

# ‘WE, THE PEOPLE’: INTERROGATING THE AUTHORIAL IDENTITY OF INDIAN CONSTITUTION

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## Abstract

The Paper discusses the invocation of ‘we, the people’ as the author of democratic constitutions and as sign post of modern republic to analyses its historical and theoretical significance. The birth of the people as the author of the constitution from the congeries of disparate population after the bourgeois revolutions of 18th century has been analysed to see the connection between the revolution and modern constitutionalism. The contemporary tension between two types of people; republican -majoritarian and liberal—democratic, culminating into the phenomenon of populism has also been analysed. The paper is divided in three sections. Section one discusses the process through which disparate population was turned in to a homogenous we and eventually got elevated to the status of the author of the modern republican constitution. Section two looks at the Indian story and tries to untie the riddle of the invocation of people as the author of the constitution without having the precedence of a bourgeois revolution. Section three discusses the multiple usages of the people in Indian democratic discourse till the recent time.

**Keywords:** People, Republicanism, Populism, Liberal democracy

We are witnessing a peculiar situation today in which the term “people” of the republican discourse is at loggerheads with the “people” of the liberal democratic discourse. I mean the republicans conceive the people as virtuous in the popular sense, in the demos-pleasing or majoritarian or populist sense, whereas the liberal democrats believe

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in procedurally mediated people.<sup>1</sup> Thus, the two connotations are pitted against each other and this can be seen happening in all major democracies in the world today, and India is no exception. What is intriguing in this phenomenon is the fact that both the discourses are anchored in the category called the “people”, from which they derive legitimacy, yet they appear to be sitting at each other’s throats! The manner in which the two are presented in the political discourse in many democratic countries and also play themselves out in politics give the impression that the “people” of the democratic discourse are running away with the title deeds of the ‘people’ of the republican discourse. And, this has led to a perception in some quarters that the growing appeal for the strong populist leaders among the masses in many democratic countries today could be a manifestation of a growing disenchantment among the republican subjects with the working of liberal democracy. By reposing faith in the strong, powerful leaders known for their populist policies and who often directly connect with the people over the shoulders of democratic institutions and processes, the people of a republican discourse might be giving vent to their reaction against the working of the liberal democracy —turned Illiberal — with a vengeance.

Therefore, we find today a growing literature analysing the emergence of the new cult in a democracy where a strong leader, not institutions and processes, is cherished and adored by the people as saviour of their rights! The scholars have started hypothesising that this may well be the fallout of the liberal democracy and its agencies dispossessing the republican people from all sites of power, in spite of swearing in the name of “We, the people” in the constitution. Recently, one political scientist has called this phenomenon a “democratic capture” through democratic means in which the public has been used to divorce republic from democracy (Yadav, 2020). Fareed Zakaria calls it the rise of “Illiberal Democracy” (Zakaria, 2007).

This democratic irony, which is afflicting many liberal democracies of the world today need a thorough probing. But I would restrict myself in this paper to a discussion of this riddle in the context of India. Three issues, which are discussed in the following sections of this article in order to analyse this and also to understand the status and the fate of “We, the people” in the Indian Constitution are (a) the story of the birth of the “people” as a protagonist of the bourgeois revolution in modern times and the origin of the modern “republican state”; (b) “We, the people” in the Indian Constitution and its invocation as the source of sovereignty and (c) The usage of

the people in different strands of the Indian democratic discourse.

It is well known that most of the constitutions in modern times, since the birth of the first written Constitution in the USA in the wake of the American Revolution, open with the proclamation "We, the people" and then go on to claim that they constitute the democratic republic. For example, if we take the case of India, we can see the Constitution opening in its Preamble with this statement and making the general will of the people the author, owner, and the source of power and sovereignty. It is a different matter that the author of the Constitution, who is triumphantly made the fountainhead of sovereignty in the Preamble, gets shunted out later in the voluminous document and is replaced by a set of political agencies and institutions to carry out the mandate of the Constitution, without giving any meaningful and respectful role befitting the status of the author! In fact, what transpires throughout the text is that the people as an active agency in politics play a truant, despite the initial pompous invocation in the Preamble!

This is nothing short of a riddle as to why the people, in whose name the Constitution is framed, vanish to the background, and its will as a sovereign master in a democracy gets only episodic and occasional appearance in the actual working of the democratic system. It appears only in periodic popular elections, and in no other way such as a referendum, initiative in law-making, or recall of elected representatives!<sup>2</sup>

This raises a volley of questions: Did India witness a bourgeois revolution on a pattern of the liberal democracies in the USA, France, and Switzerland in the West, which gave birth to the modern constitutional category called the 'people' as the *raison d'être* of a republic and also as the bearer of sovereignty? If the answer is in positive, then how is it that the "people" gradually pale into insignificance in the Indian Constitution and are reduced to a peripheral category, where it remains only as an emblem of the solemn pledge taken at the founding moment of the Constitution without providing any institutional form or design for the effective articulation of its will as the determining factor in politics, except during a periodic cacophony of elections?

But to get an answer to this question, one needs to take a trip to comparative constitutionalism to see the experiences of other democratic nations in this regard and find out what similarity they have with the Indian Constitutional history. Hence, before discussing the Indian case, let me look at the founding moments of the republican state and the liberal democratic institutions in the

West, when the so-called bourgeois revolution took place and for the first time the constitutions in the name of “We, the people” were created.

But, as far as the Indian Constitution is concerned, we would do well to remember that the term ‘revolution’, unlike in the Constitutional history of many Western nations, is conspicuous by its absence, both in the deliberations of the constituent assembly as well as in the text of the Constitution! (Dasgupta 2019)<sup>3</sup> If we look at the Constituent Assembly Debates, there is no doubt that the word revolution comes quite often, but it is mostly used in the context of a future revolution projected to happen and which was being envisioned by the Assembly to be accomplished with the help of the very text which was being drafted. In other words, it talked about a prospective revolution for the future. Nehru’s words made it amply clear when he said: “I should like this house to consider that we are on the eve of revolutionary changes, revolutionary in every sense of the word” (Cited in Sen 2007: 83).

The term which was frequently used in the deliberations of the Constituent Assembly to refer to the retrospective act of the Indian people, which led to the termination of the colonial rule and the attainment of freedom for the Indian people, was not a revolution but a transfer of power, Independence movement, freedom movement, national movement, freedom struggle, and many similar terms to connote India’s Independence under an Act of the British Parliament — the Independence of India Act, 1947 (Dasgupta 2019: 13). In other words, the Constituent Assembly preferred to refer to the struggle of Indian people against the foreign rule by many names but a revolution! And if at all it was used, it was only meant to convey the future project of social-economic transformation after the Independence and the seminal role the Constitution would play in this project. The title of S. K. Chaube’s book, *Constituent Assembly of India: Springboard of a Revolution*, captures this with telling effect (Chaube 2000).

Hence, the term social revolution appears to be a most the favoured term for the framers of the Constitution. It is frequently used to connote the transformative project, which was being conceived by the Assembly to dismantle the social hierarchies, once the Constitution would come in force. According to Granville Austin, ‘the constituent assembly’s task was to draft a constitution that would serve the ultimate goal of social revolution’ (Austin 2008: 27).

But when we compare it with the birth of the modern

constitutionalism in the West, we find a different trajectory. In those countries, such transformative moments in the society preceded the act of the creation of the legal-constitutional document called the constitution and were associated with and were part of revolutionary upsurges — the American War of Independence, the French Revolution, the Sonderbund War in Switzerland — marked by a series of events and acts, violent and tumultuous, occurring outside the deliberative site, called the “Constituent Assembly”, or the “Constitutional Conventions”. The revolution connoted a different meaning altogether in the Western bourgeois revolutions. As Uday Mehta rightly observes that “... (I)n modern Western tradition of political theory, revolutions have been associated with the dramatic and tumultuous moment when individuals, in, for example, John Locke’s understanding, contracted with each other to leave the state of nature and form a new type ‘body politic’. In contrast, constitutions have been associated with the orderly act where the body politic ‘entrusted’ its power in a particular form of government” (Mehta 2010: 22).

Explaining further the difference between the revolutionary and constitutional moments, he writes: “In the familiar distinction between the conditions of liberation and the conditions of freedom, the former are typically associated with the culmination of a period of rebellion and revolutionary activity, while freedom is likened to quieter stage of framing constitutions, which become its foundation” (Mehta 2010: 21). Citing the American case to illustrate the point, he observes that “where the War of Independence culminating in 1776 is known as the Revolutionary War, and the Constitutional Convention in Philadelphia, which issued the Constitution of 1787, is known for its more deliberative energy or, as John Adams expressed it, through the regulative image of the uniformity of time – as he said, Thirteen Clocks struck as one” (Mehta 2010: 21-22).

In fact, the makers of the constitutions in those countries were tasked with a different job than the one we find in the case of India. Their political brief was to be truthful to the revolutionary ideals created in the course of the revolutionary upsurges and transposing them into the constitutional document. This can be seen almost in all major liberal democracies which emerged out of the bourgeois revolutions in modern times, be it the American revolution of 1776, the French revolution of 1789; or the Sonderbund War of 1847 in Switzerland, the three classic cases of the bourgeois revolutions in modern history producing modern republican constitutionalism. “The Indian case,” contends Uday Mehta, “is the reverse of what one

has come to understand through the archetypal Lockean narrative, of which American example is taken as paradigmatic. In India, it is the constitutional moment that is revolutionary and rupturing” (Mehta 2010: 22).

#### A) Bourgeois Revolution and the Advent of “People” as a Constitutional Category

The modern republican constitutionalism has its roots in revolutions. Though, this does not mean that the idea of the constitution is also modern. Political thought is replete with instances where thinker after thinker has reflected on the ideal constitution and government since ancient times. Aristotle’s much-famed study of 158 constitutions and his classification of governments in ancient Greece is just one example. But the idea of constitutionalism and its intimate relationship with the rule of law, limited government, and liberal values like liberty, equality, fraternity, and justice is definitely modern and is tied to the revolutions of modern times, known as the “bourgeois revolution”.

Though, it was the European Enlightenment and its thinkers who cradled the republican ideas and practices along with modern liberal constitutionalism. But the churning had started little earlier in the Renaissance period itself in Europe, when many modern ideas and values were conceived and imagined, along with sowing the first seeds of republicanism. Be it Machiavelli in Italy, or other Renaissance thinkers of the 16th and 17th century, they were the ones who had initiated the process of harnessing civic humanism and envisioning constitutional monarchy based on the sovereignty of the people. It is a different matter that it remained in nascent form and failed to enthrone the people. The anti-monarchical idea and the republican discourse, therefore, in the true sense could become prominent only later when they blossomed and became integral to the Enlightenment thought. The real act of imagining and theorising constitutional republic happened later with the Enlightenment thinkers like Locke and Montesquieu who presaged the great bourgeoisie revolutions in the 18th and 19th centuries.

The prefix bourgeois in the bourgeois revolution comes due to the role played by the newly emerging class of the capitalists in the foundation of the new order, both as the flag-bearer of the struggle against feudalism and a church-state conflict that ensued in Europe, and also acting as the principal agency of the revolution. But, interestingly, when it came to the creation of the new political order

based on constitutional government after the successful conclusion of the revolution, the framers of the constitution did not declare the bourgeoisie as the author of the constitution. They rather preferred anonymity and did not associate the identity of the new constitution with any particular class or the group the way the so-called socialist revolutions of the 20th century had done by openly christening the constitution of the new regime as the proletarian constitution!

Hence, in the aftermath of the bourgeois revolution, the constitution was presented in the name of an amorphous and free-floating category called the "people". It is interesting here to see how the "disparate population" in the society in one stroke was transmuted and forged into a homogenous "we" and in the process, it was turned into a new political category called the people (Dasgupta, 2014: 14). Using the words of Ernesto Laclau, an "empty signifier term like people" (cited in Chatterjee 2020: 83)<sup>4</sup> becomes the protagonist of the revolution in the place of the bourgeoisie which in fact had led it. The people is declared the author, creator, and owner of the constitution of the new democratic regime, tasked with the job to concretise the "imagined futures" (Dasgupta 2019: 14) and ideals upheld during the revolutions.

Sandipto Dasgupta writes that "the people are ...preeminent subject of bourgeois revolutions, and consequently as the author of constitutions are universally recognised as the one true constituent subject. Most texts require an author. A text as authoritative as the constitution cannot do without one. Every constitution....must therefore include some form of the declarative identification of 'We, the people' as the author of the text" (Dasgupta 2019: 14).

Gradually, the invocation of the people as "We, the people" becomes the *sine qua non* of modern constitutionalism. Constitution after constitution can be seen replicating this standard norm. Though, this practice only tells about the birth of the so-called author of the modern constitution and the new location of the political sovereignty in the polity. But it does not tell anything about the manner in which the newly conjured up category of the people would rule and the means and the forms of the government they would adopt to realise the ideals of the revolution drafted in the constitution! This was done by whole host of liberal thinkers like Locke, Montesquieu and the authors of *The Federalist* (1787) in the USA. Some like Locke and Montesquieu did before these revolutions happened, while others like the authors of *The Federalist Papers* imagined and theorised the nitty-gritty of the Liberal democratic government in the aftermath of the revolution in the USA.

Therefore, the engagement between the republican ideas and the liberal democratic thought is as old as the discourses associated with Locke and Rousseau; the two emblematic figures associated with liberal democracy and republicanism in modern times, the former championing rule of law, limited government, and a checkmated and procedurally grounded people and its will which have become hallmark of Liberal theory of democracy, whereas the latter idealising the unbridled and unmediated raw will of the people as the “general will” in a republican political order. The experiences of comparative constitutionalism, emerging out of the USA, France, and Switzerland — the three principal theatres of the bourgeois revolutions — tell us this story in more detail as to how their ideas became the source of inspiration as well as political contestation.

As it is well known, the French Revolution of 1789 which created the second republican state of modern times, after the USA, modelled on the Westphalian system based on the monistic concept of sovereignty, was the first unitary nation-state based on mono-linguistic identity and majoritarian nationalism in Europe. The first republican state, the USA (1787), was, however, a federal nation-state; while France became the second republican state to emerge as a monolingual unitary nation-state. But no sooner was it born, it started sliding on the authoritarian track, with the rule of Jacobins and the subsequent Bonapartist takeover. The creation of three republics in quick succession in France, in fact, perturbed and alerted thinkers and scholars of different hues, resulting in an avalanche of reflections in the 19<sup>th</sup> century on this predicament. Karl Marx’s *18th Brumaire of Louis Bonaparte* (Marx 2000)<sup>5</sup> and Alexis De Tocqueville’s *Democracy in America* (Tocqueville 2000) are some of the best examples of scholarly reflections from the period on the travails of the unmediated raw will of people in the name of republicanism and its turning into a menace for the rights and liberty of the people.<sup>6</sup> Though they offered totally different perspectives on the matter. Tocqueville, who got enamoured of American revolution, argued that the American revolution was the first revolution which directly produced a democratic state without going through a detour of authoritarianism like France (Tocqueville, 2000).

Marx, on the other hand, looked at it differently and did not find anything surprising in the catastrophic events of France. He called these deformities in politics as the logical fallout of the bourgeois order and argued for transcending such disorders through a genuinely republican political practice in form of socialism — the phase of the ‘Dictatorship of Proletariat’ on the way to communism



— the phase when class inequalities as well as the state would wither away. But for Tocqueville, the American system offered the hope and possibility of an escape from such tragedies without stepping out of the liberal-bourgeois order which Marx was advocating. He saw a ray of hope for the project of democracy in the vibrancy of civil society and associational life in America, coupled with the institutional and procedural mechanisms in the constitution safeguarding the liberty without sacrificing the will of the people, which is the signpost of republicanism, in the legal and constitutional sense.

The republican discourse, therefore, as the unmediated will and as the raw power of the people as “General Will” of Rousseau’s thought when travelled across the Atlantic and reached the American shore, it found a different response. The Americans were sensitive from the beginning to the dangers of the popular sovereignty degenerating into anarchy and chaos. Hence, the authors of *The Federalist* (Hamilton, et al. 1982), were very particular in devising a mechanism to checkmate power with power and designing a robust system to counter the majoritarian tendency in democracy, so that no singular site of sovereignty could ever emerge to monopolise power in the society. The result was the creation of the first non-Westphalian state based on the vertical and horizontal division of powers in the form of the federal system and a government based on a separation of powers, checks and balances, and negative rights. Their apprehensions and fear got vindicated to a great extent by the unhappy republican experiences later in France where people in the republican mould went rogue and became a threat to their own liberty and to the democratic order.

The USA, therefore, emerged as an ideal model of combining the republican and liberal democratic features together in the Constitution. While retaining the republican constitutional practice of declaring the people as the author and the source of sovereignty, it so hemmed it from all sides that it kept the demos in continuous check. The first ten Amendments to the American Constitution in 1791 were, to some extent, a product of the unfolding republican fiasco in France and the lesson learnt from it. Subsequently, it would go a long way to inspire many nations in the world, particularly many Commonwealth countries, where a new brand of constitutionalism was evolving based on a hybrid combination of the Anglo-American system of federalism, separation of powers, parliamentary democracy, and bill of rights along with the idea of a republican state.

This, in brief, is the story of the birth of liberal democracy from the womb of republican thought and practices. One thing is clear

from the foregoing discussion that neither the phenomenon nor the anxiety about the demos going rogue is new to the history of constitutionalism and democracy. It has always been a perennial source of concern and tension in the liberal political thought. The democratic countries of the world have been alive to this possibility, and therefore one can see that many of them have from time to time tried to design their political system to keep the demos in check. It is a different matter that in the process, somewhere it has gone awry and is now rebounding in form of a new fault lines created between the republican aspirations of the people and the liberal-democratic check posts imposed on it in the form of institutions and constitutional practices.

With this background, let me turn to the Indian story and see how the people made an entry into the constitutional discourse of India without having any precedence of a bourgeois revolution in the Western sense!

#### b) “We, the People” in the Indian Constitution

The foregoing discussion has shown that how the people became the author of the modern constitutions after getting acknowledged as the protagonist, though in disguise, of the bourgeois revolution. The Constitution of India also, keeping in line with this tradition, begins with the proclamation in its Preamble that “we, the people” constitute ourselves into a sovereign democratic republic. Thus, in accordance with the republican principle and as per the practice of modern constitutionalism, the “people” are declared both the author of the text and the source of sovereignty. But the similarity with Western constitutionalism ends here because of two reasons: the manner in which the British colonial rule ended in India and the way people participated in the Constitution-making process.

It is well known that India did not witness a revolutionary break with the past on the pattern of the USA, France and Switzerland where the representatives of the victorious parties in the post-revolutionary moments sat together and thrashed out their political future; overturning the monarchical rule in the case of France and severing all ties with the colonial masters in the case of the USA. Not only this, India also did not see a civil war like Switzerland, with the warring factions indulging in haggling and protracted negotiations to bring peace and order, or the process of settling a Constitution. If at all there was a civil war, as many would perhaps argue, due to the communal strife between Hindus and Muslims and the dispute on the two-nation theory between the Muslim League and the Congress,

it ended once the Partition of the country was done and the Muslim League formally decided to walk out of the Indian Constituent Assembly.

Therefore, India becomes a deviant and intriguing case for not having a revolutionary past to conjure up people out of a disparate congeries of population, as it happened in the case of post-revolutionary France, the USA, and Switzerland, and still proclaiming the constitution in the name of the people! This becomes a bigger riddle when we recall that the Constituent Assembly in India was formed under the Cabinet Mission Plan (1946). It hardly needs any mention that it was through the proposal of the 'Cabinet Mission Plan' that the Assembly came into existence elected by the provincial assemblies, which were themselves constituted in 1946 after the election under the Government of India Act, 1935, on a very limited franchise (about 28.5 per cent). Uday Mehta writes, "All these facts and circumstances suggest that the constitutional moment was anything but revolutionary. It was, after all, braced by clear judicial precedent, legislative authorization, and a deference to political convention" (Mehta 2010: 19). Therefore, declaring the 'people' as the author of the new constitution like the USA, France, and Switzerland and also making it the fountainhead of sovereignty becomes intriguing, and throws open whole host of questions on the nature of the transition from colonialism to the post-colonial democracy and the type of rupture it had undergone with the past. This also raises some questions over the constitutional language, principles and the practices picked up from the Western democratic traditions and replicating them in the same spirit in which the revolutionary constitutions of the world had been drafted. For example, one may ask whether the de-colonisation in India was a revolutionary break from the past in the same way as was the case with America and France after the revolutions? According to Uday Mehta, "Whatever one might say about British Imperial governance, at least by the mid-1940s it bore no resemblance to the Bourbon absolutism of the late 18th century. To the important extent that revolutions are predetermined by the regimes they overthrow, the inheritance of a responsible and limited government might further vitiate the idea that Indian constitutionalism represented something revolutionary" (Mehta 2010: 20).

Was it then just a transfer of power, as has often been called in the official records of the Empire, from the colonial rulers under the Cabinet Mission Plan and subsequently formalised by the India Independence Act of 1947? And, if so, then can such a transition be considered at par with the bourgeois revolutions in

the modern historical sense, which was responsible for constructing a constitutional-political category called “We, the people”? It is needless to mention that that these three opening words are common in American and Indian constitution.

Here it is not out of place to mention that except for the new Constitution of Nepal (2015), we do not have any other example in the world which has been drafted by a directly elected Constituent Assembly. Although Gandhi as early as 1923 had demanded that the Constitution of India should be drafted by a Constituent Assembly directly elected by the people, but it was not accepted by the British.

Barrington Moore (Jr.) has done a comparative study of modern revolutions, including India in his seminal work *Social Origin of Dictatorship and Democracy: Lord and Peasant in History* (Moore, 1966). While analysing some great revolutions of modern times,<sup>7</sup> Moore has come out with two theses: (a) No bourgeoisie, no democracy; and b) Liquidation of the peasantry and the resolution of peasant question have been important factors in the rise and development of democracy through revolution. According to him, the countries which did not fulfil these criteria ended up either with authoritarianism/fascism, or communism. He cites the cases of Germany and Japan as examples of the former,<sup>8</sup> and Russia and China as an instance of the latter.

Though Moore keeps India alongside well known revolutions of the world in his study, but when he comes to his analysis, he does not find India measuring up to the two preconditions laid out by him for the birth of democracy through revolution; that neither the bourgeoisie as the flag-bearer of the revolution was present,<sup>8</sup> nor did liquidation of the peasantry take place.<sup>9</sup> But in spite of the two missing preconditions as per his thesis, Moore interestingly does not dismiss India out of consideration for a democracy even when it remains as an outlier in his model. Instead, he acknowledges and accepts the birth of democracy in India and argues that democracy was made possible here due to certain other set of factors, which were different from the ones which had obtained in some classic cases like the UK, the USA, and France. These three countries have been identified by Moore in his study as examples of the rise of democracy from below due to the rebellion and participation of the bourgeoisie against the nobility and clergy, and which also led to the destruction of the peasantry in the countryside through measures like the ‘Enclosure Movement’ in England. In his view, the storyline of Indian democracy had a different trajectory. Democracy in India emerged due to the birth of the middle class during the colonial

period, the class which later went on to play important role in the anti-colonial struggle and in imagining and conceiving the idea of a democracy. Hence, in Moore's analysis of Indian democracy, the middle class becomes a substitute for the missing bourgeoisie of the European revolutions.

Barrington Moore is not alone in arguing that what happened in India in the form of de-colonisation was not a revolution in the Western sense of the term. If for Moore, the role of the social classes, particularly the bourgeoisie, was a crucial variable that took the modern revolutions towards democracy and modern liberal constitutionalism and India failed to measure up on that scale, others have used legal-constitutional parameters to prove the point that what happened in India was not a revolution but a mere transfer of power from the colonial masters to the Indian political class. In the process, they seem to have ignored and belittled or have found it inconsequential altogether, the defiant and valiant promulgation of the sovereignty of the people and its free will by none other than Jawaharlal Nehru on the pattern of the revolutionary tradition set by the French revolutionaries in his historic speech moving the 'Objectives Resolution' in 1946 in the Constituent Assembly. It is to be remembered that in his much famous "Objectives Resolution" speech, Nehru had invoked the "Tennis Court Oath" promulgated by the members of the French Third Estate in 1789, when they "took an oath not to disperse until they had established a constitution" (Ramgotra 2018: 210). And, in full imitation of the French Revolutionary tradition, Nehru had in this speech declared the people to be sovereign, irrespective of the approval of the British Monarch.<sup>10</sup>

But does such a defiant stance of none other than the Prime Minister of the interim government negate the important historical fact that the framers of the Indian Constitution were meeting and working under the legal umbrella of the British Cabinet Mission Plan and were under the gaze of the British Parliament? It is also not out of place here to mention that Nehru had moved the objectives resolution in the anticipation of the Muslim League joining it at a later date. But when it did not happen, the objectives Resolutions were set aside in their original form (not formally repudiated) and the Constituent Assembly proceeded to draft a much more centralised constitution than what was envisaged in the Objectives Resolutions. But still what is important and intriguing is the metamorphic invocation of the imagery of the French Revolutionaries assertion of people's will and the popular sovereignty in this resolution!

The later decision of the Constituent Assembly of India to not abide by the terms of the Cabinet Mission Plan, and its outright refusal to seek the endorsement of the draft constitution from the British parliament and the British Monarch may also be seen as a corollary move to fulfil its mission to assert the popular will of the people in the making of the Constitution. But these acts have failed to persuade the scholars to believe that such moves were tantamount to a revolution and they ultimately made up for the missing bourgeois revolution in India. One such scholar happens to be the eminent constitutionalist K.C. Wheare. While commenting on the decision of the Constituent Assembly to defy the mandate of the British Parliament, Wheare has called it a “constitutional autarchy” (Cited in Sen, 2007: 95, f.n. 12).

It is not only the constitutional experts like K.C. Wheare who have expressed their reservations on the manner in which the people were declared sovereign and the source behind the Constitution of India, defying the very logic of the transfer of power in its zeal to prove that it was a product of a revolution. Such scepticism was also raised on the floor of the Constituent Assembly by some eminent members and one such person was M.A. Jayakar, an eminent nationalist leader belonging to liberal stock. In the very first session of the Assembly in 1946, Jayakar had expressed his bewilderment at the defiant stance of the Assembly in this matter and said that Assembly “ [is] sovereign within the limitations of the (British) paper by which we have been created. We cannot go outside these limitations...if the idea of some people is to ignore those limitations altogether and convert this Constituent Assembly for gaining political power irrespective of the limitations of this paper, to seize power and thereby create a revolution in the country, that is outside the present plan” (*CAD* vol.I: 72).

Granville Austin’s much-celebrated work on the Constituent Assembly of India has also raised this riddle. He has observed that “the Constituent Assembly was meeting with the permission of the British government, and a fourth of the nation was not represented at the Assembly’s deliberations. Had such a body any power or authority of its own?...Was it sovereign?...Maulana Azad, Nehru and Rajendra Prasad...believed that it was sovereign because the Assembly’s authority came from the people of India-although they recognized that the Cabinet Mission Plan placed certain limitations on its activities” (Austin 2008: 7). Austin further writes, “The assembly gave its own answer to these questions in its rules, when it arrogated to itself the authority to control its own being” (Austin 2008: 7). He

particularly draws attention to *Constituent Assembly's Rules of Procedures and Standing Orders*, where it is mentioned that "the Assembly shall not be dissolved except by a resolution assented to by at least two-thirds of the whole number of members of the assembly" (Quoted in Austin 2008: 7). Austin observes that "the Assembly was the people's. As Nehru said, the British could now dissolve the Assembly only by force" (Austin, 2008: 7).

But the controversy over the popular sovereignty in the making of the Indian Constitution did not die either with the Assembly passing the Objectives Resolution, or its decision to arrogate to itself the power to frame of its own rule of conduct, dissolution, etc. The shadow of the un-representativeness of this august house and the controversy over the missing popular will in its formation have dogged it since its inception. And these perceptions get additional traction when one finds that the Assembly was created through a limited franchise in which only 28.5 per cent Indians had the voting right and that too by an indirect election in which the Provincial Legislative Assemblies participated to elect the members of the Constituent Assembly. On top of it, those who became the members of the Assembly were mostly educated elites and the professionals, not the naked and the half-fed, whom the Gandhian Swaraj movement had vowed to bring to the political centre stage. Sunil Khilnani, commenting on the exclusion of the masses from the Assembly and the preponderant role played by the elites in shaping the Indian republic, writes, "The parties to this deliberation were no doubt drawn from a small circle. The Constitution had not been won by the masses in an act of collective self-creation: indeed, it bore little trace of the imaginative concerns of ordinary Indians. Rather, it was a gift of a small set of India's elites" (Khilnani 2009: 26).

Though, the Scheduled Castes and the Scheduled Tribes and the minority communities found representation in the Assembly as per their numerical strength and in accordance with the mandate of the Cabinet Mission Plan. There were women members too in the Assembly, along with many others who claimed to represent the interests of peasants, farmers, landlords, industrialists, and the princess. K Santhanam's statement that "there was hardly any shade of public opinion not represented in the assembly" (Austin 2008: 13) underlines this fact and draws attention to the all-inclusive character of the assembly, which was in line with the spirit of the Gandhian Swarajist movement. But such defence does not cut much ice with a scholar like Khilnani, who believes that "people in India had no idea of what exactly they had been given. Like the British Empire

it supplanted, India's constitutional democracy was established in a fit of absentmindedness. It was neither unintended nor lacking in deliberations. But it was unwitting in the sense that the elite who introduced it was itself surprisingly insouciant about the potential implications of its actions" (Khilnani 2004: 34).

What scholars like Khilnani argue is not altogether without a substance. Who would deny the fact that the experts inside the Assembly were calling the shots and taking important decisions about the fate of the millions, while the masses were cooling their heels outside? And not to forget the fact that the tension on this count was also surfacing off and on in the deliberations of the Assembly, particularly on the distance between the masses, who were the real protagonists of the Gandhian movement, sitting outside the Assembly and the professional elites and the constitutional experts well ensconced inside (Dasgupta 2019: 23). Since the only political moment, which had catapulted the masses to the centre stage of nationalist politics during the long fight against the colonialism was the Gandhian movement and the Constituent Assembly's cold-shouldering of Gandhian Swarajist ideas is too well known to call for any elaboration. Though it did not go down well with the adherents of the Gandhian ideology in the Assembly. Hence, many members, who felt incensed on this, kept advocating and pleading in the Assembly from time to time to incorporate the Gandhian principle of Swaraj and participatory democracy in the blueprint of the proposed Constitution. For example, in the debate on making the Village Panchayat, which was an important component of the Gandhian Swarajist discourse, the central axis of the polity, much heat was generated in the Assembly. But, the Gandhians could manage to get only a token accommodation of this principle in the Directive Principles of State Policy (DPSP) of the Constitution. There were a few other occasions also when the attempt to bring in the popular will of the people in the institutional design of the polity was fervently made. But most of them got turned down. When some members pleaded with the Assembly to uphold the high principle of direct democracy in true Swarajist tradition and "wanted amendments to be initiated on the basis of recommendation of state legislatures, ratification by a special conventions or by a referendum based on universal franchise" ( Sen 2007: 138, f.n. 66), the move failed to garner much support and fell flat.

In fact, Ambedkar proffered a fulsome praise on the Assembly for discarding the archaic institution like Village Panchayats in the proposed design of the polity and rightfully consigning them to the



dustbin by turning its back to all the vestiges of the Swarajist politics, which in his opinion had been masquerading in the Assembly as the high moral principle of popular sovereignty and direct democracy. In his last speech in the Assembly, while winding up the debate on the draft Constitution, Ambedkar famously called the Gandhian Swarajist politics of Satyagrah and Civil disobedience as nothing but a "grammar of anarchy" (*CAD*, Vol XI, 1999: 972-81).

Hence, one thing comes out very clearly from the founding moments of the Indian republic that the framers of the Constitution, with some exceptions, were very circumspect about the will of the people. They not only detested it, but summoned all means at their command to keep all the possible channels through which it could have entered into the precincts of the polity under perpetual check. In fact, many pre-emptive measures were taken up front to engage the demos in order to ward off its future assertion in the affairs of the republic. Hence, the pledge in the Preamble of the Indian Constitution to speak in the name of the people is taken with a pinch of salt by many commentators of the Indian Constitution due to such anti-demos psyche of the Assembly; be it the rejection of direct and participatory measures in democracy, or the attempt to checkmate the popular will and legislative sovereignty by laying down elaborate mechanisms like the Federalism, Bill of Rights, judicial review, milder version of separation of powers, etc. All these are reminiscent of the American founding moments, where similar anti-majoritarian and demos-fearing temper was running high, and which finally carried the day in the Philadelphia Convention and on the pages of *The Federalist*, culminating in the First Ten Amendments of 1791, which put paid to the contrarian discourse of the Jeffersonians.

The role of the experts and the governmental departments too in the framing of the Constitution cannot be ignored altogether, as it also contributed to undermining the popular will (Dasgupta 2019: 20). And the members were not apologetic about it at all. Rather, they had a word of appreciation for them. Because they thought that the experts had played a stellar role through their inputs, drafting ability and their skilled handling of the delicate matters at hand than any other arrangement could have done in which the masses were either themselves present, or had been represented through more authentic delegates.

The members of the Assembly felt that the experts kept the popular passion at bay and did not allow it to influence the serious act of constitution-framing, besides infusing additional values into it through their expertise and competence. N.G. Ayyangar's letter to

B.N. Rau, the legal advisor to the Assembly, brings it out sharply when he writes to him approvingly that “decisions on these issues (basics of the constitution) being taken by small numbers of selected people including the party chiefs after those issues have been investigated from all points of view with the informed persons like you. After all, public opinion on such matters require both a firm lead and skilled guidance” (Cited in Dasgupta 2019: 23).

The members, therefore, took pride in the fact that the experts in their role as the author did not only substitute the masses ably, but also made the substitution worthwhile. But, recently a new genre of literature has emerged on the Indian Constitution-making, striking a different note. Rohit De’s *People’s Constitution* (De 2018) and Ornit Shani’s *How India became Democratic* (Shani, 2018) are some examples of this genre of writings. Rohit De interestingly reveals a “continuous constitutional conversations between the people and the state” (Cited in Shani 2018: 163), and Ornit Shani even goes to the extent of calling into question the “notion that people were bystanders when the constitution was made” (Shani, 2018: 164) and writes, “Indeed people already engaged with and demonstrated an understanding of the constitution even before its enactment” (Shani 2018: 164).<sup>11</sup> Shani cites the multiple petitions and representations, which were made on the draft Constitution, after it was put in the public domain to solicit peoples’ opinion and response in order to buttress his argument that the administrators and the departments did not have free run on the framing of the Constitution, as it is generally made out. Rather their acts, according to Shani, were under continuous scrutiny by the people sitting outside.

It is true that the draft Constitution was commented upon by civil society organisations and various political groups. But it is undeniable that, in the final count, it was the members of the Assembly and the administrators and the experts who were assisting mattered the most, as they were the ones who finally decided the final contents of the Constitution.

Here it is also pertinent to mention that the political theorists and the experts on comparative politics have debated for long as to how the popular will and peoples’ passion could be controlled in democracy, both for the orderly working of the polity as well as for saving the political institutions from tripping due to overload of political pressure and social demands. Broadly speaking, one can say that the comparative political theorists have an agreement that there are only two ways through which this can be accomplished. It can be done either at the point of “input or at the point of output”

(Dasgupta, 2019: 24), if one casts it in the language of Easton's political system theory. At the level of input, the popular will can be checked through restrictions on franchise, while at the output level, it may be done through institutional mechanisms like judicial review, unelected judiciary, negative rights, federal system and separation of powers. For the framers of the Indian Constitution, the first check (Input) was out of the question due to a commitment made by the Indian National Congress long ago in the Motilal Nehru Committee Report of 1928 on the universal adult franchise (Dasgupta 2019: 24). But the second option was wide open, which the founding fathers grabbed readily. Thus, in the end, we find that the people and popular will, both as the author of the Constitution and as the driving force of democratic politics in India, get banished from all the institutional edifices which symbolise the republic, except in the symbolic pledge taken in the Preamble of the Constitution.

### c) Usage of People in Indian Democratic Discourse

The people have not only been invoked in the Constitutional discourse of India, but can also be seen in varied forms and shapes in the politics of civil society, the social movements, and democratic-electoral politics in the country. Though people had made an entry into the political discourse of the nation during the freedom movement itself, much before India became free and framed a Constitution in its name and embarked on the path of the democratic-electoral journey, which eventually saw the opening of the floodgate of competitive populist claims among political parties over the question of representing the will of the people. The Militant Nationalist leaders like Bal Gangadhar Tilak, Lala Lajpat Rai, Bipin Chandra Pal, and Aurobindo Ghosh were the first ones at the break of the 20th century, who began the new politics of imagining nation based on people's will. While dismissing the liberal-constitutional politics of the Moderates in the national movement, they for the first time constructed a Swarajist discourse based on the will of the people and mass politics to convey to the Britishers that the Indian National Congress was not merely representing the 'microscopic minority', as Dufferin had once taunted. In this new imagined idea of the Indian nation conceived by the militant nationalists, people as cultural community constituted its core and were seen as the true bearer of rights, deserving selfhood and nationhood. The militant communitarian turn in the Indian nationalism around that time, which is often associated with the politics of Tilak and his cohorts

in the Indian national movement, was marked by mass mobilisation around the new imagery of the people anchored in culture, tradition, and civilizational moorings.<sup>12</sup>

Later, Gandhi picked up the thread left by the Cultural nationalists and took their Swarajist discourse to a more nuanced articulation in the service of Indian nationalism. Though draped in tradition and culture, the way cultural nationalists had once constructed, the category of people in Gandhi's hands became more refined. He not only tried to insulate the mass politics from the grip of modernist imagery of the West to which the cultural nationalists had succumbed due to their fixation with many modernist ideas, including the idea of self-rule and the representation of the sovereign will of the people through a constitution, but also purged it from many obscurantist symbols of cultural nationalists. Thus, breaking from this tradition, he indulged in a more radical critique of modernity and Western civilization along with all its emblems. We will do well to remember that Gandhi also discarded the tendency which was so common at that time to uncritically glorify Indian tradition, Indian culture and the ideas and practices associated with the people. Due to this approach, he has earned the sobriquet of 'Critical Traditionalist' (Nandy 1984).

Gandhi went much beyond the Constitutional discourse of freedom and self-rule of the people prevalent and popular at the time when he had arrived on the Indian political horizon. He cast the very category of people in a different frame altogether by drafting it in his campaign for social reform, where the people were made both the subject and the object of politics. And this was a far cry from what the cultural nationalists had imagined earlier. While doing this, Gandhi in fact synthesised the two polar trends in the nationalist politics of the time— the politics of the Moderates and the politics of the Cultural Nationalists. If he borrowed the category of people and mass politics rooted in culture and tradition from the cultural nationalists, he also drew on the reformist tradition bequeathed by the moderates, while adding a new element of nonviolent Satyagrah into it.

Hence, Gandhi's 'people' was not a legal Constitutional entity assigned with the role to act as a bearer of rights and entitlements, bereft of any duty and responsibility. Unlike the bourgeois revolutions and the modern constitutionalism in the West, the Gandhian discourse framed people as essentially duty-centric. In fact, through his discourse of 'Antodyaya', and later 'Sarvodaya', Gandhi even tried to unpack the category of the people by delimiting its social location,

which had been deliberately evaded in the Western discourse! This becomes significant if we analyse it in the context of his politics of nationalism, where he forged a larger, undifferentiated, and expansive idea of the people; a rainbow coalition of classes, castes, and communities in order to broaden the social base of Indian nationalism. But when he moves from the politics of nationalism to his utopian construct of ‘Ram Rajya,’ his imaginary social-political order, he makes no qualm in defining the people. He makes it more definitive and does not leave it in the state of amorphousness, the way the Western discourse had done. One may say that Gandhi’s people here comes very close to what Ruskin had imagined in his tract *Unto this Last* (Ruskin, 2006).

Gandhi’s “people” was an ethical agency in the project of social emancipation based on voluntarism and anti-statism, and it was differently structured, based on self-rule, self-purification, altruism, self-discipline and sacrifice. Unlike the Western liberal-democratic discourse, in which it is driven by the motivation of the individual rights, self-interests, and entitlements with little social responsibility, the people in Gandhi was above all a social being, having close resemblance with the people in the republican discourse.

But we will do well to remember that Gandhi never shied away from criticising the people also for their failings and shortcomings, unlike some of the New Social Movements in contemporary India (Mohanty 1998, Oommen 2010).<sup>13</sup> The New Social Movements, although, swear by the Gandhian ideology, but in their engagement with the people, they appear to be different. The people are treated by them as a holy entity suspended either above criticism or below it! They hardly ever subject them to scrutiny and auditing, the way Gandhi used to do. In the Gandhian discourse, people were both a subject in the political journey to Swaraj as well as an object of reform, scrutiny and criticism.

Hence, we find that the Gandhain discourse was a significant milestone in the evolution of the idea of the people as a political category in India, so much so that even today one can see its echo in different political quarters, ranging from the social to political movements. Though it was the Sarvodaya-Bhoodan Movement of Vinoba Bhave and Jayaprakash Narayan which for the first time after the Independence made the Gandhian category of people salient by implanting it in the political lexicon of Indian democracy. Later, in the hands of Jayaprakash Narayan in particular, it became the pivot of his so-called Total Revolution through which he sought to build the foundation for the postcolonial democracy in India on the

Swarajist line (Narayan 1959).<sup>14</sup>

Interestingly, the people of the Gandhian discourse keeps surfacing off and on in Indian politics. The New Social Movements associated with the Chipko movement of Sunderlal Bahuguna, the Narmada Bachao Andolan of Medha Patkar, etc. beginning in the 1970s and which have taken up the issue of development-driven displacement, environmental destruction, encroachment on tribal rights, gender rights are the examples of the Gandhian legacy in politics in the recent time. These movements have drawn heavily on the Gandhian style of engaging people outside the electoral arena for creating an alternative political and social order. Like the Gandhian discourse, these New Social Movements also construct an undifferentiated category of the people for democratising society and state. But there are some glaring differences between the two and that cannot be lost sight of, including the one mentioned earlier, that is, the tendency in these movements to raise the people to such a level of reverence that they go beyond criticism. Hence, these New Social Movements succumb to the syndrome of populist politics which believes in the infallibility of people and its uncritical celebration.

Besides the Gandhian usage of people, there are few other traditions in Indian politics as well which deserve discussion due to their invocation of people in politics. Nehru represents one such strand in the post-Independence India which articulated it in the true modern republican sense. Beginning with his historic speech in the Lahore session of the Indian National Congress in 1929, Nehru relentlessly pursued republican ideas and practices. As the first Prime Minister of India, Nehru drafted the people in his nation-building and democracy-building projects. He even interpreted the icon of 'Bharat Mata', which had seen many semiotic mutations in the course of its evolution as a totem of the Indian nation, as constitutive of the people, and thereby made an attempt to distance it from the religious-cultural frame to which it had been put since the 19th century (Agrawal 2019).<sup>15</sup> Whether it was his Community Development Programme and laying the foundation of the local self-government in the form of Panchayati Raj institutions, or the Co-operative Movement, Nehru accorded utmost importance to people's active participation in the policy implementation. Though his critiques often point out that he did not provide the people with the kind of agency which they deserve in democracy. It is also alleged that Nehru infantilised the people (Sudipto Kaviraj 2010, Ahmed 2020).

But no one can deny that Nehru was one of the most vocal

exponents of republican thought against colonialism in India and he also carried it into the Constituent Assembly. Though it is often alleged that once he presided over the state as the Prime Minister, his republican discourse became statist and he started taming the people by denying them key role in the affairs of the state (Ahmed 2020).<sup>16</sup> It is true that Nehru moderated his republican thought to a great extent in the later years and turned it into a synthesis of popular sovereignty and constitutionalism, manifesting through parliamentary –federal democracy in India. But, nonetheless, his engagement with the people set a new benchmark for democratic politics in the post-independent India.

Before I discuss the use of the people in the populist political traditions in India, let me briefly mention the Neo-liberal discourse, which arrived here in the 1990s and gave democratic politics a new twist! The market discourse of neo-liberalism, which was altogether new for the country tried to dissolve the people into the category of consumers and sellers and also attempted to shift the gravity of action from the electoral domain to the market place (Ahmed 2020). But this discourse has stumbled along the way due to deep roots the republican ideas have struck among the people over the decades, first beginning with the clamour for Swaraj in 1920s, and later through the democratic electoral process and civil society-based activism on rights and participation. Since it has made heavy inroads into the psyche of the people, the attempt by the neo-liberal discourse to construct new imagery of people by grafting on them an identity of consumer and buyer has met with resistance. Hence, it has struggled to get popular endorsement which its ideologues might have expected.

Coming to populism as an uncritical celebration of people in politics, it is to be remembered that it is not a new political phenomenon in India. As mentioned earlier, the New Social Movements in recent times have indulged in the veneration of the people in line with this tradition. They have treated people's unmediated will as the ultimate authority and arbitrator in democracy. "India Against Corruption Movement" led by Anna Hazare made full use of such un-stratified will of the people to stake its claim to represent the civil society against the state (Jha 2014). Later, when a political party came out of its womb in the form of the Aam Aadmi Party, it made some semantic permutation and re-classified the people into a new binary called 'Aam Aadmi- Khaas Aadmi' (Ahmed 2020). In other words, it embraced an anti-elite and anti-establishment politics, which are the signposts of populist discourse all over the world

today. But the anti-elitist thrust in politics initiated by them got more effective articulation in the hands of Narendra Modi in the run-up to the 2014 general election, and which later became the trademark of his politics.

But if we go a little back in the political history of post-Independence India, we would find that it was Indira Gandhi who as the Prime Minister brought populism to the centre stage of the electoral politics in the 1960s. Her premiership was dotted with many populist measures, like *Garibi Hatao*, nationalization of banks, etc. She also mobilised the people in the same way as populist leaders normally do, that is over the shoulder of political parties and political institutions. She also made a serious bid to legitimise her actions through direct reference to people's will (Kothari 1989, Kaviraj 2010). But, her populist rhetoric was often couched in the idioms of the left, unlike Narendra Modi who has aligned it primarily with the Right-wing politics, centring around ethnic nationalism and identity politics. Though some of Modi's idioms are seemingly from the Left-wing armoury, like branding himself as 'Chaiwala', or his diatribe against the rich during the demonetisation drive. Hence, some scholars believe that his politics is different from the textbook understanding of right-wing populism.

Three political economists in a recent piece, based on their study of Narendra Modi's policies like the opening of bank accounts for the poor to transfer cash under the 'Jan Dhan Yagna' and the delivery of cooking gas, toilets, electricity, housing, and water to the rural poor have called it the "New Welfarism of Right" (Anand et al. 2020: 11). They write: "Even without delivering broad based prosperity, populist leaders ...are finding electoral success through a potent new cocktail: Leveraging the identity politics of the right, embracing tepidly, even rejecting, the market focused neo-liberalism of the centre, and appropriating the redistributive economics of the Left" (Anand et al. 2020: 11)

Narendra Modi is today seen as the high point of the right-wing populist politics in India. Ironically some political scientists often compare him with Indira Gandhi who had championed Left populism in India. This comparison could largely be on account of Modi's penchant for centralisation of power and promotion of personality cult in politics like Indira Gandhi. But the similarity ends here and cannot be stretched too far. The invocation of people by Narendra Modi has some novelty, which was not seen in the case of Indira Gandhi. And this has flummoxed the political observers too! The scholars are not finding it easy to explain the Modi phenomenon



in Indian politics, which has found very good resonance with the people in electoral terms till now. It has even brought the ethnic nationalism and majoritarian politics of the erstwhile Right-wing political party, the Bharatiya Jan Sangh, which remained on the sidelines of Indian politics for long to the centre stage of national politics with finesse.

Narendra Modi's politics is getting a good traction among the masses and this could be as seen in the series of electoral endorsements in the recent years, including in the resounding appeal it evokes among the people for his policies and programmes, despite causing untold hardships through some of his whimsical decisions. And this has befuddled the analysts. Why his poor economic management, be it the rash policy of demonetisation, or the hasty reform of the GST, has not diminished his popularity with the masses? Why his slogan of 'Sabka Sath, Sabka Vikas, Sabka Vishwas' makes electrifying impact on the electorates during the elections? These questions are intriguing the scholars of Indian politics today.

Pratap Bhanu Mehta has analysed the success of Narendra Modi's politics through the prism of a new 'Politics of Vishwas' (Mehta 2020).<sup>17</sup> Modi's oft-repeated reference to his 'Niyat' in his public speeches while delinking it from his 'Niti' could also be considered a product of this politics of Vishwas, if one goes by Mehta's analysis! Modi often tells to the people that his 'Niti' (policy) might have gone wrong on certain occasions, but his 'Niyat' (intention) is always clean and singularly dedicated to the service of the people. This style of messaging of a leader in democracy may not be very unusual. But its popular endorsement definitely makes one pause and ponder, because the modern democratic theory tells us that it is policy which often trumps intentions as far as democratic politics is concerned! But in this case it is the other way round. Therefore, the moot question is that how does one explain Modi phenomenon in Indian politics which has set a new benchmark for connecting with the people and invoking its will in a democracy? In spite of not being so spectacular in terms of performance on economic growth and governance, why his politics has such a good purchase with the people? According to Mehta, "It is not the practical record, it is the ability to occupy the space of prophetic deliverance in the face of failure that is the attraction" (Mehta 2021: 12).

Modi often addresses 125 crore Indians in such a manner that it hardly leaves any space for institutional mediation by the political party or political institutions; the two stilts of liberal democracy. Pratap Bhanu Mehta has argued, "The language of electoral

legitimation, the claim that the people stand behind him is important to his power and self-image; so important that he will go to any lengths to secure it. The rhetorical invocation of the power of ordinary people is ubiquitous. It is often not noticed enough, but his invocation of the people (the power of one hundred and twenty-five crore), and its electoral potency, is often in almost a prophetic mode” (Mehta 2021: 12 ). While trying to establish a direct connect with the ‘will of the people’, like all populist leaders do, he has put the representative framework of parliamentary democracy in India on notice! Yogendra Yadav calls it the end of the First Republic in India (Yadav 2020).

Theoretical explanations galore and there are a number of conceptual frames in circulation today to understand and explain the Modi phenomenon in Indian politics. These include concepts like Populism, Majoritarianism, Democratic Authoritarianism, Ethnic Nationalism and Fascism (Chatterjee 2020; Gudavarthy, 2018).<sup>18</sup> But hardly any attempt has been made by the scholars to analyse his politics through the prism of Republican-Liberal democracy tension, as argued in this paper. This democratic fault line, which has emerged due to the marginalisation of the republican ‘people’ through illiberal democracy, seems to be giving rise to a tide of anger among the masses against the institutional paraphernalia of constitutionalism and procedural democracy. In my view, it is this disharmonic relationship between the two categories of people — majoritarian-democratic and liberal democratic — that lies at the heart of the contemporary problem of Liberal Democracy and this is getting expressed in the garb of anti-elitism and anti-institutionalism, which political leaders like Narendra Modi, who are adept in messaging, are articulating with deftness. The Modi phenomenon is the symptom of a deep-rooted malaise of the Representative Liberal Democracy in today’s world,<sup>19</sup> particularly the way it has evolved and functioned over the centuries, distancing the public from the republic in the name of institutional rationality and the enlightened will of the few ! Interestingly, the same public today is being used to divorce republic from democracy (Yadav 2020) and liberal values.

### Notes

An earlier version of this paper was presented in the 7th Creative Theory Colloquium on ‘Reclaiming Republican Democracy in the 21st century’ jointly organized by Foundation for Creative Social Research, India International Centre, Delhi and Raza Foundation in New Delhi on 5-6 September 2020.

1. Republican people is considered active, virtuous, and motivated by social good. It is also unmediated and unbounded by the institutional matrix of electoral politics and the paraphernalia of state power. The people in the republican mould is both public-spirited and oriented towards the common good. But, on the other hand, it is seen differently in a liberal democracy and in its philosophy of individualism. It is considered self-centred, privacy-loving and devoid of an active sense of public good. It is electorally created, institutionally tamed, and domesticated by constitutionalism. Though some scholars prefer a different binary to explain two different types of people which I have based on the Republican and Liberal-Democratic distinction. For example, Suhash Palshikar has used the binary of 'Democratic' and 'Liberal' to connote the differences between two types of people. Although he also believes that the '...(T)he division between the Liberal and the democratic is shallow and unhelpful. The will of the people cannot express itself unless people as groups, religions, and also as individual dissenters are free to express themselves" (Palshikar 2021: 10).
2. The framing of the American Constitution was marked by an intense debate on bringing in tools of direct democracy in the Constitution, like a referendum, recall, initiative, etc. and thereby justifying the invocation of 'We, the people' as the author of the Constitution. But due to the anti-majoritarian sentiment of the founding fathers, the advocates of direct democracy, the Jeffersonians, lost out to Hamilton and other votaries of representative democracy, and finally ended up on the losing side. They, however, succeeded in retaining the tools of direct democracy only in the state constitutions of the 'wild west' and the racist south. Hence, 'We, the people' do not have very exalted place in American democracy too. Direct democracy was reduced to the minimum and got confined only to the ratification of constitutional amendments in a few states (in most states, the legislatures performing this job).
3. Sandipto Dasgupta (Dasgupta 2019) and Uday Mehta (Mehta 2010) have discussed in detail the reasons as to why the term revolution was missing in the deliberations of the Indian Constituent Assembly.
4. Ernesto Laclau, while analysing Populism, calls the people an 'empty signifier'. But Partha Chatterjee, commenting on the analysis of populism given by Ernesto Laclau, writes that "it is, however, possible that 'the people' operate as a floating signifier rather than an empty one, such that the heterogeneous elements that have to be stitched together into chains of equivalence could change over time.....As (in) the Indian examples, the ability to construct the people as a floating signifier is a major political achievement of successful populist parties" (Chatterjee 2020: 83).
5. Marx in his classic work *The 18<sup>th</sup> Brumaire of Louis Bonaparte* (Marx 2000) discusses the coup d'état of 1851 by Napoleon III, the nephew of Napoleon and the subsequent suspension of the 2<sup>nd</sup> Republic. However, the larger argument in the book is the balance of class forces which obtained in France after the Revolution in 1789 and the Napoleon Bonaparte's seizure of power on 9 November 1799. The title of the book stands for the 18th Brumaire year, VIII, in the French Republican calendar, which translates in English to the day of Bonaparte's takeover in 1799. In this tract, Marx theorises the capitalist state and also gives his theory of the relative autonomy of the capitalist state in certain circumstances when class struggle freezes due to the balance of class forces in the society. This 1852 writing of Marx was occasioned by the failure of

- 1848 revolution in France and in some other European countries.
6. Though Thoreau strikes a different note in the same period in which Tocqueville and Marx were writing and reflecting on the French tragedy and the republican fiasco due to an uncritical celebration of the people's power and its raw will. Contrary to this, Thoreau wrote his famous piece *Civil Disobedience* (Thoreau 2016) in 1849, where he glamourised people's power and its right to resistance in form of civil disobedience against the power of the modern state. He was reflecting on the American-Mexican War and taxes levied by the state on the citizens. He saw the will of the people en-caged in the Liberal democracy as it existed in America.
  7. Barrington Moore, Jr. has done a comparative study of Modernisation and Industrialisation in modern times. He uses a comparative method to argue that certain types of class alliances at a particular stage in the history of some countries were responsible for social revolutions leading to the birth of democracy. But, according to him, in some other cases, a different type of class alliances led to authoritarianism and communism. Through his study, Moore has shown the important role played by the bourgeoisie and the peasantry respectively in the birth of democracy, communism, and authoritarianism; bourgeoisie acting as a facilitator for democracy, while the peasantry becoming the stumbling block. Moore has taken some sample cases to prove his thesis. In his comparative study of the revolutions in the world which gave birth to democracy, communism and fascism, Moore discusses the class structure and the class alliances which obtained during the revolutions in the UK, the USA, France, Japan, Germany, Russia, China and India to show how the resolution of the peasant question became the crucial variable in the rise of democracy. The countries, where the peasant question was successfully resolved by the bourgeoisie, as in the UK, the USA and France, it gave birth to democracy. But in some other, where the peasant question lingered on, it obstructed the growth of capitalism and industrialisation, and hence democracy. According to him, in such countries, the state had to step in and acted from the above to do industrialisation due to the missing bourgeoisie, or its weak presence on the ground. Hence, as per his thesis, it led to authoritarianism (Germany and Japan) and communism (Russia and China). Thus, for Moore the settlement of the peasant question and the presence and participation of the bourgeoisie during the revolution became crucial as well as the key variables for the rise of democracy in modern times (Moore Jr. 1966).
  8. The Marxists scholars as well as the ideologues of the Indian Communist Party always maintained that the national movement led by the Congress was a bourgeois project, and the freedom movement was controlled by the Indian capitalist class. This was in tune with the Marxist theory on Nationalism, which associates the rise and birth of nation, nationalism, and the nation-state with the birth of capitalism in Europe. Such a line of arguments can be seen in the writings of M.N.Roy (Roy 1971), R.P. Dutt (Dutt 1940), A.R. Desai. (Desai 1948), and Achin Vanaik (Vanaik 1990). Although the Second Congress of the Communist International in 1920 in the former Soviet Union debated the class character of India's freedom movement, where M.N. Roy and Lenin indulged in a famous debate, offering different perspectives on the nature of India's freedom movement led by Gandhi. The former argued against any alliance with the bourgeois-led Congress in the national movement, whereas the latter advocated for an alliance with Gandhi-led multi-class anti-colonial struggle, as

the proletariat as a class was weak to launch a separate revolutionary movement (Seth 1995).

9. There is a rich debate on differentiation and de-peasantisation and their relation with primitive accumulation for industrialisation. The Enclosure Movement in England has been seen as an important historical event leading to the primitive accumulation of capital, which eventually gave birth to industrialisation and also consolidated liberal democracy in Europe. Although the USA did not have a feudal system like Europe and had mostly commercial agricultural interests, and therefore did not have to go for the Enclosure Movement-type strategy for industrialisation as it happened in Europe, or the way Stalin's Soviet Union did in the name of collectivisation through state-sponsored terror and destruction of the peasantry. But, the purpose of both the strategies, England's Enclosure Movement and USSR's collectivization, was same — liquidation of the peasantry and turning the agriculture sector and the countryside into a site for the accumulation of the capital to support industrialisation and build capitalism. It is to be noted here that the Indian case strikes a different note in the sense that neither the peasant question was dealt with in the European way, where the Enclosure Movement had expropriated and dispossessed the peasantry from the countryside and eventually turned them into wage labourers for the industries. Nor, did India have the luxury of following the American path, where due to the presence of the commercial capitalist class, the travails of European experience in its journey towards industrialisation and democracy were bypassed. The presence of liberal democracy based on universal adult franchise ruled out at the same time the Soviet route based on state-sponsored collectivisation in the countryside through state terror and violence. Hence, the issues of economic growth and industrialisation in India were addressed after the Independence through a third route, deviating both from the European Industrial Revolution model and the Soviet collectivisation strategy. Instead of liquidating the peasantry in the countryside, India tried to do primitive accumulation for industrialisation through a number of alternative strategies, which included democratically organised co-operative farming, household saving, foreign aid, and later the Green Revolution in agriculture (Varshney 1998). This was the hallmark of Nehru-Mahalanobis discourse on economic development in India which, although, led to a sluggish and slow economic growth for decades, but did not sacrifice either the peasantry, or the democracy at the altar of Industrialisation, which both Europe and the Soviet Union had done. The slow economic growth under this model was famously called by economist Raj Krishna as the 'Hindu rate of growth'. Ashutosh Varshney has provided a detailed account of the Indian route to democracy and development in his book *Democracy, Development and the Countryside- Urban-Rural struggle in India* (Varshney 1998).
10. In the 'Tennis Court Oath', The Third Estate during the French Revolution (Estate of the commons) took oath to proceed in their mission irrespective of the blessings of the Monarch. Nehru had been greatly moved by such idealism of the French Revolutionaries when he called for such an assembly way back in 1932. In his *Glimpses of the World History* after the fall of Bastille, he refers to the 'Oath of the Tennis Court' during the French Revolution (Nehru ,2004: 423). The determination of the French revolutionaries to establish their own rule gets echoed in the deliberations of the Indian Constituent Assembly, and Nehru went on to cite it in his speech on the 'Aims and Objectives of the Indian

- Constitution' in December 1946 (CAD, Vol.I, 1999).
11. Scholars like Rohit De (De 2018) and Ornit Shani (Shani 2018) have tried to refute the argument about the un-representativeness of the Indian Constituent Assembly and the allegation that the masses were inert in the constitution-making process. They have shown how the Indian masses were quite aware about what was going on in the Assembly, and were continuously responding and reacting to the draft constitution once it was put in the public domain. Shani writes that "deliberations on the draft constitution were not confined to the Constituent Assembly and its committees. The constitutional discussions outside the Constituent Assembly indicated that administrators and members of the public recognised the intended authority of the text, and its possible implications. Their engagements with various articles, their sub-clauses, principles, words and phrases suggested that they saw at least some scope for influencing what was to become their frame of reference as citizens and their guarantor of fundamental rights. Administrators' discussions of the draft constitution appeared to be motivated both by their professionalism as civil servants and their commitments to the new state, more than to the government of the day" ( Shahni 2018: 183-184). Shani uses the instance of the preparation of electoral rolls, when the Assembly was debating the universal adult franchise, to show the people were actively following the making of the constitution and were influencing it from the outside.
  12. Interestingly, the Cultural Nationalists critiqued Colonial Modernity, particularly in the realm of knowledge and cultural practices, but were also the first ones to have advocated linguistic nationalism in India, which was one of the important features of the Western Modernity.
  13. Manoranjan Mohanty *et al.* edited book *People's Rights: Social Movements and The State in The Third World* (Mohanty *et al.*, 1998) does not consist of contributions that could be labelled as Gandhian. But the way the people as an undifferentiated category in politics has been used by the scholars in the volume, including in the title of the book, to analyse the social movements in India bears striking similarity with the Gandhian usage of the people. T.K. Oommen's edited two volumes on the social movements in India give a fairly good idea of how the New Social Movements in contemporary times have problematized the politics of the people outside the electoral process (Oommen 2010). The usage of the term people by the contributors in these edited volumes in the context of Environmental Movements, Tribal Movements, Human Rights Movements, etc. is good reminiscent of the Gandhian people in politics, although without adhering to important Gandhian principle of criticising and scrutinising peoples' actions . But still they show as to how the New Social Movements in India suffer from a syndrome of the uncritical celebration of the people, which is an important feature of Populist politics.
  14. Jayprakash Narayan's *A Plea for Reconstruction of Indian Polity* (Narayan 1959) triggered a debate on J.P.'s 'Participatory Democracy' in India. Political Scientist W.H. Morris-Jones offered a powerful critique of J.P.'s formulation of participatory democracy (Jones 1961).
  15. There is an interesting debate today on the concept of *Bharat Mata* and it has, interestingly, got tied with the debate on the nature of Indian Nationalism, Secularism and the Idea of India. Purushotam Agrawal has come up with a book-length edited work on Nehru's idea of *Bharat Mata*, based on his writings (Agrawal 2020). Nehru has recounted his encounter with the villagers on the

meaning of *Bharat Mata* in his *Discovery of India* (Nehru 2008). He has narrated the story as to how he explained to the bewildered villagers that the millions of people living in villages and cities constituted true *Bharat Mata*. Nehru also interprets *Bharat Mata* in the republican sense, unlike its portrayal in Bankim Chandra Chatterjee, Aurovindo Ghosh and other nationalist leaders who had equated it with the 'Mother Goddess'. Swapan Dasgupta has offered a contrarian perspective on this from the point of view of the Right by tracing the intellectual lineage of *Bharat Mata* in Bankim, Aurovindo, Tilak, Savarkar, Shyama Prasad Mukherjee, N.C. Chatterjee, Sitaram Goyal, Girilal Jain, and Vajpayee (Dasgupta 2020).

16. Hilal Ahmed has provided an interesting account of how the idea of the people has been used in Indian politics in the post-Independence period, divorced from the traditions of both constitutionalism and social reform movement of the freedom movement era. He discusses Nehru, Indira Gandhi, neo-liberal discourse, the rise of the Aam Aadmi party and the majoritarian politics of Hindutva under Narendra Modi to analyse multiple usages of the people in Indian politics and draws the attention to the danger to move on the "slippery slope towards imagining people as all-knowing and unquestionable monolithic majority" (Ahmed 2020). M. P. Singh has sought to explicate the concept of 'the people' in Anna Hazare's India Against Corruption Movement in 2011-12 and a political party, Aam Aadmi Party (AAP), founded by Arvind Kejriwal, born out of the Anna Movement but refused the blessings of Anna in autumn 2012, as post-Gandhian legacies (Singh 2020).
17. Pratap Bhanu Mehta has analysed the popularity of Narendra Modi among the masses, despite his less than satisfactory performance in the management of the economy. By using the category of *Vishwas* used by Neelanjan Sircar in a journal article (Sircar 2020), Mehta argues that politics of *Vishwas* decouples performance from the popularity. He writes, "politics has, to a greater extent than before, become autonomous from economic or pre-existing social conjunctures. It operates in realm of the imagination, and the rules and protocols of politics in this realm are different from the politics of fact and interests" (Mehta 2020: 10). He further writes that "the greatest allure of *vishwas* is that you maintain it by simply believing. You don't actually have to do anything else. It is truly liberating" (Mehta 2020: 10). Sudhir Kakar, in his response to Mehta, has analysed the politics of *vishwas* from political psychology perspective and has observed that "vision may indeed be the most important aspect of leadership, the crucial ingredient of engendering trust in a leader. Whether the leader's vision is faulty, has little substance in reality, becomes unimportant; what is decisive is the belief that the leader is a visionary" (Kakar 2020: 8).
18. A plethora of literature has emerged recently on the rise of Right-wing populism, both in the context of India and other parts of the world. Partha Chatterjee has tried to look at the rise of Narendra Modi and his brand of politics through the prism of theoretical debates on populism, which has taken place in the neo-Marxist literature in the West, particularly in the Latin American countries (Chatterjee 2020). Ajay Gudavarthy, on the other hand, analyses the Modi phenomenon in India by locating it within the Gandhian tradition of populist mobilization, which, he believes, split the societal and political realms and make the two autonomous from each other. He also writes that Modi's populist politics has co-opted the subaltern classes in the

Hindutva project of ethnic and majoritarian nationalism through astute caste calculus and selective representation. Gudavarthy also points out the limits of subaltern politics to checkmate the populism of the right, on which the Left-liberal discourse in India puts wager, due to the Right-ward shift of the subaltern classes. He squarely blames the Left and the Centrist political forces for succumbing to what he calls 'secular sectarianism' for the rise of Right-wing populism in India (Gudavarthy 2018, 2020). Nadia Urabanti provides a well-nuanced and well-rounded theoretical account of populism as a global phenomenon in contemporary times (Urabanti 2019).

19. Rajeev Bhargava looks at the populist challenge to Liberal democracy through the "design fault with which liberal democracy was born" (Bhargava 2019: 10), and writes that "of late its conceptual flaws have run aground" (Bhargava 2019: 10). The design fault of Liberal democracy, according to Bhargava, lies at the root of the contemporary crisis, when the rising quest for participation among people has started spilling out of procedural bounds, giving a field day to populist politics.

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