

The Indian Constitution in defence of democracy and multiculturalism: Pragmatism, flexibility and hybridisation*

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1. Introduction

The Indian experience represents the largest expression of democratic organisation, and understanding results and making forecasts on Indian General elections is not an easy task, especially if we consider the history of the country, its ethnic and cultural features, the nature of the multi-party system and the subsequent—as defined by Sanjay Kumar—mammoth democratic exercise¹.

In recent times, the Bharatiya Janata Party and the decade-long premiership of Narendra Modi fostered some critical assessments especially within Western scholars, which pay attention to the marginal role of opposition and the increasing trend towards a supposed authoritarianism².

However, in the light of a comprehensive study of the Indian contemporary experience through its constitutional system, the analysis should move from some specific features and historical events that already show a robust state machinery in safeguarding democracy, while considering the role India is currently playing as an emerging (already emerged) economy and its weight on regional and global political geography.

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¹ S. Kumar, *Elections in India: An Overview*, London-New York, 2021.

² S. Palshikar - S. Kumar - S. Lodha (eds.), *Electoral Politics in India: The Resurgence of the Bharatiya Janata Party*, London-New York, 2017; W. Menski - M. Yousuf (eds.), *Kashmir after 2019: Completing the Partition*, London, 2020.

Moving from the aforementioned critical assumption, the essay briefly exposes three aspects that might serve as crucial points in evaluating the contemporary trajectory of the Indian experience. To this end, the first paragraph addresses the role that India assumed within the so-called BRICS, the second paragraph introduces some important features of the constitutional system, while the third paragraph explains the three pillars of the democratic and constitutional asset: pragmatism, flexibility and hybridisation.

2. From self-sufficiency to the market economy: India and the BRICS

Within the countries under the acronym BRICS (Brazil, Russia, India, China, South Africa), India represents one of the most rapid growth in terms of GDP, thus leading to consider its production system and institutional set-up as examples of ‘winning models’—along with China—of the Global South³.

From an institutional point of view, India unequivocally has a particularly prominent role, thanks to its consolidated political stability, which makes it a model of a democratic-social state of great reliability within the group of emerging powers that today challenge the Euro-Atlantic bloc. From this point of view, the most fruitful comparison should be made, on the one hand, with Brazil, for the strongly democratic and egalitarian connotation of the respective forms of state, and on the other hand, with South Africa, for certain structural and connotative aspects of the legal systems, which share the common law legal tradition, albeit strongly revisited and modified (particularly as regards India) in the light of specific regional problems and pre-existing legal traditions. However, with respect to both these systems (and even more with respect to China and Russia), India represents the oldest democratic system, based on a constitution drafted in the cultural horizon of post-World War II democratic constitutionalism, which came into force in 1950, and has been substantially consolidated over more than seventy years. Despite this leading role, the Indian Union remained for decades a sort of ‘black hole’ in political-constitutional studies (especially Italian, but generally European)⁴, even after the 1947 independence and the entry into

³ On this aspect, see R. Orlandi (a cura di), *L’elefante sul trampolino. L’India fra i grandi della Terra*, Bologna, 2009; M. Adduci, *L’India Contemporanea. Dall’indipendenza all’era della globalizzazione*, Rome, 2009; S. Chiarlone, *L’economia dell’India*, Rome, 2008; E. Basile - M. Torri (a cura di), *Il sub-continente indiano verso il terzo millennio. Tensioni politiche, trasformazioni sociali ed economiche e mutamento culturale*, Milan, 2002; X. Xiujun (ed.), *The BRICS Studies: Theories and Issues*, London-New York, 2022; D. Monyae - B. Ndzendze (eds.), *The BRICS Order: Assertive or Complementing the West?*, London, 2021.

⁴ Cf. D. Amirante, *Democrazie imperfette o “altre democrazie”? Costituzioni e qualità della democrazia nel sub-continente indiano*, in Id. (a cura di), *“Altre” democrazie, problemi e prospettive del consolidamento democratico nel*

force (1950) of one of the most complete and articulate democratic constitutions. Yet it is the 'largest democracy in the world' (at least in quantitative terms) and, above all, a system that is able to cope with the contradictions of a multi-ethnic, multi-lingual and multi-religious society through the use of law and the practice of democratic rules⁵.

In recent decades, India has brilliantly achieved the transition from an economic system that tended to be self-sufficient (with strong state intervention) to an open and market economy. This transformation has entailed, along with GDP growth, a series of political and social imbalances due to the difficulty of reconciling the changes resulting from economic development with the protection of fundamental rights and the maintenance of a strongly entrenched welfare state. In fact, the 'openings' to the market economy and international trade have changed the economy structurally and have led to the gradual dismantling of the public sector, with the privatisation of banks and industries, but above all with major cuts in public spending that have inevitably reverberated on welfare, a fundamental public function in a country where large sections of the population live on the edge (or below) the poverty line.

An introductory study on India's democratic set-up and economic constitution, therefore, requires special attention to public intervention as a factor for rebalancing the inequalities typical of Indian society and history, and must also take into account its territorial dimension, evaluating the peculiar features of Indian federalism, which can be defined as atypical and *sui generis*⁶. In a historical perspective, due account must be taken of the strong role assumed in the initial phase by the Union and the clear centripetal trend in the allocation of economic and fiscal powers, which was followed by a gradual affirmation of the political, cultural and economic subjectivity of the individual member states. In order to understand today's India, it is necessary to bear in mind the varying levels of development of the 28 states and the division of powers between the Union and the states in relation to fiscal powers. Thus, the internal dynamics of the individual states in political and economic matters, as well as the compatibility of their respective economic and production systems with the guiding principles laid down in the constitution must not be overlooked. The Indian states

sub-continente indiano, Milan, 2010, p. 15 ff. For a broader view on South Asian legal systems, especially those really close to the Indian experience, see C. Petteruti, *The Constitutional System of Sri Lanka Between: Hyper-Semi-Presidentialism and the Federal Utopia*, in D. Amirante (ed.), *South Asian Constitutional Systems*, The Hague, 2020, p. 75 ff.; L. Colella, *The Rule of Law in Bangladesh: Constitutional Challenges*, ivi, p. 137 ff.

⁵ Z. Hasan - E. Sridharan - R. Sudarshan (eds.), *India's Living Constitution: Ideas, Practices, Controversies*, London, 2005.

⁶ D. Amirante - P. Viola, *South Asian Constitutionalism in Comparative Perspective: The Indian "Prototype" and Some Recent Borrowings in the 2015 Nepalese Constitution*, in M.P. Singh (ed.), *The Indian Yearbook of Comparative Law 2018*, Singapore, 2019, p. 151 ff.

have considerable territorial and cultural differences among themselves: from the widely variable size, to the different presence of energy sources and raw materials, to the heterogeneity of cultural elements (religion, language, social stratification) that influence the role of minorities, oppositions, political system, and the economic system as a whole.

From a legal point of view, the Indian system is considered as an area of particular interest for comparison, as it represents a peculiar hybridisation of an original common law model (among other things with peculiar mixtures of British and American common law), with elements typical of civil law constitutions and with legal tools arising from Hindu and Muslim law, so much so as to deserve, according to some, the label ‘post-modern legal system’⁷. Regarding the relative lateness of comparative studies on the subject, one may recall the caustic judgement of a prestigious scholar of comparative institutional systems, Arend Lijphart, when he stated that India “is one of the most important and interesting examples in the democratic world of judicious and effective use of many consociative practices”, whereby “the fact that it has taken several decades to discover this basic feature of the Indian system shows a staggering lag in the study of the world’s largest democracy from a comparative point of view”⁸.

On the whole, the characteristics of originality of the Indian institutional experience, so far strongly underestimated, make it an ‘institutional model’ whose analytical knowledge offers important consequences about different pivotal elements: i) methodology (the broadening of the horizons and tools for comparison); ii) theoretical appraisals (the study of post-modern legal systems); institutional machinery (the analysis of a new ideal-type of multicultural and multinational state); iii) convergence between legal structures and political-economic systems (in the BRICS sphere, having a global impact)⁹.

3. *A brief overview on the Indian Constitution*

The Indian Union, with its successful 70 years’ experience, still remains a constitutional system substantially unexplored in comparative law studies, especially if

⁷ W. Mensky, *Comparative Law in a Global Context*, Cambridge 2006.

⁸ A. Lijphart, *Democratic institutions and ethnic/religious pluralism: Can India and the United States learn from each other – and from the smaller democracies?*, in K. Shankar Bajpai (ed.), *Democracy & Diversity, India and The American Experience*, Oxford, 2007.

⁹ For a general assessment on India and its role within BRICS: P. Quercia - P. Magri (a cura di), *I BRIC-S e noi. L’ascesa di Brasile, Russia, India e Cina e le conseguenze per l’Occidente*, Milan, 2011.

we consider the mainstream Western doctrine¹⁰. Moreover, the Indian constitution is often considered a mere post-colonial charter, in spite of not even possessing the formal features of such texts¹¹. On the contrary, this text can be comfortably located in the category of the post-WWII democratic constitutions, like the best known European models, such as the Italian or the German ones, not only for chronological reasons, but also for its content. First of all, the Indian constitution stands out for its successful mixing of the democratic method with a strong 'social' orientation, both with regards to the teleological and foundational profile of the State and to the relations between State and society, brilliantly translated into a very original bill of rights.

From a conceptual and textual point of view, an interpretative effort is required for reading a constitution acknowledged as "socialist" since the preamble¹², but particularly centred on the protection of individual rights and freedoms within an authentic set of fundamental rights with democratic and liberal roots¹³. In the early years of its existence, many foreign and national observers saw in this twofold tension of the Indian constitutional text a blatant contradiction. However, if one does not overemphasise the symbolic contents of the Constitution, it will emerge a rather original system, aimed at ensuring at the same time a substantial equality of opportunity for Indian citizens and a strict protection of their fundamental rights under the control of a powerful and independent judiciary¹⁴.

Nevertheless, the most important aspect on which the theory and practice of the Indian constitution offers today a significant contribution is certainly the character of its institutional experience as an 'anticipatory multicultural state'¹⁵. The Indian Union could be considered, in fact, one of the most significant experiences of multiculturalism, accomplished through a thoughtful use of the constitutional

¹⁰ D. Amirante - P. Viola, cit.

¹¹ M.P. Singh - S. Deva, *The Constitution of India: Symbol of Unity in Diversity*, in *Jahrbuch des Öffentlichen Rechts der Gegenwart*, 53, 2005, p. 649 ff. See also M. Khosla, *The Indian Constitution*, Oxford, 2012; A.K. Thiruvengadam, *The Constitution of India: A Contextual Analysis*, London, 2017.

¹² D.D. Basu, *Introduction to the Constitution of India*, Gurgaon, 2022; D. Amirante, *La democrazia dei superlativi. Il sistema costituzionale dell'India contemporanea*, Naples, 2019.

¹³ D.D. Basu, *Introduction to the Constitution of India*, cit.

¹⁴ On these aspects see G. Austin, *The Indian Constitution: Cornerstone of a Nation*, Oxford-New Delhi, 2018 (prima ed. 1966); Id., *Working a Democratic Constitution: A History of the Indian Experience*, Oxford-New Delhi, 1999; U. Baxi, *Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India*, in *Third World Legal Studies*, 1985, p. 107 ff.; Id., *Demosprudence versus Jurisprudence: The Indian Judicial Experience in the Context of Comparative Constitutional Studies*, in *Macquarie Law Journal*, 2014, p. 3 ff.

¹⁵ D. Amirante, *The Lengthiest Constitution of the World: Basic Elements*, in Id. (ed.), *South Asian Constitutional Systems*, cit., 2020, p. 27 ff.

mechanisms as factors of aggregation of the State structure and of consolidation of the democratic institutions¹⁶.

Since its entry into force, the Indian fundamental text had to cope with a multicultural society, grounded on deep ethnic, linguistic, cultural and religious differences of its population (in this sense it can be defined a 'genetically multicultural constitution'). The originality of the Indian constitutional approach was the awareness of having to confront a highly-variegated society. Consequently, the constitution considered diversity and minorities not a problem to solve or to contain (a social and constitutional 'pathology'), but a resource to be appreciated for building the state (thus, an element of the constitutional 'physiology' of India).

In South Asia, the Indian Constitution represents a reference point, both in terms of the institutional solutions adopted, and for the stability and longevity of its democratic institutions¹⁷. The Indian aptitude to achieve a balance with regard to interethnic and linguistic conflicts acquires an even greater value in comparison with the other states of the area, concerned by similar tensions and by constant potential conflicts¹⁸. In particular, in relation to the multi-religious character of South Asia, the Indian legal system has shaped an important model of secularism. Here, in fact, the secular character of the state, as enshrined in the Constitution in 1976 through the 42nd Constitutional Amendment Act, had already been affirmed, even if indirectly, by the Constituent Assembly. The debate over this matter was fertile and intriguing due to the presence at the same time of different positions. Nevertheless, it started from a shared principle: after the Partition from Pakistan, the only choice for the new independent Republic was secularism. As Nehru strongly stressed, India had to be "a state including people of any religion and opinion and therefore a fundamentally secular state"¹⁹.

Indian secularism has an attitude of deep respect towards religious minorities, and is very different from the Western understanding of the term, which is

¹⁶ D. Amirante, *Lo Stato multiculturale. Contributo alla teoria dello Stato dalla prospettiva indiana*, Bologna, 2014.

¹⁷ D. Amirante (ed.), *South Asian Constitutional Systems*, cit.

¹⁸ Since the first days of Independence, the decision to build a state based on full recognition of ethnic, religious, cultural, and social diversity was in line with the social context of the federal scheme. One of the main merits ascribed to the Indian ruling class of the time, and in particular to the forces of the Congress Party within the Independence Movement, is to have always taken into account the structural elements of this social reality, beyond their political, ideological, and religious divergences. On these aspects see W. Kymlicka, *Liberal Multiculturalism: Western Models, Global Trends and Asian Debates*, in Id. - B. He (eds.), *Multiculturalism in Asia*, Oxford, 2005, p. 22 ff.; H. Bhattacharyya, *Multiculturalism in Contemporary India*, in *International Journal on Multicultural Societies*, 5, 2003, p. 152 ff.

¹⁹ D.E. Smith, *Nehru and Democracy*, Kolkata, 1958, p. 147.

characterised by hostility towards religion and by the construction of the ‘wall of separation’ between State and religion. Considering this feature some scholars have defined Indian secularism as ‘ambiguous’, highlighting that the constitution had to pay a tribute to the specific weight of religion, especially Hinduism, in Indian society²⁰. A different opinion appears more persuasive: theorising secularism is “not an exotic concept planted in India, it grew out of its past history of a wide and general movement, which emerges [...] gradually from the intermingling of different groups and communities”²¹.

From the legal point of view, the compromise reached by the Constituent Assembly led to a balanced outcome, denying, on the one hand, a political recognition for religious groups (in reaction to the system of differentiated election by groups declared by the British Raj), but guaranteeing, on the other hand, freedom of expression and a certain autonomy to religious communities. In this way, it was created what we could define, partly borrowing an Indian doctrine expression, a form of ‘celebratory secularism’²².

4. *Pragmatism, Flexibility and Hybridisation*

For illustrating the origins and some important features of the Indian Constitution, it is necessary to clarify my methodological proposal for understanding Indian constitutionalism. To this end, I highlight three ‘keywords’, which characterise the trajectory of the Indian Constitution from the Constituent Assembly until today, namely 1) pragmatism, 2) flexibility and 3) hybridisation.

Pragmatism underlines the audacious aptitude of the Indian law-makers, from the Constituent Assembly members onwards, to selectively use concepts and legal institutions borrowed from other legal systems, without showing the cultural subjection that has often characterised the legal transplants of entire institutional ‘packages’ of Western matrix in other geo-political contexts. This kind of pragmatism does not indicate the absence of autochthonous values and ideals (on the contrary, the

²⁰ J. Chiriyankandath, *Constitutional Predilections*, Seminar No. 484, 1999, p. 2.

²¹ B.L. Fadia, *Indian Government and Politics*, Agra, 2005, p. 106.

²² On these points see R. Dhavan - F.S. Nariman, *The Supreme Court and Group Life: Religious Freedom, Minority Groups, and Disadvantaged Communities*, in B.N Kirpal - A.H. Desai - G. Subramanian - R. Dhavan - R. Ramchandran (eds.), *Supreme But Not Infallible: Essays in Honour of the Supreme Court of India*, Oxford-New Delhi, 2000, p. 266 ff.; L. Colella, *Fattore religioso, diritto e normazione in India, Pakistan e Bangladesh*, in *DPCE Online*, 2021, p. 1675 ff.

Indian Constitution has often been indicated by many interpreters as a ‘manifesto’ for a real social revolution)²³, but the aptitude to use inputs from comparative law and ‘constitutional engineering’, not on the basis of abstract models, but in relation to their usefulness and relevance to solve actual problems posed by the local context. In this perspective, it evidently appears that the legal system “is more a process of applying commonly cherished values of social conduct and control, within the larger context of culture, rather than a stand-alone structure with legal rules”²⁴.

‘Flexibility’ indicates a special attitude of the legal system to evolve (through amendments or legislation) without altering its basic structure. To give one example, we can refer to the many different procedures for constitutional revision, providing, thus, different measures according to the specific objects of the constitutional amendment. For instance, the procedure for the establishment of new member States of the Union is easier than the ordinary procedure for constitutional amendments; this has favoured the consolidation and the progressive adjustment of the Indian federal system as a whole. In fact, many regional separatist claims have been overcome through the recognition of a political subjectivity to numerous linguistic and cultural communities, through constitutional revisions creating a number of linguistic states and re-adjusting the Union’s territorial spatial planning²⁵. This institutional dynamic, as opposed to the rigidity of the typical territorial planning of North American federalism, is significantly illustrated by the consideration that “the Indian Union, constitutionally speaking, can be defined as an indestructible Union of destructible States.”²⁶

‘Hybridisation’ is a frequent concept in the Indian constitutional system. In working on South Asian constitutional systems, we usually come across several ‘oxymoron definitions’ to identify different institutional set-up. Concerning the Indian political system, for instance, it is possible to think about a ‘consensual Westminster model’ with a pluralist party system recalling consensual parliamentarism. With regards to the structure of the Union, the oxymoron ‘centralised federalism’ better describe

²³ M.P. Singh - N. Kumar, *Examining India’s Common Law Identity: An Inquiry into India’s Legal Systems and Traditions*, Oxford-New Delhi, 2019. See also N. Sundar, ‘We Will Teach India Democracy’: *Indigenous Voices in Constitution Making*, in *The Journal of Imperial and Commonwealth History*, 2023, p. 181 ff.; J.S. Deepak, *India that is Bharat: Coloniality, Civilisation, Constitution*, London, 2021.

²⁴ Ivi, p. 84.

²⁵ See *supra*. Cf. A.K. Thiruvengadam, *cit.*; Y. Roznai, *Unconstitutional Constitutional Change by Courts*, in *New England Law Review*, 2017, p. 555 ff.; E.F. Delaney - R. Dixon (eds.), *Comparative Judicial Review*, Cheltenham, 2018.

²⁶ H. Bhattacharyya, *Federalism and Regionalism in India: Institutional Strategies and Political Accommodation of Identity*, Heidelberg Papers in South Asian and Comparative Politics, Working Paper No. 27, 2005, p. 2; M. J. Vinod et al. (eds.), *Cooperative Federalism in South Asia and Europe: Contemporary Issues and Trends*, London-New York, 2023.

the different attitudes that the state machinery assumes in reference to stimulus arising from the context. In analysing the economic Constitution, the ‘socialist’ Republic (which excludes private property from its Bill of Rights) embraces, after the liberal turn, the free market.

In the perspective of hybridisation, we can also recall our previous considerations about the ‘mixed’ character of the Indian legal system, using sources of positive law alongside religious or traditional and customary principles. In conclusion, by studying the Indian legal system, it is possible to get accustomed to the ‘grammar’ of institutional hybridisation, and to verify the adaptive capacity of the basic features of democratic constitutionalism to regional contexts often considered incompatible with democracy.

The main goal of the Constitution of India was to create an effective social democratic state. The Indian legal system is therefore based on a balance between significant public interventions, aimed at achieving substantive equality for Indian citizens, strict protection of fundamental rights, recognition of political opposition and democratic guarantees, defended by a significantly independent judiciary²⁷.

As already pointed out in other studies²⁸, this system is supported by three pillars: the Preamble to the Constitution, the fundamental rights (and the Public Interest Litigation/Social Action Litigation, a special procedure of direct appeal to the Supreme Court) and a corresponding list of constitutional duties²⁹, and the directive principles of State policy, with economic and social provisions, located in part IV of the Constitution.

The interaction between the three pillars of the Constitution was appropriately described in the formula by V.S. Deshpande, a Supreme Court judge, who pointed out that the ‘democratic socialism’ referred to in the Preamble and in the directive principles of State policy is meant to outline the context within which fundamental rights must be realised in practice³⁰. The Preamble plays an important role in the definition of the final tasks of the legal system, and as an interpretive instrument to resolve disputes and ambiguities within the constitutional text, mostly through the intervention of judicial power.

²⁷ M.P. Jain, *Indian Constitutional Law*, 6th ed., New Delhi, 2010, p. 15. See also J. Sindhu, *Public reason and constitutional adjudication in India*, in *Comparative Constitutional Studies*, 2024, pp. 140 ff.

²⁸ D. Amirante, *L’India al tempo dei BRICS: una potenza emergente dalle solide radici democratiche*, in L. Scaffardi (ed.), *BRICS: Paesi emergenti nel prisma del diritto comparato*, Turin, 2012, p. 55 ff. Cf. S. Zondi (ed.), *The Political Economy of Intra-BRICS Cooperation: Challenges and Prospects*, Cham, 2022. Cf. U. Baxi, cit.

²⁹ V.S. Deshpande, *Rights and Duties under the Constitution*, in *Journal of the Indian Law Institute*, 1973, p. 99-100; U. Baxi, cit.

³⁰ Ivi.

In listing the objectives of the political system, the constitution clearly shows the willingness of the constituents to reconcile the socialist orientation with a democratic perspective, assigning to social, economic, and political justice a constitutional priority. This approach also excludes, on one hand, collectivistic or authoritarian options for the achievement of the ideals of social justice and equality and, on the other hand, refuses any reference to ‘organicistic’ conceptions of society (i.e. through the perpetuation of the caste system).

Among the various analyses carried out by the Indian legal scholarship, R.C. Lahoti identified this attitude as the ‘backbone’ of the Constitution, while D.D. Basu considers it as the primary expression of the ‘philosophy’ of the fundamental law. Thus, three analytical keys have been offered for understanding the role of the Indian constitution and its preamble: declaratory, decisional, and programmatic³¹. Overall, the Supreme Court of India has often been involved with decisive rulings in the crucial stages of the development of Indian democracy³².

A further issue, which prompted the constituents to particularly delineate the institutional rules of Indian democracy, was the necessity to protect the republic from deviations towards totalitarian or anti-democratic regimes (a risk that effectively occurred in the 1970s, during the state of emergency imposed by Indira Gandhi). According to Basu, this was the main reason for the considerable detail in treating extensively many aspects of the administration of the country, both from the organisational and procedural point of view: “the Constitution might be perverted unless the form of administration was also included in it”³³.

Confirming the overarching trend, observed also in Western democracies, towards the ‘judicialization of politics’ and the ‘presidentialisation of the executive power’, the Indian Supreme Court has assumed a firm position as a guardian of democracy, while remaining within the boundaries of its competences. Despite the frequent criticism raised by the majorities on the alleged excesses of judicial activism, severe institutional conflicts never occurred in the history of independent India, except for the proclamation of the Emergency by Indira Gandhi in 1975.

Indira Gandhi (daughter of Nehru, merely a namesake of “Mahatma” Gandhi) has been in charge of the Government from 1966, but adopted a very different political conduct from his father, emphasising the Prime Minister’s supremacy in the

³¹ R.C. Lahoti, *Preamble: The Spirit and Backbone of the Constitution of India*, Lucknow, 2004, p. 4.

³² D.D. Basu, *Introduction to the Constitution of India*, cit.

³³ D.D. Basu, *Comparative Federalism*, Gurgaon, 2007, p. 41. According to the author this “explains why we have in our Constitution detailed provisions about the organisation of the Judiciary, the Services, the Public Service Commissions, Elections and the like”.

government and taking personal control also of important state institutions, such as the special police corps. The centralisation of power in the hands of the Prime Minister was subsequently transformed in the proclamation of the state of emergency in 1975, requested by Gandhi, followed by a series of constitutional reforms aimed at strengthening the personal power of the Prime Minister. To this potential involution of Indian democracy both the Supreme Court, which strengthened the basic features of the Constitution through a series of decisions, and the electors stood up and, on the occasion of the 1977 elections, ‘fired’ the government of Indira Gandhi by voting for a coalition of small and medium parties (led by the Janata Party) that governed the country. In the political history of independent India, these elections represent a watershed and are evoked with expressions such as ‘the revolution through the polls’ or ‘the second Indian independence’.

5. *Conclusion*

Several historical and sociological interpretations could explain the growth of ‘political Hinduism’ as a mass phenomenon, the BJP obtained an impressive increase in parliamentary seats within a few years, stepping into the credibility and consensus vacuum opened up by the traditional parties, in particular the Congress³⁴. After the 1989 elections, the political context, the Indian form of government, and contemporary political system assumed nowadays features: from a dominant-party form of government, Indian democracy moved towards coalition governments, within which the so-called ‘regional parties’ assumed a significant influence. The 2014 elections determined another alternation in Indian political history, with an overwhelming victory of Narendra Modi’s BJP and the rise to government of the National Democratic Alliance, thus confirming the evolution of the parliamentary form of government from a dominant party system to one based on coalition governments³⁵. As a further validation of the need for broad legitimacy of the government, in this case the BJP, despite obtaining an absolute majority in the Lok Sabha, preferred a coalition government, fulfilling its commitments to a number of small and medium-sized parties. This choice guaranteed the coalition a majority also

³⁴ The BJP won only 2 seats in the 1984 elections, while 86 in the 1989 round, to 120 in the ’91 elections (when it came very close to being able to form a government).

³⁵ On the evolution of the BJP party and his leader within the Indian political landscape, see at least N. Metha, *The New BJP: Modi and the Making of the World’s Largest Political Party*, London-New York, 2024.

after the 2024 general election³⁶. Indian democracy appears to embrace an ever greater 'political federalism', in which the capacities of the two large national parties to elaborate strategies of inclusion of the 'state' realities in their political programmes will become decisive, although the possibility of even long periods of hegemony of a single party, capable of offering a strong charismatic leadership.

This is not the first time Indian democracy is facing a strong charismatic legitimisation of the Prime Minister and his/her political party, but there had been evidences of the strong attitude of the political system in avoiding chronic backlashes towards degenerations of the democratic system. The role of India within the BRICS seems to nurture a trend toward a strong executive, but the basic features of the constitution and the instruments it provides for safeguarding democracy offered evidences of the successful implementation of pragmatism, flexibility and hybridisation in order to cope with cultural diversity and authoritarian threats.

Abstract: The essay explores the complexities of India's democratic trajectory amid its rapid economic transformation and diverse socio-cultural background. Examining the Indian experience as a prominent democratic model within the BRICS, the analysis highlights India's unique constitutional framework, which has successfully maintained a balance between democratic ideals and the socio-economic realities of a multi-ethnic society. It underscores the significant role of the Indian Constitution (often viewed through a Western lens as a merely post-colonial artifact), deserving recognition as a pioneering document that harmonises democratic governance with a robust social orientation. Key aspects of India's constitutionalism, characterised by pragmatism, flexibility, and hybridisation, are scrutinised to illustrate how legal frameworks have evolved to address contemporary challenges without compromising foundational principles. The essay introduces the rising power of the Bharatiya Janata Party (BJP) and its implications on the opposition's role, situating this within broader

³⁶ Available at <<https://elections24.eci.gov.in>>. Analyses on last Indian elections are quite wide and, for some aspects, critical in terms of evaluating the democratic asset of the country. See J. Chatterjee - G. Dutta, *A systematic literature review to understand the difference between critical factors affecting the national election and state elections in India*, in *Frontiers in Political Science*, 2024; p. 1 ff.; P. Rai - S. Chowdhury, *Indian National Congress: Demagogy, Dynasty, Disunity and Decline*, in *Journal of Asian and African Studies* (ahead of print). For a broader understanding of Indian politics: S. Kumar, *Elections in India: A Journey over the Last Seven Decades*, in S. Ganguli - E. Sridharan (eds.), *The Oxford Handbook of Indian Politics*, Oxford, 2024, p. 143 ff.; G. Poddar, *The Politics of Hindutva: Indian Democracy at the Crossroads*, in *Journal of Contemporary Asia*, 2023, p. 342 ff.; L. Mitchell, *Hailing the State: Indian Democracy between Elections*, Durham, 2023; D. Mistree - S. Ganguly - L. Diamond (eds.), *The Troubling State of India's Democracy*, Ann Arbor, 2024.

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discussions of political Hinduism and coalition governance in the context of increasing centralisation under Prime Minister Narendra Modi. Furthermore, the contribution acknowledges the resilience of India's democratic structures against potential authoritarian drift.

Keywords: Indian Constitution - South Asia - BRICS - Democracy - Comparative Public Law.

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