *rewarded* by the democratic machinery even as the negative externalities caused by criminality and rent-seeking in Indian politics are passed on to the common citizen. Such externalities of adverse selection in politics are quite grave, especially for those that greatly depend on public services and representative-led development (which often tend to be lower income and socially depressed groups); criminality within politics has been shown to depress economic growth and increase the incidence of crime and poverty in their constituencies (Prakash et. al, 2015). A larger alarming, yet subtle effect, of such externalities is the weakening of citizen confidence in democratic processes themselves.

This paper argues that Indian democracy, paradoxically, offers democratic processes and institutions but is unable to ensure efficient accessibility to the same. This inefficient or limited political access results in certain patterns of socio-political organisation and resource allocation that prevents the intended results of democratic processes to be realised. This analysis uses North, Wallis and Weingast (2009, hence referred to as NWW) conceptualisation of socio-political organisation in a society as the basis for the discussion of the level of political access in India. The paper further contributes to NWW's conceptualisation by characterising the means of access in a society through

² Rent-seeking is often used to refer to bribes or personal profit- the desire to collect "rents". In this scenario, rent-seeking politicians refer to corrupt politicians.

which socio-political communication is affected. This characterisation allows for an observable metric by which one can analyse the underlying causes for the level of access in a society. The paper then discusses how the nature of accessibility in a society is greatly influenced by the interactions of the means of access with the socio-economic and political elite.

PRESENT STATUS OF INDIAN DEMOCRACY

On no basis can it be claimed that India is not a robust and thriving democracy. The most recent Lok Sabha election of 2019 saw the historically highest voter turnout of 67.1% across 542 constituencies barring Vellore (Jain 2019, 21 May, Times of India), becoming the largest instance of fundamental democratic exercise in the history of the world. A rather magnanimous instance of democracy occurred as recently as 2021- 4 states and 1 union territory held their assembly elections just as the second wave of Covid-19 swept the country. The West Bengal (4th largest state) Assembly Elections of 2021, held over 8 phases during a nationwide second-wave of the Covid-19 pandemic saw a turnout of almost 80%, which, while less than the turnout of 2016 (about 84%), is still a strong example of a democratic exercise in the face of a severe pandemic (Hindustan Times, 2021). Assam, another state that went to polls amidst the second wave, saw the voter turnout go from 76.05% in 2016 to 82.52% in 2021 (The Hindu 2021). Given that universal elections are a strong and fundamental democratic principle of a representative parliamentary system such as India, a prima facie glance would suggest that democratic representation through voting seems to be robust and commendable.

Yet, India happens to be in a worse-off place in its classification of a democracy than before. Two globally cited indicators of democracy, the Freedom House Index and the V-Dem Institute, have both demoted India to a lower position on its list of democratic countries. The V-Dem Report published in 2020 suggested that India was on the verge of losing its status as a democracy and in 2021, confirmed this by labelling India as an “electoral autocracy” from 2019 (Feb 2020). While the rest of South-Asia and India’s demographically and geographically smaller democratic neighbours have consistently improved in recent years, India’s democratic status has had a steady decline. The Freedom House Index has changed India’s status from “free” to “partly free” in 2021.

Peculiarly, at the same time, India has performed well on political representation and indicators of free and fair elections (Repucci 2021).

Criminality and rent-seeking among politicians are indicators of politicians exploiting public goods for personal gain. Vaishnav (2017) has highlighted instances of party leaders openly accepting that public funds that are allocated to politicians are diverted to the party coffers. Public funds are directly in service of the public good, the custodian of which in many cases in India is seen to be a criminal politician. As many political theorists suggest, such negative externalities to political office should be corrected by the electorate in subsequent election cycles. However, the structural prevalence of corruption and criminality among Indian politicians persists even within a democratic setup as there continues to be significant adverse selection to political office.

It appears that even though the exercise of representative democracy persists and thrives in India, the benefits of democracy seem to be non-existent (and in some cases, maybe worsen). One of the major threats to a democracy is the structural creation and maintenance of a politically corrupt elite that unfairly exploits the public good to achieve private interests of itself and a few other large players (Stephenson 2015, 2019). India reflects so- there is an abundance of corrupt and criminal politicians whose actions negatively impact the socio-economic life of the citizens (Vaishnav 2012; Prakash et.al 2015)— and this scenario continues to thrive within a democracy. This paper argues that for such a situation to arise within a democratic setup, the disconnect between democratic representation and its expected benefit lies in a compromised system of the people's political access.

A CHARACTERISATION OF POLITICAL ACCESS

A citizen is not said to have adequate political access by merely casting a vote; political access constitutes the ability of the electorate to gain the effective attention of the political representatives whenever it feels that its interests are at stake (Truman 1951, 1960). While the ability to cast a vote is accessing politics through elections, the ability to demonstrate in times of authoritarianism or the questioning of elected representatives through the media are examples of political access as well (Eckstein 1960; Truman 1951, Klapper 1960). Political

access is a complex space heavily reliant on plurality, encompassing all agents and channels that act as a form of information aggregator and communicator between the public and the political representation (Urbinati et. al 2008; Lijphart 2012).

The political accessibility in a society is determined by the patterns of socio-economic behaviours that organise the people and processes of a society. NWW characterised patterns of social organisation to achieve, limit and protect political and economic access in societies as “orders”- whereby limited access orders referred to societies with imperfect political and economic access, with the powers controlled by a group of elites (individuals or institutions). Limited access orders (termed as the ‘natural state’ by NWW) typically enjoy a set of elite privileges (inter-elite personal relationships) that are leveraged to create organisations that preserve the elite control over rent-creation and resource management. NWW compared these with open access orders, characterised by impersonal relations and non-elite control of organisations that further limit the ability of the elite to create personal relationships to leverage personal rents in society. Societies with open access typically manage public goods and services in impersonal ways, through the aforementioned impersonal perpetual organisations. NWW argued that the impersonal non-privileged access in such societies allow for the creation of new organisations to oppose elite rent-seeking ones, with democratic processes such as elections and multiple party politics being highly relevant methods of reorganisation on impersonal terms. Democracy, therefore, is not a mere selection and organisation of political actors but it is also a system of plurality, inclusion and space creation for political ideas and will to be communicated. If a citizen is unable to access information regarding the political choices, they are likely to vote with an inefficient understanding on whether their interests are being served.

The means of political access therefore can be any channel through which the electorate can, 1)obtain information (government websites or records, news media, internet accessibility, etc), 2)express opinions (citizens forums, communication with political representatives etc.) or physically demonstrate (demonstrations, right to assembly etc) and 3) directly participate in political selection (elections, nominations). The level of political access in society is thus

the entire space and ease with which different means of political access interact with the electorate. The management and commitment to the means of access in a society is largely shaped by the type of access order that a society has.

This paper centres its exploration of Indian democracy and political access by arguing that India has a strong system of limited access orders. The system of political representation is governed and strongly managed through inter-elite privileged and personal relationships, leading to a situation of manipulation of the means of access by those in privileged positions. This discussion is structured in the following section with a characterisation of limited access in India, followed by a discussion on the nature of management of the means of access.

India: A Society of Limited Access.

Political parties are central to the democratic process; they act as aggregators of the people's will and represent opposing viewpoints on the management of public institutions (Sartori 1976). The capacity of the political party to dispense these functions depends on its ability to access and be accessed by the electorate. Yet, as Sarangi (2016, 2020) argues, parties in India have become more inaccessible in recent years. In order for representative politics to be efficient in its functioning, the predominant culture of motivation must be one that attracts individuals with non-corrupt commitments to the people.

In recent times however, the rise of rent-seeking parties within politics has raised the costs of electoral politics. The report by the Association of Democratic Reform (2019) has shown that about 84% of sitting Lok Sabha representatives declared assets above 1 crore INR (about 134,702 USD). This has effectively come about due to a culture of motivation that has normalised and perhaps even biased itself towards individuals that are able to afford higher rents towards the various stakeholders in electoral processes and public goods management. This has resulted in a limiting of access to electoral participation on economic grounds for individuals who are unable to meet high levels of personal socio-economic capital. Electoral representation, as has been discussed previously, is a means of access to political spaces in democracies. Economic inaccessibility at the representation level ensures that the bundle of choices to the electorate has become increasingly privileged and corrupt. Higher rents have attracted more

people with a rent-seeking mindset towards politics than a democratic one (Vaishnav 2012, 2017), while Chandoke and Kumar (2013) have shown that the inclusion of disadvantaged groups through representation in legislature has not translated to policies aimed at their well-being.

Given that Indian politics has fostered a culture of rent-seeking, it has created barriers to access in the event in which rents *cannot* be collected. Take for example the case of the mining industry- Asher and Novosad (2020) have shown that the greater the mining rents, the more likely it is for a criminal politician to be elected. At the same time, elections during mining booms show great turnouts even as the politicians are charged with *new* crimes during their terms.

A strong instance of access manipulation in Indian politics lies in influencing public spaces and processes through violence. Vaishnav (2012, 2017) has highlighted several cases where rent-seeking and violence are blatantly and comfortably displayed as crucial aspects of electoral behaviour- take for example the scenario of the earlier BSP government in Uttar Pradesh, that openly claimed that portions of publicly allocated funds to civic bodies for development must be routed to the party. Such demands were accompanied with a threat (and several instances) of severe violence, in cases of non-compliance. The incidence of criminal politicians and rampant wealth accumulation has *risen* over the past decades with about a 106% increase of elected MPs in Lok Sabha with serious criminal charges since 2004 (Association of Democratic Reform , 2019). After the 2019 elections, 43% of the newly elected members of the Lok Sabha (Lower House of Parliament) reportedly have criminal charges against them, while 29% of them face serious criminal charges such as murder, rape or kidnapping (Association of Democratic Reform, 2019). Criminal incentives and muscle power are strongly enforced by vast socio-economic capital, as well as a privileged treatment that ignores the criminality. This phenomena in Indian politics reflects the interaction of elites with privileged relationships in limited access orders, whereby the personalisation and inter-elite treatments are leveraged in such a way as to ignore harmful activities.

The discussion so far reflects two defining characteristics of limited access orders: 1) the biased and privileged application of the rule of law in favour of the elite and 2) the privileged channels of management of the public goods, office and services in lieu of personal rents. It cannot be claimed that there is no exercise of political rights- elections have taken place and voter turnouts remain quite high. However, we can see a situation whereby the channels of political selection have been manipulated to either reflect a superficial situation of stability or political violence is used to force a voter to *accept* the situation. The growing prevalence of criminality and use of intimidation and violence without legal repercussion reflect a privileged legal relationship among the powerful political representation and the justice system. The management of public goods and services have also been co-opted to achieve compliance among voters through personal relations between theoretically impersonal institutions such as the civic bodies and the political representation. There is a network of inter-elite personal relationships that threaten the disbursement of the public good in an impersonal and, by extension, in an equitable way. The poor and disenfranchised, while being the most needful of public service are unable to reach (or realise) their political discontent whereas any player with enough money can access politicians in lieu of rents. While the poor are likely to have more public goods related demands such as healthcare, sanitation and security, the wealthy are likely to leverage their access to the politicians to make private gains (Bussell 2013).

An aspect of limited access orders lies in the inability and ineffective incentivisation of the non-elite to collectively oppose elite relationships and their control of resources. As has been discussed, the political access of the rich is far greater than the poor and such is welcomed by the rent-seeking terrain of the political class. As a result, the poor have to rely on personal relationships with powerful elites or representatives to obtain an effective share of the public good. This creates, and maintains, a system where the non-elite public have to compete within themselves to obtain essential services. As is the case with competition for resources, a large homogenous group characterised as non-elite has to be forced to define characteristics within itself that distinguishes and helps in the formation of groups to better compete for limited public resources. Such intra-nonelite fragmentation into groups can take the form of socio-

religious conflicts and rivalries, resulting in violence and demand for representation along social, cultural and identity lines. Kunt, Klapper and Prasad (World Bank, 2017) show extensively how unequal access to public resources reinforces horizontal inequalities. The access of the non-elite to form larger organisations that can threaten the corrupt political class is now replaced by the splintering of the homogenous identity of non-elite, into several splinter social groups that organise themselves horizontally as a means of lobbying with the elite for obtaining resources.

Criminal politics manipulates access not just through direct intimidation of the electorate but also through stifling or corrupting the channels of political information distribution. In the previous case of mining for example, a number of environmental activists in the mining sector that work to better manage the mines for public good are murdered every year for trying to expose the crimes to the electorate (Godin 2020, July 29 Time Magazine). Journalism and news media is another significant channel of political access. However, the World Press Freedom Index 2021 shows India to be one of the world's most dangerous places to be a journalist (Kaushik 2021). A severe method of information manipulation that has taken centre stage in recent times has been the employment of fake news circulation through social media to achieve political gains in the national elections of 2019 at a much higher degree than before (Poonam and Bansal 2019, April 1 The Atlantic).

Open access societies create greater ability for people to create organisations to punish and resist corrupt ones through impersonal relationships between stakeholders, whereby each citizen has an impersonal incentive (rather, displays a *collective* incentive) to organise in ways that can create impersonal institutions that control the elite. This is not the case in India- a network of personal, privileged connections and investment in channels of misinformation depresses the ability of the citizens to organise in groups that are effective at resisting the elite control. Increasing press intimidation and inadequacies in journalist freedoms are instances of manipulation of access by fostering and preserving information asymmetries within the electorate. This predominantly occurs in two ways, by influencing the supply and demand of channels of information.

On the supply side- first, the criminal intimidation of the press narrows the intake funnel of motivated individuals by creating a sense of discouragement of investigative motivations; second, the fostering of profit-minded investment in information channels by rich inter-elite agreements biases the incentives away from honest investigation by diverting private capital flows away from areas of political scrutiny. On the demand side- the rise in the use of fake information and denouncement of political scrutiny as a form of dissent depresses the demand for investigative scrutiny of the elite leaders at all. The use of information institutions become involved with the management of the image of the political elite instead of their scrutiny- any information is aimed at the people to consume, as dictated by the privileged personal control.

A concise image of the growing delinking between structural democratic processes and democratic ideals of access can be summed up through India's score on the Freedom In The World Report of 2021 by Freedom House- India scores a 34/40 for political rights while scoring a 33/60 for civil rights. The political rights score is an indicator of the incidence of free and fair elections, democratic handovers of power and functioning of the electoral process. India scores quite highly on all metrics of political process. However, civil rights are the source of citizen freedoms to participate in socio-economic life and are a determinant of the citizen's ability to access political structures and express oneself politically. On this metric, India has performed worse than its previous years, even while maintaining its high score on political plurality.

DISCUSSION AND CONCERNS FOR POLICY

Limited access societies are not doomed to be in that state forever and one would assume that India's commitment to democratic ideals should correct for imbalances in its democratic access and representation. NWW provides a range of 'doorstep conditions' by which limited access orders can transition into open access ones, whereby there is 1) an expansion of elite privileges to non-elites as a result of impersonal incentives for the elite to extend privilege, 2) the creation of perpetually lived impersonal organisations that do not require the personal relationships and privileges of the elite to sustain themselves and 3) the

formation of impersonal non-elite organisations that establish political control over the privileged elite. The analysis so far does not point to India having any significant presence of the necessary doorstep conditions.

This paper suggests that for doorstep conditions to be met requires an analysis of the means of political access available in Indian society. Any inquiry into the nature and future of access order in a society needs a discussion on the management of the means (and the related conceptual framework for such means) that allow for any sort of access to take place. In limited access societies, the means of access are managed using personal and privileged relationships, resulting in the means acting as a tool of organisational control by the elite. The same means, however, in open access societies may be managed impersonally by non-elite perpetual institutions that do not require privileged permission from the elites to be sustained. Therefore, the public non-elite organisation of the management and means of access, after the privileges have been expanded by the elite, are crucial to be *sustained* significantly enough that they can override the creation of new personal inter-elite privileges and incentives to regain any expansion of privilege (indeed, NWW has discussed the situations in which expansion of privilege does not automatically imply a transition to open access). Therefore, a framework of management of the means of access must be conceived that creates a sustainable base for the transition.

It can be argued that the personal inter-elite management leads to a moral hazard, while the inefficient application of rule of law has an adverse selection effect in political accessibility in India. To the economist, both these effects are typically characterised as exploitations that occur with respect to public goods or the 'commons' (Samuelson 1954; Hardin 1968). The moral hazard suggests that any influential group that stands to make private gains is willing to threaten the access of other groups that are in conflict with it and in this case it does so by bribing and using corrupt channels to buy up and prevent greater access. In the event that such groups are influential and resourceful, any political party that wants to win and retain power finds it in their interest to cater to these influential groups. Therefore, any hint at a doorstep condition of extending impersonal non-elite access is unstable. The creation of impersonal open-access organisations are rapidly converted and brought under a larger structure of

personal elite management. A necessary transition to this state lies in the tenacity of new organisations to sustainably challenge the inefficient elite ones. The adverse selection effect suggests that the prevalence of rents within politics may be attracting more self-interested politicians to politics as a way to make money. With the continuous incorrect application of the rule of law to the elite organisations, fewer criminal-minded individuals are deterred from entering public office. Thus, the political choices that are available to the electorate are increasingly criminal; voters are forced to choose between more corrupt than non-corrupt politicians over time.

Given that policymaking and developmental goals are largely determined by the interests of elected representatives, inefficient representatives are highly likely to steer the developmental conversation towards inefficient ends, while prioritising those means that maximise personal rents. To the policymaking institutions, the issue then becomes to create structural incentives that identify and steer political attitudes away from this convergence of rent-seeking incentives, across the ruling and opposing factions in Indian politics.

The objective for policy makers towards efficient management of the means of access must begin at rigorous identification and analysis of the underlying infrastructure surrounding the existing means of access. Given that the current means of access are in a stable, self-fulfilling equilibrium that maintains the limited nature of access, there is a growing need for an exploration into phenomena or events that can affect the stability. Pierson (1984) and NWW have discussed the need for external shocks to affect the stability of path-dependent stable systems. For the policymaker, then, correct and timely identification of external shocks should act as a necessary precursor to using the event as a jumping off point for effectively bringing the means of access closer to doorstep conditions. With correct identification, there can be policy suggestions to be made for processes and institutions that can enable the non-elite stakeholders to use the external shock towards structural change and gaining more access.

Take for example, the 2020-2021 farmer protests in India against a set of farm bills that eventually resulted in the withdrawal of said bills. As discussed

previously, collective agitation and protests are a strong means of access towards the political and economic elite, and as NWW has discussed, collective force from the non-elite can force the elite to extend its privileges. Effective collectivisation can lead to the creation of new impersonal elite organisations that counter the elite network of privileged relationships. To the policymaker, an instance such as the farmer's protests of 2020-2021 should pose the question of how the present farmer's agitation was different from the ones before (for example, the Tamil Nadu farmers protests of 2017), and whether the pressure from the protests could perhaps lead to structural change in agricultural policy. The questions for the policymaker then become- can or has effective structural and legislative change come through strong agricultural agitation over the years? If not, then what are the missing institutions that prevented a strong protest from affecting the stability of political bargaining vis-a-vis agricultural policy? For example, one could compare the nature of political access for the farmer's protests and other relevant stakeholders from 2021 with the nature of political access of the stakeholders from 1970s West Bengal during Operation Barga. Operation Barga has generally been discussed to have caused structural positive changes in agricultural land-holding, enabled largely through an effective political action by the then West Bengal government (De 1994; Leiten 1996).

The discussed identification of external shocks and gaps in the means of access could result in a steering of policy that consciously generates opportunities for more public *non-partisan* management of the means of political access. This can be achieved by increasingly treating the means of access in society as a public good, similar to Stiglitz's (1999) famous conceptualisation of knowledge in a society as a global public good. There is growing evidence that treatment of a good as public orientates its management with national objectives (Hazelkorn et. al 2018)³. In this regard, a crucial assessment of the commitment to the public

³ The framing of certain goods as public has an effect on the policies that manage it, since public goods are likely to be tied in with aspects of broader development. Stiglitz (1999) famously argued that knowledge should be a global public good with the purpose of governments the world over creating targeted policies for its use. An example of this is in when Hazelkorn et. al (2018) discussed the recent adoption of higher education as a public good by some governments, leading to education policies that aligned higher education along with national objectives. They argued that as more governments recognised the social benefits of higher education as serving the public good by reducing inequality and improving social mobility, there was growing support for the allocation of public funds towards higher education.

goods in a society lies in the constant assessment of its use, trends and shortfalls—something that would greatly benefit any knowledge and shortfalls of political access in India in the first place. Policy making should seek ways to assess the trends and inequalities of regional and social political access in India, with the use of metrics other than simplistic voter turnouts. The steering of larger systems towards putting political access at the forefront of democratic decision-making in an electorate may see the strengthening of existing institutions that act as a means of political access. Constant monitoring and availability of government data through government websites and publications should be encouraged and resources for its interpretation should be readily available in all languages. Data collection in this regard needs to be more robust and frequent. A culture of public scrutiny and objective reporting of the news needs to be fostered and policy initiatives must be undertaken to create programs that decentralise access to politics. These could take the form of programs that foster grassroots journalism and workshops on how to identify fake news. The mere act of acknowledgement by influential politicians or interest groups of the concept of political access may go a long way in instilling a sense of awareness among the population.

CONCLUSION

There is a strong limited access order in India that does not show signs of immediate doorstep conditions to transition to one of open access. A system of criminal and inefficient political representation is sustained by a fractured system of political access, with the means of access being largely controlled by a group of privileged, elite institutions. The need for adequate access in politics is not just a political problem, but a civic and inter-institutional one. Widespread political access does benefit the public, even those who do not participate in politics (George et al 2018, Sen 1981, 1999, Austin 1999). A strong degree of political access in society is likely to greatly improve voter information asymmetries and political selection. Better political selection and electorate information can translate to a better management of public institutions, benefiting everyone. There should be a structural incentive to invest in creating better channels of public access so as to better exchange information with the electorate. The casting of one's vote does not impact another person's ability to vote—similarly, democratic political access is non-excludable as it does not allow

(structurally as a system and philosophically, in spirit) one from being excluded to engage with politics. A culture of questioning of all things bureaucratic is needed at all levels, from basic to higher education and community spaces in the country. A democracy of access must replace a democracy of hollow representation; the vote should be cast, but also must be felt.

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