

## The Founding of India and Popular Sovereignty

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On October 24, 1947, just at the time the first draft of the Indian Constitution was ready, His Highness the Maharaja of Patna, a princely state in the North East of the subcontinent, issued “an extraordinary proclamation” declaring “the objective of full responsible Government under the aegis of the Ruler as the goal to be achieved by a date no later than April 1952 AD; and ... Whereas I consider,” the ruler stated, “that the time is appropriate for taking immediate steps for the setting up of a representative constitution-making body and for the transfer of power to the people’s representatives at the earliest possible date.”<sup>1</sup>

Efforts toward establishing popular governments and constitution-making bodies such as the one the otherwise autocratic Maharaja of Patna pursued were taking place at the time in many other princely states across India. Indeed, the territories that comprised British India and were under direct British rule did not cover the whole of the subcontinent. When India gained independence at the stroke of midnight between August 14 and 15, 1947, spread throughout the subcontinent, were more than 550 princely states that covered about 45 percent of its territory, with a population of nearly 93 million. The princely, or Indian states, possessed various degrees of sovereignty under the paramouncy, which the British Crown exercised over them. But the Crown’s paramouncy lapsed with the attainment of independence by British India, and as the British Cabinet Mission Statement of May 16, 1946, stipulated, it could not be “transferred to the new government.”<sup>2</sup> Thus, all the rights surrendered by the states to the British Crown were to return to the states.

<sup>1</sup> His Highness’ Government Gazette, Patna, Extraordinary Proclamation of His Highness Maharaja Shreeman Shree Shree Rajendra Narayan Singh Deo, Maharaja and Ruler of Patna State, October 24, 1947, pp. 1–2, AICC I Inst., F. 2 (II) (noncategorized files), 1947, NMML, Delhi.

<sup>2</sup> ‘India: Statement by the Cabinet Mission,’ *Hansard* (HL Deb), May 16, 1946, vol. 141, cc. 271–87, <https://api.parliament.uk/historic-hansard/lords/1946/may/16/india-statement-by-the-cabinet-mission>, accessed 4.4.2020.

In the face of the impending severance of their relationship with the British Crown, the Chamber of Princes agreed as an objective already in January 1946 to “set up forthwith constitutions in which the sovereign power of the Rulers are exercised through regular constitutional channels without in any way affecting or impairing the continuance of the reigning dynasty in, and the integrity of, each State.”<sup>3</sup> Six months later, in June 1946, the Chamber’s Standing Committee endorsed the view that the “State Governments should take active steps to place themselves in close and constant contact with public opinion in their State by means of representative institutions.”<sup>4</sup> There was a prior history to these efforts. States peoples’ associations and movements for popular government started advocating for popular reforms on these lines already from the late 1930s. These struggles were energized at the time by the mass nationalist anti-colonial movement in British India, which declared *Purna Swaraj* (complete self-rule, or independence) as its goal on January 26, 1930. In the context of the demise of colonial rule, these struggles toward representative governments in the states gained greater dynamism from the mid-1940s.

Thus, when the Indian Constituent Assembly convened in December 1946, with the aim of establishing India as “an Independent Sovereign Republic ... WHEREIN the territories ... that now form the Indian States ... be constituted into the Independent Sovereign India ... and WHEREIN all power and authority of the Sovereign Independent India ... are derived from the people,” there were multiple competing sovereignties that aimed to establish popular governments across the subcontinent.<sup>5</sup> Although the states were allotted ninety-three seats in the Indian Constituent Assembly, as the British Cabinet Mission Statement of May 1946 stipulated,<sup>6</sup> the rulers made clear that “[t]he entry of the States into the Union of India ... shall be on no other basis than that of negotiation,

<sup>3</sup> Quoted in a letter from the Secretary to His Excellency the Crown Representative to the Residents of 13 States and groups of States, August 19, 1946, India Office Records (hereafter IOR)/R/1/1/4466, British Library (hereafter BL), London. The residents were the representatives of the British Government in the states. The chamber was a forum of the princes that represented them on all-India matters; 242 states had representation in the chamber at the time; 135 rulers of states were members in their own right, and another 107 states were represented through ten representatives. Bhargava, *The Chamber of Princes*, 60.

<sup>4</sup> *Ibid.*

<sup>5</sup> “Resolution on Aims and Objectives,” *Constituent Assembly Debates* (hereafter CAD), December 13, 1946, <http://164.100.47.194/Loksabha/Debates/cadebatefiles/C13121946.html>. This resolution was adopted on January 22, 1947. All references to the CAD hereafter are from <http://164.100.47.194/Loksabha/Debates/cadebadvsearch.aspx>. The Indian Constituent Assembly, which was entrusted with the task of writing a constitution for free India, convened for the first time on December 9, 1946, six months before Britain declared the partition plan of the subcontinent. The constitution-making process took three years. The first draft constitution, prepared by the constitutional advisor was ready in October 1947. The second draft, prepared by the Constituent Assembly Drafting Committee was published in February 1948. The assembly adopted the final constitution on November 26, 1949. It came into force on January 26, 1950.

<sup>6</sup> “India: Statement by the Cabinet Mission,” clauses 14, 19 (II). The Cabinet Mission stipulated 292 seats for the Provinces of British India.

and the final decision shall rest with each State”; “that their participation in the constitutional discussions in the meantime will imply no commitments in regard to their ultimate decision ...”; and that the “Constitution of each State, its territorial integrity, and the succession of its reigning dynasty in accordance with the custom, law and usage of the State, shall not be interfered with by the Union ...”<sup>7</sup>

It was not self-evident that India would succeed to consolidate a unified popular sovereignty against these contending sovereignties.<sup>8</sup> There were, moreover, additional palpable reasons why the making and institutionalization of popular sovereignty for “We the People” of India was not bound to strike roots, resonate with its people, or that it would necessarily endure. The principle that power was to be derived from the people had to be achieved in the midst of the violent partition of India and Pakistan that was tearing the people and the territory apart. The population was largely illiterate and poor, and deeply divided by caste, language, and religion. These conditions were largely the basis of British officials’ unwavering belief that a popular government based on universal adult franchise was a bad fit, and administratively impossible for India.<sup>9</sup> The Indian national movement had been committed to universal adult suffrage since 1928.<sup>10</sup> The anti-colonial mass nationalism after World War I further strengthened that vision.<sup>11</sup> But there remained a large gap to bridge in turning this aspiration into a reality, both institutionally and in terms of the notions of belonging that electoral democracy based on universal franchise would require. Indeed, the fact that the Indian Constituent Assembly adopted universal franchise at the beginning of the constitutional debates, in April 1947, did not ensure by itself that this would be achieved under the adverse conditions of independence. At independence, the notion of “We the People” of India had yet to come into existence.

This chapter explores how despite multiple competing sovereignties, and deep pluralities, a unified popular sovereignty consolidated at India’s founding

<sup>7</sup> “Text of Resolution Passed at Princes Meeting Held on 29 January 1947,” CAD, April 28, 1947 (<http://164.100.47.194/Loksabha/Debates/cadebadvsearch.aspx>). It is noteworthy that the Government of India Act, 1935, provided for a Federation of India comprised of the provinces and the Indian states. But that part of the Act required the accession of the Indian states in sufficient numbers for this federation to come into effect. That threshold was never reached.

<sup>8</sup> This is contrary to a previously prevalent view that the destruction of the princely states was inevitable. Indeed, historical works in recent decades argue that there is little empirical evidence to suggest that the states were about to disintegrate. Yet, on the whole, these studies conclude their historical investigation at independence. For a broad review of the historiography of the princely states until 1947 see Groenhout, “The History of the Indian Princely States.”

<sup>9</sup> Representative institutions existed before independence. These institutions, however, were largely a means of co-opting ruling elites and strengthening the colonial state. The representation was based on “weightage” and separate electorates, wherein seats were allotted along religious, community, and professional lines, and on a very limited franchise. For a recent analysis of the difficulty the colonial perception of Indians’ inability to qualify for self-rule posited to Indian national leaders see Sultan, “Self-Rule and the Problem of Peoplehood.”

<sup>10</sup> See Nehru, “Report of the All Parties Conference,” 91–94.

<sup>11</sup> See, e.g., Sarkar, “Indian Democracy.”

between 1946 and 1950. It suggests that two complementary processes played a key role in fashioning an all-India popular sovereignty by the time India's constitution was adopted. First, the making of a unified popular sovereignty in India was driven, in the main, by efforts to work through rather than to forcefully prevail over the competing visions of popular sovereignty that were asserted at the time. In this process, the language of popular sovereignty was routinely used, the notion of the "peoples' will" was iteratively reasoned, and even people from the margins had opportunities to engage with it. This process undermined the legitimacy of states' efforts to define sovereignty on their own terms.<sup>12</sup>

Second, while multiple discussions about unified popular sovereignty were taking place and the question was being negotiated, bureaucrats across the country embarked on the preparation of the first draft electoral roll on the basis of universal adult franchise in the territories of former British India as well as the states that were by then in the process of integration. I argue that doing so in anticipation of the new constitution and the merger of the states resulted, in effect, in institutionalizing the edifice for implementing the "rule of the people" on an all-India level. The transformative effect of this process was the bounding together of the people of British India and the states as equal individual voters and as the agents of authorization of the newly forming Indian Union. Moreover, this process played a critical role in mitigating discrepancies that emerged from the competing sovereignties and the many constitution-making processes they engendered.

Drawing on Yaron Ezrahi's work on *Imagined Democracies*, I suggest that these processes and their scale combined to produce the reasoning, institutions, and rituals that were necessary to render persuasive and to sustain the political imaginary, or fiction of sovereignty of the people as a public choice.<sup>13</sup> The first process resulted in making the otherwise abstract notion of the will of the people, and that all power derives from them into a convention that could not be easily withheld or delayed. The second process, the making of the electoral roll in anticipation of the constitution being finalized, outpaced state-level deliberations and created ground realities and the administrative delivery of one of the cornerstones of popular sovereignty. While the people of the states were not, in the main, consulted in the process of reaching merger agreements with rulers, they were enlisted as voters and made into "the people."

The chapter's investigation is based on original archival materials. It is composed of three parts. Part one explores the dynamics of working through

<sup>12</sup> Of the more than 550 princely states that ultimately merged with India, there are two exceptions to the argument proposed in this chapter: Hyderabad and Kashmir. The Indian government annexed Hyderabad by force in September 1948. A war between India and Pakistan over Kashmir in 1947–1948 ended with a ceasefire mediated by the UN. For a history of Hyderabad and Kashmir states at independence see Raghavan, *War and Peace in Modern India*; Sherman, *Muslim Belonging in Secular India*; Hussain, *Kashmir in the Aftermath of Partition*, Chapters 1 and 2.

<sup>13</sup> Ezrahi, *Imagined Democracies*.

competing sovereignties across India in the midst of India's constitution-making process. The second part examines how the implementation of the universal franchise contributed to embodying the multiple and competing visions of sovereignty that were asserted at the time, while producing a concrete sense of "We the People" of India. Finally, the conclusion reflects on the significance of the Indian experience of consolidating a unified popular sovereignty in the midst of deep pluralities.

#### CONTESTED SOVEREIGNTIES FOR THE PEOPLE OF INDIA

From the 1920s, States People's Associations began struggling for responsible governments in their princely states. In 1927, the All India States Peoples' Conference (AISPC), an association representing an alliance of these movements, was established. A decade later the Indian Nationalist Congress that led the struggle for Independence in British India affiliated itself with the AISPC and with the freedom struggles in the princely states. In the 1930s, most of these movements had failed and many of them were suppressed by the rulers. Yet, limited representative elective institutions were formed in many of the princely states, and some rulers established legislative assemblies. A majority of the members in the states' representative institutions were nominated. By the early 1940s, only about a third of these institutions were based on a majority of elected members.<sup>14</sup>

In the context of the imminent end of British rule in India, growing states people's struggles for self-rule, on the one hand, and pressures on the princes to surrender their sovereignty and integrate their state with the newly forming Indian Union, on the other hand, triggered a surge of popular reforms in the states. The Maharaja of Gwalior, for example, announced on October 25, 1946, that he aims to "set up a Government responsible to the people."<sup>15</sup> This was a promise he already made five years earlier. A few days later, the Gwalior State Congress issued a resolution stating that a "mere acceptance of the aim is not enough. The People of Gwalior State are now tired of the irresponsible, feudal and autocratic system of government which exists to-day and they crave for its termination without delay."<sup>16</sup> They demanded that "a constituent assembly consisting of popularly elected members and enjoying full sovereign powers may be set up forthwith for drawing up a constitution of a government fully responsible to the people."<sup>17</sup>

<sup>14</sup> See Copland, *State, Community and Neighbourhood*, 76–77. Also see Copland, *The Princes of India*; Ramusack, *The Indian Princes and Their States*; Jeffrey, *People, Princes and Paramount Power*.

<sup>15</sup> *The Tribune* 29.X.46, IOR/R/1/1/4411, BL, London.

<sup>16</sup> "Main Political Resolution," Gwalior State Congress, 27th Annual Session, Gwalior, November 4–6, 1946, AISPC papers F. 59, 1946–47, NMML, Delhi.

<sup>17</sup> *Ibid.*

Discussions on the formation of governments responsible to the people on the basis of a wide and popular franchise took place in a number of other states at the time, among them, Benares, Bhopal, Bikaner, Mysore, Patna, and Rampur. In some states, for example, Aundh, Cochin, Manipur, Mewar, Pudukkottai, and Travancore, adult franchise was in the process of being introduced or already instituted, with the Maharaja being the constitutional head of the state.

The different positions on the scope of the reforms toward popular governments in the states were reasoned at length in the reports of states constitutional committees, in protest letters and other documents, as well as in the proclamations that set out the intended policies of the rulers. Newspapers also covered these developments. These contending views manifested and took on a new dynamic with the beginning of India's constitution-making process from December 1946, especially as the question of the place of the states and "their people" within the newly forming Indian Union became more salient.

The Indian Constituent Assembly appointed a States Committee in January 1947 to negotiate with the States Negotiating Committee appointed by the Chamber of Princes on the question of the distribution of the ninety-three seats that were allotted to the states in the assembly, and on the method of filling them. The two committees, and then a joint committee they appointed, held discussions between February and March 1947. Pressures to ensure representation of the states' people came to the fore in that context.<sup>18</sup>

The Kolhapur State *Praja Parishad*, for example, asked of the government of India already in July 1946 to ensure that the members of the Constituent Assembly for the ninety-three seats allotted to the Indian states should be representatives elected by the people of the states.<sup>19</sup> A note on the subject prepared for the Indian Constituent Assembly held that the representatives of the states should be chosen by the people "either through direct or indirect elections."<sup>20</sup> It suggested that existing representative bodies in the states could be the electors, and that in states where such bodies did not exist, a solution could be found in consultation with the states governments and the states' peoples' conference. The States Peoples' Negotiating Committee argued that the legislative bodies in the Indian states "are not sovereign, and even in matters transferred to them they are not the final authority."<sup>21</sup> The committee also insisted that

<sup>18</sup> It is noteworthy that the Indian Constituent Assembly did not actually represent the whole people of (British) India. Its members were, in the main, representatives of the elite, chosen by the legislative assemblies of the provinces of British India, which were themselves elected in the 1946 elections on the basis of a very limited franchise, and an electorate that was structured along religious, community, and professional lines, according to the colonial 1935 Government of India Act (for about fifth of the population).

<sup>19</sup> Letter from the Working President of the Kolhapur State *Praja Parishad* to the Special Officer, Political Department Government of India, IOR/R/1/1/4466, BL, London.

<sup>20</sup> Letter from Gopalaswami Ayyangar to Nehru, November 18, 1947, Rao, *Framing of India's Constitution*, 588.

<sup>21</sup> "A Note by the States' Peoples Conference," February 24, 1947; Rao, *Framing of India's Constitution*, 628.

the princes' negotiating committee does not represent the states or the states' people, and did not agree that it had the authority to decide.<sup>22</sup>

The Joint Committee of the Constituent Assembly States Committee and the States Negotiating Committee ultimately agreed that "not less than 50 per cent of the total representatives of states in the Indian Constituent Assembly shall be elected by the elected members of legislatures or, where such legislatures do not exist, of other electoral colleges."<sup>23</sup> Representatives of the states began to enter the Constituent Assembly from late April 1947.<sup>24</sup> By July 15, 1947, however, a month before India's independence, only thirty-one of the ninety-three seats allotted to representatives of the princely states were designated as "popular quota."<sup>25</sup>

By August 15, 1947, the date India gained independence, a majority of the princely states, signed an Instrument of Accession under which they ceded to the Indian government control over three matters: defence, external affairs, and communication.<sup>26</sup> From a constitutional viewpoint, the Instruments of Accession secured the rulers' sovereignty.<sup>27</sup> The merger of more than 550 states into the new Indian Union was a piecemeal process of ongoing disparate negotiations between the Indian Ministry of States and the rulers of states carried out until shortly before the Indian Constitution came into force on January 26, 1950. Pressures exerted from below by organizations of the people of the states also informed the dynamics of these processes. In the meantime, and while the framing of the Indian Constitution was in progress, constitution-making processes in the states continued and in some states constitutional acts even came into force. These states constitutions envisaged an Indian Union within which sovereign states, except for subjects that may be ceded to the Indian Union, would continue to exist.

The Maharaja of Mysore, for example, declared on October 12, 1947, the setting up of a "Constituent Assembly composed of elected representatives of the people and entrust it with the task of framing a Constitution Bill for the State of Mysore providing for responsible Government ..."<sup>28</sup> On May 10, 1948, the Constituent Assembly of Mysore held its third session. It decided as part of its "Aims and Objects" that "the Constitution of Mysore should be

<sup>22</sup> "Summary of Discussions at the meeting of the States Peoples' Negotiating Committee," February 5, 1947; Rao, *Framing of India's Constitution*, 612-14.

<sup>23</sup> Report of the committee appointed to negotiate with the States Negotiating Committee, April 24, 1947, CAD, April 28, 1947.

<sup>24</sup> For the distribution of the ninety-three seats among the states see CAD, April 28, 1947.

<sup>25</sup> AICC I Inst., F. SP-24, NMML, Delhi.

<sup>26</sup> These Instruments of accession were reached through pressed negotiations conducted by the last Viceroy Mountbatten and India's Minister of States Sardar Patel.

<sup>27</sup> The states even retained exclusive authority over the states forces because these armed forces were "excluded from the scope of 'defence.'" Menon, *The Story of the Integration*, 429.

<sup>28</sup> Proclamation of His Highness Maharaja Sri Jayachamarajendra Wadiyar Bahdur of Mysore, October 29, 1947, p. 1, AICC I Inst. (Part II), F. 25 (II), 1947, NMML, Delhi.

such as will be in consonance with the Constitution of a Sovereign Democratic Republic adopted for India,” but should also conform to the principle, that “The individuality of the State of Mysore and the freedom of its internal autonomy should be secured in a manner not inconsistent with the other parts of this Resolution.”<sup>29</sup> Among these, for example, was a clause stipulating that “The Constitution should take the form of Constitutional Monarchy based upon the Sovereignty of the People and His Highness the Maharaja will be the upholder of the Constitution.”<sup>30</sup>

By then the drafting committee of the Indian Constituent Assembly produced the draft constitution of February 1948, and it was given wide publicity. Some members of the Constituent Assembly raised concerns about the “different kinds of constitutions” that were being introduced in different states, and asked “what is the Government going to do to see that uniformity is kept throughout the country?”<sup>31</sup> One member asked whether “anything is being done to advise any of these Princes to see that they will not tamper with the ordinary well-known fundamental democratic principles when they constitute their Constituent Assemblies and fix their franchise.”<sup>32</sup> The Minister of States, Sardar Patel, replied that it was “for the Ruler and the People of the State to decide the constitution under which the State is to be governed subject to our general policy ... that the administration of the State must be democratised and that the States must be viable units.”<sup>33</sup>

The “different kinds of constitutions” that were being framed in the states, despite being based, in the main, on universal franchise, presented difficulties for a united all-India popular sovereignty. Moreover, some rulers held the view that “the Draft Constitution of India seemingly in several ways encroaches on the sovereignty of the Rulers.”<sup>34</sup> They submitted criticisms and suggested amendments to the Indian Draft Constitution, so as to ensure that it would be acceptable to the states.<sup>35</sup> The question of citizenship, for example, was a big point of contention. The constitution makers envisioned a common citizenship and law of nationality throughout India and rejected the

<sup>29</sup> Constituent Assembly of Mysore, Third Session, “Resolution re: Aims and Objects,” May 10, 1948, Bangalore, AICC I Inst. (Part II), F. 25 (II), 1947, NMML, Delhi.

<sup>30</sup> *Ibid.*

<sup>31</sup> Ministry of States (hereafter MoS), F. 12 (49)-P, 1948, “Supplementaries [sic] to Q [Question] No. 539,” March 1, 1948. National Archive of India (hereafter NAI).

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> Cover letter from Jaswant Singh, Prime Minister of Bikaner state, to the Joint Secretary of the Constituent Assembly of India, “Note containing the views of the Bikaner State in regard to the Draft Constitution of the Indian Union,” April 9, 1948, MoS, F. 590-P/48, NAI.

<sup>35</sup> “Note containing the views of the Bikaner State in regard to the Draft Constitution of the Indian Union,” April 9, 1948, MoS, F. 590-P/48, NAI. Also see, e.g., “List of Amendments to the Draft Constitution of India to be moved on behalf of the Indian States,” MoS, F. 590-P/48, NAI; V. T. Krishnamachari, Jai Dev Singh, B. H. Zaidi, and Sardar Singh of Khetbi, *Memorandum on the Draft Constitution of India*, March 22, 1948, p. 12, MoS, f. 414(I)-P, NAI.



notion of dual citizenship.<sup>36</sup> Some rulers and states' constituent assemblies, however, wanted to ensure that although their residents may be citizens of India, they should also maintain their state citizenship.

The Fundamental Rights Committee of the Mysore Constituent Assembly, for example, stipulated provisions for the definition of a citizen of Mysore, based on birth and domicile. The committee explained in its report that "there are special reasons for a clear definition of State Citizenship in Mysore, where the cherished institution of Monarchy makes loyalty to the Throne a distinctive characteristic of the people of Mysore. While every citizen of the Mysore state is necessarily a citizen of the Indian Union, he has certain rights and duties peculiar to himself."<sup>37</sup> Bikaner, Manipur, Travancore, and Cochin, among other states, also insisted on maintaining their own state citizenship. As many documents of the Secretariat of the Indian Constituent Assembly made clear, there was nothing at that point to disallow these states' legislative assemblies from adopting or implementing their own citizenship or subjecthood provisions.

In November 1948, the Chairman of the Drafting Committee of the Indian Constituent Assembly, B. R. Ambedkar, stated that the fact that the states that did not yet integrate were free to create their own constituent assemblies and to frame their own constitutions "is very unfortunate and ... quite indefensible. This disparity may even prove dangerous to the efficiency of the State. So long as the disparity exists, the Centre's authority over all-India matters may lose its efficacy. For, power is no power if it cannot be exercised in all cases and in all places."<sup>38</sup>

In the light of a growing understanding of the difficulties the many constitution-making bodies across India may pose for the consolidation of a united popular sovereignty at the center, the Ministry of States appointed in November 1948 a committee to frame a model constitution, based on the Indian Draft Constitution, that would "serve as a guide to the Constitution-making bodies of the States in framing the constitution for the respective States."<sup>39</sup> The committee worked on the assumption that the Indian states would accede to the Indian Union, and thus followed provisions in the Draft Constitution of India that related to the provinces.

While there was still a great deal of work to do to bring the states and their people into the Indian Constitution's fold, and while negotiations with the

<sup>36</sup> See Jayal, *Citizenship and Its Discontents*, 55–56.

<sup>37</sup> Constituent Assembly of Mysore, "Report of the Fundamental Rights Committee," September 25, 1948, MoS, F. 444-P/49, NAI.

<sup>38</sup> CAD, November 4, 1948. By that time, 206 Indian states merged with provinces of India, twenty-three were merged and constituted as centrally administered areas, and 255 units amalgamated into independent Unions of States.

<sup>39</sup> "Report of the Committee for the Drafting of a Model Constitution for the Indian States," New Delhi: Manager Government of India Press, 1949 (May 30, 1949), MoS, F. 414-P, NAI, New Delhi.

rulers of states over their integration and states' people struggles continued, a bureaucratic undertaking on the ground across India, brought into effect in the most concrete terms the edifice for an all-India unified popular sovereignty.

MAKING AN EDIFICE FOR THE RULE AND  
"WILL OF THE PEOPLE"

A few months after the Indian Constituent Assembly adopted universal adult franchise, in April 1947, the Constituent Assembly Secretariat assumed and managed over the following two and a half years, in anticipation of the constitution, the preparation of the first draft electoral rolls on that basis.<sup>40</sup> The electoral rolls were prepared with the aim of holding the first general elections as soon as possible after the constitution would come into force. This undertaking was critical for the becoming of the people, of both the provinces and the princely states, into agents of popular sovereignty from whom power would be derived in a very concrete and meaningful way. Moreover, in the process of the preparation of the electoral rolls, the challenges that multiple and competing sovereignties posited to the consolidation of a united all-India popular sovereignty were worked through practically and administratively, often complementing, or even outpacing the legal and constitutional process at the center.

In November 1947, the Secretary of the Constituent Assembly of India wrote to the premiers of the provinces and the states, informing them of the intention to start preparing electoral rolls on the basis of universal franchise, and asking them to assess the feasibility of doing so. A majority of states responded positively to the secretariat letter. Indeed, although most of the princely states had no experience with any form of democracy until that time, in some states, as already mentioned, adult franchise was already introduced at the time, or was in the process of being introduced. Devising the guidelines for the preparation of rolls on the basis of adult franchise was done in consultation with the states. Notably, the final instructions drew largely on the instructions that the State of Travancore devised for the election it held in February 1948 on the basis of adult franchise. The registration of voters was done on a house-to-house basis. The Constituent Assembly Secretariat and local governments published detailed press notes, which conveyed in an accessible manner what the preparation of rolls entailed. The aim of the operation was to turn all adults into voters for the elections under the new constitution. By late 1948, the enrolment of India's prospective voters was in full swing, both in the provinces and the states. In some places the draft rolls were nearing completion.

In the states that by then merged with India, the preparation of the electoral rolls for the future Indian House of the People became in effect the means of integrating the people and territories of the merged areas into the structure of the

<sup>40</sup> For the history of the making of the universal franchise in India, see Shani, *How India Became Democratic*.

Indian administration, and of turning the states' people into "We the People" of India. The governments of the provinces and the states regularly sent reports to the Constituent Assembly Secretariat on the progress of the work of the preparation of rolls. The descriptions of the figures of houses that were numbered and enumerated and of the voters that were enrolled and other "sum-totals" these reports contained became a concrete expression of the integration of the states into the newly forming Indian Union. Thus, a report from the government of Orissa on the progress of the work in Orissa and the states ceded to it by the end of December 1948 showed that they completed the work in 2,688,828 houses and for 15,823 houses the work was still in progress.<sup>41</sup> Reports from Kolhapur, as another example, just three months before it merged with Bombay province, stated: "From the number of voters so far enumerated, it is found that more than 50% of the population are recorded as voters. Based on this calculation there will be about 16000 pages of the roll of the State; each page containing 40 names; and that the Election Officer toured in six local administrative units, 'checked house numbering & voters in 64 villages on representative sample basis, correcting errors on the spot, after verification.'"<sup>42</sup>

Through their place on the rolls, the people of the merged states turned into Indian voters. Because a voter had to be a citizen, they became, in effect, citizens, even though the Indian citizenship provisions were still in a draft form. The enlisting of India's adult population concurrently across the country on a house-to-house and village-by-village basis produced a tangible connection between people across the country and the center. Newspaper accounts of the preparation of electoral rolls in the provinces and the states fostered that sense of interconnectedness. This contributed to making real the vision of a united all-India sovereignty, and of the people becoming the agents of authorization of the future government. On the lists of voters, "the people" were named, real individuals, rather than an abstract notion.

In the case of states that had not yet merged, and were keen to retain their identity even within a future Indian Union, the preparation of the electoral rolls brought to light constitutional discrepancies between provisions in the Indian Draft Constitution and the constitutions that existed or that were being framed in those states. This occurred while some of the states or unions of states, which had not yet completed their integration, were also preparing elections for their own constitution-making bodies or legislatures. The constitutional incongruities that became evident in that context were intimately linked to a united all-India popular sovereignty, as envisioned by the Indian

<sup>41</sup> Submission of return of progress ending November 30, 1948, from the Additional Secretary to the Government of Orissa (Home (Election) Department), to the Secretary of the Constituent Assembly Secretariat, December 31, 1948, CA/1/FR/49-I, Election Commission of India Record Room (hereafter ECIR), Delhi.

<sup>42</sup> Letters from the Chief Secretary to the Government of Kolhapur to the Under Secretary of the Constituent Assembly Secretariat, November 23, 1948, and December 2, 1948, CA/1/FR/48-V, ECIR, Delhi.

Constitution Assembly. At the same time, the surfacing of practical challenges for the preparation of the electoral rolls presented opportunities for correction, and therefore a way of working through the contending sovereignties that were still at play, and of asserting the authority of the center.

Thus, in some cases, it became apparent that the qualifications for enrolment as a voter for the states' legislatures were different than the qualifications set for the preparation of rolls to the Indian House of the People. The government of Travancore, for example, refused to register on the electoral rolls it prepared for elections to its state legislature over 100,000 Tamilian laborers who resided in the state for over fifty years, because they were not naturalized subjects of the state. After a complaint in the matter from an organization that represented these Tamilian laborers reached the Indian Constituent Assembly Secretariat, its joint secretary wrote to the government of Travancore, stating that "under the Draft Constitution of India there will be only one common law of citizenship throughout the Union and it is not contemplated that each State should have nationality laws of its own as distinct from the union Nationality law."<sup>43</sup> The Travancore government, however, challenged this view. Its chief secretary explained that under the Travancore Interim Constitution Act, every person who is a Travancore subject is entitled to have his name registered in the electoral roll. The Tamilian laborers in question were not qualified to be included in the electoral rolls because they were not Travancore subjects.

Moreover, the Travancore Chief Secretary opined that "The enactment of common law of citizenship throughout the Union of India as indicated in the draft Constitution of India cannot alter the position of those Tamilians in respect of franchise for elections in the State ... Matters pertaining to suffrage will have to be regulated by the State, and it will be for the State to determine who shall vote at elections. The framing of a constitution for Travancore is under the consideration of the Travancore Representative Body."<sup>44</sup>

The joint secretary of the Constituent Assembly clarified that the qualifications the states may prescribe for the purpose of voting must not be inconsistent with provisions of the Indian Draft Constitution, such as the one that prohibits discrimination against any citizen of India on the ground only of place of birth. The matter of the registration of the Tamilian laborers who emigrated from Madras to Travancore on the electoral roll remained unsettled for a while. It was further discussed and resolved during the final negotiations for the formation of the united states of Travancore and Cochin and its merger with India in late 1949.<sup>45</sup>

<sup>43</sup> Draft letter from the Joint Secretary of the Constituent Assembly Secretariat to the Chief Secretary Government of Travancore, August 23, 1948, CA/12/FR/48, ECIR, Delhi.

<sup>44</sup> Letter from the Chief Secretary Government of Travancore to the Joint Secretary of the Constituent Assembly Secretariat, November 27, 1948, CA/12/FR/48, ECIR, Delhi.

<sup>45</sup> The united states of Travancore and Cochin merged with India on July 1, 1949. In September 1949 the government of the united states of Travancore and Cochin published an order, which stipulated the inclusion of "citizens of India who were not included in the original electoral rolls since they were not subjects of Travancore" on the electoral roll.

Similar problems also arose with the states of Cochin, Manipur, Tripura, Mysore, and Bhopal. Sometime problems became known as a result of people complaining, as they were struggling to ensure for themselves, like the Tamilian laborers, a place on the electoral roll. In other instances, challenges surfaced while the Secretariat of the Constituent Assembly was overseeing the progress of the work. Thus, in July 1949, replying to query about the preparation of the electoral rolls for the Indian House of the People under the new constitution, the Dewan (prime minister) of Manipur reported that the state was preparing fresh electoral rolls on the basis of adult franchise for its own elections that were due in 1951. He noted that “[t]he same rolls might also be utilized for the elections of the Indian House of the People, but a difficulty arises, in that the franchise qualifications as prescribed for voters for the Manipur State Assembly vary in certain particulars from those fixed for the House of the People.”<sup>46</sup> The Manipur Constitution stipulated that only a bona fide state subject had the right to vote, that a voter was to be twenty years old, and no residential qualifications were required. The Indian Draft Constitution prescribed that a voter had to be a citizen who was twenty-one years old, and it set residential qualifications. The Dewan of Manipur suggested a way of preparing a single voters list that would mark those eligible for the state legislature elections and those entitled to vote for the Indian parliament.

The Secretariat of the Constituent Assembly acknowledged at the time, in August 1949, only three months before the Constituent Assembly adopted the Indian Constitution, that there was nothing to disallow the Manipur government to implement the franchise qualifications it set for its state legislature. They clarified, however, that “in all probability there will be the same franchise qualifications and disqualifications throughout India and ultimately elections to the Manipur State Assembly will also be on the same basis as those for the House of the People. There is also going to be the same Common Law of nationality throughout India.”<sup>47</sup>

The states gradually began to amend their lists of voters and aligned them with the electoral rolls for the Indian House of the People. In Cochin, for example, like in Travancore, only subjects born or naturalized under the Cochin Nationality and Naturalization Act were registered as voters for the Cochin state legislature. Upon correspondence in the matter with the Secretariat of the Constituent Assembly, the Cochin government agreed in July 1948 to revise their lists of voters and include citizens of India for elections to the Indian parliament at the time of revision of the rolls. This was a year before Cochin formed a union with Travancore and merged with India.

The making the Indian electorate, of ultimately over 173 million people, turned in the most definitive way Indians into agents of sovereignty.

<sup>46</sup> Letter from the Dewan of Manipur State to the Joint Secretary of the Constituent Assembly, July 30, 1949, CA/1/FR/49-II, ECIR, Delhi.

<sup>47</sup> S. note 101, August 18, 1949, CA/1/FR/49-II, ECIR, Delhi.

The electoral roll bound all adult Indians together as equal individuals, irrespective of their deep divisions of caste, class, religion, language, or state identity for the purpose of authorizing their government. The first draft electoral roll on the basis of universal franchise was ready just before the enactment of the constitution in January 1950. Indians became voters, the means through which their power as sovereigns was to be exercised, before they were citizens, with the enactment of the constitution. The institutionalization of procedural equality for the purpose of authorizing a government in as plural, hierarchical, and unequal a society as India, ahead of the enactment of the constitution, fashioned a concrete sense of a collective identity for all adult Indians as equal voters, and of the becoming of popular sovereignty.

## CONCLUSION

Between 1946 and 1950, India tried to consolidate an independent sovereign union, wherein all power and authority would be derived from the people. This unified popular sovereignty had to be achieved in the face of multifarious contending sovereignties and a territory in great flux, overlapping struggles in pursuit of popular governments, and for people who were profoundly diverse, largely illiterate, and poor. By any standard democratic theory, India was expected to fail, and certainly likely not to endure. This chapter suggested that against this apparent insoluble predicament, the interplay between two processes that took place at an all-India level in parallel to the framing of the Indian Constitution produced and made persuasive India's united popular sovereignty.

In the process of working through the competing visions of sovereignty across the territory, popular sovereignty became a fundamental principle of the political imaginary of the Indian postcolonial order. With the coming of India's independence, and against the backdrop of long-standing internal struggles for popular power within the princely states, the principle of a government responsible for the people became the only prudent course of action for rulers' claims for continued legitimate authority and sovereignty of their state. A sovereign state based on the rule of the "will of the people," was also the rationale underlying the negotiations between India's Constituent Assembly and the government and the states about their future. The members of the Constituent Assembly could not, thus, renege on that promise.

In the midst of ongoing processes aiming to establish a rule of and for the people, the idea that the people were to be agents of sovereignty attained actual meaning through the implementation of the universal franchise on the ground. The preparation of the electoral rolls made evident discrepancies between the Indian Draft Constitution and the constitutions of states. At the time there were efforts to settle the "different kinds of constitutions" that were being introduced in different states. The committee that was appointed in November 1948 to frame a model constitution for the states, based on the Indian Draft

Constitution, submitted its report in March 1949. But by then, especially in the light of the ongoing developments in the states, the whole question was reconsidered. In August 1949, only three months before the Constituent Assembly of India adopted the constitution, the members of the Mysore Constituent Assembly still insisted that they “should have a voice in formulating and finalising the future constitution of Mysore.”<sup>48</sup> While these legal negotiations took their time, the preparation of electoral rolls compelled the Secretariat of the Constituent Assembly and the governments of the forming states of the union to address in practice and in good time the challenges that the integration wrought, and that surfaced during the work.

By October 1949, India was about to give birth to the world’s largest democracy. Its making represented a radical transformation of both its people and territory. From October 1949 onward the Secretariat of the Constituent Assembly received reports from across India on the final number of voters registered on the first draft electoral rolls. These lists of voters reified the fiction of “the people” as agents of sovereignty. The printed rolls were the material reservoir of the peoples’ power. These lists of voters would have to be perpetually revised and updated, and formed the basic rite that would continue to authorize the edifice of the peoples’ rule. The turning of all adult Indians into equal individuals for the purpose of authorizing their government was revolutionary for the social existence of the Indian people.

The preparation of the electoral rolls also fostered and made real the concurrent radical transformation of the territory. When the registration of voters started on the ground in April 1948, the Secretariat of the Constituent Assembly addressed 229 political units with regard to the work. In its circular on the preparation of rolls in early October 1949, the secretariat addressed only thirty units: nine provinces, ten chief commissioners’ provinces, six unions of states, and five individual states. The secretariat’s circulars and reports on the progress of the work from across the country described the actual creation of the new Indian democratic order. That month, the Minister of States, Sardar Patel, moved in the Constituent Assembly amendments concerning the states that would enable the final ratification of the constitution by the few states that had not yet integrated into the Union.

In the annals of democratic theory, India’s achievement of fashioning a united popular sovereignty has few parallels. Scholars of democracy, from a variety of disciplines, have, for many decades ignored the Indian case in their efforts to theorize the institutionalization of popular sovereignty and transitions to democracy. The Indian case was often considered an anomaly.<sup>49</sup> This has begun to change over the last two decades. The Indian experience of

<sup>48</sup> Letter from the President of the Constituent Assembly of Mysore, to the President, Indian National Congress, Pattabhai Sitharamiya, August 22, 1949, Bangalore, AICC I Inst. (Part II), F. 25 (II), 1947, NMML, Delhi.

<sup>49</sup> See, e.g., Dahl, *Democracy and Its Critics*; Dahl, *On Democracy*.

concurrently fashioning a united popular sovereignty out of multiple competing sovereignties, of granting and implementing successfully universal franchise at a stroke in a deeply plural, hierarchical, and divided society has been significantly different from the experiences in other parts of the world.

In France, for example, as Daniella Sarnoff notes in this volume, although women played an important role in the French Revolution, they were enfranchised 150 years after men got the vote, only two years before all adult Indians, women, and man were enfranchised.<sup>50</sup> And in the United States, while the early American republic, as Ira Katznelson shows, forged a unity out of plurality,<sup>51</sup> the right to vote, which lay at the basis of popular sovereignty, had from the outset a fraught history of disparate forms of disenfranchisement on the basis of class, race, gender, poverty, and illiteracy, driven by efforts of propertied white males to safeguard their political power.

While making the universal franchise and the electoral system, which were key to forging popular sovereignty, Indian bureaucrats at the Constituent Assembly were conscious and cautious of Western democratic institutions and practices. They did not see them as a telos, which would provide safe shores to their democracy. As one of them noted in the context of discussions on the future election management body: “It is clear that no independent organization exists to secure the impartiality and fairness in elections in these countries ... the political gangsterism is far from eradicated from the latter [USA], while in the former [UK], the din of election brawls so aptly described by Charles Dickens are not yet extinct.”<sup>52</sup>

Instead, Indian bureaucrats and leaders were informed by the particular problems and pressures from below, and they worked through them practically and administratively. There was no serious theoretical discussion about whether Indians were qualified enough to authorize their government. They were registered as agents of authorization. And in the long process of doing so there were many trials, failures, and successes. India, at its founding and thereafter experimented with democracy. “Experimenting with” has been one of the enduring legacies of Gandhi for India’s democracy. In other words, drawing on this volume’s editors’ approach of employing a heuristic frame to their discussion of popular sovereignty,<sup>53</sup> India, it could be said, took a heuristic approach to democracy based on universal franchise. This does not mean that India would become better than other democracies, nor immune from the problems that have beset democracies elsewhere. Nonetheless, that India’s democracy endured for seven decades against so many odds, forms an achievement that cannot be ignored, and it invites us to reflect on some conventions of democratic theory.

<sup>50</sup> Sarnoff, Chapter 8, in this volume.

<sup>51</sup> Katznelson, Chapter 6, in this volume.

<sup>52</sup> Shani, *How India Became Democratic*, 122.

<sup>53</sup> See introduction in this volume.