The New Indian State

The Relocation of Patronage in the Post-Liberalisation Economy

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Describing the relocation of the patronage-based relationship between the state and the private sector in post-liberalisation India, this article goes on to address the consequences of this relationship for democracy. It points out that the continued dependence of a reconstituted private sector on patronage relations with a reconstituted state can reinforce an investment in procedural democracy, but may at the same time subvert the substantive aspects of democracy.

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Introduction

The pre-liberalisation Indian economy was characterised by a patronage-based relationship between the state and the private sector. Economic liberalisation by definition implies the retreat of the state, and therefore of patronage. The post-liberalisation Indian state has indeed retreated from the economy in some ways, through its policies of delicensing, de-reservation, and deregulation. Conventional metaphors used to describe the 1991 reforms—the elimination of bureaucratic red-tape, dismantling of the licence raj, or the abolition of the state's monopoly—routinely reinforce this narrative of retreat.

But, this article argues, focusing specifically on the relationship between the state and the private sector, the retreat of patronage from some areas of the economy has been accompanied by a relocation to others. [1] The argument is based on interviews and field visits conducted between 2009 and 2014, combined with a reading of government reports, statistics, and key post-reform legislation. By the term "patronage," I mean the individualised allocation of state-controlled resources by state officials to citizens (Chandra 2004). The term "state" refers to any branch of government (appointed or elected) at any level (national, state, or local) without implying coherence or coordination across them. Patronage as defined here requires not only that state officials control valued resources, but also that they have individualised discretion in how these resources are allocated. This article details areas of both control and discretion in the post-liberalisation economy.

The state's control over resources in the new economy has relocated in three ways—(1) through its control over entry into formerly reserved sectors; (2) through its influence over the supply of inputs, including land, raw materials, and credit; and (3) through its creation of new regulations while abolishing old ones. The relocation of the powers of the post-liberalisation state has also been accompanied by a relocation of discretion to these new areas of the economy and sometimes to new parts of the state. This has occurred under governments led by both the Congress, which was in power between 1991 and 1996 and 2004 and 2014, and the Bharatiya Janata Party (BJP), which was in power between 1999 and 2004 and took charge again in 2014. As a result, the patronage-based relationship between the state and the private sector has remained in place.

To point to continuity in a patronage-based relationship between the state and the private sector is not to say that there has not been considerable change in the form of this relationship. The players on both sides are different—there is now a larger and

more diverse state, and a larger and more diverse private sector, each with a changed social composition (Chatterjee 2008; Damodaran 2008; Varshney 2013; Tripathi and Jumani 2007). There are new industries, new rules, new networks, and new, considerably higher, stakes. There are new norms of interaction—politicians and bureaucrats now see themselves as facilitators rather than as overseers of business, and see entrepreneurs as partners in the task of economic development rather than as profiteers who pose an obstacle to it (Kohli 2012; Sinha 2010; Nilekani 2008). There has also been a downward "diffusion" of power and discretion from the central to the state and local governments (Gupta and Sivaramakrishnan 2011; Sinha 2011; Sud 2014, 2009). But despite the reconstitution of both the state and private sector, a patronage-based relationship between the two has persisted.

The argument buttresses the now large body of work on business–state relations in post-liberalisation India by uncovering its structural underpinning. A number of scholars have pointed to the emergence of a close relationship between the state and business in the period following liberalisation (Patnaik 2014; Kohli 2012; Sinha 2010; Chatterjee 2008). But assessments of this relationship must be grounded in an assessment of the structural opportunities for patronage. If the state has cut back on its role in the economy, then where precisely are the points of contact between business and the state that enable or reward such closeness? In a book aptly titled *The Myth of the Shrinking State* (2009), Nayar suggests that aggregate patterns of expenditure have not been cut in the wake of liberalisation. But I am concerned here with the opportunities for patronage—the discretionary allocation of a licence, or a grant of land, or a favourable interpretation of a regulation—which may well not show up in patterns of expenditure or other aggregate measures.

It may be also helpful in relating the argument to work on state–business relations in India and elsewhere, to distinguish the concept of patronage as used here from others to which it is sometimes loosely related, such as "pork barrel politics" or "corporatism." These other terms describe the allocation of state resources to regions or groups or organisations collectively. While the influence of business organisations has increased in post-liberalisation India (Sinha 2011; Mehta and Mitra 2009), this does not replace, and may even be supported by, personal relationships. Indeed, as one example cited in this article suggests, a regulatory ambiguity that affected an entire class of companies was resolved through individualised interventions. Further, although there is some overlap between the two concepts, patronage is not synonymous with corruption. Corruption is usually defined as the illegal use of public resources for private gains (Manion 1996). But the patronage transactions described here usually take place within the letter of the law. They exploit and expand the discretion available within the law, rather than breaking it outright (see Sud 2009 on the "blurring" and "skirting" of legal boundaries). And while they certainly provide ample opportunities for rent-seeking on both sides, state officials may also be motivated by business-friendly notions of "development," and business owners may also cultivate relationships with state officials as a necessary evil to get work done in an ambiguous environment.

These personalised relationships between the state and the private sector in post-liberalisation India are neither universal nor unique. The state plays an important role in many economies, including those undergoing industrial or market-oriented transitions (Gerschenkron 1962; Evans 1995). But there is probably variation across countries in the degree to which state–business relationships are personalised—and the form such personalisation takes where it occurs. Consider Russia and China, which are perhaps the only two countries that have undergone an economic transition of a scale comparable to India's in the same period. Russia's transition has shaped by rapid "nomenklatura" privatisation in a relatively centralised presidential system (Frye 2010; Brown et al 2009; Remington 2008). In India, patronage comes from the relocation of the state's discretion to new areas of the economy rather than the sale of state assets, and it is dispersed across levels and branches of government. The entrepreneurs of the post-liberalisation economy also represent new social groups rather than being a reinvention of a bureaucratic elite. In China, the considerably greater importance of local governments, and of state ownership of productive assets at the outset, including land, distinguish it from India (Hillman 2014; Paik and Baum 2014). A systematic comparison with other countries, however, requires a first-cut synoptic conceptualisation of the nature and effects of patronage in post-liberalisation India. That is the purpose of this article.

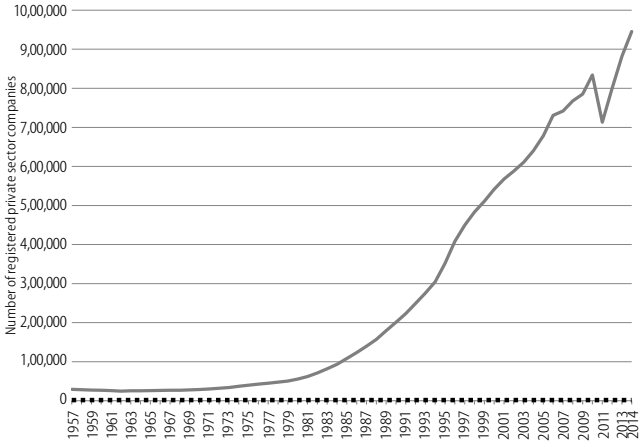
The relocation of patronage in India's post-liberalisation economy raises obvious questions about its relationship with a wide range of outcomes and processes, including economic growth, welfare, equity and democratic politics. My concern in describing it here is the last one. A large body of work suggests, using diverse logics, that some form of patronage in the pre-liberalisation economy had a close relationship with pre-liberalisation democracy (Bardhan 1984; Rudolph and Rudolph 1987; Chhibber 2001; Chandra 2004). Given this, the relocation of patronage in the post-liberalisation economy should surely have implications for the character of post-liberalisation democracy. I address these implications at the end of this article, suggesting that they include a deepening of the roots of procedural democracy in India, by which I mean simply a political system whose leadership is chosen through direct elections with unrestricted suffrage, while potentially undermining aspects of substantive democracy.

Section 1 describes the transformation of the private sector following the liberalising reforms of 1991. Section 2 describes in general terms the relocation of the state's powers and discretion, and therefore patronage, in the post-liberalisation economy. Subsequent sections provide the details of this relocation. Section 3 details the role of the state in controlling entry to the spaces it has just vacated; Section 4 details its role as a supplier of inputs; and Section 5 details its role in creating and interpreting new regulations. Section 6 addresses the consequences of this relocation for democracy.

1 The Post-1991 Expansion of India's Private Sector

Figure 1 (p 48), which reports the number of registered private sector companies in India between 1957 and 2014, documents the expansion of India's private sector in the post-1991 economy.[2]

Figure 1: Growth of Private Sector Companies in India, 1957–2014



Source: Ministry of Corporate Affairs, as reported in IndiaStat (www.indiastat.com).

As we see, the Indian private sector grew sluggishly from the 1950s to the 1980s. The rate of increase rose in the 1980s, but shot up after 1991. In 1991, there were just over 2,00,000 private sector companies in India. By 2014, there were almost five times that number.

The expansion in numbers has also been accompanied by a change in the caste and occupational background of private sector entrepreneurs, as first-generation entrepreneurs from trading and artisan castes and from families with agricultural or bureaucratic backgrounds began to share space with the mercantile castes with business backgrounds which had formerly dominated the private sector (Damodaran 2008; Varshney 2013; Tripathi and Jumani 2007).

This change in the size and composition of the private sector is at least in part a consequence of two forms of retreat by the Indian state—the progressive de-reservation of industries in the "commanding heights" of the economy once reserved for the public sector; and the delicensing of private sector activity in the residual space remaining. De-reservation spurred an expansion among the business class by opening up new terrain to the private sector. Delicensing spurred private sector activity by removing barriers to entry in areas where the private sector had been previously permitted to function.

2 Relocation of State Power and Discretion in the New Economy

The retreat of the state in the two areas described above is undeniable. But the narrative of retreat provides only a partial view of the relationship between the state and the private sector following the 1991 reforms. A more complete picture would show that the state has also advanced in three ways. First, at the same time that it abolished licensing in old areas in which the private sector had historically been active, the state has created a new system of licences, leases, concessions, permits and contracts that regulate the entry of the private sector to the newly de-reserved areas. It continues, thus, to function as a gatekeeper in the new economy, though the gates it is now guarding are different. Second, it has taken on a new role as a supplier of inputs to the private sector, including land, raw materials, and credit. Third, at the same time that it eliminated many of the old regulations that governed the old private sector, the state has created new regulations to govern the new one.

The relocation of state powers has been accompanied by the relocation also of discretion. State officials exercise considerable discretion in all three areas—gatekeeping, supply of inputs and regulation—although the nature of the discretion can vary with the nature of office. This discretion comes from many sources—from the ambiguities and loopholes contained in the substance of legislation; from the complexity of the law itself; from information asymmetries; from illiteracy or a lack of awareness of laws; from weak institutions of oversight and accountability; from the multiplicity of departments and levels of government that sometimes have jurisdiction on a single matter (thus amplifying complexity and information asymmetries, and reducing oversight); and from competition between equally qualified contenders for scarce resources. All these factors, taken together, give bureaucrats and ministers latitude in the interpretation or implementation of the law or both.

Further, the discretion contained in some initial loophole can often be amplified through the process of implementation. When government officials use the initial discretion at their disposal to make a "provisional" decision, for example, they place recipients in a precarious position, which requires subsequent discretion to maintain (see, for instance, Tarlo 2000: 88). The example of an entrepreneur being awarded a licence on a "provisional" basis discussed in Section 5 suggests that ambiguities in the new regulatory environment can create such situations.

Paradoxically, legislative efforts intended to remove discretion can sometimes reintroduce it in new ways. This is one of the central arguments of this article, illustrated both through an analysis of the legislation affecting land acquisition in Section 4, and of the new regulatory environment in Section 5. The creation of large new areas of discretion in the new economy, and the potential for amplification of discretion in the process of implementation, suggests that patronage is not a "transitional" phenomenon, likely to disappear as the residue of the old economy fades and the state and business become more familiar with new rules. It is a product of the new laws and practices, governing the new economy, which is likely to persist.

So far, I have used the term "state" as a placeholder. But the state is a plural entity that has become even more so during the decades of liberalisation. New ministries, and more ministries, now preside over the economy than before. Control over regulations and resources valued by the private sector is distributed across levels of government, with state and local governments acquiring an increasing role. With the advent of coalition governments, and the divergence in ruling parties between the centre and the state, the number of parties that have some influence in government has increased at all levels of government. Within these governments, the power of the bureaucracy has increased along with the power of politicians. And as parties, politicians, and the bureaucracy have become more socially diverse, the social groups with the power to influence the role of the state in the private sector have also changed.

The increasing pluralism of the state has transformed the relatively centralised system of patronage in the pre-liberalisation

economy into a diffuse one, in which many officials at many levels have some power but no one official at one level has all of it. In pre-liberalisation India, especially when Congress rule was the norm, patronage was disbursed from the top. Brass recounts, for instance, how setting up a factory in Gonda District required its Member of Parliament (MP) to petition Indira Gandhi repeatedly until she eventually "awarded" him the factory (1984: 98.). Similarly, Kochanek describes a system of patronage in pre-liberalisation times in which "each major business house established the equivalent of an industrial embassy in New Delhi" (1996: 157). In the post-liberalisation economy, discretionary power has been dispersed across all levels and branches of government. While there has undoubtedly been an increase in the role played by state governments, the central and local governments remain important players too. Private sector entrepreneurs seeking favours from the state, therefore, are often required to cultivate relationships with officials in multiple departments across many levels and employ a dispersed system of "ambassadors."

Consider the example of a power plant that I studied between 2009 and 2013. This plant was not subject to the old forms of control by the state. No one party or person had the authority to "award" the factory to the district as Gandhi did in the case of Gonda District. But the ability to start the enterprise, obtain inputs, comply with regulations, and market the output depended in new ways on the cultivation of relationships with the state at multiple levels and branches of government, controlled by multiple parties.

The group that owned the plant did not need a licence to enter the electricity sector since the Electricity Act of 2003 eliminated the need for it. But it needed land, access to coal, water, and technology, environmental and other regulatory clearances, licences to transmit and distribute electricity, access to a grid for transmission, roads for supplies to be transported, and security. The plant acquired most of the land through private negotiations, but needed the cooperation of the local administration to process the hundreds of documents related to these transactions. To facilitate this, the company hired a local journalist, who was also as an advocate, as their "consultant." Quite apart from legal knowledge, he had a relationship with the local administration, which was of obvious value to the company. Indeed, as both my fieldwork and other studies have suggested, it has become common for companies to hire those with connections to the state—in particular, retired bureaucrats—to facilitate access to it (Saxena 2012: 33; Sud 2014: 49).

The plant also needed the central government's approval for the forestland that made up a portion of its overall area. It obtained access to coal through a captive coal mine allocated to it by Coal India, close enough to transport the coal to it by a conveyor belt. It obtained water by signing an agreement with the Central Water Commission to access a river close by, transported to the plant via a pipeline. It obtained technology by signing a contract with a public sector corporation; major clearances by applying to the central Ministry of Environment, the state government's Pollution Control Board, and the Airports Authority of India; and licences to distribute and transmit electricity from the central power ministry. It signed a contract with a public sector corporation for access to government-constructed and owned transmission lines, and signed a contract with the government, according to which it had to give the government 25% of the electricity while retaining the right to distribute the remaining 75% as it pleased. The tariff was decided through an agreement with the government. Law and order was a particular concern. The company handled some of its security by hiring private security guards, and relied on coordination with the local administration for the rest.

One might be tempted to conclude from this example that only large companies in some sectors such as electricity are dependent on the state. Those parts of the economy that news reports routinely identify as being most subject to political discretion include infrastructure, mining and real estate. However, I will try to show that the relocation of discretion affects the post-liberalisation economy as a whole, although there are probably differences in the degree and form of patronage across sectors. The role of the state as gatekeeper is more evident in some sectors such as electricity, gas, water, transport, storage and communications than in others (such as manufacturing or software). However, its role as a supplier of inputs—in particular land—and regulator gives it discretionary influence over the economy more broadly. Sud (2009), for example, has described in minute detail the large role the state played in providing land and regulatory clearances for a cement manufacturing company. Levien (2012b: 396) details the role of the state and the special economic zone (SEZ) policy in acquiring land for information technology (IT) and IT service-related companies, noting that two-thirds of India's SEZs are in the IT sector (see also Jenkins et al 2014). Its discretionary role in the interpretation of regulations also applies across a range of sectors. Section 5, for example, describes the role of discretion in obtaining a licence and regulatory clarity for a media company that was less affected by the role of the state as a supplier of land.

Widespread Political Discretion

Since the precise conjunction of the roles the state plays (gatekeeper, supplier of inputs, and regulator) varies by sector, the form of political discretion is also likely to vary by sector. And, because region is correlated with sector (companies related to the generation of electricity, for instance, are especially concentrated in coal-rich areas, while large-scale hydro-electric projects are concentrated especially in the North East), and the nature of the state can also vary across regions, there is also likely to be variation in the form of discretion across regions. In this article, however, I try simply to show that political discretion is widespread in the post-liberalisation economy, notwithstanding the likely variation across sector and region.

The wide role of discretion in the new economy pushes private sector entrepreneurs to cultivate relationships with state officials. Many of these networks are new, shaped by the changing social background of both the private sector and the state. As one respondent, himself a bureaucrat, put it,

> The old Oxbridge power elite is now irrelevant. Business has expanded to include hitherto excluded classes. These new classes are the drivers [of the new economy], not the Oxbridge crowd. They do not crave erstwhile contacts. They need new, localised contacts. The bureaucracy has changed too from 1989 onwards, post-OBC reservation. There are more people now with mofussil backgrounds. These new bureaucrats are more powerful now than old ones (interview, New Delhi, April 2009).

A first-generation entrepreneur concurred with this view. "The economic reforms," in his words, "have not changed the need for an interface with the state. But they have removed the class barrier." He was from a middle-class background and did not have the intergenerational ties with powerful politicians that he argued were necessary to build networks in the pre-liberalisation economy. So he began by leveraging ethnic ties with bureaucrats whose class background he shared, and eventually approaching politicians. In his words, "This is a game where you cannot compete with large business houses. The bureaucracy is much easier, the bureaucrat has his own playing fields" (interview, New Delhi, March 2009).

Such relationships appear to have diverse motivations on both sides, often at the same time. For state officials, the desire for personal enrichment is an obvious motivation. But another is to facilitate a reformulated understanding of "development." Before liberalisation, the term "development" usually meant large state-led infrastructure or public works projects. Private sector activity was not considered "developmental." In the post-liberalisation economy, the term "development" has become a shorthand for a package of vaguely defined terms including "urbanisation," "industrialisation," and "infrastructure creation," in which it is assumed that the private sector will take the lead.

This notion, much as the previous one, is top-down in nature. Most citizens, and certainly rural citizens, are understood as being "affected" by this notion of development but play no role in defining it. A 2014 statement by the BJP government is typical of many such statements made by many governments since 1991—"The government will partner industry in economic development of the country" (*Economic Times* 2014). Ordinary citizens, and rural Indians, by implication, do not have the status of partners. They are more often referred to as victims or beneficiaries. Still, a framework for understanding patronage in the new economy would be incomplete if it did not acknowledge the role of such developmental ideologies in addition to rent-seeking in the use of discretion by state officials.

For business, proximity to the state can often be used as a form of start-up capital. In a fairly typical pattern, for instance, one of India's richest entrepreneurs began as an export–import trader in the pre-liberalisation economy, but once liberalisation began, built his fortune in the newly de-reserved infrastructure structure by leveraging his contacts with the government into preferential access to land and government approvals (Yardley and Bajaj 2011). In other cases, as in the example cited in Section 5, or in a conversation with the director of a manufacturing company cited in Yadav (2011: 120), cultivating these relationships is a necessary evil to prevent obstructions to doing business.

3 Controlling Entry: Licences, Leases, Contracts and Concessions

While the post-1991 reforms abolished industrial licensing as it had existed in sectors in which the private sector had been previously active, they simultaneously introduced new forms of licensing, or other forms of regulating entry, such as leases, concessions, and clearances, to the new areas just opened up for private sector participation.

The state is especially active in regulating entry to the newly opened infrastructure sectors. Before liberalisation, most of these sectors (electricity, telecommunications, railways and so on) were a government monopoly. In a handful of others (for example, road and sea transport), the private sector was permitted to share ownership and control as a junior partner to the government. Following liberalisation, almost all of these sectors were opened to private sector ownership. While private sector ownership has been permitted, however, the government continues to influence its entry by awarding contracts, concession agreements, or licences that permit entry.

Consider the example of power. Before economic liberalisation, the "generation and transmission of electricity" was a sector in which the state had a monopoly (Schedule A of the 1956 industrial policy). Since the private sector was not permitted to enter this sector, there was no question of industrial licensing. In 1991, with the new industrial policy, electricity was de-reserved and the government began to encourage private sector participation. But private sector players in any part of the sector—generation, transmission and distribution—were required to obtain a licence until at least 2003. In 2003, a new Electricity Act abolished licensing requirements for the generation of thermal power. But it continues to require licences for private sector partners generating hydropower, as well as private sector players involved in either the distribution or transmission of electricity (Kale 2014; Electricity Act 2003).

Airports are a similar case. Following de-reservation, private sector players can enter this sector in one of four ways—(1) they can develop a government-owned airport; (2) they can build a new "greenfield" airport for the government; (3) they can develop a privately managed airport; or (4) they can build a new greenfield airport for a private owner. In the first two cases, they require a concessions agreement with the government. In the latter two, they require a licence from the government. In addition to these concessions and licence agreements, private sector players also need a host of clearances from multiple ministries, including the ministries of defence and home affairs and the department of revenue (Ministry of Civil Aviation 2011).

The procedures in other infrastructure sectors are comparable. Private sector players wanting to build port facilities, for instance, or roads must apply for a licence on a build–operate–transfer (BOT) basis, or seek other forms of concessions, and then obtain a succession of clearances from various ministries and multiple levels of government. Similarly, entry to the newly opened telecommunications sector is regulated by a system of licensing put into place by a succession of new telecom policies passed in 1994, 2008 and 2012. The government's discretion in the allocation of these licences resulted in one of the most notorious corruption scandals associated with an Indian government when the telecommunications minister from 2007 to 2009 resigned after being accused of allocating the licences on a preferential basis in return for bribes.

Consider, finally, the example of mining. Before economic liberalisation, the mining sector was dominated by the public sector, with a handful of large private sector players (for example, Hindalco, run by the Birlas, or Tata Steel, run by the Tatas).

Following liberalisation, the government made a concerted effort to invite the private sector into the mining sector for most minerals except coal in a new mineral policy drafted in 1993 and another put in place in 2008, as well as amendments made to earlier legislation (Ministry of Mines, *Annual Report 2006–07, 2010–11*).

But at least three types of licences regulate the entry of the private sector into mining—a reconnaissance permit, a prospecting licence, and a mining lease. The coal sector remains nationalised, with only government companies permitted entry. But the government can issue "subleases" permitting entry, grant contracts in transport, construction, and quarrying, and allocate captive coal mines to end-user companies (Ministry of Mines, *Annual Report 2006–07, 2010–11*). The extent of discretion the government exercised in allocation is evident in a judgment passed by the Supreme Court on 18 August 2014, nullifying all allocations made by the central government since 1993, on the grounds that the procedure for allocation was "whimsical," "non-transparent," and resulted in "unfair distribution of the national wealth in the hands of few private companies" (Anand 2014).

The state's discretion over entry affects not just a handful of large companies, but the private sector comprehensively. According to Allen et al (2007: 20), surveys of small and medium enterprises reveal that "over 80% of the firms surveyed needed a licence to start a business, and for about half of them obtaining it was a difficult process. Government officials were most often the problem, solved usually through payment of bribes or friends of government officials to negotiate. Clearly, networks and connections are of crucial importance in negotiating the government bureaucracy."

4 Inputs

The range of inputs the private sector needs include coal, water, electricity, equipment, infrastructure and credit. The state plays a significant role in the supply of many of these. It still dominates the generation of electricity—the central government generates 27% of existing electricity, and state governments 37%, while the private sector generates 36% (Ministry of Power 2014)—as well as its transmission and distribution (Government of India 2009). Since public sector banks still dominate the banking sector despite the larger role that private sector banks have begun to play, proximity to the state can help entrepreneurs without a track record obtain credit. As one explained, influence with the state was critical to getting his first loan because at that time he had no credit history, no track record, and no property to serve as collateral. A senior bureaucrat intervened on his behalf—"He said (to the bank), I know these people, your money is safe with them" (interview, New Delhi, March 2009).

In this section, I focus mainly on the discretionary role of the state in the provision of land to the private sector. Taken together, somewhere between 69% and 86% of land in India is either agricultural or forested. If we employ a broad definition of agricultural land, assuming that this term means any land "available for cultivation," as much as 63% of the land in the country is agricultural in nature (*Agricultural Statistics 2014*: Table 13.1). According to the narrowest possible definition, taking agricultural land to mean only land that is currently sown with crops and orchards, it would comprise 46% of the available land. In addition, almost a quarter (23%) consists of forestland. To be utilised for private sector activity, agricultural land must be acquired from its original owners and then converted to non-agricultural use (this requires a change in the official classification of land use called land "conversion"). Obtaining forestland requires permission from the state to divert it for non-forest purposes.

The state has assumed, through its powers of eminent domain, its role in land conversion, and its control over forestland, a large role in the supply of land to the private sector. This role did not originate with liberalisation. But liberalisation has been accompanied by a massive increase in the scale of land procurement for the private sector, as well as a change in the legislative frameworks governing land acquisition, which, while intended to limit the powers and discretion of the state (Ramesh and Khan 2015; Jenkins 2013), have often created new powers and new areas of discretion.

There are no precise estimates of the magnitude of the increase at a nationwide level—the government has not furnished official estimates of land acquisition in India as a whole, and non-official estimates do not cover all states or allow an estimation of trends across time (Rights and Resources 2014; Fernandes 2008; Chakravorty 2013). But information available on land acquisition in individual states describes a remarkably rapid increase across the board. Fernandes finds that "Orissa had used 40,000 ha for industries in the period 1951 to 1995, but planned to acquire 40,000 ha more in the succeeding decade. Andhra Pradesh has acquired in 1996–2000 half as much for industry as it did in the preceding 45 years" (2008: 95). Levien finds that in Rajasthan, the Rajasthan State Industrial Development and Investment Corporation (RIICO) "acquired twice the amount of land in the 1990s than it did in the previous decade, [and] that its acquisition of land spiked again during the boom years of 2005–2008" (2012a: 944–45). He found the same pattern in seven major states. In Gujarat, a study by Lobo and Kumar (2009) of land acquisition between 1947 and 2004 indicates that land acquisition was higher in the 1981–90 decade rather than in the following one. But this may mean that liberalisation-related acquisition began earlier in Gujarat than in other states.

The large discretionary role of the state in the process of land acquisition, conversion and diversion serves the interests of both politicians and the private sector. For politicians, and sometimes bureaucrats, it can carry large economic payoffs as well as serving developmental purposes. For the private sector, going through the government rather than negotiating directly with farmers can be advantageous, especially where large tracts of land are concerned. Acquiring land directly from farmers can often be time consuming and expensive. It requires striking hundreds of bargains with individual farmers, many of whom might hold out for a better price, and the verification of thousands of documents. Obtaining clear title to the land can be complicated. State intervention simplifies the process and is also cheaper.

As one respondent put it,

> Suppose you want 100 acres of land for a polyester factory or a yarn factory or a textile mill. You approach the government. The government acquires the land at Rs 1.5 lakh an acre, allots it at Rs 10 lakh an acre, and you add Rs 5 lakh an acre as bribe. It is still cheaper than doing it yourself. If you try to buy it directly, the farmer and the middleman will know you want a lot more and will hold out, and this will drive the price up, make it more expensive than buying it from the government. And then there is the question of the use licences and so on (interview, New Delhi, April 2009; for similar testimonies, see Levien 2012a: 943).

On paper, there are in many cases open calls for proposals for land allocation, and streamlined procedures for the approval of such proposals. But, in practice, the process requires political networks. In one respondent's words, "There has to be a strong interface with government. Without interface with government—will not happen" (interview, New Delhi, April 2009). He had been allocated land by a state government. The opportunity came his way through an invitation from a senior bureaucrat with whom he had worked previously. Even when a company negotiates directly with owners for land, as the power company described in Section 3 did, it needs an interface with the state.

The remainder of this section describes the discretionary role of the state in land acquisition; the discretionary role of the state in land conversion; and the discretionary role of the state in the diversion of forestland.

4.1 Discretion in Land Acquisition

The increase in the scale of land acquisition has taken place almost entirely within the ambit of the 1894 Land Acquisition Act, which remained in effect till 2013 and empowered the government to take over private land if it was needed "for a public purpose or for a company" after paying compensation to those who had an interest in the land. A great deal has already been written about the sweeping discretion that accompanied these powers, contained, among other areas, in the wide and vague definition of the "public purpose;" in the lack of provisions for public consultation or consent; in the room for judgment in determining who had an interest in the land; and in the "urgency" clause, which suspended even limited checks on government discretion in undefined circumstances. Rather than repeating that discussion, I will focus here on identifying the location of discretion in the 1894 act, and then on tracking its relocation in new, post-liberalisation legislation.

The 1894 act centralised discretion at the local level, in the office of the collector. Amendments introduced by the postcolonial government enhanced the power of the central and state governments by locating the authority to initiate land acquisition at these levels. But once they had initiated the process, the authority shifted to the collector's office, which was responsible for notifying the public, surveying and measuring the land, determining the persons of interest, verifying their claims, hearing their objections, making an award, and determining who was eligible to receive it and who was not. The powers exercised in the collector's name were, in turn, dispersed among a number of revenue and survey officials lower in the administrative hierarchy.

Much of the discretion of local officials over land acquisition came from their role as keepers and interpreters of land records. These records contain information about the area, classification, and ownership of land essential to the process of land acquisition. They record land use (for instance, whether the land is forest or agricultural), the nature of ownership (for instance, whether the land is private, common, or government land), the identity of owners (for instance, whether owner belongs to the Scheduled Tribes [ST]), the area of the land, and so on. This information influences whether land can be acquired, and by what process. But the survey and settlement procedures according to which the initial land records were created are out of date in several states (Government of India 2009: 74). The maps and documents based on these outdated surveys are also old and poorly maintained (Ministry of Rural Development 2009: 5.10.1). The more the missing or out-of-date data, the more latitude local revenue officials have in reading and interpreting these records.

In 1996, the Panchayats (Extension to Scheduled Areas) Act (PESA) introduced a clause requiring the government to "consult" with *gram sabhas* (village assemblies) or panchayats (village councils) "at the appropriate level" before acquiring land in "Scheduled Areas." The Scheduled Areas comprise large tracts of land in eight states across central India. Restrictions on the discretion of the government on land acquisition in Scheduled Areas, therefore, could have had a substantial effect on land acquisition overall. But the act did not define what counted as "consultation" and did not require the views ascertained through such consultation to be binding on the government. Consequently, it did not limit this discretion even in principle. In practice, field studies have found that villages in the PESA areas are often poorly informed about plans to acquire land and consultations do not limit discretion (Lahiri-Dutt et al 2012: 41). My own fieldwork confirmed this. When asked about the nature of consultations held by the government in the course of acquiring land in a PESA area in 2005–06, one respondent said, "The government did hold gram sabhas, and people spoke against it, but the government wrote a report simply saying that they held gram sabhas, and did not report what people actually said" (interview, Andhra Pradesh, May 2014)

In 2013, the Congress-led government replaced the 1894 act with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (LARR) Act. The act reduced the discretion of the state compared to the 1894 act in several ways, including by offering a clearer definition of "public purpose," by requiring the consent of affected families before land could be acquired for the private sector except in cases of "urgency," by providing a clear definition of "affected" families and of urgency, and by requiring that the government conduct a social impact assessment (SIA) before land is acquired, with strict stipulations on the time frame and requirements for consultation with representative bodies. In Scheduled Areas, the LARR went beyond the PESA by stipulating that land should not be acquired except as a "demonstrable last resort," and with the prior consent of (not just consultation with) gram sabhas, panchayats, or autonomous district councils, even in cases of urgency.

But the 2013 act did not reduce the role of state in acquiring land for the private sector. Quite the opposite—it institutionalised and legitimised it. Further, the definition of public purpose in

the 2013 act, and therefore the discretion it affords the government, continued to be remarkably broad. It permitted acquisition for almost any purpose unless it was explicitly excluded, including defence, infrastructure, agro-processing, industrial corridors, mining, manufacturing zones, sports, healthcare, tourism, housing, rural and urban planning, and so on. The list of explicit exclusions was small. Three items—"private hospitals, educational institutions and hotels"—were explicitly excluded from the definition of infrastructure (although they may well be allowed in other ways).

The consent requirements also introduced new areas of discretion while closing off old ones. The LARR required the government to obtain the prior consent of at least 70% of affected families for the acquisition of land for public–private partnership (PPP) projects, and at least 80% of affected families when acquiring land for private companies. It defined "affected families" to include families whose land or property is to acquired, STs and other forest dwellers whose rights were recognised under the Forest Rights Act (2006), and families whose primary source of livelihood in the past three years was affected by the acquisition. But it did not specify the procedure through which consent should be obtained for private sector acquisition, leaving this to be "prescribed by the appropriate Government." Further, given the poor and outdated state of land records, and the lack of recognition of ownership rights in many cases, the local administration implementing the act retained discretion on whom to count as affected and therefore whom to ask for consent. In Scheduled Areas, similarly, the criteria for demonstrating "last resort" and the procedure by which consent is to be obtained were not defined, leaving the state and local administration with discretion there as well.

Other new processes introduced by the act introduced other new areas of discretion. The SIA, for example, is to be evaluated by an independent expert group, which can recommend against the acquisition if the impact is adverse or recommend the acquisition of a reduced portion to minimise the social impact. But the procedure laid out for choosing members of this expert group does not prevent government officials from stacking it with those potentially friendly to the acquisition. And its recommendation is non-binding. As long as the government records the rationale for its decision in writing, it is empowered to proceed with an acquisition regardless. In addition, the LARR established several new organisations and positions, while at the same time considerably expanding the powers of the local administration. This is likely to introduce new forms of discretion, which will become evident only after they have been in effect for some time.

At the time of writing, Parliament is considering amendments to the LARR Act introduced by the BJP-led government, which will reintroduce some of the discretion that the United Progressive Alliance (UPA) act had tried to remove. These proposed amendments have met with widespread opposition, including from within the Rashtriya Swayamsevak Sangh (RSS) "family" of organisations, and their fate currently appears uncertain. But while these amendments might increase the discretion available to the government in matters of land acquisition, a failure to pass them would not eliminate such discretion. The status quo 2013 act already affords ample discretion, and the need for the private sector to interface with the state remains in place whether or not these amendments are approved.

4.2 Land Conversion

The two levels of government most closely involved in the land conversion process are the state and the local level. Most state governments have drafted laws laying out a process for such conversions. The local government is responsible for the implementation of the laws passed by the state government. Members of the state government and legislature, furthermore, can influence local-level implementation through their formal and informal relationships with the local bureaucracy.

At the local level, the process of conversion goes roughly as follows: The party interested in land conversion must submit an application to a local land revenue official. This official may be the district collector, or the subdivisional officer, or the tehsildar, or all of the above, depending on the size of the plot to be converted. The application requires multiple certifications of proof of ownership, including the registered title deed, a sketch of the plot, its measurements and layout, and revenue receipts demonstrating that no arrears are owed and so on. Preparing an application, therefore, usually requires the applicant to obtain documentation from several government departments at the local level, including the revenue department, or a separate land reforms or land-related office in some states (as in West Bengal), planning departments, and so on. In Karnataka, as late as 2005, for instance, clearances from 12 departments were required to obtain land-use conversion certificates (*Times of India* 2005). Given the poor state of land records in many states, this is no straightforward process.

Once a complete application is received, the competent local revenue official makes a decision, subject to the rules framed by the state government. This decision also requires coordination with and the consent of several government departments that must inspect the site and the documents to ensure that the application is in order. If permission is granted, the local official levies and collects the conversion fees, after which the entrepreneur is free to use the land for non-agricultural activity.

The letter of the law gives several of these local officials discretion over the process of land conversion. In Karnataka, for example, the deputy commissioner has the sole authority to approve, give a conditional approval, or refuse permission to convert agricultural land for non-agricultural purposes (Karnataka Land Revenue Act 1964: Article 95). Further, since the revenue records are often incomplete or in conflict, revenue officials at the local level can have significant power in assessing taxes and fees. For instance, "during test check of the conversion tax records of four district collectorates, five district development offices and five taluka development offices, the CAG (Comptroller and Auditor General) found that the officers either did not levy or levied tax at incorrect rate in 310 cases, incurring a loss of Rs 5.77 crore to the state exchequer" (*Indian Express* 2009).

The survey officer has some discretion, to the extent that it is his survey that provides the information on the basis of

which the deputy commissioner and tehsildar act, especially if updated measurements are missing. The village accountant or *patwari*, similarly, can also be influential in verifying or preventing the verification of land records on the basis of which decisions are made by upper-level officials. The multiple branches of government involved create further opportunities for discretion by creating information asymmetries, which favour the state and make it difficult to hold any one official accountable.

Indeed, local administration officials I interviewed in both Jharkhand and Uttar Pradesh (UP) report spending the bulk of their time settling disputes over land, including land conversion. The reason, one such official from UP explained to me, is as follows:

> Agricultural land is not under the jurisdiction of the civil court. It is under the jurisdiction of the tehsil-level headquarters. Only *abadi* land (where houses are built) is in the jurisdiction of civil courts. What has happened since the reforms is that in the suburbs, agricultural land is being converted into abadi land. Now, we can measure only agricultural land. But what happens if a farmer owns an acre, divides it into 100 or 200-metre plots, sells this off, then there is a dispute between the farmer and a buyer. The sold plot is often abadi. Although it is registered as agricultural land, there is no agriculture in sight. The patwari cannot measure it as agricultural land. So there is unofficial arbitration without going into court. There is no effective mechanism for dispute settlement, there has to be a procedure. Right now, there is no legal solution. This is an area for corruption. Land disputes like this have about doubled since the reforms (interview, Uttar Pradesh, August 2009).

This official told me that he spent most of his working day sorting out questions of land. Although he does not have any formal role in land acquisition, his role in land conversion brings him into contact with business owners. While I was in his office, he received a call from the representative of a private sector entrepreneur over a land transaction. He was irate because he felt that he had not been treated with sufficient respect by the representative.

> Friend, the way you behaved yesterday, you were acting in a very offhand way. A very cavalier way. I was very hurt. We should all stay within our limits. It does not look nice when we go outside them. (*Ham sabko apne pair chaddar ke andar rakhne chahiye. Agar pair chaddar se bahar nikal aye to accha nahin lagta.*)

When the response from the other end was not satisfactory, he issued a threat, "OK, shall I show you what I can do, I will get it sealed, and then you can keep getting the documents scrutinised." This official did not, at least according to the formal rules, have the sole power to deny an application. But he was certainly one of several with power to delay or obstruct the transaction. This is probably why the intermediary was in contact with him and maybe other local officials. Indeed, Sud has found that those who do not cultivate such relationships "from the local level upwards" are often not able to take possession of their land even after purchasing it (2014: 49).

4.3 Diversion of Forestland

About 23% of the land area in India is currently classified as forestland. The legal framework providing for state control of forestland is laid out in the Indian Forest Act of 1927, the Forest Conservation Act of 1980, the Forest Rights Act of 2006, the amendments to these acts, the rules accompanying them (issued in 1981 and 2003), and periodic guidelines issued by the government in addition to these.

This framework creates an active interface between the state and those in the private sector who seek permission to utilise forestland. This interface involves the state at three levels—central, state and local. Applications for the diversion of forestland are decided on by the central government, but routed through the state government. They require certifications and approvals from several state-level officials, including the chief secretary and the chief conservator of forests. Local-level officials are important to this process, since both the application and the approval process require maps, measurements, and other information such as the legal status of the forest, and the identity and number of affected families and so on, which lies in their domain.

The rules give government officials considerable discretion in the decision about whether or not to approve proposals for the diversion of forestland. The central government, for instance, is not bound by any clear constraints in making its decision. It is required to seek the advice of a committee on proposals for land beyond a certain threshold (20 hectares, according to the 1981 rules, and 40 hectares, according to the 2003 rules). The central government is required only to "consider" the advice of the committee, but not to treat it as binding. The state and local governments, which act as a gatekeeper and facilitator on proposals for the diversion of forestland by providing the requisite assurances and certifications before an application can be forwarded, are also not bound by specific criteria in this procedure. One indication of the degree of discretion at the disposal of government officials is the volume of proposals that have been approved. Between 1981 and 2011, only 6% of proposals submitted were rejected (*Economic & Political Weekly* 2011).

In 2006, the Government of India passed the Forests Rights Act, which vested forest rights in "forest dwelling Scheduled Tribes and other traditional forest dwellers," individually and collectively. Those who dwelt in forest areas were given ownership rights, community rights, rights to obtain titles to the land on which they dwelt, rights over minor forest produce collected in these areas, and so on. The act also stipulated that "no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forestland under his occupation till the recognition and verification procedure [of his or her rights] is complete." Further, the act empowered the gram sabha and village-level institutions to protect the wildlife, forest, biodiversity and adjoining areas and "ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage."

While this introduced a check on government discretion in the land acquisition process by introducing additional steps such as the recognition of rights and the gram sabha's consent, these steps themselves came with new areas of discretion. One reason for this is that although the act lays out general principles, many of the specific processes by which ownership and verification is to be carried out, or the consent of the forest dwellers obtained for the diversion of forestland, is left to the "rules"

framed at the discretion of the Ministry of Environment, Forest and Climate Change. The rules are also easier to change than legislation and have indeed been changed by both the Congress and the BJP governments to exempt diversion for certain purposes from consent requirements. They also leave a number of important matters open to the judgment of local officials (see, for example, Dogra 2013), and these areas of discretion are compounded as usual by the poor state of land and other documentary records.

For example, the act defines the term "other forest dweller" as "any member or community who has for at least three generations prior to the 13th day of December 2005 primarily resided in and who depend on the forest or forests for bona fide livelihood needs. Generation means a period comprising of 25 years." But, as one report describing the implementation of the act in Jharkhand between 2010 and 2013 noted, many families find it difficult to furnish evidence of dependence on forestlands across generations—"There has been a difficulty in giving evidence of three generations. Caste certificates are not available with approximately 30% of the Scheduled Tribe community in Jharkhand. Therefore, the claim forms cannot be filed as the caste certificate needs to be appended with the form" (Forest Governance Learning Group, no date). Caste certificates in any case are usually issued by the district administration. Ironically, therefore, this act created a new space for the discretion of the district administration in its role not just as keeper and interpreter of land records, but also as the issuing authority for the additional certifications required.

Indeed, a committee set up by the Ministry of Environment and the Ministry of Tribal Affairs to review the implementation of the FRA provided a dismal picture. The reasons it gave for faulty implementation often pointed to the significant discretion local-level officials had over documentary records. In its words,

> The biggest problem is with the many cases of faulty rejections. Rejections are being done without assigning reasons, or based on wrong interpretation of the OTFD (other traditional forest dwellers) definition and the 'dependence' clause, or simply for lack of evidence or 'absence of GPS survey' (lacunae which only require the claim to be referred back to the lower-level body), or because the land is wrongly considered as 'not forest land,' or because only forest offence receipts are considered as adequate evidence (Government of India 2010; see also Shanker 2013).

5 Re-regulation

The post-liberalisation state has also reasserted its presence by establishing a new framework of regulations at the same time that it has eliminated old ones. The Foreign Exchange Management Act (FEMA) was passed in 1999, along with the Foreign Exchange Management regulations, which prescribe the rules on foreign investments in India. The Indian government introduced progressive regulations for transfer pricing in the Finance Act 2001. The Environment Protection Act, initially passed in 1986, was amended in 1991. A new Trademarks Act was passed in 1999, along with other amendments to protect intellectual property rights. The 1956 Companies Act, after being amended several times, was replaced by the Companies Act of 2013. The Securities and Exchange Board of India (SEBI) was established in 1991 as India's capital market regulator and its powers have increased over time. The Electricity Regulatory Commission Act, passed in 1998, established a new Central Regulatory Commission. In many cases the government did not pass new legislation, but framed new rules guiding the implementation of previously enacted laws.

These new regulations respond to fundamentally new circumstances, and their nature and scope is different from that of the old ones. In that sense, they represent a new face of the state. But this new state is a large state. As one industrial consultant put it, capturing both the change and the continuity between the pre- and post-liberalisation state,

> In the 1980s, there were 100 plus one clearances. Now there are 97. These are not the same as before. Some state requirements have been subtracted, for example, licences, some have remained the same, for example, inspections, excise, electricity, water, and some have been added, for example, pollution control, land. The net result is the same (interview, New Delhi, April 2009).

Indeed, according to a worldwide study on the ease of doing business, India post-liberalisation remains one of the most highly regulated economies in South Asia and in the world (World Bank 2013).

The considerable ambiguity over the interpretation of many of these new regulations means that members of the private sector must cultivate relationships with state officials to, at a minimum, obtain regulatory clarity, and, at a maximum, extract a favourable interpretation. Consider the following extract from an interview in New Delhi in April 2009 with a media entrepreneur whom I asked if he required any interface with the state in running his business in the post-liberalisation period. My questions are in italics.

> Yes, there was (an interface with the state). The regulatory environment was so fuzzy. You needed to go to Shastri Bhavan to get clarifications. In my experience with Shastri Bhavan, obstacles stemmed from a lack of knowledge, they don't stem from wanting to stymie you. They often don't understand—I have met secretaries of government who don't understand the difference between FII (foreign institutional investor) and FDI (foreign direct investment). They are hidebound, on their own track. This is understandable. How does someone who has been in charge of a district in northern UP suddenly understand uplink and downlink. This is terrible for a businessperson, this hidebound mindset. Also, bureaucrats are by nature not risk-taking—nowhere in the world. They will not expose their flank.
>
> I'll just give you one example: In 2001–02, post-Star News, the government introduced the rule that there had to be a maximum __% foreign equity. There was a proportionality rule—if some company that had a stake in you itself had a foreign company who had a stake in it, that foreign company's stake would be calculated proportionally. So if someone had a 10% stake in you, and a foreign company had a 10% stake in them, then that foreign company's stake in you would be 10% of 10%.
>
> Seems straightforward. But there is a practical problem—how do you calculate it? We are a public company, traded under FEMA. According to FEMA, which is a law and not just a regulation, 24% of an Indian company can have FIIs. Above 24%, shareholders have discretion to increase up to sectoral capacity. Now suppose 3,000 corporates buy our shares. The FDI proportion is indeterminate. There is no way to find out their background. And what happens if that number keeps changing? The law is not practical. I said to them—the information you are asking us to provide is indeterminate.
>
> In 2002, we were at an impasse. They said please certify that you do not have more than __% foreign equity. We can't give you a licence until you do. I said how do we certify, we can't certify. First, the number of foreign investors in our company can change. Second, I have

no jurisdiction to ask about their background. They said, you tell all foreign investors to exit your company. I said I need jurisdiction to do that. You give me a letter and then I will do that.

So this was held up for years. They understood our problem, said it was a genuine case, but could not find a solution to it. Finally, the rule came through in 2009. Until then, they did not deny us a licence, but we got licences conditional under ad hoc polices—they just decided that they would not trace ownership of companies that had less than 10% of shares.

But did this way of doing it not leave you vulnerable?

Yes, secretaries are vulnerable to reversal. But it became an issue for everybody. Ultimately you need a minister to resolve it. The bureaucrat can write his note. But for law you need a minister. We had to go to a minister.

Did it matter, which minister, which government?

No, we went to all, any government, does not matter. But overall this is not deliberate. It is a matter of being ill equipped. Regulators are ex-bureaucrats who do not understand the market.

Were networks you had built with state officials important?

Of course. See, even you have come through networks.

This interaction highlights some important differences, and an important overarching similarity, with the relationships between state and business in the pre-liberalisation period. One major difference is in the background of the entrepreneur—this respondent, like many of his peers, was a first-generation entrepreneur rather than a descendant of a small number of established business families. A second difference was in the sector he represented—information and broadcasting was a monopoly of the state before liberalisation. A third difference is that the interaction was based on mutual respect—he interacted with the state as a client rather than a suppliant, and the officials he spoke with acted as facilitators rather than as judge and jury. In addition to respect, there was sometimes even diffidence on the part of state officials towards the new technologies and the global economy embodied in the person of the entrepreneur.

The stark contrast in these terms of interaction from the pre-liberalisation period is driven home by Gurcharan Das's description in his memoirs of a meeting between him and a joint secretary for which he was summoned to Delhi at short notice. When he arrived, he was kept waiting for hours, given an audience for a few minutes, lectured on the dishonesty of businessmen, and summarily dismissed, all without a decision on the file which had brought him to Delhi in the first place (2002: 205–06). Despite changes, the similarity is that the new entrepreneur, like the old one, needs to cultivate a relationship with the state in order to thrive.

6 Consequences for Democracy

The literature on India and in democratic theory suggests that there is a close link between patronage and a commitment to procedural democracy. Bardhan (1984) argued that business in India had a stake in democracy because it had a stake in state patronage. Industrial capitalists, along with bureaucrats and rich farmers, Bardhan wrote, lived off the patronage of the state. While each class would have preferred to capture the state for itself, it favoured the democratic system as a second-best alternative in a socially heterogeneous environment. The characterisation of the relevant social categories purely on the basis of class is hard to defend in a country in which politics is more frequently organised on the basis of ethnicity or a combination of ethnicity and class (Chandra 2004; Shah 2008), and in which class-based mobilisations have been systematically disadvantaged (Varshney 1998; Chandra 2005). But the broad point—that the stake business has in procedural democracy in India may be at least in part related to its stake in preserving access to patronage in a heterogeneous political environment—is an important one worth returning to here. It reinforces an argument made in comparative democratic theory that democracy is most likely to survive when all significant social groups have a vested interest in it (Przeworski 1991).

The consequences of the reinvention of a patronage-based relationship between business and the state, then, may, in part, be a deepening of the stake of business in procedural democracy. Every available indicator suggests that business in post-liberalisation India has such a stake. Survey data tells us that India's "highest" economic class, in which business is presumably included, prefers democracy to other forms of government (State of Democracy in South Asia 2008: Tables 1.1. 1.10).[3] Individual entrepreneurs frequently make statements in support of democracy. Sunil Mittal's comment (2006) is typical—"It (economic reform in India) will take longer than what one would take in China, for example, where one decision is taken and that is implemented for the entire country. But I guess that's the cost of democracy and we'd rather have a slightly lower level of growth but carry on being in the democratic state that we have today."

The stake in procedural democracy is evident not only in what business says but in what it does. Members of the business sector have become more active participants in democratic practice than before—they fight elections, claim ministerial portfolios, and have become vocal participants in discussions not only about the direction of India's economy, but also about the direction of its politics. The presence of businesspersons in Parliament has increased significantly. Until the 1970s, about 10% of Parliament was composed of "businessmen," (Kochanek 1974: 226). By 2014, this had gone up to 20% (PRS India 2014). Significantly, despite a shift in patterns of party representation in Parliament, with the victory of the BJP and the rout of the Congress, this was only slightly smaller than the 24% of 2009 MPs who reported their profession as "business" (128 out of 543) (National Social Watch 2011: 17). This number is likely to be an underestimate, since many MPs with business interests do not list business as their primary occupation, and since the lines between politics and business have increasingly become blurred, with MPs and members of legislative assemblies (MLAs) with a predominantly political background acquiring business interests. Finally, several businessmen have held ministerial portfolios, or positions of cabinet rank, both in the current and previous national governments.

The argument that a continued dependence on patronage is responsible for the continued state of business in procedural democracy does not imply that business in India is driven exclusively by interests than by ideals. But where there is also an idealistic commitment to procedural democracy, the fact that it converges with a vested interest may make it more enduring.

This also does not imply that the attitude of the business class in India's democracy is a significant explanation for the stability of procedural democracy. I want to here suggest that a continued stake in patronage gives business in India a stake also in procedural democracy, while remaining agnostic on the contribution of this stake to the overall stability of procedural democracy, the causes of which are in all likelihood overdetermined.

Indeed, the increasing pluralism of the state may well buttress this stake. Had the composition of the state remained the same while that of the private sector changed, many "new" entrepreneurs may have been locked out by pre-existing patronage networks. But the diffusion of power in an increasingly plural state has opened new doors for an also increasingly plural private sector. Now, an entrepreneur has several channels to the state—he or she can approach the state at different levels and approach multiple parties in multiple states (as the Tatas did for the Nano factory, for example), and, given the changing social background of state officials, find multiple points of contact in the bureaucracy and among ministers. As one entrepreneur put it, "There are enough options in a democratic framework" (interview, New Delhi, April 2009).

Some authors have suggested that the balancing act that Bardhan described in pre-liberalisation India has been replaced now by the clear dominance of industrial capital (Gupta and Sivaramakrishnan 2011: 5). If business no longer depends on a balancing act with other groups, then it should not need to invest in procedural democracy as a referee. I think that, while it is clear that business has become ideologically dominant, especially in the influence it has in the definition of "development," it is too early to declare political dominance—we simply do not have enough empirical work yet to identify the relative political strength of the new social groups that have become relevant in the new economy. But taking the claim that business is dominant at face value, we must address the implications of the changes in the size and composition of this business class. This class is now larger and more diverse than ever before, and as members of this business class increase and diversify, they need not just a system that balances their interests against other social groups, but also the interests of some business groups against others. Procedural democracy may well continue to serve that purpose.

While this continued dependence of a reconstituted private sector on patronage relations with a reconstituted state can reinforce an investment in procedural democracy, it may at the same time subvert the substantive aspects of democracy. One obvious subversion is the corruption and crony capitalism that has accompanied liberalisation in India. But corruption is not the only effect of the relocation of state patronage. Business and the state are also often drawn together by shared, albeit top–down, ideologies of development and modernisation. The ascendance of these paternalistic ideologies, by justifying a model of economic transformation that does not treat rural citizens as partners in the largest rural democracy in the world, may ultimately be a deeper challenge to a substantive notion of democracy than corruption.

NOTES

1 I address the reinvention of patronage-based relationships with other categories of citizens in other work not included here.

2 One could also describe the post-1991 expansion of the private sector in India by using other indicators—its contribution to overall gross domestic product (GDP), for example, or its share of capital, or its share of employment. All these indicators record an increase in the post-1991 period, although its magnitude, rate, and sectoral composition differ. I use the number of companies as the primary indicator because I am interested in business as a social group, and the number of companies registered by non-governmental entities is a simple measure of the size of that group.

3 The survey figures are for India's "highest" economic class. The definition of this class category is not provided in published reports on this survey. This statement, therefore, is based on the assumption that the "highest class" category intersects or coincides with the business class. The majority of all Indian citizens prefer democracy to other types of government, according to these data. But members of the highest and upper classes are stronger than average supporters of democracy, according to multiple indicators.

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