



The Troubling State of India's Democracy

Šumit Ganguly, Dinsha Mistree,
and Larry Diamond, Editors

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and Larry Diamond, Editors

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Abbreviations

AGP	Asom Gana Parishad
AITC	All India Trinamool Congress
BJD	Biju Janata Dal
BJP	Bharatiya Janata Party
BJS	Bharatiya Jana Sangh
BSP	Bahujan Samaj Party
CAA	Citizenship Amendment Act
CBI	Central Bureau of Investigation
CJI	Chief Justice of India
DMK	Dravida Munnetra Kazhagam
DSPE	Delhi Special Police Establishment
ED	Enforcement Directorate, Ministry of Finance
ENP	Effective Number of Parties
EWS	economically weaker sections
FCRA	Foreign Contribution Regulation Act
FIR	First Information Report
IAS	Indian Administrative Service
IBC	Insolvency and Bankruptcy Code
ICS	Indian Civil Service
IPC	Indian Penal Code
IPS	Indian Police Service
JD	Janata Dal
JDU	Janata Dal United
LJP	Lok Jan Shakti Party

NC	National Conference
NDA	National Democratic Alliance
NDTV	New Delhi Television
NGOs	nongovernmental organizations
NIA	National Investigation Agency
NITI	National Institution for Transforming India
NRC	National Register of Citizens
OBC	Other Backward Class
PMCARES	Prime Minister's Citizen Assistance and Relief in Emergency Situations
PMO	Prime Minister's Office
RBI	Reserve Bank of India
RJD	Rashtriya Janata Dal
RSS	Rashtriya Swyamsevak Sangh
SAD	Shiromani Akali Dal
SP	Samajwadi Party
TDP	Telugu Desam Party
TRS	Telangana Rashtra Samithi
UAPA	Unlawful Activities (Prevention) Act
UP	Uttar Pradesh
UPA	United Progressive Alliance
UPSC	Union Public Service Commission
VANI	Voluntary Association Network India

Introduction

Šumit Ganguly, Dinsha Mistree, and Larry Diamond

India is often celebrated as the world's largest democracy, and for good reason. Today, about half of the world's population lives in democracies, and approximately one-third of them are Indians. Apart from its scale, Indian democracy has also proven robust since the country's Independence in 1947. Despite low levels of economic development, poverty on a massive scale, staggeringly complex social divisions, and antidemocratic pressures brought on by its neighboring countries, India's democratic institutions have persisted for over seven decades, with only a brief interruption between 1975 and 1977.¹ Today, however, India's status as the world's largest democracy is facing an unprecedented challenge, with its norms of tolerance and institutional checks and balances under nearly daily assault.

This book follows up on "The State of India's Democracy"—a project in cooperation with the *Journal of Democracy*, which produced a book of that title for the occasion of the sixtieth anniversary of India's Independence in 2007.² In this new volume, which was completed in the year that India celebrated its 75th anniversary of Independence, we undertake a comprehensive assessment of the health and prospects of Indian democracy since 2007, and especially since the emergence of a Bharatiya Janata Party (BJP) government in 2014. We argue—and demonstrate with considerable evidence—that the challenges to India's democracy have deepened during this time period.

Historical Background

Since its adoption of a democratic and secular Constitution in January 1950, India has faced a range of challenges to its democratic institutions and ethos.³ Quite early in the history of the republic, Prime Minister Jawaharlal Nehru, whose democratic credentials were mostly impeccable, had nevertheless been a party to several antidemocratic actions, including the imprisonment of Sheikh Mohammed Abdullah, the leader of the Jammu and Kashmir National Conference, and the dismissal of a legitimately elected Communist government in the state of Kerala in 1959.⁴ However, the most egregious departure from democratic norms and procedures took place during the 18-month “state of emergency” that Prime Minister Indira Gandhi declared in 1975. During this period the political opposition was squelched, civil rights and personal liberties were dramatically curtailed, the press censored, and the judiciary cowed.⁵ Since the restoration of Indian democracy with the crushing defeat of Indira Gandhi in the 1977 elections, India has remained continuously democratic. However, when faced with widespread civil unrest and also when fighting insurgencies, the Indian state has abridged civil liberties and has used legal means to limit the rights of habeas corpus.⁶ Later, after returning to office in 1980, until her assassination in 1984, Indira Gandhi often resorted to dubious constitutional maneuvers to undermine legitimate opposition governments in various states.⁷ Furthermore, India’s commitment to civil rights and personal liberties have often been found wanting when dealing with domestic insurgencies. When tackling uprisings in Assam, Kashmir, and the Punjab along with the Maoist Naxalite movement in various states, the Indian state has countenanced and abetted rampant violations of human rights.

While India has suffered outbreaks of violence and departures from democratic practice at the subnational level, it has not been unique in this regard, as other sizable emerging-market democracies like Brazil, Colombia, and Mexico have also faced such challenges. Yet, despite a range of challenges and shortcomings, democracy has endured in India. This is no small achievement given that scholars had held out little hope for the success of democracy in a desperately poor country⁸ and journalists had sounded the tocsin about its possible maintenance with “fissiparous tendencies” rending the polity apart.⁹ Nevertheless, barring the anomalies that have been noted, none of these dire predictions have been borne out—until now.

The Looming Challenge

Prime Minister Narendra Modi assumed office in May 2014 and was reelected to a second, five-year term in April 2019. During his tenure, Modi and the BJP have maintained overwhelming majority control in the Lok Sabha (India's lower house of Parliament) and have won state elections across the country. (Although as we note below, its electoral momentum stalled in 2021, when it fell short of its aspirations in several Indian state elections). The BJP's ability to dominate the political arena is due in no small part to the utter disarray within the Indian National Congress, which had dominated Indian politics for decades since Independence and has been the only other party in India's history to demonstrate electoral strength nationwide. Its successive defeats in the 2014 and 2019 general (national) elections have both been decisive losses. The party has proven to be leaderless, it has failed to provide a viable alternative governing agenda, and it has sought to make subtle appeals to India's Hindu majority, all without making any meaningful electoral headway. Despite its abject lack of leadership, the Congress Party remains wedded to the Nehru-Gandhi dynasty with Rahul Gandhi, the scion of the family, and his mother, Sonia Gandhi, still the cynosure within the party. While there have been a few notes of dissent, no frontal challenge to their dominance appears to be in the offing. The small hints of dissent have, for the most part, been contained.¹⁰ The BJP, quite understandably, has exploited this lack of a meaningful opposition in pursuit of its ideological agenda.

Although India's tradition of elections remains largely free and fair—as reaffirmed by the BJP's state election setbacks in 2021—the BJP's ideological agenda unfortunately runs counter to India's liberal democratic traditions in several important respects. We focus on three of these important dimensions in particular.

First, Prime Minister Modi has altered institutions to concentrate power in his office, far beyond what his predecessors attempted, or even envisioned. Second, in their escalating efforts to stifle dissent, Modi and the BJP have been endangering not only civil liberties but also political rights. Today, when people express opinions that run counter to the official narrative, they have to be concerned with the consequences. Journalists have been stigmatized, rival politicians have found themselves facing legal charges, nongovernmental organizations (NGOs) have lost access to foreign funds, scholars have lost their jobs, and entire regions of the country have been disconnected from the outside world. Third, Modi and the BJP

utilize this mostly unchecked power to further several antiseccular political projects. More specifically, they pursue policies that are meant to recognize India as a country for Hindus, and one that is hostile toward Muslims.

As our authors detail in the chapters that follow, across each of these three dimensions—institutional checks and balances, individual rights, and a basic respect for secularism—the Modi administration is pursuing a gradual yet orchestrated effort to weaken India's democratic polity. Each of these dimensions deserves a more thorough elaboration in turn.

Institutional Assaults

Modi's power derives from his popularity; he has used this popularity to weaken many institutions that would otherwise temper his power. Upon being elected prime minister, Modi sought to replace possible opposition figures from powerful institutions. Modi and the BJP government sought to undo the traditional systems of senior promotions across several institutions. Consider the Supreme Court, where a collegium system of five of the most senior judges determines who should be selected as new members of the Supreme Court. This collegium system of self-appointment has served to insulate India's highest court against political pressures. In 2014, one of Modi's first acts was to create a new National Judicial Appointments Commission that would have allowed the government to play a dominating role in appointments to the Supreme Court. Although the Supreme Court would ultimately invalidate this commission, Modi continued to seek ways to undermine the court's functions. In January 2018, four Supreme Court justices broke with precedent and spoke out against Chief Justice Dipak Misra, who had been appointing favorable judges to cases involving the BJP. Misra's successor, Ranjan Gogoi, would also ensure that many rulings received BJP-friendly justices. Gogoi, among other matters, had presided over the judicial panel that had ruled in favor of the government in a case that involved the destruction of the Babri mosque in the state of Uttar Pradesh in December 1992. Gogoi and the panel had ruled that while the destruction of the mosque was illegal the government was at liberty to erect a temple where the mosque had once stood. This was not the only time that Gogoi found in favor of the BJP government.¹¹ Upon completion of his service, the BJP took the extraordinary step of using its parliamentary prerogatives to make Gogoi a member of the Rajya Sabha (upper house) of the Indian Parliament, a plum sinecure for a useful ally who had promoted the party's ideological agenda.

Modi and the BJP also sought to change other traditional appointment systems. The Indian military has a long tradition of promotions to top positions based exclusively on seniority. In 2016, the BJP chose to supersede two well-qualified generals in favor of Bipin Rawat for the army chief of staff position, only the second time in 33 years that a senior appointment was made out of order. A few years later, the naval chief of staff would also be appointed out of turn.¹²

Modi's assault on institutions also affected the economic sphere. Raghuram Rajan, the popular governor of India's central bank, the Reserve Bank of India, was keen to remain for a new term but was replaced in 2016. Within three months of Rajan's departure, the Modi government would announce a demonetization policy without properly consulting the Reserve Bank of India, which did not even have enough members to form a quorum when the decision was made. Rajan's successor, Urjit Patel, would ultimately resign after running afoul of the BJP government.

Modi has also politicized the appointment of several other senior government positions. Many important positions, including the head of the Central Vigilance Commission and the head of the Central Bureau of Investigation, are supposed to be made by the government in consultation with the leader of the opposition in the Lok Sabha. Modi's government has refused to recognize a leader of the opposition since 2014, effectively giving the BJP unfettered control over these appointments.

Apart from appointments, this refusal to recognize the leader of the opposition fits into a broader pattern of the BJP's rule, which has relentlessly sought to weaken opposition parties. The BJP resorted to an extra-constitutional maneuver that led to the collapse of a fairly elected government in the state of Madhya Pradesh. In December 2018, the Indian National Congress won the elections in the state and formed a government. However, in early March 2020, the BJP poached a Congress leader, Jyotiraditya Scindia (the scion of a prominent political family). Scindia, in turn, persuaded legislators to break ranks with him. Owing to the strictures of an antidefection law, they formally resigned from the party. As a consequence, the government collapsed, paving the way for a BJP takeover of the state. Fears have now been expressed that the BJP may seek to replicate this model elsewhere.¹³

By controlling appointments and removing opposition oversight, the BJP has further misused formally democratic institutions. In February 2021, the Enforcement Directorate, a government entity that prosecutes economic crimes, seized the assets of the India office of Amnesty International on the grounds that it had violated foreign exchange laws.¹⁴ Earlier,

in September 2020, Amnesty had been compelled to shutter its operations in India after the government had frozen its assets.¹⁵ The harassment of the organization can be attributed to several critical reports it released about the generally declining state of human rights in India and about a set of riots that swept New Delhi in late February 2020.

The government has not confined itself to intimidating noted human rights organizations, such as Amnesty International. Various respected global news organizations, including the British Broadcasting Corporation (BBC), have also faced its wrath. After the BBC aired an unflattering documentary about Modi, its New Delhi and Mumbai offices were raided on questionable income tax evasion charges.¹⁶

The government has also sought to muzzle its most vocal critics in Parliament. The most striking examples involve those of Rahul Gandhi, an elected Member of Parliament and scion of the Gandhi family. He was briefly ousted from Parliament on the grounds that he had made inflammatory remarks about Prime Minister Modi as well as others named Modi. Following an appeal to Supreme Court, which stayed a lower court order, Gandhi was able to return to Parliament.¹⁷

Despite this adverse judgment, the government did not relent in its efforts to silence its parliamentary critics. It used a little-known provision in the Parliamentray code of conduct to successfully oust a particularly vocal critic, Mahua Moitra, a member of the opposition Trinamool Congress. According to the charges leveled against her, she had shared the password to her Parliamentary email with a prominent businessman. It was also alleged that she had received various gifts from him in return for asking troubling questions about the government's ties to a prominent business house.¹⁸

Undermining Political Rights

The Indian Constitution recognizes that freedom of speech is a fundamental right. Modi and the BJP use organs of the state as well as other mechanisms to squelch dissent. Most notably, India's feisty press has been cowed to a degree not seen since the period of emergency rule (1975–77). The government has accomplished this through a handful of highly selective actions against those members of the electronic and print media it has deemed to be critical of its policies. Although myriad cases abound, two of the most significant can be highlighted.

The first involved Prannoy and Radhika Roy, the founders of New Delhi Television. They were both wrongly detained at Mumbai's airport

in August 2019 as they were about to leave on a foreign vacation.¹⁹ It is widely known that New Delhi Television had been critical of many of the government's policies. The Modi government's political agenda has featured a sweeping attempt to squelch dissent, even when it fails to pose the faintest threat to the well-being of the Indian polity. Perhaps no case has better exemplified the current government's determination to stamp out dissidence than that of Disha Ravi, a 22-year-old college student from Bengaluru (Bangalore) who was arrested in February 2021 because she had modified a "toolkit" for social protest that the teenaged Swedish climate activist, Greta Thunberg, had posted online.²⁰

A second important case involved the abrupt dismissal of Bobby Ghosh, the editor of the prominent national daily, the *Hindustan Times*. The government allegedly pressured the newspapers' ownership, resulting in Ghosh's dismissal after he had been at the helm a mere 14 months.²¹ Apart from his critical stance toward the government, Ghosh had, among other matters, instituted a nationwide "hate tracker" in the newspaper. Almost immediately after his dismissal the site was shut down.

Matters have significantly worsened since the BJP returned to power in the 2019 elections. In April 2020, Siddharth Varadarajan, the editor of an online publication, *The Wire*, was served a first information report, essentially a police summons, for having reported that the BJP chief minister of the state of Uttar Pradesh, Yogi Adityanath, had attended a public religious ceremony, contravening Covid-19 regulations. In the same account there was a minor factual error, which *The Wire* promptly retracted.²² Varadarajan, who had access to sound legal counsel, successfully challenged the summons. However, the mere fact that the Uttar Pradesh police had issued one in the first place was profoundly disturbing, as Adityanath's visit to the festival was a matter of public record. It is not too much of an inferential leap to suggest that Varadarajan had been served this writ mostly because the online magazine was highly critical of the BJP government's policies in Uttar Pradesh and elsewhere in the country.

The government has also not been above using existing draconian laws against a host of activists and dissidents. The most dramatic case perhaps involves the incarceration of an 83-year-old Jesuit priest, Father Stan Swamy, in October 2020 on charges of abetting terrorism. The premier national police organization, the National Investigation Agency, arrested Swamy under the terms of the Unlawful Activities Prevention Act. Justified on its adoption in 1963 as an antiterrorism act, this law has a range of sweeping provisions that allow for the detention of an individual without recourse to bail if they pose a threat to the "sovereignty and integrity" of

India. Father Swamy, who has spent a significant part of his life as an activist on behalf of the tribal population of an impoverished but mineral-rich state, Jharkhand, was arrested on charges of abetting terrorism. The specific charge leveled against him, however, deals with his putative involvement in an event that Dalits (“untouchables”) hold in the village of Bhima Koregaon in the state of Maharashtra to commemorate an uprising against Brahmanical domination. In January 2018, this annual event, for complex reasons, saw an outburst of violence. Numerous activists and academics, including several who were not present during the incident, including Father Swamy, were nevertheless charged with inciting terrorism.²³ The charge of supporting terrorism aside, it appears his real crime involved his strident and long-standing criticism of corporate exploitation of the mineral wealth in tribal lands.²⁴

The BJP now has gone to the extent of targeting even prominent opposition politicians and news anchors, in an attempt to stifle any possible criticism. Early in 2021, a first information report was lodged against Shashi Tharoor, a well-known Congress politician, Rajdeep Sardesai, a highly regarded television anchor, and Vinod Jose, the editor of a long-form journalism magazine, *The Caravan*, as well as several other journalists. The charge against all of them (based on an anachronistic, colonial-era law of sedition) was they had tweeted or posted incorrect information about the death of a protesting farmer on India's Republic Day, January 26.²⁵ In an unusual display of political independence, a three-judge bench chaired by the chief justice of India, Sharad Arvind Bobde, protected them from arrest. Despite this forthright decision, the mere fact that a noted politician and several well-known journalists could be hauled up on frivolous charges is indicative of the repressive posture of the government and its willingness to engage in petty harassment.

Apart from using the powerful mechanisms of the state to stymie dissenting views, Modi and the BJP also use nonstate and extrastate mechanisms to further their agendas. Consider the pressure exerted on Ashoka University, recognized as the country's leading private university, which sits on a small campus outside of Delhi. Pratap Bhanu Mehta, a widely respected scholar and former vice chancellor of the university, resigned because the founders felt that he had become a “political liability.” The BJP also maintains an active online presence that is known to troll opposition voices and spread misinformation.

The government has also exploited existing parliamentary procedures to significantly hobble the opposition. Shortly before the Parliament was to adjourn for the year in anticipation of the forthcoming national elections,

scheduled for the late spring of 2024, the Speaker ousted 141 Members of Parliament for the remainder of term on frivolous charges. This mass expulsion made it far easier for the government to pass three significant bills pertaining to criminal justice issues without sufficient parliamentary scrutiny.²⁶

Threatening Secularism

Although India has long struggled with its religious identity, the state has traditionally encouraged communal harmony and freedom of religion, even if it has failed to meet those ideals. Modi and the BJP adhere to no such principles. They seek to redefine India as a Hindu state, directly threatening India's minorities, and especially its Muslim population, which at roughly 200 million people is the third largest Muslim population of any country in the world. The assaults on the Muslim community are manifest, from the Modi government's early attempts to ban the beef industry to its devotion of state resources to protect against "love jihad," referring to marriages between Muslim men and Hindu women.

Perhaps the most concerning move against secularism and democracy came on August 5, 2019, when the government abrogated the special status that the disputed, predominantly Muslim state of Jammu and Kashmir had enjoyed in the Indian Union since 1954. Modi maintained the trappings of democratic legitimacy in relying on a parliamentary vote to alter the relationship between the state and the central (national) government. However, under existing constitutional provisions, only the legislature of the state had the prerogative to alter the special relationship that had governed Jammu and Kashmir's place in the federation. The decision to bypass the state legislature when it was not in session amounted to a flagrant disregard for well-defined constitutional procedures.

Modi and his supporters argued that they had brought about this change to not only correct an anachronism but also to promote economic development in the state, to enhance the status of women, and to better integrate the state into India.²⁷ These ostensible claims aside, it is more than evident that the BJP's decision to revoke the special status of the state stemmed from other concerns. At the outset, the termination of its distinctive standing had long been a goal of its predecessor, the Bharatiya Jana Sangh. More to the point, it was also a shared objective of the Rashtriya Swyamsevak Sangh (RSS), a militant offshoot of both the Bharatiya Jana Sangh and the BJP.²⁸ Finally, the goal had been reiterated in a number of national election manifestoes including that of 2019.

Why was this alteration so important to the BJP and its affiliate, the RSS? A single-minded rationale had driven them to make this change a priority: Kashmir could not be allowed to remain India's only Muslim-majority state. Once Article 370 and Article 35 A, the two relevant provisions of the Indian Constitution that had protected Kashmir's particular dispensation, were abrogated, Indians from other parts of the country would be eligible to buy land and settle in the state at will. These changes, if successful, would enable the government to transform the demography of the state, thereby ending its Muslim-majority status. In turn, the advocates of the decision also believe that the end of its distinctive character would also undermine Pakistan's irredentist claim to the state.²⁹ At the time of this writing, the Modi government has suspended elections in Jammu and Kashmir, the state's main political leaders remain jailed, and journalists struggle to report on what is taking place.

The BJP is also pursuing a range of institutional changes that could undermine the inherently plural features of India's polity. Two of these are the Citizenship Amendment Act (CAA) and the National Register of Citizens (NRC). Taken in concert, these two measures pose a significant threat to Muslims, by far India's largest religious minority. The CAA, adopted in December 2019, amended the Indian Citizenship Act of 1955. Briefly stated, it expedites citizenship applications from residents of Afghanistan, Bangladesh, and Pakistan who profess Buddhism, Christianity, Hinduism, or Sikhism—all of the other prevalent religions of the region except Islam. Again, the stated reason for privileging these religious groups appears sensible enough: they are all members of beleaguered minorities in all three states. Nevertheless, the CAA establishes a dangerous precedent where paths to citizenship are determined on the basis of religious identification. The law carefully excludes from such protection a range of Muslim minorities in the region, notably the Shia, who face considerable hostility in Pakistan and discrimination in Afghanistan. It is also noticeably silent about the plight of ethnic Tamils in Sri Lanka, long the subjects of widespread discrimination. Accordingly, it is entirely reasonable to surmise that the underlying rationale of the law has little or nothing to do with alleviating the predicament of hapless minorities.³⁰

The National Register of Citizens is even more pernicious and threatens to disenfranchise an entire segment of India's Muslim population. The NRC was originally designed for the Indian northeastern state of Assam, which had seen a significant influx of predominantly Muslim refugees from East Pakistan (subsequently Bangladesh) during and after the 1971 India-Pakistan War. Concerned that this large-scale entry of refugees would

change the demography of the state, a number of political activists called for suitable administrative efforts to codify the citizenship status of the state's residents. These demands culminated in the creation of the NRC in 2003.³¹ Once implemented in Assam, it placed at least 1.9 million Assam residents in jeopardy of deportation.³² As this extraordinary number of residents faces an uncertain future, the government has started to build a series of detention centers for those who cannot produce suitable documentation to prove their citizenship. The vast majority of these individuals happen to be poor Muslims.

The BJP has not only initiated drastic changes at political and institutional levels. It has also set in motion certain societal trends that undermine India's pluralism and cultural diversity. To that end, it has embarked on a project to alter existing social mores and cultural norms. Not surprisingly, much of this effort has been directed toward fomenting distrust of Muslims. For example, when protests ensued against the CAA in a number of cities across India, Prime Minister Modi used not so subtly coded language to cast Muslims in an unfavorable light. In a public speech he stated that it was possible to identify the protestors by their clothes, no doubt referring to burqas worn by Muslim women and skull caps by Muslim men.³³ The BJP has also taken on the symbolic acts of renaming cities with Muslim names, such as Allahabad, now officially known as Prayagraj.

The BJP and its supporters have also launched a campaign against interfaith marriage, accusing Muslim men of pursuing a strategy of "love jihad." Simply stated, they claim that Muslim men are enticing Hindu women into marrying them with the goal of converting them to Islam. Hence, several states in India have passed laws that place a significant legal onus on all interfaith marriages. Uttar Pradesh, India's most populous state and home by far to its largest Muslim population, was the first state in India to pass such a law.³⁴ Ostensibly designed to prevent conversion to another faith under duress or subterfuge, the law is really directed against Muslims, as the Islamic religious orthodoxy requires a non-Muslim to convert to sanctify marriage to a Muslim. Given the exceedingly low rate of Hindu-Muslim marriages in India, the question of mass conversion to Islam through marriage is mostly chimerical.³⁵ Consequently, it is not difficult to infer that this law reflects an innate hostility toward the Muslim community.

Even a matter as innocuous as a wedding jewelry advertisement became the subject of widespread controversy in late 2020. The protests, both online and physical, started after one of India's leading jewelers ran an online advertisement that showed a wedding shower for a Hindu woman marrying into a Muslim family. Accusations that the advertise-

ment was a subtle form of “love jihad” became rampant online. Faced with widespread and growing opprobrium the company removed the advertisement.³⁶

The examples cited above hardly constitute the most egregious display of anti-Muslim sentiment on the part of the government and its supporters. In late February 2020, Hindu mobs attacked a predominantly Muslim locality in northeastern New Delhi. It is widely believed that the speeches by particular BJP leaders, which spewed hatred against Muslims, triggered these riots.³⁷

In a manner that was highly reminiscent of the riot in the state of Gujarat in February 2002, when Modi was its chief minister, the New Delhi police proved to be mostly passive spectators as Muslim houses and businesses were attacked and looted.³⁸ (It is important to underscore that the police force in New Delhi is under the direct control of the Ministry of Home Affairs and does not report to the local government.) It took a full three days before the rioting was brought to a halt, but not before the loss of much life and property.

Other developments, though not as disturbing as the passivity of the police in quelling these riots, nevertheless highlight the government's willingness to undermine what remains of Indian secularism. It has used substantial state funds to construct a massive temple complex on the site of a mosque that was destroyed by Hindu zealots in December 1992. Worse still, the prime minister made it a point to attend the inauguration of this temple complex in January 2024.³⁹

Indian Democracy in Comparative Perspective

Of course, India is hardly alone in experiencing democratic decay. Since 2006, the world has experienced a deepening democratic recession that has led to the demise of more than 30 democracies (significantly outpacing the number of democratic transitions).⁴⁰ By the end of 2022, the percentage of states with populations over one million that are democracies had declined from a peak of 57 percent in 2006 to only about 46 percent, and the world had experienced 16 straight years in which the number of states declining in freedom in a given year significantly outpaced the number gaining in freedom (a complete reversal of the pattern in the first 15 years of the post-Cold War period). Beyond India, other prominent emerging-market democracies also experienced significant erosion in the quality of democracy, including Brazil, Mexico, Turkey, Thailand, Bangladesh, Indonesia,

the Philippines, and South Africa. In some of these countries—such as Turkey, Bangladesh, and the Philippines (along with, shockingly, Hungary, a member of the European Union)—the erosion of democratic institutions and standards was so severe that they ceased to meet the minimum standards for democracy, while Thailand suffered a military coup in 2014 (from which it has still not recovered).

With rare exceptions (such as Thailand), the death of democracy has come at the hands of elected democrats themselves through a process of incremental assaults on essential democratic institutions and norms that one of us has labeled “the autocrats’ twelve-step program.”⁴¹ Typically, the process is led by populist political leaders who portray their opponents in politics and society as not simply wrong or misguided but rather as enemies of the “the people.” The populist appeal is polarizing, anti-elitist, anti-institutionalist, and xenophobic. Populists promise to defend the good, deserving people against arrogant, corrupt elites and dangerous others who betray or threaten the country. Illiberal populists target vulnerable groups—immigrants and religious, ethnic, and sexual minorities—anyone who stands outside the exclusive construction of what constitutes the nation, and against the hegemonic project of the populist party. They also seek to sever any foreign partnerships that do not advance the ends of the ruling party.

The authoritarian populist playbook begins by demonizing the political opposition as illegitimate or unpatriotic and the independent media as “fake news.” When in power, illiberal populists intensify these assaults on the partisan opposition and the media, moving to strip the opposition of established rights and privileges and to intimidate, silence, or take over critical media. Quickly they also move to erode the independence of the judiciary and bring it to heel as an instrument of partisan dominance. Gradually, they also move to politicize other key elements of the state—including the civil service, independent regulatory bodies, and the security apparatus, including the police—to erode checks and balances and establish unitary and prolonged command of all levers of government. If there is public broadcasting, it is also transformed into an instrument of ruling party propaganda. The tax authorities are converted into attack dogs, to be unleashed on critics, or the politically suspect. Internet freedom is constrained, and civil society is hounded, purged, and punished to establish the clear message that serious scrutiny and criticism will not be tolerated. The business community is threatened and lured into ending whatever support it may have provided to opposition parties. A new class of crony capitalists is rewarded and enriched in exchange for its support. Finally, the element

of the state most vital to the preservation of democracy—the electoral administration—is also infiltrated and politicized.

What worries many scholars and observers of contemporary India, including most of the contributors to this volume, is that they see an increasingly close correspondence to this model of creeping authoritarianism in the pattern of rule by Prime Minister Narendra Modi and his party, the BJP.

The qualitative analyses of the scholarly experts in this volume paint a worrisome if not bleak picture of the status and trends of democracy in India. Another way to assess the state of Indian democracy is quantitatively, through the systematic annual ratings of independent global assessment efforts. What have been the recent trends in democracy and freedom in India, as measured by these organizations, and how does India compare with other prominent emerging-market countries in South Asia and globally?

Figure I.1 presents the trends in Indian democracy as measured by the three most prominent annual measurement efforts: the “Freedom in the World” survey by Freedom House, the V-Dem Liberal Democracy Scale, and the Democracy Index produced by the Economist Intelligence Unit (all of these scores have been normalized onto a standard scale of 0 to 100 for purposes of comparison). The three measurements diverge in levels (V-Dem, as mentioned, no longer considers India a democracy). But they tell a common story of democratic decay. Since Modi and the BJP came to power in 2014, India has declined on the Freedom House scale from 78 to 66 (a 15 percent drop in just three years). But most of this decline (by 10 points) happened in just three years, between 2017 and 2019. The decline on the Economist Intelligence Unit scale has been similar. V-Dem dates the decline in the quality of Indian democracy earlier, to the ascension of power by Modi and the BJP in 2014, and it observes a much sharper decline over the past six years, from a score of 55 in 2014 to 36 in 2021—a plunge of 35 percent.

We see in figure I.2 the statistical evidence of democratic decay in large emerging market countries. Since 2014, India has declined by 14 points (from 71 to 57) in its average score on the above three democracy scales (which we take as the most reliable indicator of the trends). Brazil, Mexico, the Philippines, and South Africa have also declined sharply in this period, though not by nearly as large an amount. Compared with its South Asian neighbors, the decline in India's average democracy score since 2014 is even more stunning, though this is because India began the period with a much higher level of democracy (fig. I.3). A closer examination of the

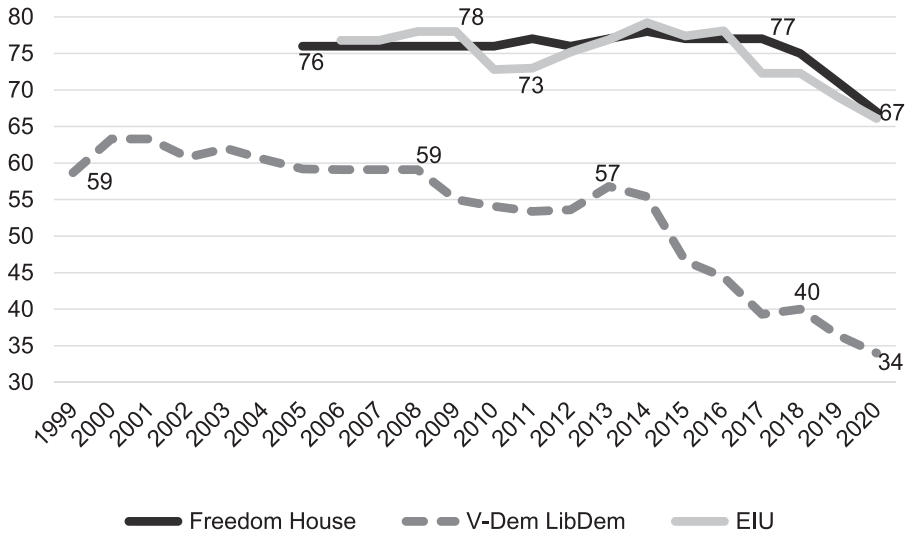


Fig. I.1. India Annual Scores, 1999–2020: Freedom House, V-Dem, and EIU. V-Dem and EIU normalized to a 100-point scale.

Freedom House data (fig. I.4) shows that India’s decline in recent years has owed almost entirely to its dramatic decline in civil liberties. Political rights have declined modestly in recent years, while rule of law indicators have not much changed.⁴² The World Bank’s annual Worldwide Governance Indicators tell a somewhat different story, however.⁴³ Since the Modi government came to power in 2014, India’s percentile (global rank) score on the rule of law has declined somewhat, from 56 to 52 (in 2021), and its democracy (“voice and accountability”) score has declined from 60 to 52. However, four other measures of governance have improved (political stability, from 13 to 25, regulatory quality, from 34 to 50, government effectiveness, from 45 to 63, and control of corruption, from 40 to 47).

How has Indian democracy performed in developmental terms? Taking a somewhat longer view—over the two decades from 1999 to 2019—we see that India performed creditably, tripling its per capita income during these two decades. In doing so, it has diverged from Pakistan and it remained ahead of Bangladesh, too, until the remarkable economic growth spurt of that country in the last few years (fig. I.5). However, if we take a wider comparative view, the developmental performance of Indian democracy, though respectable, appears less impressive. In fact, the gap in per capita income between China and India widened considerably during these past two decades (fig. I.6). While the Indian economy is no longer grow-

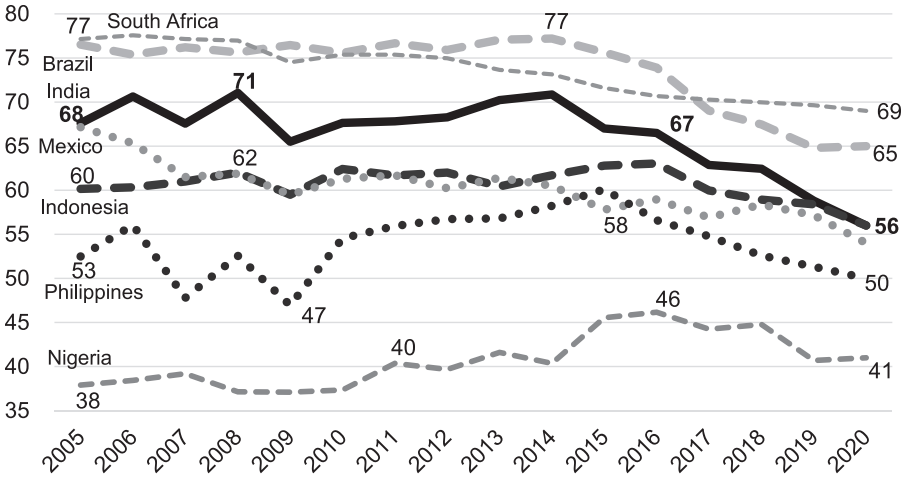


Fig. I.2. India vs. Less Developed Countries, 2005–2020: Average of Freedom House, V-Dem, and EIU. V-Dem and EIU normalized to a 100-point scale.

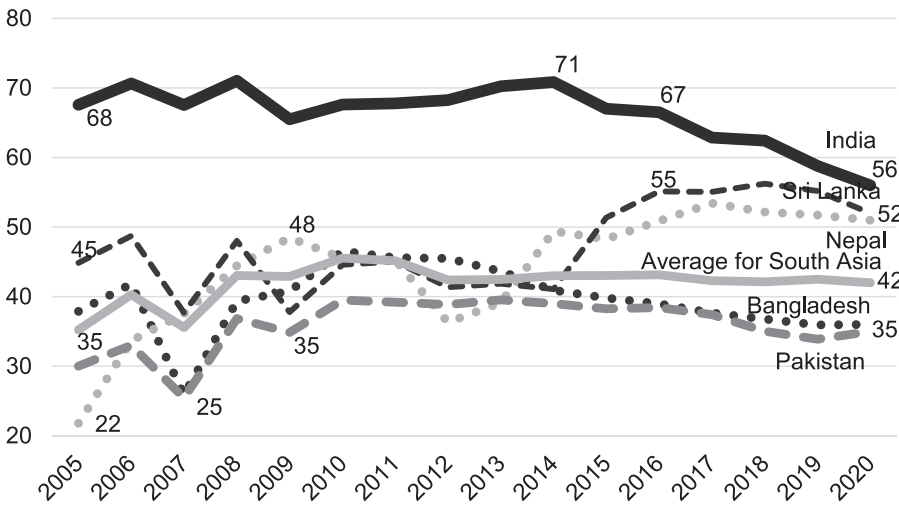


Fig. I.3. India vs. Key Countries, 2005–2020: Average of Freedom House, V-Dem, and EIU. V-Dem and EIU normalized to a 100-point scale.

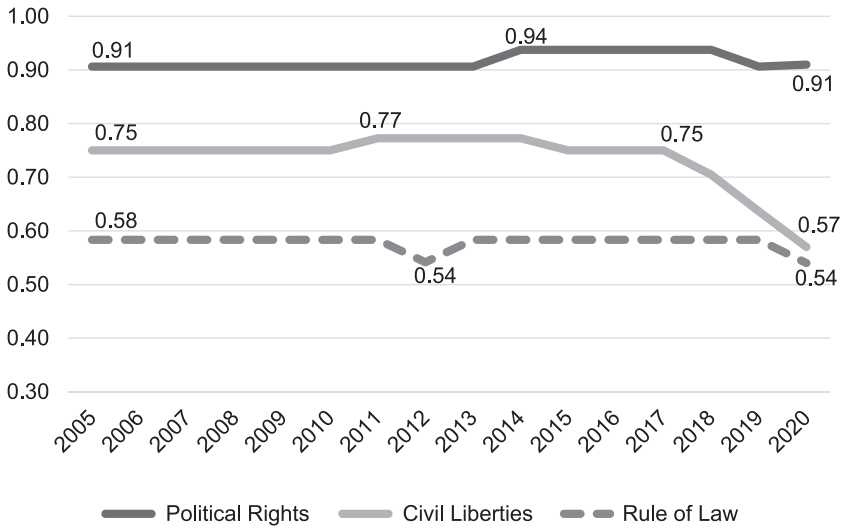


Fig. I.4. Trends in Freedom in the World Indicators: India Annual Score (adjusted)

ing anemically at the “Hindu rate of growth” of earlier decades, the Modi government has not been able to sustain the 7 to 8+ percent economic growth rates of its first few years in office (and most of the years from 2003 to 2010).⁴⁴

India has also made steady progress during the past two decades on the United Nations Development Programme’s Human Development Index, which measures not only per capita income but also life expectancy and educational levels. However, India’s progress has barely exceeded the average for South Asia (fig. I.7), and the progress during Modi’s first term was barely perceptible (moving from 0.62 to 0.65). Then, between 2019 and 2021, the Indian score fell back to 0.63. The regression almost certainly stemmed from the Modi government’s poor handling of the Covid-19 pandemic, allowing the virus to rage uncontrollably through urban populations while failing to secure the medical supplies and equipment that could have saved many lives. Having confidently declared victory over the virus just months before, Prime Minister Modi and his government were clearly caught unprepared for the pandemic’s devastating second wave in the country, which by May 2021 reached 400,000 new infections a day and overwhelmed the country’s medical care facilities. International health experts attributed much of the blame for the surge to “Mr. Modi’s overconfidence and his domineering leadership style.”⁴⁵ Through the end of 2021, official Indian government figures counted Covid-19 deaths at 480,000,

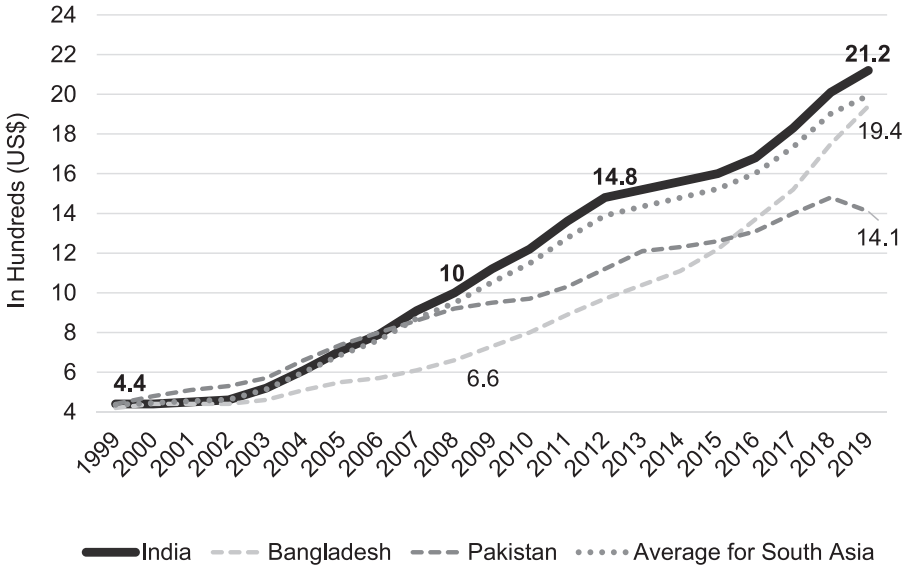


Fig. I.5. Gross National Income per Capita in Hundreds (US\$), 1999–2019 (Atlas method)

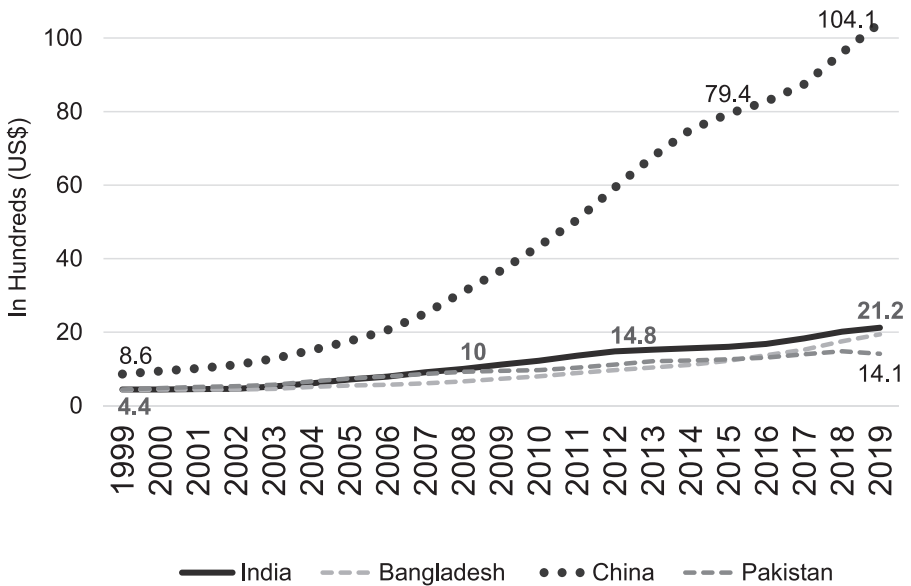


Fig. I.6. Gross National Income per Capita in Hundreds (US\$), 1999–2019 (including China) (Atlas method)

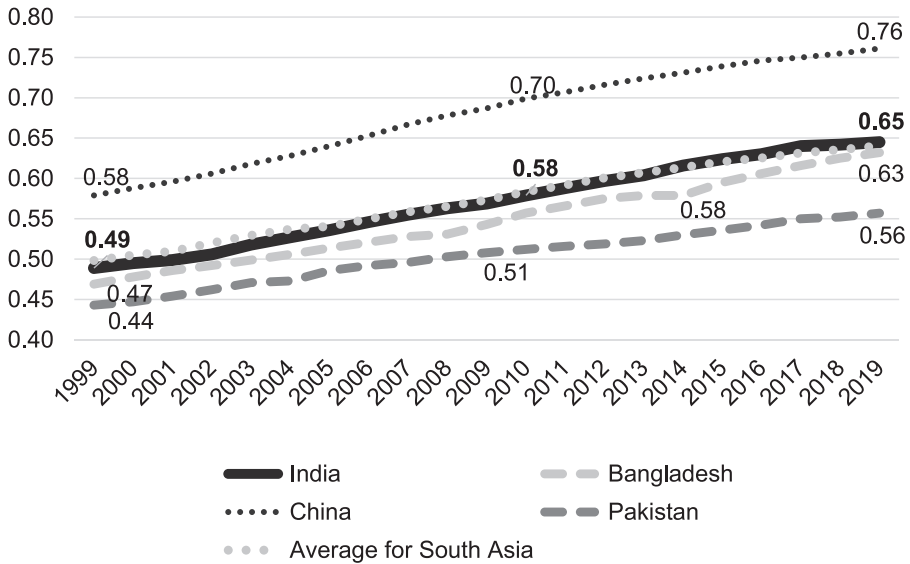


Fig. 1.7. Average Annual Human Development Index Score, 1999–2019

but a report from the World Health Organization estimated the number of deaths at nearly ten times that—4.7 million (nearly a third of all Covid-19 deaths globally).⁴⁶

In summary, Indian democracy has registered significant development progress during the last two decades, but it has not been as sustained, or even at its peaks quite as vigorous, as what many observers think the country should be capable of. Still, the physical quality of life has steadily improved—until the explosion of the Covid-19 pandemic beginning in March 2020. The comparative and longitudinal political data, however, confirm the worrisome portrait collectively portrayed by our chapters: India's democracy has been in steep decline during the Modi years, and this descent has been striking even when compared with many of its sizable emerging market peer democracies.

Framing the Debate

What best explains the rise of Hindu zealotry in India? Are Prime Minister Narendra Modi and the BJP thrusting an antisecular ideology on the population? Alternatively, are Modi and his circle simply responding to what they perceive to be a demand from the electorate? If it is the former,

then Modi and the BJP are actively driving divisiveness, possibly for ideological or electoral gain. If the latter is instead true, then Modi's agency is not as relevant: voters would turn to some other politician or party who could provide a Hindutva agenda.⁴⁷ Each of these two propositions have their adherents.

We suggest a middle ground. Top-down and bottom-up political forces are pushing Hindu zealotry at the same time, working in the form of a dialectic. On the one hand, one strand of scholars has concentrated on how Modi and the BJP have manipulated institutions and voters to push their ideological agenda. Tariq Thachil, for instance, has convincingly demonstrated that the BJP buys support from voters with social services provided by the RSS.⁴⁸ In a similar vein, Christophe Jaffrelot discusses how Modi has steered India toward becoming an ethnic democracy by promising development through a charismatic political style.⁴⁹ On the other hand, it is entirely plausible to argue that voters are demanding Hindutva, and the rise of Modi and the BJP are simply a function of what voters want, as Thomas Blom Hansen, and Pradeep Chhibber and Rahul Verma, among others, have suggested.⁵⁰ As Ashutosh Varshney argued nearly two decades ago, there may well be a "politics of anxiety" among a component of the Hindu electorate, leading them to question the value of Indian secularism.⁵¹ The two forces may well be working in tandem, with each feeding the other.

The first argument builds on a series of statements that Modi and a range of other BJP stalwarts, ranging from his minister for home affairs, and alter ego, Amit Shah, have made in various electoral contexts. These statements have sought to demonize Muslims in various ways, including Shah's characterization of potentially illegal Muslim migrants as "termites" in the northeastern state of Assam.⁵² It can also be affirmed based on a spate of remarks on the part of the firebrand chief minister of Uttar Pradesh, Yogi Adityanath, who once stated that Hindus would kill a hundred Muslims to avenge the death of a single Hindu.⁵³ More recently, he has referred to the Uttar Pradesh election campaign in early 2022 as a contest between 80 and 20—a veiled reference to the approximate ratio of Hindu and Muslim populations in his state.

These remarks, though disturbing, pale in comparison to those of a Hindu priest, Yeti Narasinghanand, made at a religious gathering in the town of Haridwar (in Uttarakhand state). His pronouncements amounted to a virtual call for a genocide against Muslims in India. Despite pleas from various quarters to Modi to condemn these remarks, he maintained a deafening silence on the subject. Nor did Modi take any stand when

educational authorities in Karnataka state denied some young Muslim women from attending high schools unless they shed their hijabs. Earlier, the state's BJP government had severely restricted the production of beef and had passed legislation making conversion to Christianity and Islam exceedingly difficult.

Support for the “top-down” argument can also be found in the policies that Modi and the BJP have pursued upon assuming office for a second time. Particularly striking were the two dramatic government moves against the Muslim minority noted above: the August 2019 decision to summarily abrogate the special status of the state of Jammu and Kashmir, and the December 2019 passage of the Citizenship Amendment Act. Ending Kashmir's special dispensation under the Indian Constitution, in the view of avid BJP members, produced a closer integration of India's only Muslim-majority state into the Indian Union. And the CAA carried a very explicit message of discrimination against Muslims. Between the public pronouncements of prominent members of the BJP leadership and the pursuit of various policies that have a disproportionate adverse impact on Muslims, it is reasonable to argue that the party is pursuing an actively antisecular and anti-Muslim agenda.

Support for the “bottom-up” argument can be gleaned from recent surveys examining the religious attitudes of a representative sample of adult Indians. The most significant of these has been the Pew survey conducted in late 2019 and early 2020.⁵⁴ Encouragingly, the survey shows that 85 percent of Hindus surveyed believe that respecting all religions is important to their identity as Indians. This finding affirms support for the Indian variant of secularism, which calls for respect toward all faiths.

However, a mere 23 percent of the respondents felt they had much in common with Muslims. Furthermore, 67 percent of Hindu men felt it was important to prevent Hindu women from marrying outside their faith, and 65 percent of Hindu women shared the same sentiment. Other statistics are also revealing. Among Hindus, 36 percent did not wish to have a Muslim neighbor. And 55 percent of Hindus who supported the BJP believed that it was important to be Hindu to be considered as truly Indian. Interestingly, however, and consistent with the actual election results nationwide, only 49 percent of Hindus surveyed voted for the BJP in the 2019 elections.

The bulk of these statistics suggest a degree of popular support for the BJP's antisecular political and policy stances. That support may not be overwhelming, since less than a quarter of the respondents expressed hostility toward the possibility of having Muslim neighbors. Yet enough

sentiments were expressed that raise questions about the depth of their commitment to Indian secularism.

The political and policy orientations of the BJP and pertinent survey data, taken together, seem to suggest support for a third perspective, namely, that top-down and bottom-up forces are working in concert. Consequently, the two causal forces are not mutually exclusive but rather dovetail into each other. Accordingly, in this book we will argue that the two perspectives are compatible and reinforcing.

Overview of the Volume

The contributors to this volume show considerable heterogeneity in how India's democracy should be classified, doubtlessly reflective of the broader community of Indian democracy scholars. Some hold the view that India's democracy has already eroded to the point where the system can no longer be classified as a democratic system. They argue that the threats to civil liberties and the undermining of the opposition have produced a system of competitive authoritarianism, even though the right to vote in multiparty competition persists. Other contributors are more sanguine, framing the Indian system as an illiberal democracy or as an ethnic democracy. However, the system should be classified, all of our contributors are in agreement that a troubling pattern of antidemocratic practice is spreading across India.

The chapters that follow examine in depth the trends we have outlined with regard to the integrity and performance of Indian democracy. The present study of Indian democracy has three parts. The first deals with politics, the second with the state, and the third with society. The opening chapter, by Eswaran Sridharan, examines electoral trends and the current state of the party system in India. Sridharan compares the current dominance of the BJP to previous periods in Indian history. India's system of first-past-the-post enables a leading party to win a majority of seats even with a distinct minority of votes. This well-known ability of first-past-the-post to "manufacture" parliamentary majorities from modest electoral pluralities long served the political dominance of the Congress Party. Now, particularly with the collapse of the Congress as the only other party able to mount a nationwide electoral campaign, it serves a similar role for the BJP.

Chapter 2, also authored by Sridharan, more deeply analyzes the trajectories of India's two national parties, namely the decline of the Congress Party and the rise of the BJP. The secular and liberal ideology of Congress continues to be aligned with the electorate, although the party has suf-

ferred from poor leadership and weak organizational structure. The BJP has expanded from its traditional base as an urban, upper-caste, and middle-class party to a Hindu-focused umbrella party that is accommodating a variety of communities, castes, and classes, with the notable exception of Muslim minorities. Relying on recent survey data, Sridharan shows that the BJP's electoral dominance has not yet translated to ideological dominance.

Ashutosh Kumar assesses the regional parties in chapter 3. Although still highly consequential at both the center and state levels, regional parties have declined in power over the past decade. Kumar suggests that the factors for regional party decline cannot be easily addressed, and as the BJP continues to dominate, we can expect regional parties to further regress.

In chapter 4, Maya Tudor looks at how Indian national identity has changed over time. For much of independent India's history, the idea of what it meant to be Indian centered on pluralism. Nativist tendencies toward Hindu nationalism were mostly at the fringe. Beginning in the 1990s, the notion of Hindu nationalism began to play a more central role in what it meant to be Indian and in politics. Tudor argues that the concerning rise of this form of nationalism threatens the well-being of India's democracy in at least three ways: through mainstreaming majoritarianism, which legitimates discrimination against minorities; by polarizing pluralists, reducing the power of moderate voices in politics; and, when combined with populism, by enabling a dangerous accumulation of political authority. These trends all threaten the well-being of India's democracy.

In chapter 5, Vinay Sitapati examines trends in popular perceptions of democracy. Looking at recent elections, Sitapati highlights how democracy still plays a central role in most Indians' lives. Turnout in the 2021 state elections remained at a stunning 80 percent, and the campaign season did not even seem to be muted by a pandemic. In the states that recently held elections, the results were free and fair. The BJP recognized their losses as their rivals gained ground. For many, however, democracy includes more than just the machinery of elections. Sitapati highlights how countermajoritarian institutions and individual rights—two important aspects of democracy—are under threat in India. One troubling sign is that voters do not seem as concerned about recent BJP transgressions that threaten these institutions or individual rights; some may even be more inclined to support the BJP for these transgressions. Echoing Tudor's chapter, Sitapati raises the vexing possibility that some aspects of democracy may be working against others.

The second part of this book considers the performance of traditional state institutions. Many of these institutions—such as the federal system,

the judiciary, and the bureaucracy—have traditionally served as important checks on the ruling party controlling the center. Owing to a variety of factors, our contributors suggest that these institutional checks are not operating in a healthy manner. Kanta Murali in chapter 6 assesses the state governments and the health of federalism in India. Murali describes a bleak situation, one in which the BJP seems to be driving toward a system of comparative authoritarianism. She suggests that the most promising path toward avoiding the BJP's further consolidation of power runs through the state and regional parties, although like Kumar, Murali is skeptical that these parties can resist the BJP juggernaut.

The performance of the Supreme Court is examined by Ronojoy Sen in chapter 7. The Indian Supreme Court has often been considered among the most independent in the world, with a well-known countermajoritarian streak. Sen suggests that since the ascendance of Modi and the BJP, the Supreme Court has failed to protect human rights from a growing pace of violations and has also failed to check the ruling party. The Supreme Court is hampered by institutional limitations: an incredible backlog of cases and the short tenure of judges result in inconsistent rulings and a lack of commitment to precedent. But the Supreme Court must also contend with external challenges brought on by Modi and the BJP. For the most part, the Supreme Court has fallen in line with the BJP.

In chapter 8, Yamini Aiyar examines the performance of the upper echelon of the Indian bureaucracy, specifically the Indian Administrative Service. Around the world, elected officials have historically tussled with bureaucrats for power, and India is no different. What appears new, however, is that Modi and the BJP have been able to advance much further than their predecessors in limiting the independence of the bureaucracy. Aiyar notes that the highly top-down structure of authority within the BJP has also shaped the government, in which most decisions are now routed through the Prime Minister's Office. Furthermore, Modi has campaigned against the inefficiencies of the state, promising voters that he would streamline bureaucratic processes. The bureaucracy faces a trust deficit among the voters, which could aid Modi and the BJP (or a successive political party) in undermining the independence of the bureaucracy.

Arvind Verma considers the state of policing in India in chapter 9. After emphasizing the professionalism and dedication of the police writ large, Verma highlights several examples where the Indian police are being used as handmaidens of the ruling party to advance the Hindutva agenda. The police have not only violently attacked protestors and other opposition voices, but they have also targeted Muslim minorities at the behest of the

BJP. Verma points out that this obedience to the ruling party is due to the historical institutional configurations of the police. Expecting more from the police, he argues, is only possible with a change in institutional design.

Ajay K. Mehra follows with a study of India's investigative agencies in chapter 10. Mehra concentrates his analysis on two of the largest agencies: the Central Bureau of Investigation and the National Investigation Agency. Although they are designed to achieve different purposes, both have become handmaidens of the BJP. As with the police, institutional reform would be required to make the Central Bureau of Investigation and the National Investigation Agency resistant to political interference.

In chapter 11, John Echeverri-Gent, Aseema Sinha, and Andrew Wyatt consider economic institutions and the broader performance of the economy under Modi. Even before the Covid-19 pandemic, Modi pushed out technically adept advisors and often chose to use economic policies to achieve political objectives. This has led to an economic slowdown in the short term and worrying practices that will stymie recovery following the pandemic.

In part 3, we consider the interaction of society and democracy. In the first chapter of this portion of the book and the 12th chapter overall, Rahul Mukherji examines NGOs and civil society in the context of state-society relations. Mukherji suggests that NGOs are increasingly being used to support the BJP's ideological project of replacing secular ideals with a Hindu-centric ideology. NGOs that seek to serve minority communities are often unable to get government permission to receive foreign funds and are facing other new hurdles to their operations. As a result, the NGO ecosystem is increasingly falling in line with the BJP and Modi. Hence, NGOs and other elements of civil society now face an unprecedented challenge.

In chapter 13, Thomas Blom Hansen reviews ethnic and religious tensions in India. Drawing on fieldwork conducted in small cities in Maharashtra, Hansen suggests that ethno-religious tensions in India have increased over the past decade, even though we do not see an increase in the number of reported riots or reported deaths. Communal violence is taking a more insidious form, one in which ethnic and religious minorities are facing constant persecution. The police and other state entities are unwilling to step in, creating an environment where minorities—and especially Muslims—have become vulnerable.

Christophe Jaffrelot provides a detailed study of caste politics and Hindutva in chapter 14. Even though the BJP remains a mostly upper-caste party, they have been able to appeal to middle and lower castes through a variety of political strategies. This approach is especially aided by Modi him-

self, who belongs to a lower caste. Despite Modi's lineage, however, the BJP and Modi have pursued several high-caste priorities, especially the weakening of the reservation quotas in government hiring and higher education.

The final two chapters focus on the role of the media. In chapter 15, Taberez Neyazi examines the withered state of traditional news media. With some notable exceptions, the news media has been unable and unwilling to challenge Modi and the BJP. Journalistic independence has been compromised, through both direct government pressure as well as indirect pressure from actors in the private sector. Although several of the channels for this direct and indirect pressure existed prior to Modi's rise, we are witnessing a historically unique effort to use the news media to advance the government's agenda.

Finally, in chapter 16, Joyojeet Pal weighs how the BJP has used social media to advance its agenda. Pal describes the centralized and disciplined way in which the BJP has sought to shape the internet zeitgeist. The BJP not only tightly controls the messaging of its own members but has also been able to get seemingly unaffiliated celebrities and business leaders to send out similar messages, often with the same wording. Despite tight discipline on messaging, the BJP has shown a penchant for spreading fake information, especially when it serves their political agenda.

Conclusion: Restoring the Health of Indian Democracy

There can be no doubt that the world's largest democracy is under threat. Although our chapters have been written to assess the state of Indian democracy since 2014, the overarching trajectory of democratic decay during this period begs several important questions about the future. Would Modi and the BJP ever go a step further by attempting to suspend India's elections—or so blatantly subvert them that India would descend into a state of competitive authoritarianism? How far would the antidemocratic trend of recent years need to proceed before India could no longer be considered an electoral democracy—a judgment, in fact, that one major comparative annual assessment of democracy around the world has already arrived at?⁵⁵ Will the antidemocratic trend continue after Modi or will there be a democratic reawakening? Perhaps most importantly, what might arrest India's democratic decline?

Social scientists have a poor track record of making predictions about the political future, especially in complex political situations. We observe that restoring the well-being of India's democracy will not be an easy task.

The damage that this BJP government under Modi has done is substantial. Nevertheless, we do not consider it to be irreparable. There are a handful of possible reasons to believe that the Modi juggernaut may yet encounter obstacles, some more formidable than others.

For example, despite the many depredations on the free press, India's online media has admirably pushed back. Many prominent intellectuals, at some risk to their professional lives, have also refused to be cowed. More to the point, Indian civil society, though more subdued than earlier, has not proved to be wholly supine. It is indeed significant that a range of bureaucrats, jurists, and others have repeatedly and publicly challenged the more egregious policies of the BJP.⁵⁶

There are other small portents of hope. Despite the unwillingness of the Indian Supreme Court to uphold a tradition of independence in a series of recent decisions, some lower courts are nevertheless displaying a degree of autonomy. For example, in February 2021, a lower court in New Delhi granted bail to Disha Ravi, the climate activist, and reprimanded the police for producing "scanty" evidence for her remand.⁵⁷

And while the BJP has also sought to curb academic freedom, some elite institutions in India are demonstrating that they will not be intimidated. In March 2021, a firebrand BJP member of Parliament, Subramanian Swamy, pressured the director of the prestigious Indian Institute of Management in Ahmedabad to withhold the conferral of a doctoral degree because the candidate had characterized the BJP as a "pro-Hindu upper caste party." The director of the institute, Errol D'Souza, who was also the supervisor of the thesis, rebuffed Swamy's demands.⁵⁸

Perhaps, most importantly, a range of regional parties have refused to readily accommodate themselves to the BJP. The vigorous contestation of state elections provide some inkling about the continued resilience of India's regional parties and their ability to slow down the seemingly inexorable march of the BJP juggernaut across the nation. For example, in 2021 the BJP was routed in Kerala, won an inconsequential number of seats in Tamil Nadu, made only limited headway in West Bengal, and won in Assam and Puducherry only as a member of a coalition involving local parties. The loss in West Bengal was seen as a significant setback, as both Modi and Minister of Home Affairs Amit Shah (who served as BJP president from 2014 to 2020) made multiple visits to the state in the midst of the raging pandemic.⁵⁹

The emergence of new social movements could also galvanize some degree of opposition to the government. The passage of three highly controversial laws in September 2020 that sought to transform Indian agri-

culture sparked a massive set of rallies around New Delhi. These laws were passed without any support from the opposition in Parliament and involved little consultation with the affected farming communities. The government responded to these protests with a curious amalgam of force and negotiations. After more than a year of sustained protests, the central government ultimately gave in to the protesters' demands and withdrew the legislation.

Finally, from a sociological standpoint, the BJP may well discover that transforming Hinduism into a monolithic structure, a faith that has proven to be remarkably resilient and syncretic, may be an insuperable task. As anthropologists have long shown, over millennia Hinduism has proven to be a remarkably plural faith with a range of "little traditions" deeply rooted in particular religious beliefs and rituals. Transforming this innately diverse faith, which has long accommodated a range of ideas and practices, appears to be an inherently doomed project.⁶⁰

All of these forces, with suitable encouragement from within and outside the country, hold out hope for the sustenance—and eventually the revival—of India's democracy.

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PART I

Politics

Electoral Trends and the State of the Party System

Eswaran Sridharan

This chapter analyzes electoral trends and the overall evolution of the Indian party system since 2014. The party system that has taken form since 2014 is the fourth party system since India's first national election in 1952. It is characterized by the centrality of the Bharatiya Janata Party as India's single largest and dominant party, both in terms of votes received and seats in Parliament. It can be described as a BJP-centric or BJP-dominant party system, if not a BJP-hegemonic party system. To understand this party system, however, we need to first understand the historical evolution of the Indian party system over time. Prior to this new system, there were three prior long-lasting phases.

Tables 1.1 and 1.2 show the electoral results for the BJP and the Congress and the effective number of parties across all of India's post-Independence elections. These trends clearly reveal four party systems over the three-quarters of a century of Indian democracy. The party system (by seats in particular, but also by votes) was a one-party dominant system up to 1967; then (phase 2) it experienced dilution in this dominance over 1967–89, followed by (phase 3) a decidedly multiparty system from 1989 to 2009, which then gave way to (phase 4) a reconsolidation of one-party dominance under the BJP in 2014 and 2019.¹

Before briefly reviewing the three previous party systems, it is important to stress the essential political conditioning factor that has facilitated

TABLE 1.1. Indian National Congress and BJS/BJP Performance in Lok Sabha Elections, 1952–2019

Year	Indian National Congress			BJS/BJP		
	SC	SW	Vote Share (%)	SC	SW	Vote Share (%)
1952	479	364	45	94	3	3
1957	490	371	48	133	4	6
1962	488	361	45	196	14	6
1967	516	283	41	249	35	9
1971	441	352	44	157	22	7
1977	492	154	35			
1980	492	353	43			
1984	518	415	48	229	2	7
1989	510	197	40	225	85	11
1991	500	244	36	477	120	20
1996	529	140	29	471	161	20
1998	477	141	26	388	182	26
1999	453	114	28	339	182	24
2004	417	145	27	364	138	22
2009	440	206	29	433	116	19
2014	464	44	20	428	282	31
2019	422	52	20	436	303	38

Source: Data from <https://www.lokniti.org/lok-sabha-elections>

Note: SC = Seats Contested, SW = Seats Won.

TABLE 1.2. Effective Number of Parties by Votes and Seats

Year	By Votes	By Seats
1952	4.53	1.8
1957	3.98	1.76
1962	4.4	1.85
1967	5.19	3.16
1971	4.63	2.12
1977	3.4	2.63
1980	4.25	2.28
1984	3.99	1.69
1989	4.8	4.35
1991	5.1	3.7
1996	7.11	5.83
1998	6.91	5.28
1999	6.74	5.87
2004	7.6	6.5
2009	7.98	5.01
2014	6.96	3.45
2019	5.40	3.02

Source: Data from <https://www.lokniti.org/lok-sabha-election>

prolonged periods of one-party dominance in India, despite the fragmentation of the popular vote. As table 1.1 indicates, in a context like India's where many different parties gain votes at the constituency level, the electoral system of first-past-the-post enables a leading party to win a majority of the seats with a distinct minority of votes, so long as its votes are relatively well distributed across many constituencies. Over the past seven decades, this factor has enabled minority parties in the popular vote to become majority parties not only in India's lower house of Parliament, the Lok Sabha, but also in many state assemblies. The historical pattern powerfully reflects "Duverger's law," which posits that the plurality-rule, single-member-district electoral system tends to produce two main parties, and its corollary provision, that it enables "manufactured majorities" by often handing a parliamentary majority to the party that wins a mere plurality of the vote.²

Congress Hegemony, 1952–67

The period of uncontested Congress hegemony from 1952 to 1967, coinciding largely with the prime ministership of Jawaharlal Nehru (1947–64), was characterized by a single party winning a two-thirds majority of seats in the Lok Sabha (the lower house) in 1952, 1957, and 1962. In each of these elections, Congress prevailed with a plurality of votes (45–48 percent) against a divided opposition, with opposition parties having mainly state-specific bases in a few states each. Along with these parliamentary elections, state assembly elections were mostly held concurrently in these three election years. The exceptions include some years of Kerala, Nagaland, and Jammu and Kashmir (whose assembly had a six-year term). Thus, the Congress formed majority governments in almost all states during 1952–67 against a divided opposition that varied state by state, with the exceptions only of Odisha (1952), Madras Presidency (pre-1956 Madras) (1952), and Madhya Pradesh (1962). This was so particularly after the reorganization of states on linguistic lines in 1956, with Congress winning not just a plurality, but a majority of votes in some state assemblies. The only times other parties formed governments were in Jammu and Kashmir (the National Conference), Nagaland (Independents), and Kerala (the then united Communist Party of India).

Eroding Congress Hegemony, 1967–89

The pattern of hegemony began to change with the 1967 election. Throughout this time period, Congress faced growing challenges in more and more states as well as at the parliamentary level till the 1989 election, which marked the inauguration of the next phase. In 1967, the Congress plummeted to a historic low of 41 percent votes and a bare majority of seats in the Lok Sabha, in the process losing eight of the then 16 major states. At the parliamentary level, the Congress continued to win majorities of seats based on pluralities of the vote as they had during the previous period, right up to and including 1984. Ultimately, however, several trends began to gradually erode the dominance of Congress.

First, from 1967 onwards, a Duvergerian dynamic gained momentum in state after state, creating a principal opposition party to the Congress in more and more states as against a fragmented field, for both state assembly and lower house elections. This has been called the bipolarization of state party systems for both assembly and parliamentary elections but one of multiple bipolarities (not the same two parties in each state). That is, the bipolar consolidations in the states were between the Congress and varying opposition parties, for example, Congress vs. the left, Congress vs. Bharatiya Jana Sangh (BJS, formed in 1951, the precursor of the BJP, which was formed in 1980), and Congress vs. a regional party, each in some states. With these trends the Index of Opposition Unity, or the fraction of the total opposition vote accounted for by the leading opposition party, rose in state after state during this period.

Thus, the BJS (BJP from 1980) emerged as the leading opposition party from 1967 in Rajasthan, Madhya Pradesh, Himachal Pradesh, and Delhi. The left emerged as the leading opposition force (formally the Left Front from 1982) in Kerala, West Bengal, and Tripura during this period. In Punjab, Jammu and Kashmir, Assam, Andhra Pradesh, and Goa, a single regional party emerged as the principal non-Congress opposition. To name the major ones, in Tamil Nadu it was the Dravida Munnetra Kazhagam (and later also its offshoot, the All India Anna DMK), in Punjab it was the Sikh communitarian party, the Shiromani Akali Dal; in Jammu and Kashmir it was the National Conference; in Assam from 1985 it was the Asom Gana Parishad, which began as the All Assam Students Union; in Andhra Pradesh from 1984 it was the Telugu Desam Party. All were regionalist parties, with some having a strong ethnic or religious character, or both. Finally, in the six small states of the northeastern region—Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, and Meghalaya—some

of which attained statehood during this 1967–89 period, the bipolarization became one of Congress versus a regional party, usually a strongly ethnic one. By 1989, Congress retained its dominance only in the seven major states of Uttar Pradesh, Bihar, Haryana, Gujarat, Maharashtra, Karnataka, and Odisha. In these states, no single opposition party was strong enough to form a bipolar party system.

Second, the above process of consolidation of some single party as the leading opposition party in state after state during 1967–89 was also significantly helped by the fact that a very important delinking of parliamentary from state assembly elections took place from 1971 when Indira Gandhi called an early parliamentary election, a year ahead of time. This helped rising opposition parties in various states take on the Congress at the state level, where they were more credible as an opposition and a potential ruling party than they would be in a national election, given the Congress's overall preponderance.

Third, from 1972 to 1992 the Congress Party suspended its annual intraparty elections, a development that alienated many leaders and forces within the Congress. Many leaders of Congress exited to other parties or formed new parties at various times during this period.

Fourth, the growth of anti-Congress alliances eroded Congress dominance. The first phase of broad-front, anti-Congress alliances began in the immediate pre-1967 period, promoted by socialist ideologue Ram Manohar Lohia. It soon became clear to various opposition parties that as long as the Congress captured over 40 percent of the vote while individual opposition parties were only receiving a fraction of that, and as long as this pattern persisted at the state level (which it largely did), then the only hope for the opposition was to form alliances to pool votes. Given the ideological and social diversity of the opposition, this had to be done regardless of differences of ideology and social base.

The first wave of anti-Congress coalitions was successful in forming state governments in several states between 1967 and 1974 (there were midterm elections in four states in 1969). The next stage in alliances was the merger of some opposition parties to form a larger umbrella party to counter the Congress. Thus, in 1974, the Charan Singh-led *Bharatiya Kranti Dal*, a party based on the middle peasantry in north India, merged with six minor parties of the time to form the *Bharatiya Lok Dal*. This party then, in the post-Emergency elections of March 1977, merged with the breakaway Congress (Organization) that emerged from the 1969 split in the Congress, the Socialist Party, another breakaway (anti-Emergency) Congress faction called the Congress for Democracy, and the BJS, to

form the Janata Party to confront the Congress in the crucial battle to end the Emergency. In the national election in 1977, the Janata Party won a Congress-like victory in reverse, winning a majority of seats (295) on the basis of a plurality of votes (41.3 percent) while the Congress crashed to defeat with 134 seats based on its then lowest-ever tally to date, 34.5 percent of the vote. Thus, the first non-Congress government was formed in India 30 years after Independence. However, this still did not lead to a bipolar party system nationally as the Janata Party crashed to defeat in an early election following the party's split in 1979, leading to a Congress restoration in January 1980 against a fragmented opposition, and an even bigger Congress landslide. Indeed, following Indira Gandhi's assassination, Congress scored its largest-ever victory in 1984 under her son, Rajiv Gandhi. It won a three-fourths parliamentary majority (415 seats) with 48.1 percent of the votes, its highest ever tally of seats and votes. Finally, at the end of this phase, in the 1989 elections there was unprecedented coordination of the opposition against the Congress so as to have one-on-one contests throughout northern, central, western, and eastern India. The Congress had been weakened by the split of 1988, led by former finance minister Vishwanath Pratap Singh, who broke away to form the Janata Dal. This party made seat-sharing arrangements with both the BJP and the left parties. This made a huge difference to the outcome of the 1989 election, with the vote share of the Congress crashing to 39.6 percent and its seats plunging by more than half to 197 (its worst electoral showing since Independence, barring the exceptional post-Emergency election in 1977).

The Coalition and Minority Governments Phase, 1989–2014: Three Megatrends

In these 25 years, the Indian party system transitioned from a one (Congress)-party-dominant system to a multiparty system characterized by coalition and minority governments, or both. Three megatrends characterized this phase.

First, the Congress vote share steadily declined from 39.6 percent (1989) to 25.8 percent (1998) before recovering marginally to 28.6 percent in 2009 and then plunging to 19.6 percent in 2014 and essentially the same in 2019. From 1989 to 2009, Congress remained the single largest party by vote share; however, it lost that position in seats to the BJP in 1996, 1998, and 1999 before losing it decisively in 2014 and 2019. Over this 25-year period, the loss of 20 percentage points in the Congress vote share was captured by other parties, primarily the BJP but also some regional parties.

Second, the BJP's share of the national vote rose from 11 percent in 1989 (the first time it had ever crossed the 10 percent mark, aided then by pre-electoral alliances with the Janata Dal throughout northern, central, and western India) to 31 percent in 2014, gaining the same sized vote share (20 percent) that the Congress had lost. It came within a whisker of the Congress vote share in 1998 (25.2 percent compared to 25.8 percent) but remained the second largest party in vote share until 2014. However, due to the relative geographical concentration of its votes in northern, central, and western India during these decades (compared to the more geographically dispersed votes for Congress), the BJP was able to convert votes into seats more effectively, winning the largest numbers of seats in 1996, 1998, 1999, and 2014.

Third, the broad non-Congress and non-BJP share of votes remained in the range of 44 percent to 52 percent over 1989 to 2014, with the left parties stagnant or declining while regional parties on the whole increased slightly, particularly the regional parties of northern, eastern, and western India during this period. Regional parties (save for those on the left) are in effect single-state parties, not parties that have a base in two or more states in a region. During these 25 years, a number of regional parties grew and consolidated in a number of states, some with specific substate geographical bases, and this adversely affected the Congress more than the BJP. Some were breakaway factions of the Congress such as the Trinamool Congress in West Bengal (formed in 1998), the Nationalist Congress Party in Maharashtra (formed in 1999), and the YSR Congress party in Andhra Pradesh (formed in 2014). Some were offshoots of the original Janata Dal, formed by Prime Minister V. P. Singh after the fall of his government in 1990, such as the Samajwadi Party of Uttar Pradesh, the Rashtriya Janata Dal and the Janata Dal (United), the latter two both of Bihar and both based on a combination of certain lower castes and Muslims. Some were the older regional parties that rose to prominence from 1967–89 such as the Dravida Munnetra Kazhagam Party (DMK) and the All India Anna Dravida Munnetra Kazhagam Party (AIADMK) of Tamil Nadu, the Telugu Desam Party (TDP) of Andhra Pradesh, and the Asom Gana Parishad (AGP) of Assam. Among such regional parties, though counted as a national party due to its crossing the vote share criterion in a sufficient number of states, was the Scheduled Caste (ex-untouchable)-based Bahujan Samaj Party, which was in effect a regional party of Uttar Pradesh (India's most populous state). All of them had formed governments in their states at least once between 1989 and 2014.

Within these megatrends we need to elaborate somewhat on certain

complexities and specificities of the evolution of the party system. I would like to elaborate on state-level bipolarization patterns as they are the key to understanding both fragmentation of the national party system during 1989–2014 as well as the reconsolidation of the party system under the dominance of the BJP after 2014. These patterns, in turn, cannot be fully understood without taking into account the patterns of alliance formation during this period at both state and national levels.

The Statewise Rise of the BJP, 1989–2014

In 1990, for the first time the BJP formed state governments on its own in the assembly elections in Rajasthan, Madhya Pradesh, and Himachal Pradesh.³ Over the next quarter century, 1989–2014, and further to 2020, the BJP emerged as one of the two leading parties in state after state in both state assembly and parliamentary elections while the Congress declined (tables 1.1 and 1.2). In state assembly elections, the BJP was one of the 2 leading parties in only 4 states at the beginning of the period (table 1.1). It became one of the two leading parties in 17 states by the end of the period. The Congress, by contrast, declined from being one of the two leading parties in 22 states to 16 states over this period. In parliamentary elections (table 1.2), the BJP increased during this period from being one of the 2 leading parties in 6 states and Union Territories to 20 while the Congress declined from 28 to 20.

While the BJP has grown autonomously based on ideological expansion and its own organizational machinery in some states (especially those in which it had a base since 1967), a significant part of this horizontal expansion of the BJP across states since 1989 has been due to the skilled leveraging of pre-electoral coalitions for both state assembly and parliamentary elections, as Duverger's law of bipolarization of state-level party systems played out. After beginning with Gandhian socialism following its separation from the Janata Party and formation as a separate party, a reincarnated BJS in 1980, it switched to hardline Hindu nationalism from the mid-1980s. Spearheading this transformation was its launch of a mass movement to "rebuild" a temple to the god Rama at the site of the Babri Mosque in the north Indian town of Ayodhya, which it claimed existed before its demolition by Muslim conquerors. The BJP has consistently claimed that the Muslim minority is being pandered to, ignoring the facts of persistent underrepresentation of this minority in the political power structure, public sector jobs, higher education, and the business world. This movement

gathered momentum, fanned by religious fervor, and catapulted the BJP, as part of a broad anti-Congress coalition, to an 11 percent vote share in 1989 and then to 20 percent on its own in 1991. The BJP also developed a penetrative organizational machinery in the states where it established a presence. However, what is crucial in understanding the emergence of BJP dominance from 2014 is its steady spread of influence across states from 1989 to 2014.

During this period, the BJP in many states was a rising third party with a significant “bridging” vote share. That is, its vote share added to that of one or another of the two leading parties could make the difference between victory and defeat. This made it attractive as a coalition partner to one or another of the two leading parties in a state (except to the Congress, its main national rival). The BJP managed to strike pre-electoral alliances with several regional parties in their respective states during the 1990s and 2000s. I have shown elsewhere how the BJP skillfully leveraged coalitions to eventually become one of the two leading parties in state after state.⁴ This enabled its horizontal expansion to become one of the two leading parties in more states than the Congress by the time of the advent of BJP dominance in 2014. In fact, it enabled that national dominance as well.

Seven Competing Explanations for Party System Fragmentation before Reconsolidation around the BJP

The factors behind the fragmentation of the Congress-hegemonic party system since 1967, creating space for and enabling the rise of the BJP, can be summarized as follows.⁵ First, starting from 1967, particularly the victory of the DMK in Tamil Nadu, ethno-linguistic and regional cleavages became politicized and regional parties arose in opposition to a Congress Party that was perceived as centralized and north India-dominated. Thus, one saw the rise and consolidation of a variety of ethno-regional parties in various states from 1967.

Second, beginning in 1971, the delinking in time of Lok Sabha and state assembly elections, which had hitherto been simultaneous, arguably fostered at the state level both the growth of non-Congress parties as well as disparate anti-Congress alliances because it enabled state-level parties with limited resources to focus on one-on-one contests against the Congress.

Third, the Green Revolution in agriculture that began in the late 1960s led to a political rise of the intermediate and lower-caste peasantry, who no longer had to depend as much on the ruling Congress Party. This peasant

class asserted itself against the upper castes who dominated the Congress Party.

Fourth, intraparty democracy was suspended in the Congress Party and the annual internal elections for officebearers were not held from 1972 to 1992. These developments followed the 1969 national split of the party and the exit of a large number of leaders and officebearers, leaving a party centralized around Prime Minister Indira Gandhi. This development boosted regional and caste-based dissent and showed the importance of parties as organizations in mobilizing and maintaining support bases, particularly the mechanisms of inner-party democracy.

Fifth, the division of legislative subjects and powers between the center and the states in Indian federalism gave considerable power to the states in matters like land and agriculture, law and order (police), education and language, health and social services. This meant that capture of power at the state level remained an attractive political prize and incentivized the formation of state-level parties.

Sixth, the growing politicization of caste (Other Backward Castes, Dalits) and communal cleavages in the post-1989 period led to the collapse of Congress dominance in the large northern states like Uttar Pradesh and Bihar and the gravitation of large social segments to other parties.

Seventh, Duverger's law in India's first-past-the-post electoral system and federal system led to continuing bipolarization of state-level party systems beginning in 1967 and proceeding through the 1989–2014 period. However, a multiplicity of bipolarities resulted: Congress vs. BJP, Congress vs. the left, and Congress vs. a range of regional parties that varied by state. The result was a fragmented national party system.

The first, third, and sixth explanations are variants of the social cleavage theory of party systems, which essentially argues that party systems are based on salient social cleavages, and thus, in a heterogeneous society with multiple cleavages, there will be a multiparty system. The second, fifth, and seventh explanations are all variants of the political-systemic, and more specifically, the electoral-rules theory of party systems, which stresses the incentives for behavior in India's first-past-the-post electoral system and its federal system. The fourth explanation is based on the importance of the organizational aspect of political parties, as machines that mobilize and maintain support bases on a continuous basis. These explanations are not mutually exclusive and apply in varying degrees at various points in the entire period of fragmentation of the national party system from 1967 onwards before the reconsolidation under BJP dominance from 2014.

The Emergence of the Fourth Party System: Reconsolidation under BJP Dominance, 2014 to the Present

The key to the BJP's emergence as the dominant party in 2014 was the huge swing of 12 percent in its favor (from 19 percent in 2009 to 31 percent in 2014), which coincided with a negative 9 percent swing against the Congress (from 28 percent to 19 percent), combined with fact that the BJP vote share was disproportionately concentrated in the states of northern, central, and western India. This concentration gave the BJP a high conversion ratio of votes into seats, which at 1.65 was the highest in Indian parliamentary-electoral history. The BJP received 52 percent of the seats for just 31 percent of the vote. By contrast, the Congress went under 20 percent votes for the first time in its history and plunged to its lowest-ever seat total (44 seats or an 8 percent seat share). The BJP won 88 percent (166 out of 189) of direct BJP-Congress face-offs.

In 2019 the BJP repeated this performance and pattern of victory, increasing its vote share to 37 percent and its share of seats from 282 to 303 (or from 52 percent to 56 percent of Lok Sabha seats). Congress retained its 19 percent vote share, increasing its seats marginally from 44 to 52 but still falling below the 10 percent seat share mark. Behind these victories was a combination of contingent and structural factors. The contingent factors were the economic slowdown since about 2011 (despite India riding out the global downturn of 2008) combined with rising inflation before the 2014 election and credible allegations of massive corruption against the Congress-led United Progressive Alliance government from 2011 (to which the Congress was unable to mount a credible defense). The anticorruption movement led to the formation of a new party, the Aam Aadmi Party (Common Man's Party), but the BJP partly rode on this movement and was able to leverage it. Additionally, the BJP was able to project Narendra Modi, its prime ministerial candidate, as an effective leader who had delivered growth and development in Gujarat, where he was then a third-term chief minister.

However, I argue that the key factor catapulting the BJP to power in 2014 was its consolidation of power as the leading or second party in a large number of states during the preceding quarter century. It had multiterm governments in several of these states, even though it was not until 1990 that it was able to form state governments on its own. Survey data indicate that the electorate often rewards incumbent parties at the state level for growth and development, finding it difficult to identify and credit

the level of government, central or state, for economic outcomes. In parallel to this structural factor was the gradual decline of the Congress as large parts of its once-encompassing social base began to defect in slow motion beginning in 1967, and then accelerated in the 1990s, to regional or lower-caste-based parties in various states. In the 1990s, in response partly to the rise of Hindu nationalist ideology and partly as a backlash to public sector job quotas for lower castes, the upper-caste base of the Congress shifted significantly to the BJP; lower castes especially in north India moved to lower caste-based parties, as did Muslims who saw these parties as better shields against the rise of the BJP. Alongside these defections of segments of its erstwhile voter base Congress's organization also had deteriorated substantially by 2014, a phenomenon linked to the centralized top-down character of the party.⁶

Together with this was the emergence of a new, aspirational middle class, particularly the lower middle class, disproportionately young, from the 140 million who were lifted out of extreme poverty from 2004 to 2014 by a combination of high growth and welfare policies. The middle classes voted disproportionately for the BJP in 2014.⁷ Whether in the future a growth-driven reduction of poverty and the expansion of the middle classes will form a structural support base for the BJP remains to be seen, but this factor was at play in 2014.

Has the BJP established, in this fourth party system, the kind of dominance the Congress had in its heyday of the first party system (1952–67)? I would argue that it has not quite done so, either electorally or ideologically.

Electorally, although the BJP is hegemonic, its majorities in both 2014 and 2019 still depended on alliances and consequent vote transfers from voters of its allies in three major states: Maharashtra, Bihar, and Punjab (not to speak of minor allies in other states). Of its 282 seats in 2014, it got 57 seats in these three states and another three states; without alliances it would have fallen short of a majority of its own (although its National Democratic Alliance would have had a majority). Likewise, even its enhanced majority of 303 seats in 2019 included 42 seats from these three states without which it would have missed a majority of its own. Hence, to a limited extent it was still dependent on allies, unlike the Congress in its heyday or even up to the late 1980s.

Developments in the state elections since 2014, and especially since 2019, have strengthened the BJP's position in the national party system. Before 2019, the BJP won Haryana in 2014 and Assam in 2016, both for the first times, and formed a government in the latter led by a former Con-

gress Party leader. The BJP also managed to form the government in both Manipur and Goa in 2017 despite winning fewer seats than the Congress, and in Arunachal Pradesh the Congress split in 2016 and its legislators formed a separate new party, which then merged with the BJP shortly afterward, forming a BJP government. State-level parties in four other small states—Sikkim, Meghalaya, Nagaland, and Mizoram—allied with the BJP, strengthening its position in the northeast where it had earlier been a marginal force. Between 2019 and 2022 the BJP has gained power on its own or in coalition in three major states—Karnataka, Madhya Pradesh, and Maharashtra—with 105 seats in the Lok Sabha between them, due to splits in the Congress in the first two and in the Congress-participant coalition in the last, which are (unproveably) said to be due to inducements and pressures on non-BJP legislators. However, in 2019 the BJP lost power in Jharkhand to a state-level party allied to the Congress and in Bihar in 2022 as its coalition partner left and formed a government with another state-level opposition party. Despite this the period since 2014 has been one of a net spread of the BJP's influence in state-level party systems.

As to the question of whether the BJP has established ideological hegemony for its Hindu-nationalist ideology, I have argued, based on the CSDS/Lokniti postelectoral survey data of 2014 and 2019, that it has not yet done so despite a clear advance of the Hindutva ideology in the electorate. As I explain in the next chapter, if one takes attitudes toward minorities as a proxy for the spread of the Hindu-nationalist ideology, the majority of the country (and of the middle class) maintain accommodative attitudes toward minorities.

By contrast, Pradeep Chhibber and Rahul Verma argue that there has been a profound ideological shift in the electorate away from statism/state intervention in the economy, along with the recognition of particularistic identities exemplified in policies of caste-defined job and college admission quotas. They argue that the BJP has been the primary electoral beneficiary of this ideological shift, although they do not explicitly attribute the gains to the anti-Muslim strands in Hindu-nationalist ideology.⁸

Lastly, as I also detail in the next chapter, while the BJP under Modi seems to fit all three characteristics of right-wing populism (semi-authoritarianism, hostility to established (liberal) elites, and hostility to minorities), these features of the BJP have long historical roots dating back a hundred years to the founding of the RSS in the mid-1920s in colonial India. What needs explanation is how and why a marginal political force up until the 1980s has come to center stage.

Conclusion

My explanation for the advent of BJP dominance since 2014 goes beyond the rise of the Hindu-nationalist ideology (albeit not yet to a majority in public attitudes). I stress the steady consolidation of the BJP as one of the two leading parties in a large majority of states and Union Territories since 1989, due to the Duvergerian logic of bipolarization of state party systems and its skillful leveraging of pre-electoral alliances, as well as a deeply penetrative organizational machinery and the incapacity of the Congress and a divided opposition to put up an effective challenge at the national level after 2014. The BJP has become the national agenda-setter. It now controls the master narrative while the Congress and the rest of the opposition have been reduced to a reactive role, and without being able to coordinate let alone coalesce as an opposition. The Congress today does not know what it stands for and has yet to develop a coherent alternative narrative on the economy or national security. The various regional parties have a limited state-level vision, are often dynastic parties controlled by towering individuals or families, and are in many instances amenable to striking deals with the BJP. Hence, the BJP, with a Lok Sabha majority on its own, remains the dominant party for the foreseeable future, at least until the 2024 national election.

Its only Achilles heel at present is its extraordinary dependence on the persona and leadership of Narendra Modi. While it would be inaccurate to say that the BJP is a personality-driven party given its penetrative organizational machine and ideological character, it would be accurate to say that in 2014 and 2019 it depended on Modi. As I discuss from survey data in my other chapter in this volume, he commands extraordinary popularity with significant percentages of those who voted for the BJP in both 2014 and 2019 saying they would not have voted as they did if he had not been the prime ministerial candidate. For the foreseeable future, the Indian party system will remain a one-party-dominant system with the BJP enjoying electoral hegemony in national elections.

NOTES

1. In terms of the standard measure, Effective Number of Parties (ENP) by Votes and Seats, the Congress-dominant system of 1952–67 was always a multi-party, and always a four or more party, system by ENP (V) even while it was a less-than-two-party system by ENP(S) up to 1962, something not repeated until the extraordinary three-fourths Congress majority of 1984. Even in the unprecedented consolidation of almost the entire opposition in 1977, it remained a three-and-

a-half party system by ENP(V). In the post-1989 period it became a very multi-party (five-to-eight party) system by ENP(V) and still a very multiparty system by ENP(S) except for shrinking to a three-party system in the major BJP victory in 2019.

2. For an overview of the evolution of the party system and the playing out of Duverger's law in the states, see E. Sridharan, "The Party System," in *Oxford Companion to Indian Politics*, ed. Niraja Gopal Jayal and Pratap Bhanu Mehta (New Delhi: Oxford University Press, 2010).

3. The only precedent was the Janata Party governments in 1977–80 in these states, which were led by ex-BJS leaders, the BJS having merged with the Janata Party in 1977.

4. E. Sridharan, "Coalition Strategies and the BJP's Expansion, 1989–2004," *Commonwealth and Comparative Politics* 43, no. 2 (July 2005): 194–221.

5. See E. Sridharan, "The Fragmentation of the Indian Party System, 1952–1999: Seven Competing Explanations," in *Parties and Party Politics in India*, ed. Zoya Hasan (New Delhi: Oxford University Press, 2002), for a more elaborated version of the seven competing explanations outlined here.

6. For a more detailed account of Congress decline, see Adnan Farooqui and E. Sridharan, "Can Umbrella Parties Survive? The Decline of the Indian National Congress," *Commonwealth and Comparative Politics* 54, no. 3 (July 2016).

7. E. Sridharan, "Class Voting in the 2014 Lok Sabha Elections: The Growing Size and Importance of the Middle Classes," *Economic and Political Weekly* 49, no. 39 (September 27, 2014): 72–76.

8. Pradeep K. Chhibber and Rahul Verma, *Ideology and Identity: The Changing Party Systems of India* (Delhi: Oxford University Press, 2018).

The State of the Two Major Parties

BJP and Congress

Eswaran Sridharan

This chapter paints a portrait, as of early 2021, of the state of the two major Indian political parties, the Bharatiya Janata Party and the Indian National Congress (henceforth Congress). I cover the evolution of the rise of the BJP and the decline of the Congress since 1989 in terms of votes and seats nationally, their horizontal spread or decline across India's states, their alliances with other parties, and their overall competitive position in the party system. I also cover the evolution or shrinkage of their social bases by caste, class, religion, and region, their organizational capacity, their ideological and policy positioning, their leadership and organizational capacity, campaigning, and messaging. While covering the necessary historical background since 1989, the election that initiated the rise of the BJP and the decline of the Congress (both with ups and downs), my focus is on the new dominant-party system that has come into effect with the BJP winning a majority of seats on its own in the 2014 and 2019 national elections. The BJP, traditionally an urban, upper-caste, and middle-class party, has evolved into a Congress-like umbrella party except for the Muslim minority. Finally, I draw out the possible implications of the state of the two major parties for the future of India's democracy.

The BJP's Electoral Rise and Congress's Decline, 1989–2014 and After

As detailed in the previous chapter, this quarter-century period from 1989 to 2014 (encompassing eight national elections) saw the rise of the BJP vote share (with some setbacks) from 11 percent to 31 percent, and its mirror image, the decline of Congress from a nearly 40 percent vote share to 19 percent, with partial recoveries. However, during this period—which featured mainly minority parliamentary coalitions dependent on external support—other parties garnered 44–52 percent of the vote. Many (though not most) of these parties were allied at various times to the BJP or Congress by being part of either the BJP-led National Democratic Alliance (NDA) since 1998 or the Congress-led United Progressive Alliance (UPA) since 2004, with some parties changing sides or reverting to the third-party space. In terms of seats and governments formed, table 1.1 in chapter 1 lays out the picture since 1989. In 2014 and again in 2019, the BJP (contesting as part of the NDA) won majorities on its own while the Congress crashed to its lowest-ever vote shares and seat totals. The post-2014 party system has become a mirror image of the single-party-dominant system up to 1989, with the BJP, not the Congress, now the dominant party. Driving the rise of the BJP and decline of the Congress nationally have been the horizontal spread of the former from its earlier stronghold states and regions to new ones and the atrophy of the latter. Behind this expansion and shrinkage lie patterns of coalition politics. In state after state, particularly from 1989 to 2004, the BJP systematically leveraged its pivotal vote share as a rising third party to strike advantageous coalition deals with regional parties. In many cases, it successfully displaced these regional parties by eating into their voter base to emerge as one of the two leading parties in more and more states.¹

How competitive are the BJP and Congress electorally now and in the near future? As noted in the previous chapter, India's first-past-the-post electoral system has by and large led to Duverger's law playing itself out at the state level to produce a range of (varying, with different parties) two-party or bipolar systems. In some states this pits a leading party against a coalition, in others two coalitions, but the mechanical effect of the electoral system to produce a bipolar tendency has been quite striking. Hence, a party can be considered competitive if it is either the first or second party in a state by vote share. As of 2022, the BJP is one of the two leading parties in as many as 21 out of 28 states (for national elections) and is in power in 13 states, either on its own or in a coalition. In Sikkim and three small

northeastern states—Meghalaya, Nagaland, and Mizoram—the state-level ruling party in the post-2014 period has allied with the BJP even if the latter is not in government. Furthermore, the BJP has during this period formed governments on its own or as senior coalition partner for the first time in several states including Haryana, Goa, Assam, Tripura, Arunachal Pradesh, and Manipur including as a result of splits and changing sides by non-BJP, mostly Congress, legislators in some of these states as well as in Karnataka in 2019 and Madhya Pradesh in 2020.

The picture for Congress is quite the opposite of what it was in 1989. It is one of the two leading parties in 17 states, is in power on its own in only two states, and is the junior partner in a coalition in two other states. In 13 states, non-BJP, non-Congress parties are in power on their own or leading a coalition (West Bengal, Odisha, Maharashtra, Jharkhand, Nagaland, Meghalaya, Mizoram, Sikkim, Telangana, Andhra Pradesh, Tamil Nadu, and Kerala). However, as of 2022, out of these the ruling parties in Tamil Nadu, Sikkim, and Mizoram are allied to the BJP (though without the latter's participation in government), while Congress is a junior partner in Maharashtra and Jharkhand. Clearly, state-level developments since 2014 have tilted the balance of power at the state level in aggregate in favor of the BJP.

The Changing Social Base of the Two Parties

Historically, the BJP had a narrow social base, being a primarily upper-caste and middle-class party anchored in urban areas and largely limited to the northern and central Indian Hindi-speaking states. Over the past 30 years it has expanded its social base “downward” and outward to encompass the lower castes and classes, rural areas, and to western, eastern, northeastern, and parts of southern India, and this expansion has been accelerated since being in power since 2014.²

By contrast, Congress—which was historically an all-encompassing, all-India, umbrella party—has seen its social base shrink over the past three decades. In 2014, half of Congress's 19 percent vote share came from the Scheduled Castes, Scheduled Tribes, and religious minorities.³ It has largely lost the upper castes to the BJP, and in 2019 the BJP got more votes than the Congress among Scheduled Castes and Scheduled Tribes as well as doing better by class, even among the poor, despite Congress positioning itself to the left of center. The Congress has forfeited Other Backward Classes, Scheduled Castes, and Muslims to a range of lower-caste-

based state parties that are seen as more credible challengers to the BJP or more authentic representatives of Other Backward Classes and Scheduled Castes. In short, Congress has bled support in all directions.

The BJP has, like Congress, become an umbrella party minus the Muslims but is regionally skewed, with its main strongholds still in northern, central, and western India but making inroads eastward and southward. It is less regionally skewed in 2019 than in 2014, when 244 of its 282 MPs were from the Hindi belt and western India. In 2019, 234 of its 303 MPs were from the Hindi belt and western India; this time a significant chunk of 69 MPs were from the east and northeast and from the south.

Ideological and Policy Positioning

The BJP positions itself as a nationalist party. However, this is a particular type of nationalism that is distinct from the Indian nationalism represented by Congress and the independence movement and is implicit in the Constitution. The latter nationalism was inclusive in that it conceptualized India as a country of all born there (citizenship based on birth not descent), with equal rights as well as certain minority protections. The BJP's nationalism, explicitly or implicitly, is Hindu majoritarian. It and its parent organization, the RSS, have always closely followed the original formulation of Hindu Mahasabha leader V. D. Savarkar, who coined the term *Hindutva* in 1923, a concept that excludes Muslims and Christians from being a true part of the nation because it defines nationality on the basis of being Hindu. This vision of the nation encompasses only those for whom India is both the fatherland and the land of birth of their religions. The loyalty of Muslims and Christians is automatically suspect in their eyes.

Unlike conservative parties in the Western world, the BJP does not primarily position itself as a free-enterprise and free-market-oriented party opposed to state ownership and regulation of the economy; it has been in favor of domestic deregulation but not clearly of trade liberalization and globalization. In fact, from 2013 to 2018, India's average tariffs crept up from 13 percent to 18 percent, a much higher level of protection than that of most of the developed and developing world. In late 2020, India opted out of the new Asian mega-trade bloc, the Regional Comprehensive Economic Partnership (which encompasses China, Japan, Korea, Australia, New Zealand, and the Association of Southeast Asian Nations), perhaps not just due to lack of competitiveness but also geopolitical reasons as the Regional Comprehensive Economic Partnership was perceived as a

China-dominated bloc, and it does not yet have a comprehensive free trade agreement with the United States or the European Union. However, the BJP has carried out domestic deregulatory and market-oriented reforms, including easing the exit of loss-making companies through the Insolvency and Bankruptcy Code instead of bailouts through the largely state-owned banking system, liberalization of labor laws, and in late 2020, deregulation of agricultural markets. It has also made some limited attempts to privatize state-owned companies through divestment rather than outright sale and surrender of control. In early 2021 it announced large-scale privatization as a strategic policy initiative going forward. And it has liberalized inward foreign investment, as well as private sector entry into hitherto state-dominated areas like defense manufacturing and insurance.

How well does the BJP fit the model of right-wing populism that is used to describe a range of such parties around the world, many of which are in power? Cas Mudde has argued that right-wing populism is characterized by three features.⁴ First, an anti-elitism that is in particular opposed to established elites associated with liberal positions; second, a tendency towards authoritarianism or the semi-authoritarianism of purely electoral, illiberal democracies; and third, a majoritarian hostility toward minorities and immigrants. The BJP appears to fit all three. It is openly hostile to the “old” Congress elite associated with Nehruvian secularism and liberalism and portrays their position as pandering to minorities. It has semi-authoritarian tendencies just noted above, in that (as other chapters in this volume demonstrate) it has systematically sought to capture the institutions of horizontal accountability or undermine their autonomy, and it has used government agencies such as the Central Bureau of Investigation, the National Investigation Agency, and the Enforcement Directorate as well as the Income Tax Department to hound opposition politicians and dissenters in general (see chapter 10 in this volume). It has tried to dilute the Right to Information Act 2005 by reducing the autonomy of the Central Information Commission that administers that law. It has amended the Foreign Contribution Regulation Act to put pressure on NGOs that are foreign-funded, particularly those that are critical of the government such as human rights organizations (Amnesty International among others). And it is viscerally hostile to Muslims, with a history of on-the-record, anti-Muslim statements by leaders of the BJP and RSS from top to bottom, too numerous to list. However, unlike the right-wing populism around the world of the past decade, the BJP's ideological positioning is not a fallout of the 2008 global financial crisis and the antiglobalization that it led to but goes back to the 1920s, well before India's Independence and the Partition

into two states of India and Pakistan. Although until recently the BJP's ideology was a fairly minor ideological current; its roots go very deep and are complexly associated with a resentment against Muslims that is to a significant extent derived from the fact of Muslim political and cultural dominance in large swathes of India before the British for several centuries.

Congress remains a secular and inclusive party in its basic ideological positioning despite some instances of rank political pandering to religious sentiments that have tarnished its secular credentials. These include banning cow slaughter in many states; revising the law to get around the *Shah Bano* judgment (1985) that gave divorced Muslim women alimony and hence trying to please the Muslim clergy; opening the locks of the Babri Mosque (1986) claimed by a section of Hindus mobilized by the BJP to be the birthplace of the Hindu god Rama; and the banning of Salman Rushdie's novel *The Satanic Verses* in 1988 in response to Muslim fundamentalist demands, to mention a few.

However, since the UPA period, 2004–14, it has leaned to the left of center in its economic and social policies, approximating a social democratic position. During the first UPA term, 2004–9, it could not take any market-oriented liberalizing initiatives due to its coalition's dependence on the left's support in Parliament, but neither did it do so in its second term, 2009–14. It initiated a number of antipoverty programs, most notably a rural employment guarantee program in 2007, all of which seemed to assume autonomous high growth without liberalizing reforms (the UPA's decade in power saw the highest decadal growth rate post-Independence, lifting 140 million above the poverty line into a "neo-middle class"). This left only the task of redistribution for removal of poverty and alleviating inequality. Congress rule in this period also saw a number of corruption scandals in which politically connected businessmen received regulatory favors in areas like telecom, coal, and construction. During the Modi years since 2014, Congress leader Rahul Gandhi has positioned himself as pro-poor and anticorporate, a position that risks losing the growing aspirational middle class, which, according to 2014 Lokniti survey data, supports investment in infrastructure and growth more than antipoverty programs and has been largely captured by the BJP. Given the likelihood of continuing brisk economic growth, the Congress risks being identified with a shrinking class of poor people (going by the old poverty line), minorities, and Scheduled Castes and Scheduled Tribes, while losing the growing middle class to the BJP. In fact, the dissident member of the Congress Party and former national spokesman Sanjay Jha was recently suspended in part because of leveling this critique.⁵

Leadership, Organizational Capacity, Party Finance, Messaging, and Campaigning

Given the paucity of scholarly work on the internal organization and functioning of India's two major parties in recent years. I build on what is available combined with survey data and reportage.

Leadership has been a key factor in the BJP's victories in 2014 and 2019. Pre-electoral surveys before the 2014 and 2019 elections as well as inter-electoral surveys have consistently given top ranking to Narendra Modi as the preferred prime minister, leaving Congress leaders Manmohan Singh, Rahul Gandhi, and Sonia Gandhi way behind. The Modi Mystique—of being an incorruptible, tough, decisive, and nationalist leader who delivers—has been such that a quarter of NDA voters in 2014 said they would not have voted the way they did if Modi had not been projected as the prime minister for that coalition. In 2019, a third of BJP voters felt the same way. These survey findings indicate not only the importance of perceived leadership abilities but also that the past two elections have been turned into semi-presidential races. An inter-election survey two months after the March 25, 2020 lockdown found that despite 68 percent of Indians experiencing economic hardship, 74 percent had confidence in the Modi government. An August 2020 Mood of the Nation Poll by India Today and Karvy found the Modi government's performance was rated good to outstanding by 78 percent, up from 71 percent a year earlier, despite the pandemic, economic contraction, and the border clash with China.⁶ Modi has been the trump card in many state election campaigns too, overshadowing the party's local leaders. Congress leaders are not able to match his crowd-pulling capacity.

Organizational capacity has also been a key factor in the BJP's electoral victories as well as the general spread of its influence in society. Membership is a key indicator of spread and organizational capacity. However, reliable figures are hard to come by and there are reasons to doubt the claimed figures. The BJP has recently claimed a membership figure of 180 million (in a country with an estimated population of 1.4 billion) and hence the largest party in the world, larger than the Chinese Communist Party. This claimed membership number is based on the number of missed calls made to a specified phone number after a party membership drive solicited such calls to get enrolled in the party. This can be very misleading in that it might reflect general support for the BJP but not active membership and vote mobilization or additional member recruitment. In the February 2015 Delhi assembly election, the BJP got fewer votes (2.9 million) than the

number of party members (not supporters) it claimed in Delhi (4 million).⁷ However, there is little doubt that the BJP has more active members than Congress and that their numbers have been growing faster in recent years. The Lokniti surveys of 2014 show that the BJP had more vote mobilizers on the ground than Congress. As Rahul Verma has shown, the BJP had an elaborate and very active network of *panna* (page of the electoral roll) *pramukhs* (leaders) on the ground in each polling booth at least in their stronghold states, who were tasked with door-to-door mobilization of voters. In 2019, these *panna pramukhs* were well coordinated with parallel cell-phone *pramukhs* in the BJP's election campaign covering 900,000 polling booths. Congress had no equivalent network or organizational capacity in vote mobilization.⁸

Both parties' constitutions spell out elaborate structures and hierarchies of party organization and modes of selection of office bearers at the national and state levels. The key question really is whether these constitutions are followed in letter and spirit and whether intraparty democracy has substance or whether it is purely form, masking a reality of top-down control. While there is a paucity of scholarly work on intraparty democracy, both parties seem to manifest top-down control or stage-managed internal elections, as neither has seen an openly contested election for the party presidency between two or more candidates.⁹ This does not necessarily mean there is no deliberation, but it is behind the scenes. Both parties' presidents have been elected by "consensus." Table 2.1 lists the party presidencies and terms of the Congress and BJP. In both parties, the president nominates key office bearers, the vice-presidents, general secretaries, secretaries, and treasurers. Nominations for elections are done by state election committees in both parties but the final call is by the National Election Committee, in an essentially but not completely top-down process.¹⁰

How federal are the parties in their internal functioning and how much leeway do they give to state-level leaderships? While in both parties final control over state-level party affairs is in the hands of the central (national) leadership of the parties, the general impression since 2003 is that the BJP has allowed state-level leaders to complete multiple terms in their stronghold states (Gujarat, Madhya Pradesh, Chhattisgarh, Rajasthan, Karnataka, Maharashtra, Haryana) and build their own as well as the party's bases. This is illustrated by the generally full-term tenures of BJP chief ministers since 2003 and by the scant literature on this subject.¹¹

Regarding party finance, the BJP has developed an overwhelming advantage since 2014, and particularly since the introduction in 2018 of the opaque electoral bonds system for donations to parties by companies

TABLE 2.1. Tenure of Congress and BJP Presidents

Indian National Congress Presidents, 1991–2020	
Term	Name
1991–1996	P. V. Narasimha Rao
1996–1998	Sitaram Kesri
1998–2017	Sonia Gandhi
2017–2019	Rahul Gandhi
2019–	Sonia Gandhi
BJP Presidents, 1980–2020	
Term	Name
1980–1986	Atal Bihari Vajpayee
1986–1991	Lal Krishna Advani
1991–1993	Murli Manohar Joshi
1993–1998	Lal Krishna Advani
1998–2000	Kushabhau Thakre
2000–2001	Bangaru Laxman
2001–2002	Jana Krishnamurthi
2002–2004	Venkaiah Naidu
2004–2005	Lal Krishna Advani
2005–2009	Rajnath Singh
2009–2013	Nitin Gadkari
2013–2014	Rajnath Singh
2014–2020	Amit Shah
2020–	Jagat Prakash Nadda

and individuals. Electoral bonds are time-limited bearer bonds that corporations can purchase from the State Bank of India and subsequently transfer to a political party's registered bank account. The identity of the purchaser of the bonds would not be revealed publicly to protect donor anonymity as Finance Minister Arun Jaitley stated when introducing the scheme but the party receiving the funds would know who the donor is. Neither the party nor the donor is required to reveal any information. The electoral bonds protect donor identities and amounts, but since the system is operated by the government-owned State Bank of India, information on donors and amounts can surely be accessed by the ruling party and knowing that donors would be deterred from donating to the opposition. Until now over 57 percent of the money collected from electoral bonds has gone to the BJP.¹²

How effective and innovative have the two parties been in their messaging and campaigning, including use of new media as well as traditional door-to-door methods? As Prashant Jha and Verma have shown, the BJP has developed a robust social media infrastructure since 2014 (see chapter

16, this volume) that has left Congress far behind.¹³ In addition, the BJP enjoys the support of a much larger swathe of the television and print media, on top of a more effective vote mobilization network on the ground.¹⁴

Possible Implications for the Quality of Democracy in the Near Future

What does the current competitive strength of the BJP—and quite possibly, even probably, another BJP victory in 2024—imply for the strength and quality of India’s democracy?¹⁵ To discuss this we need to understand where the BJP intends to take India and what that implies in terms of possible constitutional amendments and policy shifts. The BJP’s parent organization, the RSS, has always talked of India being a Hindu Rashtra, a Hindu nation or nation-state, sometimes saying it is already one or implying that that is the objective. In addition, the BJP itself has always derided the actual practice of secularism in India as the “appeasement” of, or pandering to, minorities. However, they have never clearly defined what a Hindu Rashtra is or should be, what the constitutional dispensation would be like, what the laws on citizenship and rights would be, what rights minorities would have, whether the political order would be federal or not, and so forth.

One view on Hindu Rashtra, taken by human rights activist and former India head of Amnesty International, Aakar Patel, is that it is an order that would not require constitutional and legal changes.¹⁶ He argues that Hindu Rashtra is already here, because it simply means Hindu political hegemony. In other words, Muslims would be excluded from or marginalized in the political power structure along with continual harassment and intimidation of, and occasional violence against, Muslims by organizations allied to the ruling party, combined with misuse of the police to give them de facto impunity. Patel further argues that this has already happened by the BJP simply excluding Muslims from nominations for parliamentary and state legislative assembly seats, resulting in their absence among legislators of the ruling party wherever the BJP wins and forms a government on its own. As a consequence (as well as by deliberate design), Muslims are excluded in the political executive (the council of ministers), save for perhaps a token presence. Hindu political monopoly can happen within the Constitution if voting patterns and electoral results allow it—and they do; in all but a handful (14) of Lok Sabha constituencies, Muslims are not a local, constituency-level majority. The prerequisite for this monopoly is to generate among the Hindu majority an aversion to voting for Muslim candidates, and that is being done through the gradual spread of prejudice

by the BJP and its allied organizations. After all, unlike for the Scheduled Castes and Scheduled Tribes, religious minorities do not have reserved seats in Parliament or the state assemblies and hence lack any guarantee of representation, let alone proportionate representation, at the legislative level. Hence, they also lack any guarantee of inclusion at the executive (ministerial) level. Moreover, the general spread of anti-Muslim prejudice makes opposition parties wary of nominating Muslim candidates, thus further reducing Muslim legislative representation, and this bias figures to intensify in the years to come.

However, if Hindu Rashtra is defined in more extreme ways, requiring formal inequality of rights or something equivalent, then the BJP's ideology will directly clash not only with the Constitution, which the party has formally committed to respecting, but also with the basic principles of liberal democracy. Such extreme definitions will require constitutional changes that violate the basic structure doctrine laid down in the Supreme Court's *Kesavananda Bharati* judgment of 1973, which limits Parliament's power to amend the Constitution in ways that go against the fundamental principles of a federal, parliamentary system, including liberal freedoms, equal rights, and a nondiscriminatory state.

In this context, it needs to be noted that the Supreme Court has, as of early 2024, endorsed the constitutionality of the abolition of Jammu and Kashmir's autonomous status with the abolition of Article 370 in August 2019, but not yet pronounced on the constitutionality of the Citizenship Amendment Act in December 2019. The latter act fast-tracks Indian citizenship for immigrants/applicants belonging to non-Muslim minorities from three of India's Muslim-majority neighbors—Pakistan, Bangladesh, and Afghanistan—on the grounds that non-Muslims can automatically be considered to be persecuted in these officially Islamic countries. Apart from the arbitrariness of selection of countries—Afghanistan was not part of British India, and there are persecuted minorities in other neighbors like Rohingya in Myanmar, Uighurs in China, or Tamils and Muslims in Sri Lanka—the law, by linking citizenship to religion, potentially violates the principle of secularism that is part of the basic structure of the Constitution.

Even the first scenario will in effect make India an illiberal democracy in which organizations allied to the ruling party and with de facto political protection, combined with a possibly supine judiciary, could make some citizens in effect less than equal, and in which rights, particularly of dissenters and even of the opposition, could become fragile. One can argue that the logical tendency of such developments would be a slide toward even more illiberal democracy with an opposition handicapped by the de

facto capture of the institutions of horizontal accountability, a cowed media and private sector including media owners, and the use of the sedition law against dissenters. It would not yet approximate competitive authoritarianism due to the fact of a dozen states are ruled by opposition parties unless there is serious curtailment of the normal political freedoms necessary for an opposition to function.

To return to the larger question of the fate of liberal democracy in India, the question that arises is how ideologically, as distinct from electorally, dominant the BJP is. As noted in the previous chapter, electoral dominance can be obtained in a first-past-the-post electoral system by winning a plurality of votes against a divided opposition. This has been the pattern of the BJP's majorities in 2014 and 2019, like the Congress majorities from 1952 to 1984. To gauge how ideologically dominant the BJP has become, one can look at the electorate's attitudes toward minorities, particularly Muslims, in 2014 and 2019 as a rough proxy for the acceptance of BJP ideology, given its centrality to the latter's thinking, pronouncements, and history.

The picture that emerges is revealed by the fact that in the 2019 post-electoral CSDS/Lokniti survey, despite responses to some questions indicating a further spread of Hindu-majoritarian attitudes compared to 2014, a large majority still had what can be described as egalitarian or accommodating attitudes to minorities on the following propositions: (a) that India belongs equally to all its citizens, not just to the Hindu majority; (b) equal treatment of minorities; (c) special rights for minorities; (d) that the government should protect minority interests even if the majority is against it; (e) that minorities need not adopt the customs of the majority community. On each of these five propositions only a relatively small minority fully disagreed while a majority fully or somewhat agreed.¹⁷

What emerges from the above observations is that while the Hindutva ideology and attitudes have spread, the majority is still liberal in its attitudes toward minorities. In other words, as of now, the BJP has achieved electoral dominance—partly due to the weakness of parties, and lack of unity in the opposition space—but not yet ideological dominance. Therein lies hope—fleeting though it may prove to be—for the survival of liberal democracy in India.

NOTES

1. E. Sridharan, "Coalition Strategies and the BJP's Expansion, 1989–2004," *Commonwealth and Comparative Politics* 43, no. 2 (July 2005): 194–221.

2. For the data on the BJP's support base, see E. Sridharan, "Class Voting in the 2014 Lok Sabha Elections: The Growing Size and Importance of the Middle

Classes,” *Economic and Political Weekly* 49, no. 39 (September 27, 2014): 72–76; and E. Sridharan, “Understanding Voting Patterns by Class in the 2019 Indian Election,” *Indian Politics and Policy* 3, no. 1 (Spring 2020).

3. For data on the Congress support base in 2014, see Adnan Farooqui and E. Sridharan, “Can Umbrella Parties Survive? The Decline of the Indian National Congress,” *Commonwealth and Comparative Politics* 54, no. 3 (July 2016); and for 2019, see Sridharan, “Understanding Voting Patterns by Class.”

4. Cas Mudde, *Populist Radical Right Parties in Europe* (New York: Cambridge University Press, 2007).

5. Sanjay Jha, *The Great Unravelling: India after 2014* (Chennai: Context, 2020).

6. See *India Today*, Mood of the Nation, <https://www.indiatoday.in/mood-of-the-nation> (accessed March 8, 2021). See also Rahul Verma and Ankita Barthwal, “The Singular Appeal of Narendra Modi, Explained in Six Charts,” <https://www.livemint.com/news/india/the-singular-appeal-of-narendra-modi-explained-in-six-charts-11604678665561.html>

7. Pradeep Chhibber and Rahul Verma, “The Membership Mantra,” *The Hindu*, June 6, 2015.

8. Rahul Verma, “Media and Politics,” *Oxford Handbook of Indian Politics* (New Delhi: Oxford University Press, forthcoming).

9. See Ruchika Singh, “Is There Intra-party Democracy in Indian Political Parties?,” Hindu Centre for Politics and Public Policy, 2014, <https://www.thehinducentre.com/verdict/get-the-fact/article5896168.ece> (accessed January 15, 2021).

10. Adnan Farooqui and E. Sridharan, “Incumbency, Internal Processes and Renomination in Indian Parties,” *Commonwealth and Comparative Politics* 52, no. 1 (January 2014).

11. E. Sridharan, “Do the Major National Parties Function Federally?,” in *Party System in India*, ed. Ajay K. Mehra (New Delhi: Lancer Publications, 2013).

12. On political finance in general and on the electoral bonds scheme, see Eswaran Sridharan and Milan Vaishnav, “Political Finance in a Developing Democracy,” in *The Costs of Democracy: Political Finance in India*, ed. Devesh Kapur and Milan Vaishnav (New Delhi: Oxford University Press, 2018).

13. Prashant Jha, *How the BJP Wins: Inside India's Greatest Election Machine* (New Delhi: Juggernaut, 2019); Verma, “Media and Politics.”

14. Verma, “Media and Politics.”

15. Regarding the longer-term future beyond 2024, it is likely that the allocation of seats in the Lok Sabha to states, now frozen until 2026, will be done on the basis of the 2021 census implying a greater allocation to the states of the north compared to the south, which will help the BJP as its stronghold states get more seats.

16. Aakar Patel, *Our Hindu Rashtra: What It Is. How We Got Here* (Chennai: Westland, 2020).

17. For details of the responses to questions on minorities in the Lokniti/CSDS 2019 post-electoral survey, see Eswaran Sridharan, “Understanding Voting Patterns by Class in the 2019 Indian Election.”

Regional Political Parties

Ashutosh Kumar

India comes across as a successful electoral democracy due to it having a consistently high level of participation and contestation visible in the regularly held reasonably free and fair elections that invariably result in the peaceful and regular transfer of political power on a periodic basis.¹ The world's largest democracy, with an electorate of more than 900 million people, has a functioning party system. Also, like in the case of Western liberal democracies, political parties remain central to the process of social and economic change in the country.² In its more than seven decades of democratic rule beginning with the 1951–52 general elections, India has witnessed 17 federal-level parliamentary elections and over 400 state-level assembly elections by the end of 2023, not to mention the countless *panchayat* and municipal elections at local levels.³

In the last three and half decades, increasing levels of voter participation have coincided with a proliferation in the number of regional/state parties.⁴ Going by the Election Commission of India data, the number of designated state parties has increased whereas the number of national parties has remained almost static.⁵ From 1952 to 1989, the average number of contesting state parties in the parliamentary elections was 18, which increased to 32 during 1989–2014.⁶ At the time of the 2019 parliamentary elections, there were 60 parties recognized as national and state parties and 2,538 as unrecognized registered parties. There were 37 parties, including seven national parties,⁷ that had at least one seat in the 17th Lok Sabha, compared to 32 parties in the preceding Lok Sabha.

This proliferation in recent decades has also brought commensurate changes in the vote shares of the regional parties. From 1996 to 2019, the vote share of regional parties was as high as 40 percent of the total votes polled. That regional parties have never polled less than 19 percent of votes at the national level in the elections held during 1952–2019 shows that they have always had a marked presence in multiethnic India, which has adopted a parliamentary federal system.⁸

The chapter discusses the checkered career of regional parties in India's electoral democracy. It does so by referring to the factors that explain the dominance and decline of the Congress and the recent ascendance of the BJP. It divides the party system of India into four different phases of transition over the last seven decades. The ensuing discussion shows how regional parties could gain electorally only after the decline of the "Congress system."⁹ It underlines the explanatory factors for their steady rise in terms of their electoral influence even at the national level under the second and third party systems.

The focus of the chapter, however, is on the last decade, which has witnessed a relative decline in the power and influence of regional parties at national and state levels under what may be termed the fourth party system. The perceptible decline, the chapter argues needs to be understood in the context of the recent rise of the Bharatiya Janata Party (BJP) as an electorally dominant polity-wide party. While referring to the BJP's impressive wins in the 2014 and 2019 Lok Sabha elections and in assembly elections, coinciding with the decimation of the Congress, the chapter discusses how the social and economic forces that led to the ascendance of regional parties continue to shape the nature of the emerging BJP dominant party system. The BJP survives and thrives to the extent to which it has managed to co-opt a major chunk of the social groups that gave rise to the regional parties. As such, the very factors that explain the ascendance of the BJP also raise long-term concerns for the electoral well-being of the regional parties. This is the argument this chapter makes with the help of the CSDS-Lokniti National Election Study (NES) post-poll data.

The "Congress System" (1952–1967)

The first party system of India has been described by political analysts as the "Congress system" or a "one-party dominant system."¹⁰ Unable to win seats or poll votes in larger numbers and effectively challenge the Congress electorally, the number of regional parties declined significantly after

the first general elections in 1952. The dominance of the Congress Party has been attributed mainly to the following three factors: its formidable all-India organizational strength; the first-past-the-post electoral system, which enabled the party to win a majority of seats despite polling a minority of votes; and the party being able to represent a broad ideological consensus around the founding principles of the democratic polity.

What gave a decisive advantage to the Congress over the opposition parties, which mostly had narrow regional bases, was the party's near monopoly over patronage and governmental resources.¹¹ This was used by then federalist Congress state bosses to directly represent and serve "the needs, not only of territorial constituencies, but frequently the more tangible ones of primordial groups."¹² They built and sustained elaborate political networks at the local level with the help of social and economic elites, drawn from "traditional institutions of kin and caste."¹³

Under the Congress system, only the three oldest regional ethnic parties of India, all products of movement politics, namely the Shiromani Akali Dal (SAD) in the Punjab, the National Conference (NC) in Jammu and Kashmir, and the Dravida Munnetra Kazhagam (DMK) in Tamil Nadu, had an effective presence in their respective states. The only state to have a non-Congress government for long was of the NC in Jammu and Kashmir. In Kerala, the Communist Party of India was briefly in power between 1957 to 1959 before the government was dismissed by the center through its emergency powers.

Emergence of Regional Parties: 1967–1989

The 1967 general elections witnessed a coming together of regional and national parties to form short-lived postelection coalition governments for the first time. Also called Samyukt Vidhayak Dal governments, they were formed in as many as nine of the then 14 states: Bihar, West Bengal, Uttar Pradesh (UP), Punjab, Haryana, Madhya Pradesh, Orissa, Madras, and Kerala. In assembly elections in 1967, in the southern state of Madras (now Tamil Nadu), the DMK soundly defeated Congress.¹⁴ Since then, the political power has alternated in the state between the DMK and the All India DMK, the latter an offshoot of the former as the national parties have had limited presence.

Despite an "Indira wave" (widespread support for Indira Gandhi as a consequence of her charismatic leadership in the 1971 India-Pakistan War and her populist slogan of "Garibi Hatao") in the 1972 assembly elections

that brought Congress back into power in many states, Congress kept on losing its social coalitional support base, especially among the numerically strong landowning peasant middle/upper-backward castes in the Hindi heartland region. Also, the Congress Party's own organization turned from being federalist toward a centralized party under the person-centered leadership of Indira Gandhi, following the party's first split in 1969. The party failed to preserve the autonomy of its state units, resulting in high command politics. Consequently, many of its disgruntled state bosses like Charan Singh and Biju Patnaik left the party. Many regional parties were formed during 1967–72 like the Bharatiya Kranti Dal, the Kerala Congress, the Bangla Congress, and Utkal Congress. After the party's second split in 1978, another set of high-profile Congress state leaders like Devraj Urs left the party as leaders like him with a mass base were regularly purged by the highly insecure but immensely powerful Indira Gandhi.

Growing regional sentiments against the Congress's constant interference in state affairs¹⁵ and its refusal to respond to local demands also led to the formation of regionalist parties such as Telugu Desam Party (TDP)¹⁶ and Asom Gana Parishad (AGP) in Andhra Pradesh and Assam in 1982 and 1985. However, regional parties still did not have much electoral success at the national level as a "national constituency phenomenon" still prevailed in India, visible in a series of wave elections, held in leader-centric plebiscitary mode.¹⁷

Ascendance of Regional Parties: 1989–2014

The 1989 Lok Sabha election was a normal election that resulted in a fractured mandate, repeated in the assembly elections that followed shortly in as many as 16 states. These verdicts marked the beginning of a "competitive multi-party system, which no longer (was) defined with reference to the Congress."¹⁸ A discernible shift took place in the third party system as the Congress ceased to be the fulcrum around which every political formation was defined at the state level. The new system was unlike the earlier Congress system or the Congress-opposition system, when the electorates "exercised only one choice, whether to vote for or against the Congress."¹⁹ Consolidation of the non-Congress space led to a situation when no single party could win a clear majority in seven Lok Sabha elections held from 1989 to 2009.

A fragmented party system presented a distinct possibility for the regional parties to share power even at the national level, albeit with

smaller numbers of Lok Sabha seats under coalitional arrangements. Sensing the possibility, regional parties like the Dravidian parties from southern India sought a greater number of Lok Sabha seats in coalitional agreements, unlike in the past when they focused on assembly seats. The possibility also incentivized ambitious factional leaders of the national parties to break away from their respective parent parties and form their “own” regional/subregional parties.

Several regional parties thus were carved out of a national party like the Janata Dal by its state-based leaders, specifically the Biju Janata Dal (BJD) in Odisha, the Rashtriya Janata Dal (RJD), the Janata Dal United (JDU), the Lok Jan Shakti Party (LJP) in Bihar, the Janata Dal Secular in Karnataka, and the Indian National Lok Dal in Haryana. Likewise, the rebel leaders of the Congress in Tamil Nadu, Maharashtra, and West Bengal formed the Tamil Maanila Congress, the Nationalist Congress Party, and the All India Trinamool Congress (AITC), respectively. Although the BJP did not suffer a split, a testament to the ideological rootedness of its cadres, a few disgruntled party leaders did form short-lived regional parties, like the Bharatiya Jan Shakti Party, the Jan Vikalp Morcha, or the Himachal Lokhit Party.

Among regional parties, leadership tussles played a significant role in the formation of All India DMK and Marumalarchi DMK, followed by many other small and micro parties in Tamil Nadu.²⁰ Dynastic parties also saw splits when the ambitious party leaders found top positions reserved only for the political family of a particular caste or when there was a turf war within the family. The period also saw the emergence of subregional parties from peripheral substate regions that witnessed demands for separate statehood. The Telangana Rashtra Samithi (TRS), Bodoland Peoples Front, Uttarakhand Kranti Dal, Chhattisgarh Mukti Morcha, Gorkha National Liberation Party, and Vidarbha Vikas Party, among others, fall in this category.

A series of coalition governments at the center were formed between 1989 to 2014. These coalition governments consisted of regional parties in alliance with national parties. The Janata Dal formed the minority National Front government at the center in 1989 for a year in alliance with DMK, TDP, AGP, Congress (S), with the outside support of the BJP and the Left Front. In 1996 again, the Janata Dal–led National Front–Left Front minority government was formed with outside support of the Congress. The Samajwadi Party, DMK, NC, AITC, TDP, and AGP were the main constituents of the coalition.

Realizing its weakening support base and facing the BJP challenge,

Congress learned to “transform itself from the dominant party in a dominant party system to a competitive party in a multi-party system.”²¹ The party formed the United Progressive Alliance in the run-up to the 2004 elections and succeeded in forming a 13-member coalition government with the help of regional parties and the left parties. In 2009, the Congress improved both its vote share and seats as the second round of the United Progressive Alliance government followed minus the left parties. Both successes could largely be attributed to the party's pre-electoral state-specific pragmatic alliances with the regional parties.

The BJP also learned the hard way to follow the coalitional path after failing to receive the support of regional parties in the Lok Sabha, needed to save its 13-day minority government led by Atal Bihari Vajpayee in 1996. With a strategic compulsion to attract regional party alliances, the BJP diluted its position on three core issues that had been integral to the party's ideology since the Jana Sangh days. First, the party promised to honor the verdict of the Supreme Court with regard to the construction of Ayodhya temple, believed to be the birthplace of Lord Ram (the Supreme Court allowed the construction over the disputed structure in its 2019 judgment). Second, the party also agreed to put on hold its long-held demand to repeal Article 370, which accorded special constitutional status to the erstwhile Muslim majority state of Jammu and Kashmir (now turned into a Union Territory after the abrogation of the article in 2019 by the Union Parliament, challenged since then in the Supreme Court). Third, the party also held back its demand for the introduction of a uniform civil code in place of the separate personal laws for the two religious minorities of India that is, Muslims and Christians. Many regional parties, which were earlier averse to an alliance with the BJP for fear of losing minority votes, now joined the moderate Vajpayee-led coalition government in 1998. Subsequently, the National Democratic Alliance (NDA) was formed in the run-up to the 1999 elections. While 13 parties were part of the 1998 coalition government, the numbers crossed 20 in the government formed in 1999. The BJP, like the Congress, entered into pre-electoral state-specific alliances conceding the bulk of the seats to the regional parties: JD (S), BJD, Indian National Lok Dal, AGP, TDP, AIADMK, SAD, and Shiv Sena in the states where it was weak.

What gave comparative advantage to the BJP in forming coalitions was that, unlike the Congress, it was not yet a winning party in the southern and eastern states as late as the 1990s. Thus, the BJP was not perceived as a threat to the regional parties. Such alliances were going to help the regional parties like SAD, Shiv Sena, BJD, and Janata Dal Secular, among

others, to take on the Congress in their respective states.²² The alliance with national parties presented the following two additional short-term gains to the regional parties.

First, it enabled the regional parties to share power at the center and influence national-level policymaking even on subjects like the external affairs on which the states have no jurisdiction. For instance, the Dravidian parties from south India played a leading role in shaping India's Sri Lanka policy.

Second, it also allowed the leaders of powerful regional parties like the TDP, Shiv Sena, JDU, AITC, DMK/All India DMK, among others, to bargain for key union ministries like railways, industries, and commerce to bring in private investments, discretionary grants, and developmental projects from the center to their respective states. Holding offices at the center also helped the regional leaders in generating party funds and in distributing patronage, especially when the party was out of power in the state. The local area development funds available annually to the members of Parliament was another incentive. Even for smaller subregional parties, alliance with a coalition-making national party presented an opportunity to mark their presence in the Lok Sabha where they could raise the issues and concerns of their social constituencies.

Explaining the Ascendance

The ascendance of regional parties in the third-party system may be attributed to the following social, political, and economic processes in an India under transition. First, an unprecedented level of politicization and mobilization of identity groups took place as a result of electoral democracy taking root. It resulted in the conflicting claims of identity groups and also of intense struggles among them to have greater access to political power and scant resources. The inability of the national parties to recognize and accommodate the aspirations and demands of the regionally located groups, especially lower-ranked middle and upper backward peasant castes, who make up the largest single share of the Indian population, incentivized the emergence of caste-based regional parties.²³

Second, what led to the formation of new regional parties was the emergence of a new set of political leaders or political entrepreneurs, mostly belonging to newly mobilized numerically significant land holding social groups. Their unfulfilled expectations and ambitions within the national parties led them to break away. If, for instance, the Congress states' bosses

promoted lower/middle caste leaders at all, they did so to strengthen their own position vis-à-vis their rivals in the factional fights within the party organization.²⁴ What helped these breakaway regional leaders was “their hold on their regions, either due to caste or interest-group support.”²⁵ Being aware of local political configurations, these leaders also possessed the ability to seek local support in exchange for the direct and visible transfer of material benefits to specific ethnic groups or castes.²⁶

Third, historically and culturally constituted geographical regions over the period turned into political/electoral regions, especially after the states' reorganization on linguistic and ethnic bases.²⁷ These regional states in turn became the prime arenas where “the conflicts among castes, religious groups, tribes and linguistic groups and factions are played out.”²⁸ The primacy of states as an electoral units was visible in CSDS post-poll surveys, which showed that electoral choices even in national elections were derived from the competitive format, electoral cycle, electoral issues, parties' agendas, participatory patterns, and social cleavages defined in state politics.²⁹ The emerging salience of states as autonomous electoral units advantaged regional parties as they seemed more equipped to activate ethnic- and caste-based voter linkages in local social settings.

Fourth, with regional disparities getting further accentuated under a neoliberal economic order, a growing perception of “neglect” among the underdeveloped states became visible. Developed states on the other hand entered into intense competition over private investments and projects. Both these developments helped state-based regional parties as they projected themselves as saviors of their respective states' interests. In poorer states, they cashed in on the regional grievances against the perceived neglect by the center. The Janata Dal United and the BJD in Bihar and Odisha, respectively, for instance, have long been vociferously demanding special category status, while the AITC has been raising the issue of stepmotherly treatment meted out to West Bengal by the center. As for the “performing and reforming” states, the pursuit of market-driven economic reforms in alliance with regional and foreign capitalists has enhanced the power of regional parties in power and led to state-business regimes in post-1991 India.³⁰ One of the earliest such examples would be of the TDP regime in Andhra Pradesh led by Chandrababu Naidu from 1995 to 2004. Growing intrastate disparities across India under the neoliberal economic order is another factor that has led to the emergence of a set of sub-regional parties like the Vidarbha Vikas Party even in a developed state like Maharashtra.

Whither Regional Parties: 2014 and After

In 2014 and 2019, the BJP won the Lok Sabha elections convincingly. These elections suggest that the regional party system may be changing in several profound ways. In particular, these elections raise several important questions. First, have these BJP victories marked the emergence of a new regional party system? If the third party system was marked by multipolarity, fragmentation, and multiparty coalition governments where regional parties played a leading role, will the fourth party system see a decline in the prominence of regional parties? How has the seemingly terminal decline of the Congress contributed to the transition?

Second, does the BJP's success in projecting national issues during its electoral campaigns mark the return of the national constituency phenomenon, reminiscent of the Congress era? Does the state still remain the prime unit for analysis of electoral trends and results?³¹ Alternatively, can it be argued that the BJP twin wins in the last decade have nullified the argument that "all-India" politics is only little more than the aggregation of state-level politics? If yes, then how adversely would this affect the electoral fortunes of state-based regional parties in coming elections?

One needs to consider the two Lok Sabha election outcomes closely, and especially the performance of the BJP, before looking for possible answers. Many analysts considered the 2014 verdict as an aberration, while pointing out that even if the BJP became the first party after the 1984 elections to win a clear majority in the national elections; its vote share was just 31 percent while contesting 428 seats.³² More importantly, out of the 282 seats the party won, 244 came from only two geographical regions, specifically the Hindi-speaking states along with Gujarat and Maharashtra. Also, the party win was helped by its seat-sharing alliance with the big regional parties, many of which, like the Shiv Sena, TDP, and the AIADMK, performed well.³³ The conclusion was that the BJP gain was mostly at the cost of the Congress, which had led a highly unpopular coalition government that was fighting anti-incumbency and also facing charges of nonperformance and corruption in high places.

The massive scale of the BJP victory in the 2019 election, however, confirmed that the 2014 outcome was not an aberration. The expectation of a return to a coalition government system was premature. The BJP contested 436 seats and managed to win 70 percent of them (303 seats). Though the party received only 37.4 percent of the overall votes polled, its vote share in the contested seats was an impressive 46.1 percent. There were 224 seats

where the party secured victory with more than 50 percent of the votes polled in its favor.³⁴ The BJP-led NDA won 353 seats, polling 45 percent of the vote. The Congress, struggling with a leadership problem, declining social base, ideological dilution, and organizational weakness, could win only 19.5 percent of the vote polled the same as in the 2014 election. Its seat count increased slightly, from 44 to 52. Going by the electoral verdict, the alliance with the BJP helped the regional parties like the Shiv Sena and JDU. However, the alliance with the Congress did not help the United Progressive Alliance allies RJD or the TDP.

The ascendance of the BJP at the national level is cause for long-term concern for regional parties. This is because in the two elections held in 2014 and 2019, the BJP was not only able to retain its traditional urban upper-caste support base, but it also expanded its appeal. What has also been worrying for the regional parties is that the party has been able to spread its electoral presence to states like Haryana, West Bengal, Assam, Odisha, Telangana, Tripura, Arunachal Pradesh, and Meghalaya. Even in Tamil Nadu and Kerala the party has registered its presence with the help of subregional parties and is seemingly poised to play a greater role. These were the states where the BJP was either absent or was a small party less than a decade ago. Also, in many of these states, it is no longer the Congress but the regional parties that have held sway for long as the Congress has been in a state of incremental decline.³⁵

Looking closely at the two Lok Sabha elections, and also the assembly election verdicts in the last decade, shows that while the BJP has gained over the period both in terms of votes and seats, with the exceptions of Punjab and Delhi, parties having a strong regional character and a popular leader have been able to do well in the last decade, more so in the assembly elections. However, unlike these “regionalist” parties, “regionally located” social justice parties like the Samajwadi Party and the RJD have not done well in the two Lok Sabha elections,³⁶ and have also failed to win the assembly elections despite allying with the Congress and other minor parties.

How can the dismal performance of caste/community support-based regionally located parties, especially in the states of north India, be explained? Can one argue that identity politics based on caste and kinship have become passé and it is only the developmental and governance related issues and performance that matter in “new” aspirational India? Our argument is that caste and other primordial identities continue to remain significant factors in determining electoral choices in both rural and urban India as is reflected in the distribution of parties’ tickets and also in CSDS-Lokniti postpoll survey results.

The reasons why regional parties became strong—such as identities and inequalities—continue to hold and even the BJP has co-opted these factors in its rise. Also, with the emergence of hard Hindutva politics under the BJP and the Congress and non-left regional parties peddling their own variants of soft Hindutva, even religion has emerged as a major factor in determining the voting choices of the majority Hindu community. Minorities, especially Muslims, who for long supported secular parties whom they thought best positioned to take on the BJP, have also started voting for regional parties with a Muslim base like All India United Democratic Front and All India Majlis Ittehad e Muslimeen in the lower Assam region and the northeastern region of Bihar, respectively.³⁷ Just before the 2021 assembly elections, Indian Secular Front, a subregional party seeking Muslim votes in the South Bengal region, was formed by Abbas Siddiqui, a Muslim cleric.

However, the choice of policies, questions about governance, and inclusive economic growth/development have become additional factors that combine to play a much more definitive role now in influencing electoral choices and not only with the burgeoning middle “classes” in rapidly urbanizing India.³⁸ This argument finds credence in the CSDS-NES poll surveys held in 2014 and 2019.

The surveys show that the BJP, while retaining its traditional upper-caste support base, has succeeded in enlisting the support of the numerically significant but less dominant peasant and artisan castes. The BJP has had even more success in enlisting the support of numerically smaller lower and backward castes (Ati Pichda) and Scheduled Castes (Maha Dalits) as the CSDS-Lokniti survey data show.³⁹ Most of these most backward castes are either artisan castes or are landless. The benefits of reservations specifically given to the backward castes as per the Mandal Commission recommendations in the early Nineties have been mostly cornered by the landowning upper backward castes, from where the political leadership emerged. It is the same with the relatively more marginalized Scheduled castes. The surveys conducted in earlier elections had shown these castes voting overwhelmingly for the regional parties in post-Mandal India, especially in the electorally crucial Hindi heartland region. Out of 131 seats reserved in the Lok Sabha for the Scheduled Castes and Scheduled Tribes, the BJP won 67 and 77 seats, respectively, in the 2014 and 2019 elections. The following explanations for the party’s success among the most marginalized sections of the society can be considered.

First, the BJP success has to be attributed to it using both identity politics and the developmental card. The media and techno-savvy BJP gov-

ernments have been successful in flagging its success in implementing the welfare schemes. The party has gained by the moderate success in delivering public services and goods that have helped the rural poor, mostly belonging to marginal castes. The dismal failure of caste-based regional parties like the Samajwadi Party and the RJD in this regard continue to haunt them. CSDS surveys have shown that the welfare oriented regional parties like BJD have not suffered electorally at least in the assembly elections, which shows a distinct correlation between the success of welfare and voting choice. The surveys also show that voters can make a distinction between state- and central-level schemes, a fact that helps the ruling BJP in launching one central scheme after another and taking credit for their success and also blaming the opposition parties in power in states in cases of nonimplementation.⁴⁰

Second, the BJP, long considered the party of upper castes, has of late catered to the smaller peasant and artisan castes' interests by giving them representation in the party organization, law-making bodies, and government. The party has also organized social events and fairs and erected statues and memorials in memory of these marginal castes' heroes, thus invoking their sense of collective dignity and self-respect. The failure of self-styled "social justice" parties to accommodate the lower backward castes despite getting their vote has further helped the BJP cause in Hindi-speaking states of the North.

Third, to broaden its social base, the BJP has entered into alliances with subregional small and micro parties. Most of these "small" parties have been the products of splits in larger regional parties and due to their limited base are "not weighty enough to lead a state level coalition."⁴¹ The support of parties like the Apna Dal, the Rashtriya Lok Samata Party, the Hindustani Awam Morcha, the Vikassheel Insaan Party, and the LJP contributed to the BJP-led NDA wins in 64 out of 80 seats in UP and 39 out of 40 seats in Bihar in the 2019 elections. The two wins alone comprised 29 percent of the total seat share of the NDA in the 17th Lok Sabha. In return, the alliance with the BJP has helped these small party leaders to contest elections effectively and even gain office and influence. Contesting alone can be disastrous for these small subregional parties with limited support bases and resources as was evident in the dismal performance of the LJP in the 2020 assembly elections in Bihar or the Janata Dal secular in the 2023 Karnataka election. As for the BJP, the alliances with smaller parties help the party electorally by getting crucial votes and additional seats in multipolar electoral contests like in Bihar and UP. It also preempts the efforts of the rival parties to co-opt them against the

BJP in an all-India alliance like the one attempted before the 2024 Lok Sabha elections.

Fourth, the BJP has invoked a religiosity-based cultural nationalism, which has been ably supported by Rashtriya Swayamsevak Sangh volunteers, bringing the voters of non-elite castes under the umbrella of all-encompassing Hindutva politics. Ever since it came to power on its own, the party has advocated a ban on cow slaughter, the consumption of beef, the differentiated citizenship law, the matter of the “triple talaq” in one sitting (the ability of a Muslim man to obtain a swift divorce). The party has also raised the Ayodhya temple issue, the National Register of Citizens, and the issue of the “love jihad” (the ostensible effort of Muslim men to inveigle Hindu women to convert to Islam to marry them) to try to paper over the historically rooted caste divides and create a consolidated “Hindu nationalist vote.” The regional secular parties like the Congress have been on the receiving end of the BJP’s trenchant criticism for being soft on minorities (read Muslims) or, worse, still appeasing them at the cost of the Hindus. The BJP conducted a high-level campaign during Hyderabad’s municipal elections in 2020 focused on attacking All India Majlis Ittehad e Muslimeen, a Muslim support-based party, ostensibly to prepare the ground for future Hindu consolidation in favor of the party in Telangana where TRS was then in power for two consecutive terms. In the 2023 elections, the party received an impressive 14 percent of the votes polled.

What explains the BJP doing well also against the “regionalist” parties like the BJD, TRS, or the AITC in the elections? These parties after all have had popular leaders and claim a monopoly over championing their respective states’ interests. They also have been successful in implementing populist welfare policies of their own with much fanfare. The following additional factors can be considered in this regard.

First, the BJP’s success can be attributed to invoking national issues like the Kashmir problem, terrorism, national security, defense, and India’s place in the world. The party has succeeded in resurrecting the national constituency phenomenon. The party projects itself as a nationalist party that alone is capable of safeguarding the national interest and making the nation “great again.” Such posturing has put the opposition parties seeking support on the basis of invoking region- and region-specific narrow identities into a defensive mode as they cannot claim to represent the “nation-state.”

Second, the BJP enjoys the leadership of a popular national figure in Narendra Modi. The CSDS post poll surveys in the two Lok Sabha elections showed a “Modi effect” conclusively.⁴² Like Indira Gandhi, the emer-

gence of Modi on the national scene has succeeded in turning the national contests into plebiscitary and leader-centric contests, to the great disadvantage of regional parties that lack nationally recognizable and acceptable leaders. Also, the Modi factor has led to the electorate making a clearer distinction between national- and state-level outcomes. One may very well argue that as long as the BJP continues to rely heavily on Modi for its electoral success, as it currently does, and as long as this leads to voters making a distinction between the state and national realms, the Modi factor is likely to be a constraint on the potential of regional parties' electoral success in Lok Sabha elections in the short to medium term.

Third, while regionalist parties also have charismatic populist leaders like Mamata Banerjee, K. C. Rao, and Naveen Patnaik who can connect directly with the wider populace in their respective states, there is an important difference. Modi is ably supported by the party's formidable media-supported election machinery, which is well oiled by corporate funding. This is unlike regional leaders who preside over weak party organizations and also lack comparable access to campaign financing and human resources.⁴³ Moreover, the BJP, being a cadre-based party unlike the catch-all dynastic regional parties, also boasts of popular and capable state-level leaders like Vashundhara Raje Scindia, Shivraj Chauhan, Raman Singh, among many others. It has, of late, succeeded in getting competent state leaders from the Congress like Jyotiraditya Scindia and Himanta Biswa Sarma in Madhya Pradesh and Assam, respectively. It nearly succeeded in weaning away Sachin Pilot in Rajasthan. The poaching is not confined to the Congress as the desertion of several leaders from the AITC like Suvendu Adhikari to the BJP before the 2021 West Bengal election showed. However, the person-centered leadership style of Prime Minister Modi and Amit Shah, the Home Affairs minister, is weakening the position of state-level leaders of the party as, even in the assembly elections, votes are being asked in the name of Modi. Even after winning elections in Rajasthan, Madhya Pradesh, and Chhattisgarh, the party central leadership did not make Vijaya Raje Scindia, Shivraj Chauhan, and Raman Singh chief minister in their respective states, nominating junior leaders, even a first time legislator in Rajasthan. Compared to the era of former prime minister Vajpayee and Lal Krishna Advani, the former Home Affairs minister, the BJP state-level leaders have a much diminished role now in ticket distribution (choosing electoral candidates), shaping the electoral issues and agenda, campaigning, and formation of the ministry as the high command culture has taken over.

Fourth, the decline of the Congress has meant that there is no party

at the federal level to challenge the BJP. It has weakened the bargaining power of the regionalist parties vis-à-vis the BJP, even if they are strong in their own states and in power. What also does not help the regional parties is the fact that most of the states in India are heavily indebted and in a precarious financial situation and as such they depend heavily on central grants and centrally funded welfare schemes and developmental projects.

Fifth, the BJP has leveraged its position as being the party in power at the center by drawing the attention of the voters to the benefits of “double-engine” government during assembly elections. Voters are promised greater allocation of central grants/packages/projects in case the BJP comes to power in the state. The CSDS surveys conducted in 24 states between 2016 and 2018 showed that the possibility of having the same ruling party at both state and central levels and “a great deal of trust” in the leadership of Modi were significant factors that might be benefitting the BJP electorally even in the assembly elections.⁴⁴

Given the incremental success of the BJP against the regionally located/regionalist parties and other national parties, can it be argued that the BJP has emerged as the second dominant party after the Congress in Nehruvian era? Also, has the party system in India shifted back to a one party dominance system reminiscent of the Congress system? The questions have important implications for the future of the regional parties. The answer at the moment has to be in the negative for the following three reasons.

First, by pursuing its hard-core cultural nationalist majoritarian agenda aimed at consolidating Hindu votes in its favor, the BJP (unlike the Congress of yore) does not enjoy the support of religious minorities who constitute as much as one-fifth of India’s population, as evidenced in the successive CSDS-NES surveys covering all Lok Sabha elections held during 1996–2019.⁴⁵ Also, the party would always find difficulty in getting overwhelming support of non-Hindi electorates, especially in the states like Tamil Nadu where anti-Hindi sentiments are still high, given the BJP agenda of promoting Hindi as the national language. That ideologically the BJP cannot be considered as a hegemonic party like the erstwhile Congress also gets credence from the surveys’ findings, which show that a sizable segment of BJP voters has reported voting for the party solely due to the leadership of Modi rather than for the party’s ideology.

Second, despite its growing support base, the BJP still does not wield influence in many states of the south and the northeast where regional parties are still capable of winning on their own or in alliance. As discussed above, the BJP success in spreading out geographically was helped by its state-specific strategic alliances with larger regional parties. However, the

party has been steadily losing its major regional allies due to its refusal to share power and also address their concerns. It is now only the small parties that are with the BJP with the exception of the AGP, Janata Dal Secular, and breakaway factions of Shiv Sena and NCP. A visible lack of consultation with the SAD over the contentious farmers bill affecting the Punjab Sikh peasantry led to the breakup of the alliance, which had been in place since 1996. Of late, the Modi-Shah-Nadda-led party has also shown a proclivity to negotiate hard in matters of seat distribution or government formation like one saw in the case of Maharashtra in 2019, which resulted in the loss of its long-term ally, Shiv Sena, with whom it even shared ideological compatibility. The BJP then in alliance offered only one cabinet position to the JD(U), which the party refused. Regional parties like BJD and the TDP have learned that the BJP gains from alliances and have become wary. JDU, another regional party in alliance, developed a strained relationship after the BJP used the LJP to cut it to size in the 2020 Bihar assembly elections. In 2022, the JD (U) broke away from the ruling alliance with the BJP and formed a coalition government with RJD and the Congress, accusing the BJP of encouraging a split within the party.⁴⁶

Third, being an ideologically rooted and cadre-based Hindu nationalist party with a definitive ethnic agenda, the BJP neither aims at nor can it achieve any modicum of ideological consensus across the regions and communities in a diverse India. With the BJP stridently sticking to its core majoritarian agenda, the regional parties are wary of an alliance with the BJP for fear of losing minority and secular votes. This is particularly true for states like Uttar Pradesh, Bihar, Assam, West Bengal, Kerala, Karnataka, and Tamil Nadu, which have sizable Muslim populations. JDU and SAD had to face stiff criticism from within the party for voting in favor of the citizenship amendment act in early 2020. The AGP even severed its alliance with the BJP temporarily over the act. The JDU had come out openly against the laws passed by the BJP state governments targeting interfaith marriages.

Summing Up

The decline of the Congress has resulted in bipolar contests between regional parties and the BJP in many states. The emergent party system is thus becoming more like a disunited BJP opposition party system. In order to do well against the BJP, regional parties need to rework their strategies and focus beyond region- and caste-based populist politics,⁴⁷ while turning

to substantive issues related to governance and public goods and services delivery. They can take a leaf in this regard from the AAP and BJD, which have both done well electorally while speaking a secular language of development and governance. Regional parties would also need to forge stable alliances across social groups within the states. While the coming together of most regional parties from different states against the BJP has happened in the run up to the 2024 Lok Sabha election, the real challenge for them would be to stitch stable alliances within a particular state. The Congress, still the only other polity-wide party, is very much the part of such future electoral alliances but can remain so for long term only if its leadership agrees to accept the reversal of its role, from being coalition-maker to being willing to become just another ally in the states where the party has suffered considerable loss of support in recent decades. A much-weakened Congress might have become coalition-seeking in states like Bihar, UP, West Bengal, and Odisha, but then alliance with the party has not contributed much to the electoral cause of regional parties in recently held elections. In addition, for regional parties entering into alliance with the Congress, there would always be a lurking danger that the party might be able to revive itself by feeding on the alliances like in Odisha, West Bengal, Andhra Pradesh, Telangana, and Maharashtra, among others. Given this apprehension of the regional parties, the Congress needs to be much more generous and accommodating to its allies in the states where the party is still strong. This has not been the case, as shown in the states of Madhya Pradesh and Rajasthan where the party refused to share seats with the SP and Bharat Adivasi Party in the 2023 elections.

Reverses of the BJP in the assembly elections held in Rajasthan, Chhattisgarh, and Madhya Pradesh months before and in Haryana, Delhi, and West Bengal after the 2019 Lok Sabha elections indicated conclusively that electorates do make a distinction between the national and assembly elections and that states and the subregions within them still remain important units of electoral choices and contestations in the federal polity of India, a factor that stands in the way of the BJP agenda of creating an all-India national constituency and gaining electorally by feeding into the politics of an all-India social divide on communal lines. The growing centralizing of the polity under the Modi government and the weakening of federalism may still revive strong regional sentiments in coming times, which would favor regional parties. At the same time, identity politics, whether on a caste or regional basis, or both, would not be sufficient alone to make regional parties win in the coming years against the BJP even in the assembly elections.

NOTES

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1. Ashutosh Varshney, *Battles Half Won: India's Improbable Democracy* (New Delhi: Penguin, 2003), 11.

2. Subrata K. Mitra, *The Puzzle of India's Governance: Culture, Context and Comparative Theory* (London: Routledge, 2004), 28.

3. Rekha Diwakar, *Party System in India* (New Delhi: Oxford India Short Introduction, 2017), xiv; Ashutosh Varshney, "How India's Ruling Party Erodes Democracy," *Journal of Democracy* 33, no. 4 (2022): 104–18.

4. Whether categorized as "regionally located" or "regionalist," what is common about regional parties in India is that they all have a narrow geographical focus to capture or share power electorally at the state level with the help of the mobilization and empowerment of regionally located social groups. This explains why regional parties in India have been termed interchangeably as state-based parties, state-level parties, or simply as state parties. Suhas Palshikar, "Regional and Caste Parties," in *Routledge Handbook of Indian Politics*, ed. Atul Kohli and Prerna Singh (London: Routledge, 2015), 91–104.

5. At the time of Lok Sabha elections held in 1951–52, 1957, 1962, 1967, 1971, 1977, 1980, 1984, 1989, 1991, 1996, 1998, 1999, 2004, 2009, 2014, and 2019, the number of the recognized state parties were respectively 39, 11, 21, 14, 17, 15, 19, 17, 20, 28, 30, 30, 40, 36, 39, 39 and 43. The number of national parties, respectively, was 14, 4, 6, 7, 8, 5, 6, 7, 8, 9, 8, 7, 7, 6, 7, 6 and 7. <https://eci.gov.in/statistical-report/statistical-reports/> (accessed November 22, 2020).

6. Diwakar, *Party System in India*, 107.

7. All India Trinamool Congress and Nationalist Congress Party, both "national" parties for a long time, have effective electoral presence in only one state, West Bengal and Maharashtra, respectively

8. Adam Ziegfeld, *Why Regional Parties? Clientelism, Elites, and the Indian Party System* (New York: Cambridge University Press, 2016), 8.

9. Rajni Kothari, "The Congress 'System' in India," *Asian Survey* 4, no. 12 (1964): 1163–73.

10. W. H. Morris-Jones, *The Government and Politics in India* (London: Hutchinson University Library, 1966).

11. Myron Weiner, *Party Building in a New Nation: The Indian National Congress* (Chicago: University of Chicago Press, 1967), 469–71.

12. John Wood, "Introduction," in *State Politics in Contemporary India*, ed. Wood (Princeton: Princeton University Press, 1984), 2.

13. Rajni Kothari, *State against Democracy* (Delhi: Ajanta, 1988), 164.

14. There was a popular saying those days that one could travel from Delhi to Calcutta (now Kolkata) by train without passing through a state that was ruled by the Congress after the 1967 general election.

15. Contrary to what Bhimrao Ramji Ambedkar hoped during the Constituent Assembly debate, that Article 356 "will never be called into operation and . . . would remain a dead letter;" the center has imposed president's rule vide the same article on 120 occasions involving all the present states and Union Territories except the states of Chhattisgarh and Telangana. There were frequent incidents of abuse of

this article by the Congress, especially between 1971 and 1989, resulting in the rise of regional sentiments. James Manor, "The Presidency," in *Rethinking Public Institutions in India*, ed. Devesh Kapur and Pratap Bhanu Mehta (New Delhi: Oxford University Press, 2017), 49.

16. TDP was ostensibly formed by N. T. Rama Rao, a Telugu film star, to save the honor of "Telugu Bidda" after the reported humiliation of Andhra Pradesh chief minister T. Anjaiah in full public view by Congress general secretary Rajiv Gandhi in 1982.

17. Yogendra Yadav, "Electoral Politics in the Time of Change: India's Third Electoral System, 1989–99," *Economic and Political Weekly* 34, nos. 34–35 (1999): 2394.

18. Yogendra Yadav, "Reconfiguration in Indian Politics: State Assembly Elections 1993–95," *Economic and Political Weekly* 31, nos. 2–3 (1996): 95–104.

19. Yadav, "Electoral Politics in the Time of Change," 2393.

20. More recently, the Jannayak Janata Party was formed out of the Indian National Lok Dal in Haryana for the same reason.

21. Susanne Rudolph and Lloyd I. Rudolph, "Congress Learns to Lose: From a One-Party Dominant to a Multiparty System in India," in *Political Transition in Dominant Party Systems: Learning to Lose*, ed. Edward Friedman and Joseph Wong (London: Routledge, 2008), 36.

22. E. Sridharan, "Coalition Strategies and the BJP's Expansion, 1989–2004," in *Handbook of Politics in Indian States: Regions, Parties, and Economic Reforms*, ed. Sudha Pai (New Delhi: Oxford University Press, 2013), 143.

23. Ashutosh Kumar, "Political Leadership at State Level in India: Continuity and Change," *India Review* 18, no. 3 (2019): 264–87.

24. Myron Weiner, *Party-Building in a New Nation: The Indian National Congress* (Chicago: University of Chicago Press, 1968).

25. V. M. Sirsikar, "Political Leadership in India," *Economic and Political Weekly* 17, no. 12 (1964): 522.

26. Even "progressive" leaders like K. C. Rao and Chandra Babu Naidu continue to bank on the steady support of specific castes. Naidu has, of late, been targeting the YSR Congress leader Jaganmohan Reddy, a Christian, for running an anti-Hindu administration in Andhra Pradesh. Arvind Kejriwal and Naveen Patnaik come across as somewhat exceptional leaders for their ability to set the terms of electoral discourse with their innovative ways of governance rather than seeking the route of ethnic patronage or catering to majoritarian politics.

27. Ashutosh Kumar, "Moving beyond Nation-State: Framing State Politics in India," *India Review* 16, no. 3 (2017): 292.

28. Myron Weiner, "Introduction" in *State Politics in India* (Princeton: Princeton University Press, 1968), 6.

29. Yogendra Yadav and Suhas Palshikar, "Principal State Level Contests and Derivative National Choices: Electoral Trends in 2004–09," *Economic and Political Weekly* 44, no. 6 (2009): 55–62.

30. Aseema Sinha, "The Changing Political Economy of Federalism in India: A Historical Institutional Approach," *India Review* 3, no. 1 (2004): 33.

31. Loise Tillin, "Indian Elections 2014: Explaining the Landslide," *Contemporary South Asia* 23, no. 2 (2015): 117–22.

32. In the 2014 elections, the BJP vote share in the seats where it contested

was 46.1 percent and there were 136 seats where the party candidates registered the win by polling more than 50 percent of the votes. See Pradeep Chhibber and Rahul Verma, "The Rise of the Second Dominant Party System in India: BJP's New Social Coalition in 2019," *Studies in Indian Politics* 7, no. 2 (2019): 131–48.

33. Eswaran Sridharan, "India's Watershed Vote: Behind Modi's Victory," *Journal of Democracy* 25, no. 4 (2014): 20–33.

34. Chhibber and Verma, "Rise of the Second Dominant Party System in India," 133.

35. The Congress win in Telangana in the 2023 assembly elections was significant as the party could make a comeback after getting decimated in the last two assembly elections, a rarity for the party in the recent decades.

36. K. K. Kailash, "Regional Parties in the 16th Lok Sabha Elections: Who Survived and Why?," *Economic and Political Weekly* 49, no. 39 (2014): 64–70.

37. Monoj Kumar Nath, "Muslim Politics in Assam: The Case of AIUDEF," *Studies in Indian Politics* 7, no. 1 (2019): 33.

38. Aseema Sinha, "Why Has 'Development' Become a Political Issue in Indian Politics?," *Brown Journal of World Affairs* 23, no. 1 (Fall–Winter 2016). <https://scholarship.claremont.edu/cmcfacpub/558/>

39. K. C. Suri, "Social Change and the Changing Indian Voter: Consolidation of the BJP in India's 2019 Lok Sabha Election," *Studies in Indian Politics* 7, no. 2 (2019): 23.

40. Rajeswari Deshpande, Louise Tillin, and K. K. Kailash. "The BJP's Welfare Schemes: Did They Make a Difference in the 2019 Elections?," *Studies in Indian Politics* 7, no. 2 (2019): 230. RJD kept away from its usual caste-based rhetoric of the Mandal era and focused on developmental issues like unemployment and governance failures during the 2020 elections in Bihar.

41. Andrew Wyatt, "Small Parties and the Federal Structure of the Indian State," *Contemporary South Asia* 27, no. 1 (2019): 66.

42. Sandeep Shastri and Ritika Syal, "The Modi Factor in 2014," in *Electoral Politics in India: Resurgence of the Bharatiya Janata Party*, ed. Suhas Palshikar et al. (New Delhi: Routledge, 2017), 215–29; Sandeep Shastri, "The Modi Factor in the 2019 Lok Sabha Election: How Critical Was It to the BJP Victory?," *Studies in Indian Politics* 7, no. 2 (2019): 206–18.

43. The BJP has been accused by the opposition parties of using its resources to wean away the opposition parties' legislators in states like Karnataka and Madhya Pradesh for the purpose of toppling the incumbent governments.

44. Jyoti Mishra and Vibha Attri, "Governance, Public Service Delivery and Trust in Government," *Studies in Indian Politics*, 8, no. 1 (2020): 11.

45. Shreyas Sardesai, "The Religious Divide in Voting Preferences and Attitudes in the 2019 Election," *Studies in Indian Politics* 7, no. 2 (2019): 166.

46. The BJP has faced similar accusations by other regional parties, more recently by Shiv Sena in 2022 when the party faced a split, resulting in the formation of the coalition government of the BJP-rebel Shiv Sena faction in Maharashtra.

47. The regional parties like JDU and SP have of late been asking for holding caste-based census survey all over India to identify the marginal castes and accordingly tweak the distributional policies of welfare.

Redefined Indian-ness and the Decline of India's Democracy

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India's democracy has entered a new era of decline. India's democracy was for many decades a beacon of hope around the world that democracy could grow roots in diverse and poor soil. Two decades ago, India was the only country in South Asia to receive Freedom House's designation of "Free" of its three-category assessment Free/Partly Free/Not Free. India's elections were described as free and meaningful, if marred by pervasive criminality, corruption, and decrepit state institutions. The same year, India's South Asian neighbors were either designated "Partly Free" (Bangladesh, Sri Lanka, and Nepal) or "Not Free" (Afghanistan, Myanmar, and Pakistan).¹ In 2021, Freedom House alongside other democracy watchdogs designated India as "Partly Free" for the first time since India's Emergency, joining its South Asian neighbors in either the partial or fully authoritarian designation. Its report notes that "under Modi, India appears to have abandoned its potential to serve as a global democratic leader, elevating narrow Hindu nationalist interests at the expense of its founding values of inclusion and equal rights for all."²

India's contemporary trajectory is emblematic of the world's democratic recession. In Narendra Modi's India, as in Viktor Orbán's Hungary or Donald Trump's United States, democracy is crumbling today through the actions of a political leader who combines majoritarian nationalism (defining the nation through an immutable identity), populism (the maligning of

a corrupt elite in favor of a pure people), and the centralization of executive power to shrink both civil liberties and constraints on executive power.

India's changing national identity has critically enabled its democratic decline. Ancient philosophers and contemporary political scientists alike have suggested that national unity matters for any effective government, much less a democracy. The delimitation of a communal "we" stipulates who is deserving of the special rights and responsibilities of citizenship. While national narratives vary immensely in spread, depth, and type, they are often forged at the country's founding and rarely transform.

Yet India has witnessed just such a fundamental transformation in its national narrative over the past decade. A dominant *e pluribus unum* conception of India, rhetorically embracing linguistic and religious diversity since the country's founding, has been palpably transformed into one dominantly defined by a particular vision of Hinduism. But exactly how and why does this matter for democracy?

In this chapter, I unpack the causal logic of why a national narrative predominantly defined by an immutable identity, such as ethnicity, race, or religion, has direct and debilitating consequences for democracy. In particular, I argue that the popular acceptance of ascriptive nationalism enables democratic decline through three mechanisms—mainstreaming majoritarianism; polarizing pluralists; and accumulating authority. These three mechanisms reveal when and how nationalism can endanger democracy. And all three are in evidence in India today.

Democracy is a cluster concept, consisting of institutions, norms, and rights, most notably fair elections, political competition, executive restraint, and civil liberties. "Nationalism" is the celebration of an ultimately fictive "imagined community" of individuals who conceive of themselves as being a single people in the absence of face-to-face interaction.³ While one's nation is just one of many identities an individual possesses, it is a particularly consequential identity because nationalism is also an ideological and discursive phenomenon that denotes a way of thinking and speaking about the nation as a collectivity. The invocation of nationalism is a battery that can charge and legitimate the use of state power.⁴

This chapter first describes the key tenets of India's pluralist founding national narrative and how such ideas were crucial to the creation of India's democracy. Then it describes the change in India's national narrative that began already in the 1980s, but which attained broad popular acceptance during the last decade as Modi and the BJP won the national elections of 2014 and 2019. The third section details the causal logic through which India's changing national identity has diminished democracy, followed by a conclusion.

Congress Raj and India's Founding National Narrative

Hindu nationalism is not only India's dominant national narrative today but also the fundamental currency of its contemporary politics.⁵ Yet it was not always so. Paradoxically, India's Congress Party, a hundred years ago the inventor of Indian nationalism, is today not identified as a nationalist movement at all. How did this transformation happen? How did a vocal but ultimately marginal understanding of the Indian nation become its very definition?

India's dominant national narrative for its early post-Independence decades was created by its anticolonial movement, the Indian National Congress. At the start of mass engagement in nationalist politics in the 1920s, Congress propagated a national identity that was thin but inclusive by the standards of any nationalist movement across the postcolonial world. Congress-defined Indian nationalism was pluralist with respect to three social cleavages that impeded inclusive national narratives in much of the postcolonial world: religion, language, and mass mobilization.⁶

Religiously, Congress's commitment to a distinctive kind of egalitarian nationalism was witnessed in its decisions to both create a public sphere where one's identity was not defined by religion and to create a nation not defined by Hinduism. Congress began agitating against public distinctions of caste during the 1930s, encouraging cross-caste social interaction and an abatement of caste-based discrimination in order to help meld together a national community that could refute the colonial state's self-serving claim that Congress did not represent a nation.⁷ Over the decades of anticolonial mobilization, Congress evolved a distinct interpretation of the state's role vis-à-vis religion, one that was based upon an equal distance between religions.⁸ While many Congress leaders were also involved in Hindu or in some cases Muslim reform movements, they drew a definitive line between these movements and the national movement. At its annual meeting in 1931, at a time when most European nations had yet to do so, Congress adopted universal adult franchise as a goal and argued that universal franchise was an essential step in the fight for *purna swaraj*, or total independence.

Linguistically, Congress's nationalism was also plural in a country that spoke over a thousand languages and in which upwards of 30 languages were spoken by a million people or more. Congress's 1920 reorganization, strategically designed to maximize engagement in the national movement, created 21 linguistically homogenous regions that rendered nationalist organizing more accessible. Congress made no effort to exclude particular regional tongues from the nationalist movement and explicitly rejected the

use of a single national language, which would have disadvantaged large parts of the population whether the national language was Hindi or English. Linguistic inclusivity was a strategic decision taken by Congress to encourage popular engagement in the nationalist movement, arguably to the greatest extent it could, while still enabling cohesion.

And in terms of *mass engagement*, Congress-defined nationalism aimed at mobilization to the greatest extent possible subject to nonviolence and *satyagraha*, or a binding commitment to openly breaking unjust laws without recourse to violence that not just allowed but actively encouraged dissent on matters of conscience. Nonviolent civil disobedience encouraged all castes, classes, and regions to participate in the nationalist movement on the basis of equality without fear of polarizing violence.

While the nationalist movement was elite-led, popular inclusion in the nationalist movement was encouraged through the wearing of nationalist clothing. Congress leaders themselves swapped Western clothes for *khadi*, a homespun cloth produced by an extremely active organization set up by and affiliated with the nationalist movement.⁹ The wearing of homespun cloth both enabled the illiterate majority to participate in the nationalist movement and helped knit together a nationalist movement across classes, blurring the socioeconomic hierarchies.¹⁰

Upon Independence in 1947, India's constitutional debates featured distinct, and to some degree dueling, narratives of nationalism—for example, Hindu, Gandhian, and Nehruvian. But due to its organizational pre-eminence, Congress's pluralist nationalist narrative won out ideologically and constitutionally. Congress's *e pluribus unum* national narrative was the single most important factor in the creation of its remarkable democracy since the ideological hold of these relatively inclusive ideals (together with the organizational depth of its nationalist movement) motivated Congress's decision to create the institutional pillars of democracy.¹¹ A pro-statist Nehruvian nationalism that treated religions with equal distance was institutionalized in what is still the world's longest constitution. India's inclusive national identity took institutional shape as the Congress-dominated Constituent Assembly codified elections, universal adult suffrage, restraints upon the governing executive, and an array of civil and political liberties. Nehru's speeches were regularly peppered with the phrase "India is the Congress and Congress is India."

Though it was an elite and relatively thin narrative (being defined in the minds of ordinary Indians as primarily anticolonial), this egalitarian conception of Indian national identity remained largely unchallenged dur-

ing India's first two decades as a sovereign democracy. As elsewhere across much of the postcolonial world, the erstwhile nationalist movement governed with widespread legitimacy for decades. During those first decades, Congress rule hewed closely to the espoused ideals of the nationalist movement in its political and economic decision-making and pluralist conceptions of the nation largely continued to dominate.

During the 1960s and 1970s, the dissolving of the nationalist movement's support structure and the rise of opposition marked the transition to a new political system, but one that did not yet challenge the *e pluribus unum* character of India's national identity. Political opposition to Congress began to emerge earliest in states where both a clear opposition movement predated Independence and where a clearly identifiable caste cleavage dominated state politics.¹² Over time, however, as Congress's legitimacy waned and as the state increasingly proved unable to deliver development, popular unrest grew and the structural inequalities baked into Congress's support structure broke out into the open, culminating in the Congress split of 1969. Indira Gandhi's win in the 1971 national elections was on the basis of populist appeals but even Indira Gandhi's 1975 Emergency declaration, a thinly disguised *auto-golpe*, was rhetorically justified in order to protect Indian secularism.¹³

After a brief reprieve from power, it was when Indira Gandhi returned to power in 1980 that the tacit dominance of India's pluralist nationalism began to fracture. The state's role in promoting recognition of subordinate social groups undeniably assumed greater prominence and Indira Gandhi consequently began to flirt with Hindu nationalism. Consequently, though unevenly across space and time, a range of politicians and political parties began to strategically employ both the language and symbols of Hindu nationalism for electoral gain. The social base of the Congress Party began to dissolve as caste-based parties rose, demanding a greater recognition of subordinate social groups. Voters committed to a politics of recognition thus transferred their support to regional parties who better represented their views while those opposing the politics of recognition transferred their support to the BJP.¹⁴ The fracturing of Congress's support structure thus gave rise to an era of coalition governments. It was in this context that the BJP first came to national power in 1996, albeit in a coalition government and without the well-organized grassroots RSS movement mobilizing its members.¹⁵ The 2014 and 2019 elections, however, presaged a new era of BJP dominance that was enabled by the rise of Hindu nationalism.

The Rise of Nativist Nationalism

Modi's winning political strategy, both as chief minister of Gujarat and nationally as prime minister, has been to emphasize his credentials as a man who delivers while at the same time electorally exploiting religious tensions when doing so proves politically fruitful. As Gujarat's chief minister since 2001, Modi had popularized the Gujarat model of development for promoting private-sector-led growth and minimizing corruption. Though minorities fared disproportionately poorly in the state and though a close examination of the Gujarat model reveals that the model often promoted growth without commensurate development,¹⁶ it was the aspirational promise of replicating the Gujarat model of growth across India that convinced many to cast their vote for Modi.¹⁷ In the run-up to the 2014 election, Modi underplayed explicitly polarizing Hindutva language in favor of a broader celebration of the Indian nation.¹⁸ Many younger Indians who did not agree with Hindutva "held their noses" to vote for Modi in the hopes that India would unleash a developmental revolution.¹⁹

Yet anyone undertaking a clear-eyed examination of Narendra Modi's career before 2014 would have concluded that he was a committed Hindu nationalist, someone for whom a transformation of India's national identity was a top governing priority.²⁰ Modi started his career in the Hindu nationalist Rashtriya Swayamsevak Sangh (RSS), an umbrella organization of Hindu organizations that initially set up the BJP and that spend decades in political isolation because of its association with the assassination of Mahatma Gandhi. Though there are a range of beliefs associated with the umbrella term "Hindu nationalism," anyone joining the RSS in the early 1970s and spending decades there would have been deeply steeped in core Hindutva conceptions of citizenship. Modi only joined the BJP when he was deputed from the RSS. As a politician, Modi regularly invoked Hindu nationalism and stoked religious division when it reaped political rewards. Notably, India witnessed its worst communal riots in decades during Modi's tenure as chief minister of Gujarat. More than 1,000 people were killed, mostly Muslims. There was sufficiently compelling evidence of Modi's culpability that the United States banned him from traveling to the country.

During the 2014 elections, Modi replicated at a national level the twin emphases on economic growth and Hindu nationalism that brought him such popularity in Gujarat. He projected an image of a business manager who was simply able to get things done. A veteran political correspondent who has covered every national political campaign for the past 25 years wrote that, before the 2014 elections, the single most notable aspect of this

election was the strong sense that Modi would personally ensure development: "We had met so many people who saw an all-purpose savior in Modi that every time a car window jammed or a toilet wouldn't flush in some backcountry hotel, one of our crew would joke, 'Modi will fix it.'"²¹

Though development and clean governance were more prominent in the 2014 campaign, Hindu nationalism was selectively propagated in regions where doing so would reap electoral benefits. During the election's most visible speeches, Modi invariably wore saffron-colored clothing, the color of Hinduism. He typically prayed at Hinduism's sacred spots before attending election rallies, often in the company of Hindu priests. Modi's speeches on the campaign trail were peppered throughout with Hindu references. He contested his electoral seat from the spiritual heart of Hinduism, Varanasi. The BJP election manifesto declared that it would search for "all possibilities within the framework of the Constitution to facilitate the construction of the Ram Temple in Ayodhya," an issue that sparked nationwide religious riots in 1992 in which nearly 3,000 people died.²² Across Mumbai, billboards proclaimed, "I am a patriot. I am a Hindu nationalist."²³

But in places where Hindu nationalism would effectively reap political dividends, Modi's campaign went even further. For example, it charged the incumbent Congress government with promoting cow slaughter, an offensive act to Hinduism that he termed a "pink revolution."²⁴ In Muzaffarnagar, communal riots that worked to the BJP's electoral benefit were stoked. This mostly development, selectively Hindutva strategy worked, and the BJP came to power armed with the first national single-party majority in decades. Electorally, its 2014 win signaled that the BJP had "replaced the Congress as the system-defining party and become the focal point of electoral alignments and realignments with parties forming coalitions solely to oppose the BJP."²⁵

Modi and many central BJP politicians have pursued a strategy of plausible deniability for explicitly endorsing Hindu nationalism, often maintaining a studied silence or denying responsibility for Hindu nationalist violence. Despite a widespread sense that many of Modi's votes were cast on his promise of promoting economic development rather than his Hindutva agenda, the Modi government's projection of the Indian nation as a Hindu one has grown in prominence, especially as economic development has failed to materialize. The party has worked hard to elevate the centrality of a Hinduism under attack in the national imagination. Modi's Hindu nationalism has focused on three interrelated domains that have moved beyond simple rhetorical or symbolic discourse: educational curricula reform, cow protection, and citizenship laws.

The first and perhaps the most important domain through which Indianness is fusing with Hinduism is through the BJP-sponsored *reimagining of Indian history* to glorify Hinduism's authenticity and achievements while minimizing non-Hindu contributions. India's national identity is being not just articulated in a new way but disseminated broadly throughout Indian society in ways that perceptibly alter the boundaries of the national "we." The elevation of Hinduism as the defining feature of the Indian nation and the minimization of secular symbols and leaders is occurring at an altogether new and serious scale. The depth of alterations is substantial, with the *Indian Express* calculating that 1,334 changes were made to the 182 textbooks produced by the apex body for schooling in the federal government, the National Council of Educational Research Training, between 2014 and 2018.²⁶

The BJP's reimagining history is most clearly seen in the nature of textbook changes under the BJP federal and state governments. The changes (1) emphasize a Hindu cultural similarity that encompasses linguistic and regional variations across time and space; (2) create a monocausal account of Indian history that centralizes the religious or cultural role of Hinduism; (3) systemically dichotomize between a tolerant Hindu India and an intolerant Islam; (4) omit discussion of caste inequalities or discrimination within Hinduism.²⁷ These changes almost universally elevate the role of Hindu leaders and diminish non-Hindu or secular contributions to the Indian nation. In the BJP-ruled Rajasthan, for example, the state's education minister, Vasudev Devnani, removed a chapter on the Mughal emperor Akbar and replaced it with a chapter on a Rajput king Maharana Pratap, even altering the outcome of a historical battle.²⁸ The founder of Hindutva ideology, Vinayak Sarvarkar, receives frequent and notable attention in Rajasthan's history textbooks between years 8 and 12 while any mention of India's first and secular prime minister, Jawaharlal Nehru, is omitted from year 8 textbooks altogether.²⁹

The growing influence of Hindu organizations in writing a Hindu-centered history is also clear. In 2019, India's second-most powerful politician, Amit Shah, said at Banaras Hindu University that "this is the time when our historians need to rewrite history as per a new vision." That vision included "200 important personalities and 25 important dynasties."³⁰ In 2015, members of the Akhil Bharatiya Itihas Sankalan Yojana, a subsidiary organization of the RSS aimed at rewriting Indian history from a "national perspective," were placed in key positions at the Indian Council for Historical Research. This council is an organization whose remit includes the content of key historical textbooks, which have been subse-

quently altered primarily to highlight the contributions of Hindu warriors, sages, and kings while science textbooks emphasize Hindu contributions and Hindu myths are presented as scientifically accurate.³¹

To create a narrative of Hindu primacy necessitates establishing that an indigenous Hinduism was responsible for India's greatest historical achievements. Consequently, Modi has appointed a committee of scholars to find evidence that Hindus were the subcontinent's first inhabitants and that Hinduism's foundation stories are fact rather than fiction. Cultural Minister Mahesh Sharma said during his 2014–19 tenure that a "Hindu first" Indian history will be added to the school curriculum. Establishing that Hindus were the "authentic" inhabitants of geographical India is crucial because "if the Hindus are to have primacy as citizens in a Hindu Rashtra (kingdom), their foundational religion cannot be an imported one."³² Under Sharma's tenure, hundreds of events were held across the country in order "to prove the supremacy of our glorious [Hindu] past."³³ Creating new national holidays to honor only Hindus, omitting or diluting the word "secular" from the preamble to the Indian Constitution on National Day and in textbooks, removing Gandhi's image from the symbol of the Khadi and Village Industries Commission and replacing it with an image of Modi, and renaming Muslim streets, Muslim names in textbooks, and Muslim monuments in tourist brochures are among the many other ways that history is being rewritten to fuse Indian national identity with the Hindu religion.

Several aspects of this history-revision endeavor render it particularly successful. The RSS-based organizations often offer history teaching alongside welfare provision, which extends the reach of India's new national narrative. Many key RSS historical assumptions dovetail with trends in historical scholarship that have privileged cultural struggles between good and evil because an "overarching binarized patterning of historical understanding [between good and evil] still shares some structural similarities" with postmodernist subaltern forms of historiography that are particularly prominent in India.³⁴

While to be sure, a national solidarity is a battery that can power national projects and while history is often rewritten in keeping with changing norms, the extent and directness through which the political ideology of the Hindu nationalist Sangh Parivar is installed into history books today is different, foremost because of its organizational capacity to reach to the grassroots level: "It is the sheer quantity, continuity and intensity of the RSS's historical work, the massive cadre base that generates and teaches history at grass-roots levels, that makes all the difference. Neither

any alternative political formation, nor academic one, ever achieved, nor tried to acquire, that range and depth of dissemination.”³⁵

A second domain through which the Hindu character of India's national identity has been elevated is through the trumpeting of *cow protection* laws. Notably, such laws already exist in many parts of India because of the animal's sanctity in Hinduism, and they have consistently received widespread support from broad segments of Indian society. But Modi's BJP has consistently raised the prominence and vehemence of cow protection on the political agenda. The BJP has encouraged the public to see the Hindu state as deserving protection, in contradistinction to a previous government that pandered more to “minorityism.” The charge that cow protection bans are not enforced heightens the salience of an issue that primarily targets the livelihoods of ethnic minorities. As BJP politicians have consistently and stridently argued that the state should be better protecting cows, this rhetoric has translated into action, with vigilante groups or *gau rakshaks* spearheading violence. Between January 2009 and October 2018, at least 91 persons were killed and 579 were injured in cow protection attacks. Ninety percent of these attacks were reported after the BJP came to power in May 2014, and 66 percent occurred in BJP-run states. Muslims were victims in 62 percent of the cases and Christians in 14 percent.³⁶

The third and most direct domain through which Indian-ness is being equated with Hindu-ness is through a range of *laws seeking to legally enshrine Hindus as first-class citizens*. Taken together, the August 2019 National Register of Citizens and the Citizenship Amendment Act have formed the heart of this endeavor. A national register of citizens was already stipulated in the northeastern state of Assam after the state's first post-Independence census in 1951. Because the region had historically seen fluid migration and because state documentation was not common practice in earlier post-Independence decades, many citizens were unable to readily prove their citizenship state when the Supreme Court ordered Assam's National Register of Citizens to proceed in 2013 and the results were published in August 2019. Such major problems notwithstanding, the Modi government announced that it would create a National Register of Citizens. Shortly thereafter, with its even larger national electoral victory in hand, Modi's BJP government passed the Citizenship Amendment Act, which effectively introduced a legal preference for non-Muslim citizens by giving minorities from neighboring Muslim-majority countries an expedited path to citizenship. This law translates changing ideas of citizenship into the institutional pillars of democracy.

Hindu Nationalism and India's Diminished Democracy: Three Causal Logics

As many have noted (in other chapters of this volume and in wider scholarship), India's democracy is today diminished. The analytic focus of arguments describing India's democratic decline has chronicled the rise of nationalism and the deficits of liberalism without delineating the logic of how these phenomena relate to each other. Liberalism specifies that the state should be a fully neutral arbiter of individual rights without expressing any cultural preferences for identities. Nationalism prioritizes group rights such as the right to political self-determination and the defense of the national interest. But it can also prioritize the rights of national identities over religious identities by, for example, forcing citizens not to wear Muslim headscarves (while allowing small Christian crosses) in schools, as France does. And a robust definition of democracy denotes both a set of institutional procedures such as elections and a set of civil liberties (assembly, petition, due process) that render such procedures meaningful.

Empirically, most democracies are not fully liberal, with governments often celebrating distinctive national cultures and histories. As Israel's former education minister, Yuli Tamir, has argued, the growing dissatisfaction of ethnic groups and national minorities living within so-called liberal states evidences this claim.³⁷ Yet it is important to recognize that some degree of illiberalism and nationalism are not problematic for democracy. Only when illiberalism or nationalism leads to the systematic deprivation of civil and political liberties is democracy diminished. Indeed, the rollback of such liberties rather than the halting of elections is the modal way in which democracies are backsliding today. So how exactly does the rise of an ascriptive national narrative help diminish democracy? This causal logic deserves greater attention, since scholars of nationalism have long noted that nationalism is a "thin" identity that can readily combine with a range of ideologies, both liberalism and illiberalism, multiculturalism and racism.

The first mechanism through which national narratives can create tendencies toward undermining democracy is the *mainstreaming of majoritarianism*. When the celebration of a national identity creates systematic pressures to either diminish institutional constraints on power or to undermine the rights of individuals, then democracy is diminished. When the immutable identity of a majority comes to centrally define a nation, political leaders are readily able to marginalize minorities with the broad support of the public by tacitly drawing upon legitimating historical narratives. And

when political leaders are able to institutionalize such marginalization in laws and systemic practices, the democracy, itself defined by the guarantee of rights to assemble and rhetorically dissent, diminishes.

A national identity that centralizes an ascriptive identity often creates these opportunities for political leaders to engage in minority marginalization because the national narratives of belonging legitimate the efforts of political entrepreneurs who scapegoat groups not considered “first-class citizens.”³⁸ If a nation is defined by a diverse set of groups that are rhetorically conceptualized as national equals, then there is no *generalized* political rationale for targeting groups on the basis of their minority status, though minorities may nonetheless be socioeconomically disadvantaged or politically targeted, or both, for electoral benefits. But when immutable identities come to centrally define a nation, it becomes easier for political leaders to quash the rights and resources of second-class citizens on the grounds that national ideals have historically legitimated a lesser treatment of these groups.³⁹

An ascriptive national narrative not only provides legitimation for systematically circumscribing the rights of certain groups, but circumscribing rights can also actually serve to make the government more popular. This is notably the case in Myanmar today, where a brutal ethnic cleansing campaign against the Rohingya, Muslim minority who have historically had some form of citizenship right, has actually boosted the popularity of the military among the Myanmar public.⁴⁰ When minority populations have their rights systematically and legally deprived, democracy declines. The direct correlation between the quantity and importance of Hindu nationalist rhetoric and the incidence of violence against minorities described above is evidence of this causal mechanism at work in India today.

A *second* mechanism through which ascriptive nationalism can undermine democracy is by *polarizing pluralists*. Leaders seeking to popularize an ascriptive national identity often silence moderate voices by labelling all defenders of pluralism as lacking sufficient ideological commitment to the ascriptive nation. Especially in a context where the dominant national identity is pluralist, the popularization of a more ascriptive national identity requires making a politics of identity politically salient. The invocation of fixed identity under threat, an “us” versus “them” cleavage, is the surest means of elevating identity politics. In the case of an ascriptive nationalism, the demarcation between the us and them is often clearer (signified by dress, geography, or skin color) than in the case of principles and creeds where individuals can more readily profess allegiance to ideals.

In the case of external threats to the nation, citizens typically “rally

around the flag” and the ensuing national solidarity is a battery that can power sacrifice for the common good.⁴¹ When such identity threats are identified domestically in the form of social groups, a polarizing rhetoric collapses multiple cleavages into a single overarching identity cleavage—one that simultaneously serves to both unite groups vested in that identity and undermine “out-group” social groups. A particularly successful strategy is to link domestic enemies with foreign enemies, one that has been successfully used by southern conservatives in the United States to link civil rights activists to communists and by Viktor Orbán’s Hungary to link domestic critics to liberal elites such as George Soros. In the case of India, minorities are often accused of being supporters of Pakistan.⁴²

The success of this tactic critically requires suppressing opponents of ascriptive pluralism who are not themselves minorities. In a context such as India’s that is historically defined by pluralist conceptions of the nation, such voices would include a popular majority whose views cannot be as readily discounted on the basis of their lacking the central ascriptive characteristic of Hinduism. Average citizens defending pluralism are labeled unpatriotic or antinational in an effort to initiate “polarization cascades.”⁴³ And as the possibility of dissent in any form is increasingly undermined, so too is the institutional cornerstone of democracy.

In India, the rise of antinationalism as a label in political discourse since the election of the Modi government is the clearest indication that this dynamic is at work. The very possibility of simultaneously being loyal to the nation and critical of government policies or actions is increasingly an oxymoron. Protesting government actions on entirely legal grounds, for example, that laws or practices violate core tenets of the Constitution, serves as no barrier to being labeled antinational. In the 2020 Delhi elections, for example, the Aam Aadmi Party ran on an anticorruption and public services delivery platform, while the BJP primarily campaigned on a platform that voting for the Aam Aadmi Party was antinational.

A *third* mechanism through which ascriptive nationalism, when combined with populism, can undermine democracy is through *accumulating authority*. Together, the combination of ascriptive nationalism and populist appeals can allow elected leaders to more readily centralize power so as to protect the authentic ascriptive nation. Populist rhetoric definitionally positions a people, the true voice of the democracy, as impeded by a corrupt and out-of-touch elite. Ascriptive nationalism suggests that the national community people are defined by an immutable social group. When combined, populist and ascriptive nationalist appeals suggest both that an ascriptive group is the true people and that only the leader can

protect the ascriptively defined people from the corrupt elite. The solution to the core problem posed by populism—the corrupt elite that impedes change through their control of institutions—is solved by sweeping away the institutional constraints such as courts or the bureaucracy. Because these institutions are “captured” by a corrupt elite, the leader is justified in circumventing such institutions to pursue the will of the people. Through this logic, the leader is justified in defying important norms that serve as the “guardrails” of democracy⁴⁴ as well as most institutional checks on the government’s power.

Conclusion

Nationalism is extraordinarily relevant to the politics of modern nation-states because narratives of national belonging are regularly used to legitimate state power. Together, nations and states constitute our contemporary global order to such a degree that they are often conflated in such hyphenated terms as “nation-state” and “state-nation.” It is not for nothing that most sovereign states have museums narrating *national* stories; holidays or statues celebrating *national* heroes; and *national* armies protecting sovereign borders. Constitutive stories of nationhood remain such a potent political force that politicians often hark back to them in order to portray policies as being in the *national* interest.

For the first 70 years since Independence in 1947, India defied the statistical odds that diversity and poverty would imperil its democracy largely because it had, unusually among postcolonial countries, developed a well-organized dominant party that espoused an inclusive national narrative. Over time, this imperfect and improbable democracy based on universal franchise, the protection of key civil and political liberties, and institutional constraints on executive power not only endured but deepened: the dominance of its nationalist party, the Indian National Congress, has given away to a two-party system that institutionalized competition; regional movements representing lower-caste groupings have diversified the face of political life, representing what Christophe Jaffrelot has called a “silent revolution”; and even India’s darkest democratic hour to date—the 22-month Emergency in which Indira Gandhi’s government imprisoned political opposition, muzzled government dissent, and curtailed press freedoms—paid lip service to the ideals of secularism, and when elections were held, they ended in a resounding defeat for the incumbent government.

To be sure, the quality of this democracy was poor and brokered too

little genuine development. Yet while democracy is no guarantee of development, a wealth of evidence suggests that, on balance, democracies do better on not just economic growth,⁴⁵ but on translating that growth into the ultimate end of human development.⁴⁶ Such broad empirical patterns have been borne out in South Asia. Of her neighbors inheriting the same challenges of poverty, diversity, and centuries of colonial plunder, India does better than most of her neighbors on human development, outranking Pakistan, Nepal, and Myanmar.

Today, those comparative achievements are under threat. A new dominant party has arisen, one that is better organized at a grassroots level and that has amassed an extraordinary degree of wealth and social media influence. But most importantly, this movement has popularized a national narrative imagining India to be a Hindu nation that legitimizes minority marginalization, promotes public polarization, and centralizes a great degree of power in its prime minister. Through these mechanisms, India's democracy is declining.

NOTES

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2. Freedom in the World 2021, *Democracy Under Siege*, <https://freedomhouse.org/report/freedom-world/2021/democracy-under-siege>

3. Benedict Anderson, *Imagined Communities* (London: Verso, 1983).

4. Margaret Canovan, *Nationhood and Political Theory* (Cheltenham, UK: Edward Elgar, 1996).

5. Yogendra Yadav, "Speaking to the Voter: Finding a Space for Politics in India Post-Elections," part of an online discussion of "Making Sense of the 2019 Election." https://www.india-seminar.com/2019/720/720_discussion.htm

6. Maya Tudor, *The Promise of Power* (New York: Cambridge University Press, 2013), chapters 3 and 4.

7. David Anthony Low, ed., *Congress and the Raj: Facets of the Indian Struggle* (Oxford: Oxford University Press, 2016), details the regional variation in how this was done.

8. India's distinctive approach to secularism is beautifully distilled in Rajeev Bhargava, "What Is Indian Secularism and What Is It For?," *India Review* 1, no. 1 (January 2002).

9. Lisa Trivedi, "Visually Mapping the Nation: Swadeshi Politics in Nationalist India, 1920–1930," *Journal of Asian Studies* 62, no. 1 (Feb. 2003): 11–41.

10. Emm Tarlo, *Clothing Matters: Dress and Identity in India* (Chicago: University of Chicago Press, 1996).

11. Tudor, *Promise of Power*, chapter 5. Categorizing the organizational depth of India's nationalist movement as a political party is a relative endeavor. The strength

of India's Congress Party can be simultaneously described as robust (i.e., substantially present in rural areas though still built on the fundamental power of rural "big-men" who sat atop rural social and economic hierarchies) when compared to many anticolonial nationalist movements in sub-Saharan Africa and weak when compared to Communist parties, which both possessed unmediated ideological commitment and significantly more organizational depth.

12. Maya Tudor and Adam Zeigfeld, "Social Cleavages, Party Organization and the End of Single Party Dominance: Insights from India," *Comparative Politics* 51, no. 1 (October 2019): 149–88.

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Trends in Public Support for Democracy

Vinay Sitapati

India conducted elections in four states and one Union Territory in early 2021. At the time, the BJP was the dominant party nationally, having won two national elections under Modi, in 2014 and 2019, and at the time was running a majority of states. These regional elections should not normally have been seen as a referendum on the BJP, on Narendra Modi, or on Hindu nationalism. They were in regions far from the Hindi-speaking heartland that have proved Hindu nationalism's happy hunting grounds. More tellingly, in previous elections in three of these states (West Bengal, Kerala, Tamil Nadu) and one Union Territory (Puducherry), the BJP was not even the second largest party in terms of vote and seat share. The only state where the BJP was an incumbent was in Assam.

In the event, the BJP won Assam a second time, became part of the governing coalition in Puducherry, and momentarily increased its vote and seat share in West Bengal.¹ A simple analysis of the previous sentence would be that the BJP had managed to hold onto the areas won under Modi, though there continued to be regional frontiers to the spread of Hindu nationalism.

Democratic trends in India, however, will always defy such simple analysis. In part because of scale and heterogeneity, in part because democracy in India is so removed from the presumptions that underlie its workings in Western societies, even these recent elections reveal complex trends in Modi's India.

The first democratic trend is the centrality of elections to Indian public life. Voter turnout in these states was a bewildering 79 to 81 percent (in comparison, voter turnout over several US presidential elections has averaged under 60 percent).² This despite the shattering effects of the second wave of Covid in India at the time. Even the fear of mass death could not curb Indians from performing their electoral rituals.

This voter faith in elections was emulated by political parties, whose gusto in campaigning was undiminished by the looming specter of the Covid-19 pandemic. The BJP in particular devoted unprecedented time, money, and ferocity to attempting to win West Bengal—a state in which it had neither cadre nor contenders. Planning went back several years, and Narendra Modi and Amit Shah addressed a total of 110 rallies in the state.³ The emphasis on winning elections has always been central to Hindu nationalism, but the BJP in Bengal took it to new levels.⁴

If the vigor of voting was one democratic trend visible during these state elections, a second was the wobbliness of counter-majoritarian institutions. In the case of the West Bengal elections, it was the Election Commission whose reputation was damaged. Though the heads of the Election Commission are appointed by the central executive, it has, since the 1990s, developed a reputation of remaining free of that very central executive. But this independence was not evident in West Bengal. The state's chief minister, Mamata Banerjee, was banned from the campaign for 24 hours, while few BJP politicians were meted out the same treatment. The Election Commission also crafted a schedule of over eight phases of voting, a move that seemed convenient for the prime minister to campaign over a long duration.⁵

The failure of these counter-majoritarian institutions, however, did not affect the fairness and free-ness of elections. The eventual results seemed in line with the opinion and exit polls conducted by a plethora of polling organizations. There was also no evidence that the voting itself was tampered with. Most importantly, the fallout—where the BJP lost Bengal, remained a nonplayer in two other states, and became a junior partner in a third—showed that the BJP could be defeated, if confronted by a resilient opposition. One post-poll survey showed that local factors played a role more than national leadership or issues.⁶ Where the BJP did not have local leaders who were able to cater to local issues, it failed. The weakness of India's public institutions did not result in the upending of mandates.

The third trend in democracy visible in these five elections was the continuing appeal to ethnic group identities. The BJP's campaign strat-

egy relied on consolidating Hindu group identities. In doing so they were simultaneously “inclusive” on the basis of caste (i.e., they were able to attract both upper as well as lower caste Hindu groups) as well as “exclusive” on the basis of religion (i.e., few Muslims voted for the BJP). Take the BJP’s victory in the state of Assam, where a majority of Assamese voted not according to their tribe, region, or caste but according to their religion. Sixty-one percent of the state’s 31 million residents are Hindu, of whom 67 percent seem to have voted for the BJP alliance.⁷ In contrast, 81 percent of the state’s Muslims, who constitute 34 percent of Assam, voted for Congress.⁸ Popular satisfaction with the incumbent BJP played a role, but the dominant story seems to be the BJP’s ability to convince enough Hindus to vote as Hindus.

The same playbook failed in West Bengal, polls suggest, because Muslims as Muslims seem to have voted for Mamata Banerjee, while the state’s 56 percent Hindus were divided between both parties on grounds of class, regional identity, and gender. However, polls also suggest that the BJP appealed to Hindus from various castes, not just its traditional upper-caste base.⁹

What is as significant is that this recourse to Hindu group identities by the BJP was not opposed by liberal politics that placed an emphasis on the individual. In countering the BJP’s appeal to Hindu group identities, the anti-BJP parties appealed to regional, caste, and other religious identities. The trend in India that continued through these regional elections is of voters voting on the basis of ascriptive group identities rather than as individuals with interests.

The lessons from these state elections were representative of the democratic trends of the last few years in India. On the positive side, elections remain central to how Indians view the public sphere, and these elections remain free and fair. On the negative side, the health of counter-majoritarian institutions is poor, and politics—of both the BJP and the opposition parties—remains fixated on illiberal appeals to group identity. It is these trends that the rest of this chapter elaborates on.

Democracy, with Indian Characteristics

The word “democracy” has become so entrenched as a requirement for rulers that even its enemies ape its rites. North Korea might have the lowest level of democracy in the world, but that has not stopped its Constitution from defining the country as a “democracy.”¹⁰ On the other hand,

those with substantive definitions of “democracy” seem to conclude, for instance, that the federal peculiarities of the United States has meant that it cannot be classified as a democracy.¹¹

These differing conceptions of “democracy” find resonance in the scholarly literature.¹² Broadly speaking, this scholarship can be divided into two types: process-oriented and outcome-oriented. “Outcome-oriented” definitions focus on norms and ideals such as sovereignty, popular will, and individual consent.¹³ They also require certain substantive outcomes—health and education improvements, for example.

“Process-oriented” definitions of democracy focus on elections and constitutional procedure. The most influential iteration of such an “elections-focused” definition is by the Austrian economist Joseph Schumpeter, who defined the “democratic method” as “that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote.”¹⁴ Over time, the Schumpeterian definition has been thought to include the following ingredients: (1) elections where most of the adults can vote, (2) the ability of the opposition to contest for those votes, and (3) the winner of the election controlling most of the power in a country. Another “process-oriented” scholar, Robert Dahl, defined a “polyarchy” (the closest to the unattainable democratic ideal of “continuing responsiveness of the government to the preferences of its people”) as requiring freedom of speech, information, and association in addition to free and fair elections.¹⁵ Such a definition emphasizes elections, of course, but also requires other ingredients—such as a free media and the right to campaign—that allow the opposition a fair shot at power.

To illustrate how these definitions of democracy stack up against understanding Modi’s years in power, take the case of the Citizenship Amendment Act. The law says that for the purposes of granting citizenship in India, “the following minority groups will not be treated as illegal migrants: Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan.”¹⁶ Muslims are excluded on the grounds that since they are a majority in these countries, they would not have suffered religious discrimination. The law was passed by the Lok Sabha and the Rajya Sabha by an easy majority in 2019.¹⁷ The bill had been originally introduced in 2016, had always been part of the ideology of Hindu nationalism, and the legislators who passed the law had won their elections fair and square in the 2019 national elections (in the case of the Lok Sabha) or through elections by state legislators (in the case of the Rajya Sabha). The manners of democracy seem to have been followed.

On the other hand, critics argue that the real target of the law are not Muslims from outside India, but those living within. This suspicion stems from another law that the Modi government has said it will enact: a National Registry of Citizens. The effect of these two laws would be to spread panic among Muslim citizens of India; they will bear the burden of their citizenship always being suspect.

Such a law may seem iniquitous, but should it be considered “undemocratic”? This question is central to determining the nature of “democratic” trends in India in the last six years. The answer depends on whether the reader wishes to adopt an outcome- or process-oriented definition of democracy. An outcome-oriented definition of “democracy” might find that the law goes against the spirit of equal citizenship and minority protection. On the other hand, the elections-focused definition would argue that the law has been made by politicians elected through a transparent process, the opposition had every chance to make this an election issue (in the 2019 elections that preceded the enactment of the law), and the widespread protests against it—in Parliament, in the media, and on the streets—are all evidence that democratic freedoms still exist in India.

Since, therefore, any judgment on democratic trends in India under Modi is sensitive to the definition being deployed, this chapter uses three measures of “democracy.” The first is free and fair elections—at the heart of any process-oriented definition of democracy. The second is the health of counter-majoritarian institutions, and a third is individual rights. These last two speak to some of the substantive definitions of democracy (though not all), and are present in many of the global indexes, such as V-Dem, Freedom House Index, and the European Union’s Democracy Index. They also help make elections fairer, since counter-majoritarian institutions and civil liberties restrain the executive and allow the free flow of information and people, leveling the electoral field between incumbent and challenger.

Disaggregating these three trends has an added advantage. When voters are polled about their opinions on “democracy,” they often come with their own meanings. This is more so in India where 94 percent of the population doesn’t speak English,¹⁸ and Indian languages have a range of words for democracy, many with somewhat altered meanings.

Having defined “democracy” to include free and fair elections, but also the health of counter-majoritarian institutions and civil liberties, let us now look at what opinion surveys tell us about how Indians have viewed these three in the Modi era.

What Indians Think about Democracy

Let us begin by looking at opinion polls conducted by respected CSDS-Lokniti after the 2014 national elections where voter turnout, at 66.4 percent, was the highest ever.¹⁹ And let us then compare these results with the same poll conducted five years later, after the 2019 elections, where voter turnout, at 67.11 percent, was again the highest ever.²⁰

When asked if they had voted for the candidate they wanted, that is, a positive vote, rather than a negative vote to defeat the candidate they did not want, 87 percent said “yes” in 2014²¹ versus 85.5 percent in 2019.²² In both 2014 and 2019, the three major issues in the minds of voters were inflation, corruption, and lack of development. In 2014, the BJP was by far the party most likely to raise “issues and problems” the voter considered important; in 2019, the question was: in the six months preceding the elections, which party’s worker visited the voter every few days.²³ The BJP was the uppermost with 36.1 percent.

Perhaps the most important question when it came to notions of democracy, however, was when voters were asked whether, “in a democracy, the will of the majority community should prevail”? Of those asked in 2014, 49.6 percent strongly or somewhat agreed with this statement. Just 21.7 percent strongly or somewhat disagreed (the rest did not respond).²⁴ In 2019—after five years of Narendra Modi—those who saw democracy thus remained unchanged, at 49.4 percent.²⁵ Those who disagreed had increased, to 29.6 percent. More than any other poll finding, this reveals a basic fact about how Indians view democracy: not as requiring counter-majoritarian institutions or civil liberties, but simply as rule by majority.

This trend is also reflected in another set of polls, conducted by Pew Research in India in 2015, 2017, and again in 2019. They found that when it comes to elections, most Indians seemed to be satisfied. While in 2015, 49 percent said that voting gave them a say, that number went up to 78 percent in 2019.²⁶ The only decline was that 79 percent were satisfied with democracy in 2017, while in 2019, the percentage was 54.²⁷ That is still a majority.

What is revealing is that this faith in democracy has gone hand in hand with cynicism about counter-majoritarian institutions. Only 58 percent in 2019 believed in the importance of a fair judiciary.²⁸ This was the lowest among all the 34 countries that Pew had polled. A minority believed that human rights groups (35 percent) and opposition parties (37 percent) could operate freely.²⁹ The numbers were as low when it came to issues of civil liberties; less than 40 percent of those polled believed that free speech, media, and internet freedom existed in India.³⁰

These assessments of Indians on the state of their own public institutions and civil liberties are mirrored in the various international indexes that have concluded that democracy has declined in Modi's India. In 2021, Freedom House Index downgraded India's "democratic" ranking from "free" to "partly free" for the first time since the Emergency. It cited civil liberties, lack of government transparency, and the citizenship law.³¹ In the same year, V-Dem lowered India's democratic ranking from an "electoral democracy" to an "electoral autocracy."³² In the Democracy Index, published by the Economist Intelligence Unit, India slipped from 51 to 53, for reasons to do with attacks on journalists and pressure on human rights groups. India was now categorized as a "flawed democracy."³³

It is not as if Indians disagree with the factual basis for these downgrades; their own views on civil liberties and public institutions under Modi seem to mirror these changes. It is just that they do not seem to think that these downgrades relate to what they consider to be democracy. As the opinion polls have shown, for a vast number of Indians, the popular definition of "democracy" is more process- than outcome-oriented. It is free elections with majority rule: nothing more, nothing less.

A History of Elections, Institutions, and Individualism in India

To understand why Indians seem to have such high regard for elections but not for public institutions and individual rights, a short history of democracy in India is due. The three ingredients of democracy we are considering here—elections, institutions, individual rights—came to India in a partial way during British rule, and in a more complete manner after Independence in 1947. There is some scholarly debate about why democracy in India has endured. In his essay on "How and Why Liberal and Representative Politics Emerged in India," James Manor credits the role of the Hindu social structure, the character of British rule and the national movement, and the role of the Indian National Congress in integrating the state order with the agrarian order.³⁴ Pratap Bhanu Mehta points to features within Hinduism—such as its plurality, separation of church and state, and lack of an authoritative text or institution—that entrenched democracy in India.³⁵ In her comparison of the differing democratic trajectories of India and Pakistan, Maya Tudor looks to the multiclass, programmatic, and ideological nature of the pre-Independence Indian National Congress.³⁶

These arguments on democratic endurance seem to focus on the process-oriented definitions of democracy, rather than the health of insti-

tutions or civil liberties. And so, it is worth separately studying, first the arc of elections in India, followed by the trajectory of counter-majoritarian institutions and individual rights.

Prior to British rule, there was no history of elections in India. The first elections were introduced in the late 19th century by the colonial administration. These were limited—by geography, voters, and number of seats to be elected—and were motivated by two reasons. The first was that the Revolt of 1857 had caught the British unawares, and (limited) elections were seen as a safety valve through which the British could gauge Indian anger before it exploded. Another reason was the growth of liberal politics in Britain, and some need to justify colonial rule in India under liberal auspices.³⁷

But right from the beginning, these elections were not defined by respect for Indians as individuals. The political assumption in the West for giving the vote to a single adult was the social assumption that the individual was also a discrete social and economic unit. While this might never have completely been the case in the West, it was never even the assumption in India.

As elections began to expand in India—through the Minto-Morley Reforms of 1909, and then the Montagu Chelmsford Reforms of 1919—what is noteworthy is how nonliberal, that is, non-individualist, these elections were. Separate electorates for Muslims (i.e., only Muslims voting for Muslim candidates) were introduced in 1909, and later elections provided group representations for a variety of Indian castes and communities. Right from the beginning, the British shied away from the principle that Indians were individuals and India one political community. Their idea of elections in India presumed groups voting as groups in a country that was not a single nation but a menagerie of communities.

This British divide-and-rule policy was not entirely of their own making. As elections took root in India, various social groups—caste, religious, regional—began to see elections, their threats and opportunities, not through the lens of individualism, but through the prism of group numbers. Two examples illustrate this trend.

The creation of the Muslim League in 1906 was itself a response to the onset of elections in British India. The aristocrats who created the League realized that as power began to be determined by numbers, Muslims of the subcontinent—numbering 25 percent of British India—would be reduced to a permanent minority by the Hindu majority. While their demand for parity between Hindus and Muslims as communities (ensuring that three Hindu votes equaled one Muslim vote) was not granted by the British,

what the British did allow was separate electorates. As an early Hindu nationalist, Lala Lajpat Rai, presciently argued that “once you accept communal representation with separate electorates, there is no chance of it being abolished without a civil war.”³⁸

If this anxiety underlined the response of the Muslim intelligentsia to the onset of elections, Hindu nationalists saw elections as an opportunity. This was because Hindus were a numeric majority and could therefore benefit from a system of power that rewarded group size. But it was also because traditional Hinduism had no authoritative notion of a “Hindu” state that could pose a counter to electoral democracy. I have argued this in much detail in my recent book on the history of Hindu nationalism before Modi.³⁹

This constitutive role the opportunities thrown up by elections has played in the very *creation* of Hindu nationalism from the 1920s onwards is critical to understand why today’s BJP places so much emphasis on winning elections. It also explains why Hindu nationalism sees one person, one vote as a way of harnessing a social majority rather than as an exercise of an individual right. More generally, the adaptation of the logic of individual voting to the reality of group identities shows why elections have become so entrenched in India. Barring one occasion (the Emergency, from 1975 to 1977) elections have never been suspended in India, in stark contrast to India’s neighbors. The Western principle of one person, one vote has struck roots in India precisely because it has been adapted to the actualities of group characteristics.

This rootedness of elections in Indian soil stands in contrast to the rootlessness of counter-majoritarian institutions and civil liberties. Like with elections, India’s public institutions such as the media, modern judiciary, and civil service came about during British rule, and at the elite levels were relative independent and functioning.⁴⁰ But these institutions were never designed to reflect popular legitimacy; to the contrary, they were designed to protect colonial power in contravention of the mores of Indian society. For it was a widespread argument of the colonialists that Western-style democracy was an alien concept to India, and that individual liberty and public institutions required foreign patronage to grow in these inhospitable climes.

What is noteworthy is that these prejudices about Indian customs were shared by the founders of post-Independence India. Madhav Khosla has shown that the framers of the Indian Constitution—the Jawaharlal Nehrus and the B. R. Ambedkars—shared the British view that modern liberal democracy was alien to Indian society.⁴¹ Their solution was to use the Constitution to transform Indians to be more respectful of liberal democracy in

three ways: by the act of constitution writing itself, through a centralized state, and through the codification of individual rights.⁴²

It should therefore be no surprise that the Constitution's self-consciously elite promise of individual rights and institutions that limited executive power washed against the shores of Indian reality. This can be seen from the debates around the First Amendment to the Indian Constitution, enacted barely a year after the Constitution. It is also evidence in the dismissal of the Communist state government in Kerala in 1959.⁴³ These instances show that even in those early Nehruvian years, civil liberties and institutional independence did not take root in India. That they were nonetheless seen as an ideal to be aspired toward in those early years of the republic drew from Nehru's personal beliefs and the unchallenged hegemony of the Congress. But there is little evidence that these institutions were popular among ordinary Indians at the time.

This became glaringly apparent during the tenure of Indira Gandhi (from 1965 onwards). She neither shared her father's definition of democracy, nor did she inherit a Congress that could take its dominance for granted. Scholars such as Atul Kohli have spoken about the deinstitutionalization—of party, judiciary, bureaucracy, and media—during this period.⁴⁴ And of course, the Emergency saw the decline of civil liberties. But what is noteworthy is that Indira Gandhi's own political calculation was that the curbs on individual freedom and institutions were superfluous to the real demands of her voters. At the very least, their passing would not be electorally mourned.

This has also been the assumption of India's political leaders since Indira Gandhi, and it points to a very different explanation for the occasional bouts of good health of these institutions since. When politicians are powerful (as Rajiv Gandhi was from 1984 to 1989) public institutions suffer; when the executive is weighed down by internal division or coalition requirements, there is breathing room for these institutions.

In their analysis of the power of the Election Commission, for instance, the scholars Amit Ahuja and Susan Ostermann saw "a weakened executive and a more competitive party system" in India between 1989 and 2014 as allowing the space for "entrepreneurial bureaucrats" within the Election Commission to bargain for more independence.⁴⁵ The same can be said of the Indian Supreme Court, which entrenched many of its powers under a divided executive from the late 1970s onwards.

These are two counter-majoritarian institutions whose powers have been inverse to that of the central government. But the same can be said of

the media, federalism, and civil society organizations. The constitutional project of reshaping Indians to not just support elections, but also counter-majoritarian institutions and civil liberties, has depended on political contingencies rather than popular support. Regardless of what scholars have wished for or the Constitution decreed, democracy with Indian characteristics has meant rule by majority. Nothing more, nothing less.

Democracy, Modi Style

In their introduction to this volume, the editors have listed ways in which the Modi government has centralized power away from public institutions, such as the Supreme Court, Election Commission, the national media, and the bureaucracy. This is also true of threats to civil liberties, from jailing dissidents to intimidating opposition politicians with the might of India's investigative agencies.

But what must also be mentioned is how little the Modi government's curbing of these institutions and liberties seems to have affected his popularity. To take but one example: India's Election Commission is run by a chief election commissioner and two election commissioners. During the 2019 national elections, one of the election commissioners, Ashoka Lavasa, dissented from his Election Commission's refusal to act on allegations that Narendra Modi and Amit Shah violated the election code of conduct.⁴⁶ Soon after, central agencies began investigating Ashok Lavasa's family members for income tax violations.⁴⁷ Lavasa got the message, resigned, and left the country.⁴⁸ The voters, however, have not gotten the message. There has been no public demonstration, no public protests, and no electoral pushback.

This lack of popular response tallies with the results of the opinion polls that we studied earlier. Few Indians see the independence of public institutions as critical to their perception of democracy. Indeed, it can even be argued, Modi's core voters see his trampling of public institutions and the arrest of those deemed "antinational" as valuable acts in themselves. And Modi's repeated use of religion—both to unify Hindus and exclude Muslims—is the explicit fuel behind the BJP's unprecedented electoral successes in these last seven years.

And what a success it has been. The BJP-led alliance won the 2014 elections with 31 percent of the vote share and 51.9 percent of seats.⁴⁹ In 2019, it increased its vote share to 37.7 percent and seat share to 55.8 per-

cent.⁵⁰ Even greater than this popularity of the BJP has been the personal popularity of Narendra Modi.⁵¹ The headline democratic trend during the Modi years has been that this unprecedented success in national and state elections is *despite, and perhaps even because of*, its critique of individual freedoms and counter-majoritarian institutions.

A Way Forward for Indian Democracy

In this chapter, I have focused on three trends in Indian democracy in the Modi years: free and fair elections, counter-majoritarian institutions, and civil liberties. Regarding the latter two, I agree with the editors of this volume that this is troubling. But I must add two caveats. First, while exclusive toward Muslims, the BJP has created a rainbow coalition of Hindu castes, including those that are historically marginalized. The BJP's politics—driven by the electoral need to cobble up majorities—is both progressive (toward lower castes) and regressive toward religious minorities. Second, and more importantly, I have shown that neither the Indian voter nor politicians have historically placed much value on counter-majoritarian institutions or individual rights. Periods of post-Independence Indian history where counter-majoritarian institutions have been strong can either be explained by historical contingency (during the Nehru era) or on weak coalition-driven governments that have provided space for these institutions to breathe.

Where the Narendra Modi era presents a puzzling democratic trend is that the primary ingredient of democracy—elections—remains vibrant. In terms of demand, Indians continue to place faith in elections and vote in high numbers. In terms of supply, elections in India remain free and fair. A compliant Election Commission, the harassment of opposition politicians, and the use of money power does unlevel the playing field, but it does so only on the margins. Broadly speaking, Modi wins because he is well liked, and has lost state elections when other parties have proven more popular.

To conclude: two trends have defined democracy in India in the last decade. First: a continuing faith in elections—both by the ruling party and by the voter; a faith that has gone alongside the extraordinary personal popularity of Narendra Modi. And second, the diminishing of civil liberties and independent institutions. The puzzle is that these seem two sides of the same coin. As democratic participation has deepened in India, so has popular comfort with centralized power and group identities.

NOTES

1. This is compared to the previous assembly elections, where the BJP went from zero seats and a 4 percent vote share in the 2011 Assembly elections to three seats and a 10 percent vote share in 2016 to 77 seats and a 38.13 percent vote share—an increase of 28 percent. See <https://timesofindia.indiatimes.com/india/west-bengal-election-result-2021-bjp-lost-but-made-these-impressive-gains/articleshow/82369089.cms>

2. <https://www.thehindu.com/data/assembly-elections-2021-voter-turnout-loser-in-90-of-seats-compared-to-2016/article34282204.ece>

<https://www.pewresearch.org/fact-tank/2020/11/03/in-past-elections-u-s-trail-ed-most-developed-countries-in-voter-turnout/>

3. <https://www.sundayguardianlive.com/news/bjp-fought-bengal-polls-full-might>

4. This is one of the central arguments of my recent book on the history Hindu nationalism before Modi. See Vinay Sitapati, *Jugalbandi: The BJP before Modi* (New Delhi: Penguin Random House, 2020). Available in the UK and US as *India before Modi: How the BJP Came to Power* (London: Hurst, 2021).

5. <https://www.freepressjournal.in/mumbai/direct-attack-on-democracy-sanjay-raut-slams-ec-for-ban-on-mamata-banerjee> <https://caravanmagazine.in/politics/why-election-commission-neutrality-doubt>

6. <https://www.thehindu.com/opinion/op-ed/local-factors-determine-electoral-outcomes-in-states/article34475075.ece>

7. <https://www.thehindu.com/elections/assam-assembly/hindu-consolidation-pays-off-for-bjp/article34509288.ece>

8. <https://www.thehindu.com/elections/assam-assembly/hindu-consolidation-pays-off-for-bjp/article34509288.ece>

9. See CSDS election surveys on the Bengal and Assam elections. For the caste composition of BJP voters in Bengal, see <https://www.thehindu.com/elections/west-bengal-assembly/csds-lokniti-survey-finds-whether-subaltern-hindutva-is-on-the-wane/article34494129.ece>. For the pan-Hindu consolidation in Assam, see <https://www.thehindu.com/elections/assam-assembly/hindu-consolidation-pays-off-for-bjp/article34509288.ece>

10. Constitution of North Korea: https://www.constituteproject.org/constitution/Peoples_Republic_of_Korea_1998.pdf

11. The fact that America's federal structure allocates differential voting power in the presidential and Senate elections based on geography is held to be "undemocratic." See this argument, for example: <https://www.zinnedproject.org/if-we-knew-our-history/us-is-not-a-democracy/>

12. For a variety of discussions on the definitions of democracy, see Mark E. Warren, ed., *Democracy and Trust* (Cambridge: Cambridge University Press, 1999); Tatu Vanhanen, *Prospects of Democracy: A Study of 172 Countries* (London: Routledge, 1997); Georg Sørensen, *Democracy and Democratization: Processes and Prospects in a Changing World* (Boulder: Westview, 1998); Philippe C. Schmitter and Terry Lynn Karl, "What Democracy Is . . . and Is Not," *Journal of Democracy* 2 (1991): 77–88; Adam Przeworski, Michael Alvarez, José Antonio Cheibub, and Fernando Limongi, *Democracy and Development: Political Institutions and Well-Being in the World, 1950–1990* (Cambridge: Cambridge University Press, 2000).

13. Paul Spicker, "Government for the People: The Substantive Elements of Democracy," *International Journal of Social Welfare* 17, no. 3 (2008): 251.
14. Johnne Elliot, "Joseph A. Schumpeter and the Theory of Democracy," *Review of Social Economy* 52, no. 4 (1994): 280–300.
15. For an influential summary of Dahl's writings, see George Van Der Muhll, "Robert A. Dahl and the Study of Contemporary Democracy: A Review Essay," *American Political Science Review* 71 (September 1977): 1070–96.
16. Summary by PRS Legislative Research: <https://prsindia.org/billtrack/the-citizenship-amendment-bill-2016>
17. <https://prsindia.org/billtrack/the-citizenship-amendment-bill-2019>
18. See this survey: <https://www.livemint.com/news/india/in-india-who-speaks-in-english-and-where-1557814101428.html>
19. Method Note 2014, CSDS survey: https://www.lokniti.org/media/PDF-upload/1536217466_27421200_method_pdf_file.pdf
20. Method Note 2019, CSDS: https://www.lokniti.org/media/PDF-upload/1565073104_34386100_method_pdf_file.pdf
21. Page 3 of https://www.lokniti.org/media/PDF-upload/1536130357_23397100_download_report.pdf
22. Page 10 of https://www.lokniti.org/media/PDF-upload/1579771857_30685900_download_report.pdf
23. Page 6 of https://www.lokniti.org/media/PDF-upload/1536130357_23397100_download_report.pdf
24. https://www.lokniti.org/media/PDF-upload/1536130357_23397100_download_report.pdf
25. https://www.lokniti.org/media/PDF-upload/1579771857_30685900_download_report.pdf
26. <https://www.pewresearch.org/global/2015/11/20/2015-democracy-survey-presentation/>
27. <https://www.pewresearch.org/global/2019/03/25/a-sampling-of-public-opinion-in-india/>
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34. James Manor, "How and Why Liberal and Representative Politics Emerged in India," *Political Studies* 38, no. 1 (1990): 20–38.
35. Pratap Bhanu Mehta, "Hinduism and Self-Rule," *Journal of Democracy* 15, no. 3 (July 22, 2004): 108–21.
36. Maya Tudor, *The Promise of Power: The Origins of Democracy in India and Autocracy in Pakistan* (Cambridge: Cambridge University Press, 2017).
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38. Madhav Khosla, *India’s Founding Moment: The Constitution of a Most Surprising Democracy* (Cambridge, MA: Harvard University Press, 2020), 130, footnote 139.

39. See chapter titled “Hindu Fevicol” in Sitapati, *Jugalbandi*.

40. For example, see Atul Kohli, *State-Directed Development* (Cambridge: Cambridge University Press, 2004).

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42. Khosla, *India’s Founding Moment*.

43. The introduction cites Nehru’s decision to dismiss the democratically elected government in Kerala. See Robin Jeffrey, “Jawaharlal Nehru and the Smoking Gun: Who Pulled the Trigger on Kerala’s Communist Government in 1959?,” *Journal of Commonwealth and Comparative Politics* 29, no. 1 (1991): 72–85. Tripur Daman Singh, *Sixteen Stormy Days: The Story of the First Amendment of the Constitution of India* (New York: Vintage Books, 2020).

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46. <https://theprint.in/india/left-irrelevant-meaningless-in-poll-panel-meets-dissenting-ec-ashok-lavasa-tells-cec/237018/>

47. <https://timesofindia.indiatimes.com/india/times-face-off-has-the-election-commissions-independence-been-diluted/articleshow/82206995.cms>

48. <https://indianexpress.com/article/india/ashok-lavasa-resigns-as-election-commissioner-6559722/>

49. <https://eci.gov.in/files/file/2432-partywise-performance-list-of-party-participated/>

50. <https://eci.gov.in/files/file/10955-20-performance-of-national-parties/>

51. The various surveys are given below, and show that Modi remains popular in 2014, 2016, 2017, and 2020:

<https://www.indiatoday.in/mood-of-the-nation/story/74-of-india-still-with-namo-hindutva-agenda-finds-more-takers-motn-poll-1761472-2021-01-21>

<https://economictimes.indiatimes.com/news/politics-and-nation/modi-2-0-100-days-what-india-is-saying-online/articleshow/70927037.cms>

<https://www.pewresearch.org/global/2017/11/15/india-modi-remains-very-popular-three-years-in/> (2017)

<https://timesofindia.indiatimes.com/modi-government/news/modi-govt-gets-high-approval-rating-at-three-year-mark-in-toi-online-poll/articleshow/58808743.cms>

<https://www.pewresearch.org/global/2016/09/19/india-and-modi-the-honeymoon-continues/> (2016)

<https://www.pewresearch.org/global/2014/02/26/indians-want-political-change/> (2014)

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PART II

The State

Federalism and Center-State Relations

Kanta Murali

There is growing evidence that India under Narendra Modi and the BJP has been moving steadily toward competitive authoritarianism.¹ Even during Modi's first term in office, vigilante violence targeting Muslims, unprecedented bigotry and intolerance in public discourse, the steady erosion of civil liberties under the guise of national security, and growing interference in institutions were all clearly evident. The erosion of democracy has accelerated rapidly since 2019 when Modi and the BJP won a second consecutive parliamentary majority. Since then, the Modi government has pursued an even more virulent and polarizing brand of Hindu majoritarianism; this has been evident in policies such as the passage of the Citizenship Amendment Act, the abolition of Article 370 in Kashmir, and continued arrests of activists under the Unlawful Activities Prevention Act. Minorities live in a climate of fear, the space for dissent has shrunk alarmingly, institutions have been taken over, and there has been a substantial assault on democratic norms. These unsavory trends have been accompanied by the BJP's steady consolidation of electoral power, bucking a trend of political fragmentation and regionalization that characterized the Indian political landscape through the 1990s and 2000s.

India's political regime at the current moment presents a bleak picture. Given this broader context, one key question emerges. What forces might potentially act as a check on India's slide toward competitive authoritarianism? Specifically, this chapter examines federalism in India in light of that

broader concern and it addresses the following questions. How has the interaction of federalism and democracy evolved over time in India? Can federalism act as a check on India's current political trends?

This chapter highlights the fact that the dialectic of centralization and decentralization has been a long-running theme in Indian federalism. In formal terms, the constitutional design of Indian federalism has numerous features that tilt the balance of power firmly to the center over the states. Yet the nature and practice of Indian federalism in different periods has diverged from the direction inherent in constitutional provisions; in some periods, center-state relations were more decentralized or centralized than the formal design of federalism would indicate. Whether Indian federalism assumed a more centralized or decentralized character has, in turn, been critically dependent on three contextual factors, namely the nature of electoral competition, the ideology of the ruling party at the center, and the nature of leadership and norms at the center. Specifically, the extent of party system fragmentation, whether the ruling party has a centralizing ideology, and whether the national leadership is accommodating all affect the practice of federalism.

In the case of the current regime, the BJP's electoral domination at the national level, its majoritarian ideology, and Modi's centralizing style of governance, personalization of power, and disregard of democratic norms all enhance the inherent centripetal tendencies of Indian federalism. The practice of federalism since 2014 is consistent with the overall trend of democratic erosion. In and of themselves, constitutional mechanisms of federalism are biased toward the center and cannot act as a check on India's slide toward competitive authoritarianism. One likely avenue for change is electoral competition. In particular, if regional parties are able to mount a greater electoral challenge to the BJP, they are likely to regain some of the leverage they had between 1989 and 2014 and counter India's shift toward a top-down polity. The conclusions in this chapter are not original; they draw on and are broadly consistent with recent studies of center-state relations including those of Yamini Aiyar and Louise Tillin,² Tillin,³ Chanchal Sharma and Wilfried Swenden,⁴ and Katherine Adeney and Harihar Bhattacharya.⁵ Earlier studies of center-state relations such as James Manor,⁶ Jyotirindra Dasgupta,⁷ Atul Kohli,⁸ and Lloyd Rudolph and Susanne Rudolph⁹ also inform the analysis here.

The chapter is organized as follows. The chapter briefly discusses the key elements in the constitutional design of federalism in India. It then makes a distinction between the practice of federalism and its formal design and identifies three contextual factors that affect the practice of federalism.

Then it offers a historical overview of the practice of federalism in key periods between 1947 and 2014. After focusing on federalism under Modi and the BJP since 2014, the chapter concludes by discussing the prospects of Indian federalism in the context of India's democratic decline.

The Design of Indian Federalism

As almost all commentary on the subject recognizes, the constitutional design of Indian federalism imparts a clearly centralizing quality that is more reminiscent of unitary systems; various constitutional mechanisms tilt the balance between central and regional power firmly toward the center. As a background, this section first provides a brief overview of some key aspects of India's formal federal design. In particular, three aspects are highlighted—India as an example of a “hold together” and “demos-enabling” federal system in Alfred Stepan's terminology,¹⁰ the asymmetric nature of Indian federalism, and the balance of constitutional power between the center and states.

Historical circumstances and elite norms played a critical role in shaping India's federal design. Among other factors, the Indian nationalist movement and the traumas of partition influenced federal design in India.¹¹ Jyotirindra Dasgupta also suggests that India's federal design was also reflective of a set of elite norms—one that privileged national unity but simultaneously recognized the need for accommodating regional diversity. This federal sensitivity along with the goal of national unity, the fear of fissiparous tendencies, and the necessity of economic transformation are central to understanding constitutional choices surrounding federalism. Incidentally, Dasgupta notes that the framers of the Indian Constitution eschewed the use of the term “federal” in the Constitution since India was not the result of an agreement between states with prior sovereignty. Rather, Indian federal design was a project to ensure reasonable national agreement across regions to support a durable political order. As such, Tilly notes that India's federal design is best seen as an original model, which is centralized yet includes a degree of interdependence between the center and the states.¹²

According to Stepan, India is a “hold-together” and “demos-enabling” type of federal system.¹³ A hold-together type of federalism is one that arises because political leaders decide that the only way to hold their country together was to devolve power constitutionally and turn their polities into federations. This is in contrast to “coming-together” models, where

the formation of a federation resulted from a bargain where previously sovereign polities give up part of their sovereignty to pool resources and achieve common goals.

Further, in Stepan's classification, India is a "demos-enabling" federation rather than a "demos-constraining" one. In demos-constraining federations such as the United States, a number of institutional mechanisms protect individual rights against encroachment by the central government and the power of national majorities. On the other hand, demos-enabling federations such as India have weaker institutional mechanisms for territorial representation and weaker checks to protect individual rights against the power of national majorities. However, this has allowed greater flexibility in accommodating regional demands or achieving national-level policy changes.¹⁴

The hold-together nature of Indian federalism is related to a second aspect of design—the asymmetric provisions of federalism included in the Indian Constitution. In particular, the Indian Constitution grants two types of differential rights to some states compared with others—those that permit greater autonomy or are aimed at ethnic conflict resolution, and those that are aimed at mitigating inequalities.¹⁵ Examples of the first type include Article 370 relating to Jammu and Kashmir, which was repealed by the Modi government in 2019. Article 370 granted differential status to Kashmir and allowed the state a degree of autonomy that was distinct from other states. This arose as a result of the historical circumstances under which Jammu and Kashmir's accession to the Indian Union took place in 1947.¹⁶ Provisions of Article 371A for Nagaland and 371G for Mizoram similarly allow for differential autonomy to these states and were part of the process of ethnic conflict resolution. Various clauses of Article 371 pertaining to states such as Maharashtra, Gujarat, Andhra Pradesh, and Karnataka were included in the Constitution to mitigate inter- or intra-state inequality. These include positive discrimination measures in relation to public employment and education. While noting that India's record of ethnic accommodation contains notable blemishes, several scholars point to the role of asymmetric provisions in explaining India's successful record of managing diversity along some dimensions such as language.¹⁷

While asymmetric arrangements accord some flexibility, there are numerous constitutional provisions that tilt the balance of power clearly toward the central government over the states. One key example is Article 356 of the Constitution, which allows for the imposition of president's rule and the dismissal of an elected government at the state level in cases where it is deemed that the state government cannot govern in "accordance with

the provisions of the Constitution.” Similarly, the distribution of legislative powers points to the primacy of the center over the states. As Mahendra Singh notes, not only are the number of subjects on the Union list (where jurisdiction is the sole purview of the center) more extensive than on the State list (where states have exclusive jurisdiction), the legislative powers assigned by the Constitution to the Union supersede those assigned to states in numerous ways.¹⁸ Another important example of the Constitution’s centripetal tilt is in the allocation of fiscal powers; some of the most significant taxes, such as those on income and wealth from nonagricultural sources and the corporation tax, fall under the purview of the center. Since the states have extensive responsibilities, especially in relation to social and human development, the Constitution, however, recognized the need for financial transfers from the center to the states through the Finance Commission, Centrally Sponsored Schemes and Projects, and the Planning Commission; as will be discussed later, the latter was disbanded in 2014.

The centripetal tendencies of the constitutional provisions of federalism are also reflected in the weakly institutionalized nature of territorial representation. The Rajya Sabha generally has fewer legislative powers, especially in the domain of finance. Parliament also has the power to change state borders unilaterally without any type of state-level referendum.

The Practice of Indian Federalism: The Role of Three Contextual Factors

Despite the inherent centralizing design of the Indian Constitution, it is widely recognized that the actual practice of federalism is influenced by contextual factors. Therefore, it is critical to make a distinction between formal constitutional design and the actual practice of federalism.¹⁹ In particular, three contextual factors matter—the nature of electoral competition, the ideology of the ruling party at the center, and the nature of leadership. It is only by comparing formal design with these contextual variables that an overall evaluation of the practice of federalism can be made. It should be mentioned that the three contextual factors are related to each other and interact with each other.

The first contextual element that affects center-state is the nature of electoral competition.²⁰ Electoral competition matters in different ways. The extent of party system fragmentation at the center influences federalism. Lower levels of fragmentation imply greater consolidation of power at the center, and this allows the party in power to control the national

agenda. Additionally, the strength of regional parties in Parliament affects the extent of decentralization. The greater strength of regional parties allows state-level interests to be represented more strongly at the center, augments the autonomy of states vis-à-vis the center, and acts as a counter to the centralizing tendencies of federal design. The extent to which there is an overlap between the party in power at the center and in states also matters significantly. Greater congruence of partisan identity between central and state governments results in fewer veto players who can counter the implementation of the national ruling party's agenda. As Aiyar and Tilin point out, greater congruence in partisan identity also makes internal party organization a key vehicle for center-state dialogue.²¹

A second key factor that influences the practice of federalism is the ideology of the ruling party at the center.²² Ideology can be distinguished along two dimensions—economic and political. A more centralizing political ideology such as Hindu nationalism is closely aligned with a unitary rather than federal vision of the state.²³ Further, a centralized political ideology is likely to undermine the willingness of the center to accommodate ethnic diversity.²⁴ In contrast, a plural ideology favors accommodation and enhances the prospects for a more cooperative type of federalism. In addition, economic ideology and framework matter. For example, the era of planning and state direction was fundamentally more centralized than the period of economic liberalization. As will be discussed later in the chapter, there is also variation in the extent of centralization even within the period of economic liberalization.

A third contextual factor—the nature of leadership and elite norms—has been shown to matter significantly in the management of ethnic conflict in India.²⁵ The centrality of political bargaining is highlighted in these studies. As with party ideology, whether the leadership was accommodating or not matters in arriving at bargains. A more centralized leadership style in terms of decision-making and administration can also result in interference with state interests and state-level politics and affect the management of ethnic conflict.

A Historical Overview of the Practice of Federalism, 1947–2014

The practice of federalism then is critically determined by contextual factors. With a focus on electoral competition, party ideology, and the nature of the leadership, this section provides a brief overview of the politics of center-state relations in three periods—under Nehru, under Indira Gan-

dhi, and between 1991 and 2014. What is evident in these three periods is that the practice of federalism in India has fluctuated between being more centralized than its formal design in some periods while being more decentralized than the design in others. While the center clearly played the upper hand under Nehru, his leadership style and norms, the nature of the Congress, and the dominant Congress ideology all allowed for more collaborative center-state relations. Nehru's leadership style and norms especially stood in stark contrast to Indira Gandhi. Indian federalism during Indira Gandhi's time was heavily centralized; the nature of leadership, ideology, and party competition all enhanced the centripetal tendencies inherent in the Indian Constitution. The third period examined in this section between 1989 and 2014 shows notable differences compared with the earlier ones. In particular, both economic and political changes resulted in federalism having a much more decentralized quality; there was a marked increase in the leverage and autonomy of the states. Interstate economic competition and interstate inequalities also came to the fore in this period.

Center-State Relations under Nehru

As has been widely covered in the scholarship, the vision of the Indian state under Nehru emphasized large-scale social and economic transformation through purposive state action.²⁶ As such, the center was envisioned as a dominant part of the apparatus of nation and state-building, and of economic development. In addition, the Congress, which had transitioned relatively seamlessly from nationalist movement to ruling party, was critical to the authority structure that linked citizens to the state. While Nehru himself enjoyed enormous legitimacy and his authority was never openly contested, the latter was nevertheless always constrained, especially by conservatives within the Congress and by regional interests.²⁷ Nehru was a committed democrat and it is noteworthy that Indian democracy consolidated under him, belying numerous predictions that it was unlikely to survive in the midst of its predominantly poor and illiterate population. At the same time, Indian democracy was elite-centric and limited in terms of mass mobilization and the autonomous participation of marginalized groups.

Aside from these factors, Indian electoral politics under Nehru influenced the practice of federalism. First, though elections were competitive, especially at the regional level, the Congress was hegemonic at both the national and state levels. This remained the case until 1967. Second, the organization, methods, and authority links within the "Congress system" were relatively unique.²⁸ The Congress had an organizational chain that

stretched from the village to the national level, and it relied considerably on the authority of intermediaries and “big men” at the local level.²⁹ In turn, patronage was the key currency connecting the various levels of organization. Local intermediaries mobilized electoral support from marginalized groups below them in exchange for offices, jobs, and public resources from the Congress. The Congress's dependence on local intermediaries also meant that local power acted as a constraint to central ambitions; agrarian relations and land reform were areas where local power played such a role.³⁰

Third, one of the predominant characteristics of the Congress system, which has key implications for the pattern of federalism, was that it was a party of factions. Different regional and ideological interests were housed within the Congress. Moreover, the Congress also became critical in co-opting local and regional leaders into the national power structure. Differences were worked out internally through bargaining and through patronage. As such, internal party organization became a central vehicle for center-state bargaining and federal relations. The Congress was a party of factions but also one of consensus. The presence of factions meant the mainstream ideology of the Congress was consensual and accommodative, and factions also provided checks and balances on overreach by a single leader or group.³¹

In terms of the second contextual variable—ideology—the Congress housed numerous strains within its fold, except for the extreme right and left. The dominant ideological make-up of the party at the national level, however, had a strong and clear imprint of Nehru. On the economic side, India's reliance on central planning and state control of the private sector meant that New Delhi was the dominant player in decision-making. On the political side, Nehru's secular and pluralist conception of “unity in diversity” as well as his emphasis on a strong center formed the core philosophy of the party. This ideology was consistent with both the consensual nature of the Congress and with a third contextual feature: the nature of Nehru's leadership.

In terms of his leadership style, Paul Brass³² and Francine Frankel³³ emphasize Nehru's politics of accommodation while Kohli³⁴ points out that dominant political elites at the time took a reconciliatory approach to competing elites. This politics of accommodation is most clearly evident in Nehru's management of linguistic demands. Fearing that such demands would result in India's break-up, he initially opposed linguistic mobilization. However, he relented and changed course after the agitation for the

creation of a separate Telugu-speaking state gained momentum in 1952. The linguistic reorganization of states subsequently took place.

Nehru's norm of accommodation also affected his style of administration. Nehru was willing to give state-level leaders space and did not interfere with politics below.³⁵ The one notable exception in Nehru's case, however, is the dismissal of the Communist-led Kerala government headed by E. M. S. Namboodripad in 1959. More importantly, there was both a strong democratic commitment and federal sensibility in his style of functioning. For example, as Subrata Mitra and Malte Pehl point out, he wrote to chief ministers every month to keep them informed of the state of the nation and in an attempt to build a national consensus.³⁶

The imperatives of nation and state-building, and the mode of economic development, all enhanced the centripetal tendencies of federalism. However, the nature of the Congress, the dominant Congress ideology, and Nehru's leadership style all allowed for a healthier balance and a degree of collaboration in center-state relations.

The Indira Gandhi Era

The political landscape changed notably after Nehru's death. Following Lal Bahadur Shastri's short tenure in office, Indira Gandhi came to the helm and, apart from a two-year period of Janata rule between 1977 and 1979, she would dominate the political landscape until 1984. For Kohli, the period was characterized by the seemingly incompatible trends of centralization and powerlessness.³⁷ This, in turn, was a consequence of the breakdown of authority links that the Congress under Nehru had relied on. The substance of politics shifted to personalistic power and populism, and Indira Gandhi instituted a top-down polity. Her centralization of power and deinstitutionalization would have long-term consequences. Indira Gandhi would also oversee India's first authoritarian interlude between 1975 and 1977 in the form of the Emergency. In short, center-state relations were centralized and noncollaborative, consistent with the broader direction of Indira Gandhi's tenure and style of rule.

In terms of the first contextual variable of concern in this chapter—electoral competition—two levels of changes are important in the Indira Gandhi period. The first set of changes are in terms of party competition. The second set of changes are internal to the Congress itself. By the mid-1960s, Kohli suggests that the twin pillars of Congress's hegemony over politics—nationalist legitimacy and machine politics—were weakening.³⁸

In particular, the spread of democracy and economic change resulted in the unraveling of the "Congress system." In turn, as Kohli argues, this led to an erosion of authority links and created a vacuum of power that Indira Gandhi and others at the regional level filled through personalistic politics and populism. The erosion of authority links also meant that other opposition forces emerged, challenging the Congress's electoral hegemony. The first signs of the Congress's decline were evident in the 1967 elections; the Congress won a parliamentary majority but lost power in nearly half the states to opposition parties or coalitions. Party competition had taken firm root, especially at the state level, in the decade of the 1960s.

In terms of other notable changes within the Congress Party, inter-elite accommodation and factional bargaining, characteristic of Nehru's period, also unraveled. Inter-elite conflict was rife in the early stages of Indira Gandhi's time in office. Her ascent to power was engineered by the Syndicate, a group of regional power brokers within the Congress who expected her to be pliant and expected they would be able to control the levers of power through her. Little did they imagine that she would come to dominate the political scene at their expense. Indira Gandhi's first few years in office were characterized by her battles with the Syndicate and, in the process, she also built an independent power base by mobilizing the poor through personalism and left-wing populism. The conflict between Indira Gandhi and the Syndicate eventually resulted in the split in the Congress in 1969. Though Indira Gandhi and her wing of the Congress emerged victorious over the Syndicate's Congress (O), the organizational basis of the party that she would come to oversee would be much weaker than what the Congress had had prior to the split. Rather than rebuilding the party organization and creating substantive citizen-party links, Indira Gandhi, like other leaders in her time and many after her, relied on personalism as a substitute.³⁹

A variety of aspects should be noted in terms of Indira Gandhi and the Congress's ideology during her time in office. While it was unclear what her ideological basis was when she took power, she espoused a version of left-oriented populism from the late 1960s onwards. This was partly to counter the ideological moorings of the Syndicate, who were generally conservative and had links to capital. On the economic side, she continued with central planning. In the late 1960s, her suspicions of capital resulted in several policies such as the nationalization of banks that reflected a sharp leftward tilt. Rhetorically, she continued with Nehru's secular orientation at an ideological level; in 1976, the preamble of the Constitution was even amended to include the words "socialist" and "secular." However, her main concern was the consolidation of political power and she encouraged reli-

gious forces for electoral gain. There were even hints of an ideological shift to the right on her return to power in 1980.⁴⁰ Given her assassination in 1984, it is unclear whether this was a more permanent shift but what is clear is that it is her centralization and personalization of power, her interference with institutions, and her autocratic tendencies all had a critical impact on Indian politics and center-state relations specifically.

It is in terms of the third contextual variable highlighted earlier, the nature of leadership, that she differs most significantly from her father. Importantly, Indira Gandhi deviated from the politics of accommodation and reconciliation that was central to Nehru's tenure.⁴¹ There is little doubt that the political environment faced by Indira Gandhi was a much more challenging one than what her father had experienced as prime minister. That environment along with her battles with the Syndicate explain her strategic choices to some extent. But it is also accurate that political power was the primary currency Indira Gandhi dealt in and her political choices also reflected this motivation.

After a resounding Congress victory in the 1971 elections, which reestablished the party's electoral primacy temporarily after 1967, Indira Gandhi's leadership was characterized by four central tendencies—centralization, deinstitutionalization, personalization of power, and a resort to authoritarian tactics. In the midst of a politically and economically challenging environment, marked by rising demands from below, Indira Gandhi sought to centralize power in the form of herself, creating a structure and process of decision-making that S. A. Kochanek termed "Mrs. Gandhi's pyramid."⁴² She centralized decision-making in both the Congress Party and government, and her personal authority replaced democratic processes. She subverted internal party democracy and took control of appointments within the Congress, reshuffling her cabinet often, interfering with state-level appointments and processes, and appointing only those she favored.

Even more notable was her interference and politicization of institutions such as federalism, Parliament, and the office of the president, which had critical consequences for India's democratic health. Her most brazen tactic was to get a pliant president, Fakhruddin Ali Ahmed, to declare the Emergency in 1975 in the midst of mounting opposition to her rule. In striking contrast to Nehru, she also actively interfered with state-level politics, instituting and removing chief ministers and state leaders based on her preferences. Especially consequential was her role in exacerbating several ethnic and regional conflicts, including in Punjab and Assam, by being unwilling to accommodate regional demands.

In sum, the trends of centralization, personalization, and the subversion

of democratic processes and norms were front and center during Indira Gandhi's time in office. These trends not only affected the processes and performance of Indian democracy in her time but had deleterious consequences in the long term. If Nehru's norms and style of leadership led to a degree of balance in center-state relations, Indira Gandhi's did the opposite. Her motivations, style of leadership, and subversion of norms resulted in federalism having an even more centralized quality than what is implied in the design of the Indian Constitution. The active weakening and politicization of institutions that she undertook critically meant that their ability to act as checks to overreach was undermined. It was mass mobilization and electoral politics in the end that stemmed her overreach.

*The Era of Political Fragmentation and Economic Liberalization,
1991–2014*

Though Rajiv Gandhi sought to make a clean break with the past when he came to power in 1985, trends of centralization continued. While Rajiv Gandhi sought to use his popularity to accommodate demands in the case of ethnic conflicts such as Punjab, the Congress's electoral losses at the state level meant that his capacity to do so declined, and a law and order approach to political problems returned.⁴³ The Congress lost power in the 1989 elections to the National Front coalition, and this was the start of a major shift in the Indian political landscape. The end of Congress dominance gave way to a marked increase in party system fragmentation over the next two and a half decades. Increased fragmentation, however, would only be one striking change that characterized the 1990s. In a decade that constituted a watershed for the country, India simultaneously witnessed seminal changes on the economic, political, and social fronts. These transformations led to what has been described by Stuart Corbridge and John Harris as a reinvention of the country, its economy, and its society.⁴⁴

On the political front, four main trends are of particular note. First, as discussed above, the Congress's electoral dominance ended and this led to a political vacuum, especially at the national level, in the early 1990s. Through the 1990s and 2000s, a variety of different forces filled the political vacuum left behind by the Congress, most notably lower caste parties, regional nationalist parties, and the BJP. Second, with the implementation of the Mandal Commission Report by the National Front government in 1990, there was a dramatic transformation in lower caste politics and representation, ushering in what Christophe Jaffrelot describes as the "Silent Revolution."⁴⁵ This transformation was catalyzed by the emergence of sev-

eral caste-based parties headed by lower caste leaders who aimed to mobilize lower caste support. This basis of mobilization was in stark contrast to earlier patterns where lower castes were mobilized by upper caste leaders through patronage chains.

The third major trend in this period, and of critical importance to this chapter, was a marked fragmentation and regionalization of the party system through the 1990s. Importantly, no single party won a majority in Parliament between 1989 and 2014, and coalition governments were in power between 1996 and 2014. Moreover, the vote share in parliamentary elections of national parties declined and was matched by a concurrent increase in the share of regional parties. Some regional parties were lower caste parties such as the BSP, SP, and RJD, which contested and typically drew support from one or a small number of states. Others were parties with a history of regional nationalism such as the DMK, All India Anna Dravida Munnetra Kazhagam (AIADMK), and the TDP that similarly had bases in particular states. While the geographic scope of these parties was restricted, their leverage grew considerably as they became critical to coalition formation and stability. Another element that is notable in terms of the regionalization of politics in this era is that states became the principal arena of political contestation. For Yogendra Yadav and Suhas Palshikar, in India's "third electoral system" that began in the 1990s, state-level political choices were "primary" and national ones were "derivative."⁴⁶

Finally, on the political front, the period between 1989 and 2014 marked the electoral rise of the BJP and ascendancy of Hindu nationalism. In the 1990s and 2000s, both the BJP and regional parties filled the vacuum left behind by the Congress. More recently, since 2014, the BJP under Narendra Modi has consolidated its power notably, which is discussed in the next section.

If political changes in the 1990s were striking, economic changes in this period were equally consequential. As has been widely covered in the scholarship, India's adoption of market reforms in 1991, and more broadly its pro-business tilt since the 1980s, signified a dramatic change from the country's inward-looking, state-directed economic framework that had been in place for the first three and a half decades after Independence.⁴⁷ Among numerous other changes, the economic liberalization process resulted in a more external outlook, greater global integration, and a very different role for the market and the state. The infamous licensing system was virtually eliminated, drastically reducing state control of the private sector, and private investment supplanted public investment as the major engine of growth.

Economic liberalization also importantly involved one critical outcome—the marked decentralization of economic policy and power. Prior to 1991, New Delhi enjoyed significant control of economic policy decisions through the licensing system. The onset of reforms and the virtual abolition of the industrial licensing system led to a sharp decentralization of policymaking. Among the key outcomes of this decentralization was that New Delhi no longer controlled location decisions on investment and this engendered open competition for private investment.⁴⁸ For Rudolph and Rudolph, liberalization importantly led to a shift from a command economy to a federal market economy. They suggest that the “federal market economy is meant to draw attention to the fact that the new imagined economy evokes not only the decentralization of the market but also new patterns of shared sovereignty between the states and the center for economic and financial decision making.”⁴⁹ The emergence of the federal market economy also meant that state-level agency mattered more in determining outcomes than it had in the licensing era. While the era of liberation resulted in greater decentralization of economic power, inequality *between* states grew significantly.⁵⁰

Not surprisingly, these consequential political and economic changes had a major impact on the practice of federalism in this period. Two types of changes to federalism occurred—vertical and horizontal. Along the vertical dimension, political and economic trends between 1989 and 2014 reinforced each other and center-state relations were much more decentralized than at any other point before in India's post-Independence history. A second, horizontal, type of change also ensued in this period—interstate economic competition became central to these dynamics and interstate inequalities expanded greatly.

The importance of contextual factors in the practice of federalism in this period is clear. The decentralization of power is very significantly linked to party system fragmentation and the onset of coalition politics. States gained considerable leverage due to their importance in coalition politics; indeed, they became kingmakers in coalition formation and were also critical to coalition stability. They also became veto players, especially in terms of economic policy, leading to policy paralysis or limited reforms in some cases. Finally, states also became the primary sites of electoral competition. On the whole, states gained considerable leverage vis-à-vis the center in this period.

The onset of coalition politics also influenced the second contextual variable—the nature of leadership at the center. The very nature of coalition politics necessitated the centrality of bargaining. The extent of state-

level political power meant that various ruling parties and prime ministers were automatically constrained from undertaking a unilateral agenda. Moreover, prime ministers between 1991 and 2014 did not rely on personality as the basis of power and their leadership styles and norms were necessarily more consensual. In this regard, the tenure of Atal Bihari Vajpayee between 1998 and 2004 offers a contrast to Narendra Modi.

Ideology, too, was affected by coalition imperatives. In the BJP's case, the presence of coalition partners in the NDA tempered the extent to which the BJP could rely on an aggressive majoritarian ideology. In the era of coalition politics, the BJP typically exhibited a more moderate face when in power compared with its approach when it was out of power and this was the case when it headed the NDA government between 1998 and 2004.⁵¹ Interestingly, the economic agenda of both UPA and NDA coalitions demonstrated remarkable continuity in carrying on with economic liberalization and maintaining the general direction of the reform process.⁵² However, coalition politics and numerous veto players meant that Indian reforms were incremental, gradual, and undertaken by "stealth."⁵³

In sum, the practice of federalism between 1989 and 2014 was far more decentralized than formal provisions would lead us to expect or when compared with earlier periods. In line with Rudolph and Rudolph, center-state relations between 1989 and 2014 had a more shared quality than at other points and this was largely due to major political and economic transformations that occurred in this period.⁵⁴

Federalism in the Modi Era

As mentioned in the introduction, there is growing evidence that India since 2014 is slipping toward competitive authoritarianism. A variety of trends—an aggressive Hindu nationalist agenda, violence against minorities, subjugation of institutions, erosion of civil liberties, shrinking of democratic space, breakdown of democratic norms, unhindered bigotry in public discourse, centralization of administration, and Modi's personalization of power—can be marshalled as evidence of this claim.⁵⁵ Broader changes affecting India's political regime aside, Modi's six years in office have also had critical implications for federalism in India. When Modi took power in 2014, his rhetoric emphasized cooperative federalism.⁵⁶ Despite the rhetoric of cooperative federalism, policy changes have resulted in increased centralization. This centralization has been enhanced by the consolidation of electoral power by the BJP, its ideology, and the nature of Narendra

Modi's leadership. As such, the direction of federalism is consistent with overall democratic erosion in India.

On the political side, several key policies and aspects have had significant implications for center-state relations. After winning its second term in 2019, the BJP implemented one of its long-standing objectives in abolishing Article 370 in Jammu and Kashmir, a notable example of India's model of asymmetric federalism that gave special privileges and a degree of autonomy to the state. The move was also accompanied by a decision to divide Jammu and Kashmir into two Union territories, Jammu and Kashmir, and Ladakh, giving the center direct control of these areas. Importantly, these critical decisions were carried out with complete disregard for democratic and federal norms or procedures. Most egregiously, there was no effort to consult the representatives of the people of Jammu and Kashmir. Further, there was no discussion in Parliament, opposition protests were ignored, major political leaders in Kashmir were arrested, and the announcement was accompanied by a communications blackout and heavy security presence in the state.

In December 2019, the Citizenship Amendment Act was passed by Parliament, catalyzing large-scale protests across India. In line with the Modi government's shift to a more aggressive Hindu nationalist ideology in its second term, the Citizenship Amendment Act dealt a major blow to India's secular credentials by explicitly linking religion to citizenship for the first time since 1947. A related exercise, the National Register of Citizens, was linked to the Citizenship Amendment Act and this has already been implemented in Assam since 2015. The National Register of Citizens elicited sharp criticism from some non-BJP state governments such as Kerala. Some regional parties in the NDA such as the Janata Dal (United) and the BJD suggested they would not implement the National Register of Citizens if the center went ahead.⁵⁷

Several policy changes on the economic side were framed and implemented as being reflective of the government's approach of cooperative federalism but the reality often proved different. In 2015, the Modi government accepted the 14th Finance Commission's recommendations to increase the share of state governments in the divisible pool of taxes. This led to a degree of fiscal decentralization. In contrast, in the same year, India's 64-year-old Planning Commission was dismantled and replaced by the National Institution for Transforming India (NITI) Aayog. Aiyar and Tillin and Mitu Sengupta argue that the NITI Aayog works to entrench centralization in several ways.⁵⁸ Under the Planning Commission, a supporting institution, the National Development Council, acted as a forum

for center-state negotiations over plan allocations to states. In contrast, the NITI Aayog does not have any institutional mechanism for such federal bargaining and negotiation. Further, decisions regarding transfers to states in relation to Centrally Sponsored Schemes have been appropriated by central ministries.⁵⁹ In contrast to the Planning Commission, which relied primarily on the states to implement Centrally Sponsored Schemes, several of the NITI Aayog's programs include procedures and administrative rules that link New Delhi directly to administrative districts.

In 2017, a new goods and services tax was implemented to rationalize India's indirect tax regime. The design locked the center and the states into a model of collaboration, but the former has veto powers.⁶⁰ Flawed implementation of the goods and services tax as well as an economic slowdown have also resulted in significant financial pressure on state governments. Rahul Mukherji suggests that the Modi government took a centralizing approach to its financial relations with the states and showed little interest in easing their revenue pressures.⁶¹ Mukherji also points out that the Modi government failed to consult with subnational governments when it implemented India's lockdown in response to Covid-19.

The most notable example of the marked centralization in federalism occurred in September 2020, when Parliament passed three new agricultural acts—the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, the Farmers' (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, and the Essential Commodities (Amendment) Act—that reflected a fundamental reorientation of the existing regulatory framework in relation to agricultural marketing.⁶² The passage of the farm bills in Parliament elicited major farmers' protests at the end of 2020. Subsequently, the bills were repealed in November 2021. Although the Modi government backtracked on the farm bills, two aspects about the initial passage of the agricultural laws in 2020 are noteworthy in the context of this chapter. First, in a vein similar to several other pieces of legislation enacted during the BJP's time in office, the agricultural acts were ordinances brought to Parliament as legislative bills and were subsequently passed by Parliament with little discussion or debate. Importantly, state-level concerns were summarily bypassed. Second, and even more critically, these farm acts reflect the incursion of the Union government into an area—agriculture—that is a state subject in the Indian Constitution. Yamini Aiyar and Mekhala Krishnamurthy suggest that the passage of national laws on a state subject marks a rupture in India's federal trajectory and reflects a weakened federal compact.⁶³

The contextual factors of interest in this chapter—electoral competi-

tion, party ideology, and the nature of leadership—enhance centralization in federalism. First, there has been a major consolidation of electoral power. The BJP won back-to-back parliamentary majorities in 2014 and 2019, the first time that a single party had won a consecutive majority since the Congress in 1980 and 1984. Further, though there is still significant opposition to the BJP at the state level, there has been greater congruence between governments elected at the state level and at the center since 2014. Yamini Aiyar and Neelanjan Sircar point out that one of the most critical changes is that the bargaining power of regional parties vis-à-vis the center has declined due to the BJP's electoral performance, the electoral popularity of Narendra Modi, and the active separation of the realms of national and regional politics.⁶⁴ In several ways, the BJP's electoral consolidation is reminiscent of Congress dominance in the 1950s. Adam Ziegfeld, however, suggests that predictions of the BJP's long-term dominance are premature.⁶⁵ Nevertheless, with the BJP's current organizational strength and with a weak national opposition, this dominance is likely to continue in the short to medium term.

Apart from electoral consolidation, the BJP's ideology is fundamentally centralizing, and this affects the direction of federalism. In general, the BJP's Hindu nationalist ideology is more compatible with a unitary state than a federal one. Modi's reliance on an even more aggressive Hindu nationalist agenda since 2019 only enhances the compatibility between a majoritarian vision and federal centralization. But beyond the affinity between Hindu nationalism and centralization, the current regime has fused a development rhetoric based on national unity with Hindu nationalism. For Aiyar and Tillin, the BJP's "One Nation" ideological project combines Hindu nationalism with a policy agenda that aims to strengthen national coordination, even in those realms where state governments have previously taken the lead.⁶⁶ The ideological basis of the current regime is a particular threat to ethnic accommodation, especially since the BJP is antagonistic to asymmetrical arrangements of federalism.⁶⁷ This was clearly reflected in the abolition of Article 370 in Kashmir. More recently the home minister, Amit Shah, has been attempting to reignite the issue of national language, suggesting that Hindi ought to be made the common language since it could keep India united.⁶⁸

If ideology and electoral consolidation have a strongly centralizing influence, so too does Modi's leadership and style of governance, which combines populism, authoritarianism, majoritarianism, and a notable personalization of power. Further, the current regime has exhibited a complete and brazen disregard for democratic norms. Among other

aspects, this has been evident in the weakening and takeover of institutions, the use of state machinery to target opponents, the unprecedented bigotry and intolerance in public discourse, and the refusal to allow debate in legislative avenues. (As highlighted earlier, Article 370 was abrogated without any consultation with representatives of Kashmir and without discussion or debate in Parliament. The agricultural laws enacted in 2020 similarly reflect the heavy-handed measures of the current government.) Through the implementation of the Citizenship Amendment Act and the abolition of Article 370, Modi's government has also clearly accelerated the shift of the Indian state in a majoritarian direction. Further, the central government has actively interfered with state-level politics by engineering defections from opposition parties.⁶⁹ For example, it engineered the resignation of 16 members of the Congress–Janata Dal (Secular) government in Karnataka in 2018, which resulted in the subsequent fall of the government. Similar tactics were used in Madhya Pradesh in 2020 and Goa in 2017. In addition, the office of the governor has been increasingly used as an instrument to impose central objectives at the state level.

Apart from the breakdown of norms, another key aspect is Modi's style of administrative centralization. Modi has aggregated power within the Prime Minister's Office (PMO). Aiyar and Tillin point out that critical decisions are made by the PMO and in a manner that undermines cabinet members. Further, they point out that the PMO has also sought to centralize decision-making by creating direct communication channels between the PMO and state bureaucrats while excluding state chief ministers. The use of technology to monitor central programs in the states has aided centralization.⁷⁰

Finally, the personalization of power is at the heart of the Modi regime. Modi himself is the foremost piece of the BJP's electoral strategy. Further, the BJP has created direct links between the voter and Modi through welfare provisions by affixing the label of "PM" to flagship schemes and through the choice of schemes that largely provide private goods such as toilets, housing, and gas cylinders, rather than more diffuse public goods.⁷¹ The creation of this link has paid significant electoral dividends so far. However, it has also shifted the balance of federalism as these direct links between welfare schemes and Modi bypass the states in a domain—social and human development—where they used to be critical to implementation.

In sum, BJP's electoral dominance, its majoritarian ideology, and Modi's style and norms of leadership have greatly enhanced the tilt to the center in federal relations.

Conclusion: Can Federalism Stem the Erosion of Democracy?

Recent trends suggest that the current erosion of democracy in India is unprecedented, both in degree and kind. The practice of federalism under Modi has been broadly consistent with overall democratic backsliding. In this section, I address two issues. First, in the context of federalism, specifically, and overall regime shift, more generally, there are some clear parallels between India under Modi and India under Indira Gandhi. How do these two regimes compare? Second, what are the prospects for federalism to act as a check on India's slide toward competitive authoritarianism?

As highlighted in the historical overview of center-state relations, contextual factors related to electoral competition, party ideology, and leadership style and norms have all clearly interacted with the inherent centripetal direction of India's federal design. Whether the practice of federalism has been centralized or decentralized is critically dependent on that interaction. This can be clearly seen in different eras. Despite a heavy imprint of the Union government in nation and state-building, and the Congress's electoral dominance, Nehru's accommodative style of leadership and his commitment to democracy and pluralism allowed for a degree of balance in the relationship between the center and the states. The period between 1989 and 2014 clearly highlights the role of electoral competition—specifically, marked political fragmentation, regionalization of politics, and the imperatives of coalition politics—all of which countered the inherent centralization in India's federal design. In contrast to those two eras, contextual factors have served to enhance centralization under the BJP since 2014 and under Indira Gandhi. In the case of the current regime, the BJP's electoral dominance, its aggressive Hindu nationalism and homogenizing vision of India, a breakdown of previous norms of accommodation, and Modi's leadership style all work in the same direction—they amplify features of centralization inherent in federal design. In that centralization and disregard for democratic norms, Modi's era has some clear parallels to Indira Gandhi's rule; her deinstitutionalization, centralization, and personalization similarly resulted in a top-down system of center-state relations.

But the comparison cannot be pushed too far and there are critical differences between the present regime and those of Indira Gandhi. First, in Indira Gandhi's case, her centralization and personalization occurred in the context of weak party organization and the breakdown of patron-client authority links that the Congress had previously relied on. This, in turn, leads to Kohli's⁷² characterization of her regime as centralized yet powerless; Indira Gandhi did not have the capacity to carry out substantial

changes. The BJP under Modi, in contrast, has far greater organizational capacity to maintain this current direction of centralization and remake the Indian state. In particular, the BJP's extensive party organization and networks, large coffers, the use of technology, and its successful strategy to link welfare programs to Modi's persona all give the current regime considerable capacity to continue its current agenda in the short to medium term. Modi is backed by the BJP's organizational capacity in a way that is conspicuously different than Indira Gandhi and the Congress. The technologies of governance are also vastly different; indeed, as Aiyar and Sircar insightfully point out, the extensive use of technology by the Modi government to monitor development schemes results in greater centralization.⁷³

Second, a case can be made that the normative and ideological restraints on the Congress were different than those on the BJP currently.⁷⁴ To be sure, Indira Gandhi blatantly disregarded democratic norms—the circumstances of the Emergency, and her broader deinstitutionalization and centralization, make that absolutely clear. She was nevertheless working within an ideological framework that, rhetorically at least, gave some credence to pluralism, even if this was frequently violated in practice. While she certainly disregarded norms of accommodation, in sharp contrast to Nehru, it is also likely that she could push centralization only so far. While it remains a mystery why Indira Gandhi called for elections in 1977, it could be that it was either a complete strategic miscalculation on her part or perhaps she was operating within a threshold that she was not willing to go beyond.

In that sense, the current regime, especially in the form of Home Minister Amit Shah, have made it patently clear they have no intention of paying even minimal lip service to India's plurality and diversity.⁷⁵ Even more importantly, the regime has been willing to actively turn rhetoric into substance by reshaping the state. The BJP's rhetoric of an opposition-free India also indicates a deeper goal of systemic control. Further, the sheer bigotry in public discourse emanating from BJP leaders and their supporters is unprecedented. In other words, there are reasons to believe that the degree to which the norms of democracy and accommodation have broken down is even more extensive than what happened under Indira Gandhi.

Does federalism then pose any sort of challenge to the current trends of democratic erosion? The overview of federalism presented earlier makes it clear that formal institutional mechanisms are inherently biased toward the center and cannot act as a check; center-state relations in the current regime and Indira Gandhi's era make that clear. As Tillin points out, using Stepan's classification, the very design of Indian federalism is "demos enabling" and hence does not offer strong implicit checks on the power of

majorities.⁷⁶ It is here that the distinction between the design and practice of federalism once again needs to be highlighted. Electoral competition, ideology, and norms all matter to the actual trajectory of federalism on the ground. In the case of the BJP under Modi, there seems to be no evidence to suggest that either ideology or the subversion of norms will change. Indeed, as Aiyar and Sircar suggest, centralization is at the heart of the BJP's vision and its identity.⁷⁷ Given that this vision and strategies linked to it have reaped significant electoral success, there are no incentives for the BJP to modify its ideology or pay attention to norms of accommodation.

As in the case of Indira Gandhi, the most likely vehicle for stemming the current authoritarian tide is electoral politics. In particular, as both Adam Ziegfeld and Christophe Jaffrelot and Gilles Verniers suggest, there are currently limits to the BJP's complete electoral dominance.⁷⁸ These limits are more evident at the regional level where opposition parties continue to offer significant resistance to the BJP. As such, the electoral success of regional parties is one likely source of change, both as a constraint on democratic erosion and in achieving a more decentralized version of federalism.

NOTES

1. Rahul Mukherji, "Covid vs. Democracy: India's Illiberal Remedy," *Journal of Democracy* 31, no. 4 (2020).

For a definition of competitive authoritarianism, see Steven Levitsky and Lucan Way, "Elections without Democracy: The Rise of Competitive Authoritarianism," *Journal of Democracy* 13, no. 2 (2002). According to Levitsky and Way, in competitive authoritarian regimes, formal democratic institutions are viewed as the principal means to obtain and exercise political authority. Incumbents, however, violate rules so often and to the extent that the regime fails to meet conventional minimum standards for a democracy. In that sense, a competitive authoritarian regime differs from a hybrid, illiberal, or majoritarian democracy in the fact that it is akin to a diminished form of authoritarianism rather than a diminished or imperfect form of democracy.

Several studies have characterized India as moving toward an illiberal or majoritarian democracy. See, for example, Angana Chatterji, Thomas Blom Hansen, and Christophe Jaffrelot, "Introduction," in *Majoritarian State: How Hindu Nationalism Is Changing India*, ed. Angana Chatterji, Christophe Jaffrelot, and Thomas Blom Hansen (London: Hurst & Co., 2019); Christophe Jaffrelot, *Modi's India: Hindu Nationalism and the Rise of Ethnic Democracy* (Princeton: Princeton University Press, 2021); Maya Tudor, "Why India's Democracy Is Dying," *Journal of Democracy* 34, no. 3 (2023); Sumit Ganguly, "India under Modi: Threats to Pluralism," *Journal of Democracy* 30, no. 1 (2019); Sumit Ganguly, "An Illiberal India?," *Journal of Democracy* 31, no. 1 (2020); Ashutosh Varshney, "Modi Consolidates Power: Electoral Vibrancy, Mounting Liberal Deficits," *Journal of Democracy* 30, no. 4 (2019).

2. Yamini Aiyar and Louise Tillin, "'One Nation,' BJP, and the Future of Indian Federalism," *India Review* 19, no. 2 (2020).
3. Louise Tillin, "Federalism and Democracy in Today's India," *Economic and Political Weekly* 53, no. 33 (2018).
4. Chanchal Kumar Sharma and Wilfried Swenden, "Continuity and Change in Contemporary Indian Federalism," *India Review* 16, no. 1 (2017).
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6. James Manor, "Centre-State Relations," in *The Success of India's Democracy*, ed. Atul Kohli (Cambridge: Cambridge University Press, 2001).
7. Jyotirindra Dasgupta, "India's Federal Design and Multinational Construction," in *The Success of India's Democracy*, ed. Atul Kohli (Cambridge: Cambridge University Press, 2001).
8. Atul Kohli, "Can Democracies Accommodate Ethnic Nationalism? Rise and Decline of Self-Determination Movements in India," *Journal of Asian Studies* 56, no. 2 (1997).
9. Lloyd I. Rudolph and Susanne Hoeber Rudolph, "Iconisation of Chandrababu: Sharing Sovereignty in India's Federal Market Economy," *Economic and Political Weekly* May 5 (2001).
10. Alfred Stepan, "Federalism and Democracy: Beyond the US Model," *Journal of Democracy* 10, no. 4 (1999).
11. Dasgupta, "India's Federal Design and Multinational Construction"; Louise Tillin, *Indian Federalism*, Oxford Short Introductions (Delhi: Oxford University Press, 2019).
12. Tillin, *Indian Federalism*.
13. Stepan, "Federalism and Democracy."
14. Tillin, "Federalism and Democracy in Today's India."
15. Louise Tillin, "Asymmetrical Federalism," in *The Oxford Handbook of the Indian Constitution*, ed. Sujit Choudhry, Madhav Khosla, and Pratap Bhanu Mehta (New York: Oxford University Press, 2016).
16. For more details on Jammu and Kashmir's accession and Article 370 in the context of asymmetric federalism in India, see Tillin, "Asymmetrical Federalism," and Tillin, *Indian Federalism*.
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The State of the Supreme Court

Ronojoy Sen

The First Six Decades

The Indian Supreme Court has been a countermajoritarian—or at least independent—force for much of its existence. The situation has, however, been quite different since the Bharatiya Janata Party (BJP) government, headed by Prime Minister Narendra Modi, was first elected in 2014 and then returned to office in 2019, ushering in what many believe is an era of “one-party dominance”¹ and “competitive authoritarianism,” where the government employs “informal mechanisms of coercion and control while maintaining the formal architecture of democracy.”²

The Supreme Court has at various times been described as the most “powerful apex court in the world”³ as well as one of India’s “most trusted institutions.”⁴ A key element of the Supreme Court’s immense power is the right to judicial review and its role as the custodian of the Indian Constitution. Since the early years of the Indian republic, the court has sparred with the executive and legislature over the right to judicial review.⁵ Indeed, during the tussle over the First Amendment to the Constitution, particularly on land reform laws, an exasperated Jawaharlal Nehru had proclaimed in Parliament, “Somehow we have found this magnificent Constitution we have framed, was later kidnapped and purloined by lawyers.”⁶

The struggle for supremacy culminated in the landmark *Kesavananda Bharati v. State of Kerala* ruling,⁷ possibly the most famous case in India’s

constitutional history. A 13-judge bench, the largest ever in the Supreme Court, in 11 separate opinions running over 600 pages, introduced for the first time the “basic structure” doctrine, which essentially said that Parliament did not have the mandate to “alter the basic structure or framework of the Constitution.” The judgment would trigger a sequence of events that led Prime Minister Indira Gandhi to impose a State of Emergency between 1975 and 1977.⁸ Although the court had its lowest point in Independent India during the Emergency, rubberstamping executive and legislative decisions on several occasions, the judiciary regained its stature soon after the Emergency was lifted. It did so in two ways.

First, the court, through a series of judgments beginning in 1981,⁹ asserted its control over the appointment of judges to the higher courts.¹⁰ India is perhaps one of the few democracies where judges in the higher courts appoint themselves through a “collegium” composed of the senior-most judges. The appointees to the Supreme Court are usually senior judges, many of whom have served as chief justices of the state high courts. While there have been several challenges to the court’s grip on appointing judges, including most recently the National Judicial Appointment Commission Act, 2014, the court has stood its ground. A five-judge bench of the Supreme Court, in a 4–1 ruling, struck down the National Judicial Appointment Commission Act in 2015.¹¹ The majority judgment held that the “wisdom of appointment of judges” could not be shared with the “political-executive.” The dissenting judgment, however, noted that the “proceedings of the collegium were absolutely opaque and inaccessible.”

Second, from the early 1980s the court started employing Article 32—the constitutional provision that allows the Supreme Court to be petitioned for the violation of fundamental rights—to address instances of people being deprived of their basic rights. Under Justices P. N. Bhagwati and Krishna Iyer, the use of Article 32, coupled with the relaxation of procedural norms, ushered in what has been called the public interest litigation revolution.¹² It was as if, as one scholar has noted, a “chastened Court” was making up for its “past sins.”¹³ The public interest litigation phase was also made possible due to the court’s expansive reading of Article 21, which states that “no person shall be deprived of his life or personal liberty except according to the procedure established by law,” and recourse to the Directive Principles of State Policy, a special feature of the Indian Constitution. The court’s activist role led legal scholar Upendra Baxi to observe that the Supreme Court was at long last becoming the “Supreme Court for Indians,” and it was being “identified by Justices as well as people as the ‘last

resort for the oppressed and bewildered.”¹⁴ Others have, however, criticized the court’s regular incursion into executive and legislative domains, or judicial overreach, as playing to the gallery¹⁵ and for its “populism and adventurism.”¹⁶ Anuj Bhuwania has characterized the court as taking on a “hybrid legislative and executive role.”¹⁷ In addition to the basic structure doctrine and use of public interest litigation, the court has in recent years also employed the doctrine of “manifest arbitrariness” and “constitutional morality” to strike down laws.

The Supreme Court has, however, been acutely hampered by a huge case backlog—which stood at over 80,439 cases in December 2023¹⁸—by its self-appointed role as “an omnivorous arbiter of last, and sometimes seemingly first, resort.”¹⁹ Due to its limited size—currently its sanctioned strength is 34—and the short tenure of judges—they have to retire at 65 years—the court is a “polyvocal” entity, which lacks consistency and fidelity to precedents.²⁰ In addition, the Supreme Court’s reliance on smaller benches, due to the huge volume of cases it handles, has hampered the court’s “ability to speak with a unified voice on questions of jurisprudential or constitutional import.”²¹

The Post-2014 Period

Several analysts have noted the decline of the Supreme Court as a counter-majoritarian force since 2014 and its unwillingness to challenge the executive and legislature. Worse still, it has been accused of siding with the government on most critical issues. A former chief justice of the Delhi and Madras High Courts, Ajit Prakash Shah, has stated that since the BJP government came to power “the performance of the judiciary has deteriorated to disappointing lows. It no longer stands on the pedestal of chief protector of freedoms. . . . the courts, and especially the Supreme Court, have watched the indiscriminate and often, literally, violent trampling of dissent like mute spectators.”²² A prominent analyst of Indian democracy and the courts, Pratap Bhanu Mehta, has termed this phase as one of “judicial barbarism.” By this he has meant that the application of law had become “whimsical” and that it was aiding and abetting “oppression.”²³ In an earlier 2019 op-ed Mehta wrote, “The Supreme Court has badly let us down in recent times through a combination of avoidance, mendacity, and a lack of zeal on behalf of political liberty.”²⁴ Yet another analysis notes that the Supreme Court has come under “greater scrutiny and criticism” than ever before and this has ranged from “concerns about the functioning of the

institution as a whole to outcomes in specific cases and the unwillingness to decide uncomfortable cases.”²⁵

The decline of the Supreme Court must be seen in the context of the erosion of the independence of most institutions under the Modi government. There are, however, some who point to the differences in the state of institutions in the Modi era compared to the Emergency period. Tarunabh Khaitan, for instance, notes that unlike Indira Gandhi's Emergency, there has been no “frontal attack” on democracy and institutions, but the erosion has been “incremental,” something that he characterizes as “a thousand cuts” on the Constitution.²⁶ Bhuwania observes about the Supreme Court that Indira saw the judiciary as an “obstacle” and amended the Constitution, whereas the court has been in a “close embrace” with the Modi regime.²⁷

In this chapter, I document the slide of the Supreme Court through four different prisms. One, the court's manifest reluctance to hear cases that challenge crucial government policies. Two, its weak defense of civil liberties. Three, the court's propensity to back the government or the ruling party in politically sensitive cases. I specifically look at the landmark Ayodhya judgment since it delivered one of the long-standing goals of the BJP and the Hindu nationalist movement. Four, the arbitrariness of individual judges, some of whom have rarely ruled against the government, the way benches are constituted, and how cases allocated.

Reluctant Judiciary

For a court that has traditionally waded into all kinds of issues, its reluctance to even begin hearings, let alone make rulings, on certain matters has been telling. Among the critical matters pending before the court at the end of 2020 were the repeal of Article 370 of the Indian Constitution, which gave a special status to Jammu and Kashmir, challenges to the Citizenship Amendment Act, the electoral bonds issue, and various habeas corpus petitions. This has led legal analysts to note that when important cases are “delayed to the point of being infructuous [without any purpose or value], while others are listed out of turn, concerns arise that judges use delay as a strategic tool to avoid deciding cases or to fast-track preferred cases.”²⁸ Bhuwania has labeled this phenomenon as “judicial evasion.”²⁹

The abrogation of Article 370 on August 5, 2019 was possibly the most controversial initiative of the Modi government in its second term. Shortly after Article 370 was scrapped and Jammu and Kashmir was bifurcated into two Union Territories, the decision was challenged in court. However,

more than a year after the revoking of Article 370, a total of 23 petitions challenging the government's decision were pending before the court. A five-judge bench of the Supreme Court heard the petitions in December 2019 and January 2020. The only decision to come out of the hearings was to refuse the plea by some petitioners to refer the case to a larger bench. The petitioners had argued that two earlier five-judge benches had given contradictory judgments—*Prem Nath Kaul* (1959) and *Sampat Prakash* (1968)—on the intent of Article 360. The court, however, declined to refer the matter to a larger bench in March 2020. The court delayed hearing several habeas corpus petitions by political detainees, some of which became infructuous since many of the detainees were released even before the court could take any action. The court also took its time to consider petitions challenging the complete lockdown in Kashmir and suspension of 4G cellular services. Even when it did pass orders, they were limited in scope and efficacy. Eventually, a constitution bench, headed by Chief Justice D. Y. Chandrachud, in a unanimous ruling in December 2023—four years after the constitutional amendment and months before the Indian general elections—upheld the abrogation of Article 370 and the bifurcation of Kashmir.³⁰ This confirmed the trend of the court taking the government's side on critical issues.

A similar story has played out with the controversial Citizenship Amendment Act—an amendment that made it easier for non-Muslim immigrants from India's neighboring countries to gain Indian citizenship—which was ratified by Parliament in 2019 and triggered nationwide protests. There were some 144 petitions challenging the legislation before the Supreme Court, but no substantive hearings had taken place a year after the legislation was enacted. At a hearing in August 2020, a three-judge bench had merely asked the center to file its response to some of the petitions. It was only in October 2022 that a two-judge bench took up a batch of 200 petitions on the matter.³¹

The delay had been the longest regarding the issue of electoral bonds, which has dramatically skewed the political playing field. The government unveiled the new scheme, where individuals or corporations could purchase bonds to donate to political parties, in 2017, claiming that it would “bring about greater transparency and accountability.” Despite the misgivings of the Election Commission and the Reserve Bank of India, the government notified the Electoral Bond Scheme in January 2018, well in time for the 2019 general election. One of the criticisms against the scheme was that instead of making election funding transparent, it made it more opaque since companies did not have to reveal to whom they were donat-

ing money and parties did not need to say from where they were getting the cash. The BJP was the biggest beneficiary of the electoral bond scheme in 2017–18, receiving bonds worth around Rs 210 crore (USD 28 million) of the total Rs 215 (USD 29 million) crore issued.³² By 2022–23, the BJP's share had gone down somewhat but it still received over 70 percent of the electoral bonds issued.

The Association for Democratic Reforms, a prominent NGO that works for accountability and transparency in India's electoral system, challenged the scheme even before it was notified. However, the court has dragged its feet and refused to stay the scheme, even as it has admitted that the issue has a "tremendous bearing on the sanctity of the electoral process."³³ The Association for Democratic Reforms moved the court for a temporary stay on the scheme before two major state elections in Delhi in early 2019 and again in Bihar at the end of 2020,³⁴ but each time the court rejected its plea. In March 2021, before the assembly elections in four states, the court allowed the sale of bonds since this had continued without "impediments" since 2018. Ultimately the court, in a rare ruling against the government, on February 15, 2024 unanimously held the scheme unconstitutional on several grounds, including violation of the right to information. While many welcomed the judgment, Mehta warned that such interventions should not "merely be an episodic legitimisation of the facade of constitutionalism."³⁵

Unequal Citizens

One of the more disappointing aspects of the Supreme Court since 2014 has been its tardy role in defending personal liberties and freedoms. More egregiously, it has been selective about which civil liberty cases to take up. This was perhaps shown most dramatically when the Supreme Court moved at breakneck speed in November 2020 to secure the bail in a case of abetment to suicide of a television anchor, Arnab Goswami, known for his pro-government views. This was in sharp contrast to several civil rights and political activists, some of them aged and ill, who had languished in custody for over two years.

While granting bail to Goswami, Justice D. Y. Chandrachud observed, "If constitutional courts don't protect liberty, who will?"³⁶ This immediately raised the question of several others whose liberty was at stake. Legal scholars as well as practicing lawyers came out publicly to note that while bail was eminently justified for the TV anchor, it highlighted the plight of others who had been denied their rights.

Days after Goswami was granted bail, another case involving a journalist from Kerala, detained in October 2020 in Uttar Pradesh, came up for hearing in the Supreme Court. There the court granted some relief to the detainee by allowing him to meet his lawyers, but the chief justice, who was part of the three-judge bench, also hinted that it was trying to “discourage” recourse to Article 32.³⁷ This has led some to wonder if the court was moving away from its activist stance. Baxi, quoting B. R. Ambedkar, one of the principal drafters of the Indian Constitution, noted that Article 32 was the “soul” of the Constitution.³⁸

Many of the detentions in the past few years have been done under the stringent Unlawful Activities (Prevention) Act (UAPA). Though the law dates back to 1968, it has been used with greater frequency since 2014 against a range of Indian citizens from students of the prestigious Jawaharlal Nehru University to protesters against the Citizenship Amendment Act.³⁹ While the UAPA permits detention up to six months without trial, one of the failings of this law is its low conviction rate. According to the National Crime Bureau, only a third of the cases registered under UAPA led to conviction in 2018. The numbers were even lower in earlier years (statistics were not available after 2016), which means the law can potentially be misused and people can be incarcerated for long periods even if they are eventually found innocent. Besides, according to A. P. Shah, the Supreme Court in 2019 had created a “new doctrine” in *National Investigation Agency vs. Zaboora Ahmed Shah Watali* where an “accused must remain in custody through the period of a trial, even if evidence against the person is eventually proven inadmissible.” He adds that the “effect is dangerously reminiscent of the draconian preventive detention laws dating back to the dark days of the Emergency, where courts universally deprived people access to judicial remedy.”⁴⁰

Perhaps one of the most appalling cases, and one that has got plenty of media coverage, was that of an 83-year-old Jesuit priest and tribal rights activist Stan Swamy who had been kept in custody under the UAPA from October 8, 2020. After a special National Investigation Agency court rejected his bail application, it repeatedly delayed taking a decision on whether Swamy, who suffered from Parkinson’s disease, should be given basic amenities like a straw and sipper in prison.⁴¹ Unlike the Goswami case, the Supreme Court refused to intervene in this matter. This led a senior lawyer to plead that the cases of Swamy and others like him “be posted emergently before the same Bench—which so instantly gave relief of personal liberty to Mr. Goswami—and let them be judged according to law.”⁴² Sadly, Swami was moved to a hospital in May 2021, only after the Bombay High Court intervened, where he died on July 5, 2021.

Religion Matters

The Supreme Court's ruling on a disputed site in Ayodhya, believed by Hindus to be the birthplace (*janambhoomi*) of Lord Ram and where a mosque was demolished in 1992, was possibly its most momentous in recent years.⁴³ The Ram Janambhoomi movement has been central to the rise of the BJP from the 1990s. On November 9, 2019, five months into Modi's second term, the Supreme Court delivered its verdict on a seven-decade-long legal battle over the 2.77-acre disputed site. The five-judge bench in a unanimous ruling handed the disputed land to a trust to build a temple, which fulfilled one of the central planks of the BJP's Hindu nationalist agenda and one that has been a staple in its election manifestoes for the past three decades.

The Supreme Court overruled the Allahabad High Court's partition in 2010 of the disputed property among the three major litigants as legally untenable. Instead, the Supreme Court handed the disputed property—where the Babri Masjid stood before its destruction—to a trust for the construction of a temple. The Muslim litigants were compensated by a five-acre piece of land elsewhere in Ayodhya for construction of a mosque.

A closer reading of the 1,000-plus page judgment though brings out some of the failings of the ruling, those that have plagued the Supreme Court's jurisprudence on religion. One of the characteristics of Supreme Court rulings, going back to landmark judgments such as the *Yagnapurushdasji* or *Satsangi* judgment in the 1960s, is the assumption that Hinduism or Hindus are undifferentiated and homogeneous.⁴⁴ In the very first paragraph of its ruling, the court says that the "Hindu community" claims the disputed site as the "birth-place of Lord Ram." Arguably, all Hindus do not believe that the disputed site itself was Lord Ram's birthplace. But more importantly, the court in its judgment elided the intensely political context of the Ayodhya dispute and the claims around it, although the judges wanted to convey a message of reconciliation.

Unsurprisingly, much of the voluminous judgment revolves around evaluating the faith and belief of Hindus in and reverence for a disputed site, which is a difficult task at the best of times. Much of the evidence examined by the Supreme Court was similar to those before the Allahabad High Court though the judicial outcome turned out to very different. Indeed, one of the judges also felt it necessary, in an anonymous addendum to the judgment, to provide further evidence of the belief of Hindus in the disputed site as the birthplace of Ram.

The Supreme Court verdict revolves around one observation made in

the final analysis of the claim on title: “The evidence in respect of the possessory claim of the Hindus to the composite whole of the disputed property stands on a better footing than the evidence adduced by the Muslims.” The court came to this conclusion despite admitting that there was evidence of the mosque on the disputed site having been a functioning one since the mid-19th century until it was “desecrated” in 1949.

The court reached its conclusions on the claims of Hindus based on what it felt was a greater weight of evidence. However, the court did find evidence for desecration of the existing mosque on the disputed site in 1949, when Hindu idols were illegally placed inside the structure, and said that the destruction of the masjid in 1992 was a “calculated act of destroying a place of worship.” To remedy the wrongs, the court exercised its authority under Article 142 to award another plot of land to the Muslims to build a mosque.

The court justified this in the name of secularism, rule of law, equality of all faiths, and tolerance. However, the judgment represented a repudiation of these very principles. Indeed, the ruling was an intensely political one, with the BJP naturally welcoming it, but most other political parties also accepting it, which reflected the majoritarian mood in the country. This was acknowledged by a prominent Hindu nationalist ideologue and member of Parliament when he wrote that the court in its ruling had “responded to the national mood.”⁴⁵ There were several others, belonging to differing ideologies, who praised the judgment⁴⁶ with one noting that it was “commonsensical and wise, but will carry the charge of being majoritarian in effect.”⁴⁷

Subsequently, on September 30, 2020, a special court acquitted all 32 accused in the 1992 demolition of the Babri Masjid, which included several prominent BJP leaders such as L. K. Advani and Murli Manohar Joshi. While the acquittal is likely to be challenged in higher courts, in essence not only was the 1992 demolition of the Babri Masjid justified, but its perpetrators also remain unpunished nearly three decades after the incident.

The Supreme Court delivered yet another controversial, but progressive, decision on September 28, 2018, when it overturned religious tradition and allowed women of all ages to enter the Sabarimala shrine in Kerala. However, in the face of intense backlash from the BJP and other groups, the Supreme Court in a 3–2 decision, contrary to its own jurisdictional rules, decided that some of the larger issues arising from the verdict, such as the scope of judicial intervention in religious issues and discrimination against women in different religions, should be considered by a larger bench. A legal scholar has noted the decision exhibited a “cavalier disregard

for a reasoned judgment of a Constitution Bench,” which “cannot but have profound and dangerous consequences for the rule of law.”⁴⁸ At the time of writing, a nine-judge constitutional bench, headed by the chief justice, was conducting hearings.

Who Will Watch the Watchmen?

In January 2018, the four senior most judges of the Supreme Court, in a dramatic and unprecedented press conference, aired their grievances over the constitution of judicial benches and the allocation of cases. They alleged that “cases having far reaching consequences for the Nation and the institution have been assigned by the chief justice [Dipak Misra] of this court selectively to the benches ‘of their preference’ without any rational basis.”⁴⁹ The larger issue was the chief justice’s “master of the roster” power to assign cases to specific benches, something that has been upheld by the Supreme Court on more than one occasion. Thus, if a chief justice of India (CJI) is close to the government of the day, this could have an enormous impact on whether court rulings are favorable or not to the government. While George Gadbois has done pioneering work on CJIs till the 1960s, recent unpublished research suggests that CJIs over-assign cases to themselves and were likely to be part of an overwhelming majority of constitutional benches that decide important matters.⁵⁰ There have been instances too of CJIs being close to the executive, most notably A. N. Ray, who was appointed chief justice by the Indira Gandhi regime in 1973 by superseding three judges.

However, the immediate provocation of the press conference was a case related to the mysterious death of a lower court judge who was hearing a case where then-BJP president Amit Shah was an accused. The case had been assigned to Justice Arun Mishra, who was one of the most controversial and powerful judges over the past six years.

Before we turn to Mishra, who in many ways has symbolized the ills of the Supreme Court in recent times, a few words need to be said about Ranjan Gogoi, who was one of the four judges at the 2018 press conference and subsequently went on to have a controversial 13-month tenure as chief justice from October 2018 to November 2019. During his tenure, Gogoi headed the bench hearing the Ayodhya case and raced against time to deliver the verdict before he retired. It was under his watch that the court moved slowly on other contentious issues like Article 370 and the electoral bonds. He was also instrumental in legitimizing the National Citizens Reg-

ister exercise in Assam, which forced 33 million inhabitants to prove their citizenship. Moreover, the practice of using evidence in “sealed covers”—the practice of the court directing one of the parties, usually the state or its agencies, to submit evidence in a sealed envelope—to reach decisions was another feature of his tenure. This had been used in several crucial rulings from the pricing of the Rafale jets to the case involving the Central Bank of India director Alok Verma. A legal scholar has noted that the use of “sealed envelopes undermine the ideas of transparency and openness that are meant to be at the heart of a properly functioning judicial process.”⁵¹

Gogoi’s tenure was also marred by a sexual harassment allegation, which was dealt with in a patently opaque manner. In April 2019, a women employee of the court alleged that Gogoi had sexually harassed her. The next day, Gogoi as CJI constituted a bench comprising himself and two other judges, including Mishra, and painted the harassment charge as an “intention to malign” the court. Without even issuing a notice to the complainant, the bench in “In Re: Matter of Great Public Importance Touching Upon the Independence of Judiciary” effectively dismissed the charges. Subsequently, an in-house committee exonerated Gogoi. Post-retirement, Gogoi was nominated to the Rajya Sabha (the upper house of Parliament) in unseemly haste within four months of his retirement. While Supreme Court judges have earlier been nominated to the upper house and appointed to constitutional positions, such as state governors, rarely has it been done with such alacrity as was the case with Gogoi.⁵² In what was probably a first, he took his oath in Parliament to boos and jeers from the opposition.⁵³ Gogoi’s nomination also threw the spotlight on the issue of a majority of Supreme Court judges, since 1999, accepting government assignments after retirement without any cooling off period.⁵⁴ Thus, a study concludes that, in India, the “prospect of being appointed to government positions after retirement could be a way in which the executive exercises control over an otherwise independent judiciary.”⁵⁵

Gogoi and his predecessor were not the only judges in the post-2014 period who were accused of being partial to the government. Mishra, who was appointed to the Supreme Court almost at the same time as the Modi government took over in 2014 and retired in September 2019, has been at the center of “criticisms and controversies.”⁵⁶ Indeed, he has also been described as “arguably the most influential puisne judge the apex court has seen in recent years.”⁵⁷ In a rare instance of a sitting Supreme Court judge publicly praising the executive, Mishra, speaking at an international conference in February 2020, described Modi as an “internationally acclaimed visionary” and a “versatile genius.”⁵⁸ Subsequently, the Supreme Court Bar

Association condemned the statement and said it “reflected poorly on the independence of the judiciary.”⁵⁹

However, the public show of support for the executive was the least of Mishra's failings. Of the 132 judgments that he authored and the 540 benches that he was part of, there were several instances where he was assigned cases that were politically sensitive and delivered decisions that were regarded as contrary to precedents or partial to the government.⁶⁰ Some of these cases related to Modi's tenure as chief minister in Gujarat. These included former police officer Sanjiv Bhatt's plea to form a special investigation team to investigate complaints filed against him for highlighting the role of Modi and other senior officials in the 2002 Gujarat riots; an application in the Sahara-Birla diaries case to investigate why the income tax department had not handed over papers that allegedly implicated Modi and other senior BJP functionaries; and a reinvestigation into the murder of former Gujarat home minister Haren Pandya. In all these cases, Mishra rejected the pleas or appeals. Indeed, as mentioned earlier, the 2018 press conference of the four Supreme Court judges was triggered by a case involving the mysterious death of a lower court judge, B. H. Loya, who was hearing a case involving a fake encounter (which in India means staged confrontations where alleged criminals are killed by the police) trial in Gujarat where Amit Shah was an accused, being listed before a bench headed by Mishra. As a result of the outcry, the case was shifted to another bench headed by the CJI himself.

An analysis by V. Venkatesan has shown that Mishra always ruled in favor of the state when it was an appellant.⁶¹ This included rulings where a Mishra-led bench set aside a Delhi High Court order asking the National Investigation Agency to explain the circumstances and the “frantic hurry” in which it transferred activist Gautam Navlakha from Tihar Jail in Delhi to Mumbai despite his special bail plea on health grounds not having been heard. The Mishra-led bench not only overruled the high court but also expunged the high court judge's remarks against the National Investigation Agency. When the state was a respondent, apart from a few controversial exceptions, he always ruled in favor of the state. These cases ranged from reservation for tribals in scheduled or designated areas to encounter killings.

Mishra also showed a disregard for precedents and “judicial discipline.”⁶² This was perhaps most dramatically illustrated when Mishra headed a five-judge bench in *Indore Development Authority vs. Manohar Lal*, which was constituted to decide whether a three-judge bench he had headed on a land acquisition matter was correct in overturning the judgment of another three-judge bench. Without going into the details of the case, it might

be noted that the dispute arose when the Mishra-led bench in 2018 by a 2:1 majority in *Indore Development v Shailendra* set aside a 2014 decision in *Pune Municipal Corporation v Harakchand Misirmal Solanki* by another three-judge Supreme Court bench. Since a three-judge bench cannot overturn the decision of another three-judge bench, Mishra ruled that the 2014 ruling was *per incuriam*, namely the court had failed to apply a relevant statute or ignored a precedent. To settle the conflicting opinions, the chief justice set up a five-judge bench that was unusually presided over yet again by Mishra. Though there were demands for Mishra to recuse himself, he refused, and predictably the Mishra-led five-judge bench in March 2020 upheld the 2018 interpretation of the land acquisition law. However, the five-judge bench did not settle the important issue of whether a bench can overturn the decision of an earlier bench of the same numerical strength.

Mishra's controversial tenure was capped by his initiation of *suo motu* criminal contempt proceedings against senior lawyer and activist Prashant Bhushan for two tweets. A three-judge bench led by Mishra on August 31, 2020, days before his retirement, found Bhushan guilty and fined him a token sum of Rs 1. Though Bhushan had filed a 134-page affidavit explaining the context of his tweets, the court did not engage with the facts in its two rulings—the first to hold Bhushan guilty of contempt and the second to sentence him.⁶³ Besides having an adverse impact on freedom of speech, the court's ruling did more damage to its reputation and standing when it pronounced without a trace of irony, "The tweet has the effect of destabilizing the very foundations of this important pillar of the Indian democracy. . . . the tweet tends to shake the public confidence in the institution of the judiciary."⁶⁴ While Mishra "epitomized the worst tendencies and practices of the present day Supreme Court," Anup Surendranath et al. have warned: "It would be a mistake to see Justice Mishra as a lone judge gone rogue. He never sat alone. All his decisions . . . were enabled and approved by his fellow judges."⁶⁵ Nine months after his retirement, Mishra was appointed the chairperson of the National Human Rights Commission for a three-year term.⁶⁶

Conclusion

The Supreme Court is one among a host of institutions that are under threat since 2014 when Modi swept to power. According to the 2021 Varieties of Democracy (V-Dem) report, India had slipped on several indicators of democracy, such as civil liberties and freedom of expression, and was

labeled an “electoral autocracy.”⁶⁷ I have argued that the Supreme Court, which has a long tradition of upholding these values, has been part of the problem in the post-2014 period. In his article published in 2000, Oliver Mendelsohn had argued that the court was “one of the central strengths of Indian public life.” But he had also noted that courts are “unusually fragile institutions” whose autonomy can be undermined by “changes of personnel” and threats by “more powerful institutions” such as prime ministers and politicians.⁶⁸ This is applicable to the current Supreme Court.

The question is whether the situation with the court is comparable to the period of the Emergency. While on some democracy indicators, India has slipped to levels seen during the Emergency, the backsliding is difficult to quantify for the court. As scholars like Khaitan have argued, the erosion of independence of most institutions in the post-2014 period has happened incrementally, although the pace has considerably quickened since Modi returned for a second term. This is particularly true of the Supreme Court. There is also the question of resilience. Post-Emergency not only did the court recover, but possibly enjoyed its most activist phase for the next three decades. However, it is a sobering thought that the Emergency, despite its frontal assault on institutions and civil liberties, lasted 21 months. When Indira Gandhi was voted out, the next government undid much of the damage, at least to the Constitution.⁶⁹ The current phase of one-party dominance has chipped away at institutions, including the Supreme Court, for nearly a decade and could continue to do so for longer. Thus, it will be that much more difficult for the Supreme Court, and indeed institutions in general, to regain their independence and credibility.

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The Bureaucracy

Yamini Aiyar

The image that has been created about civil services is of power, aristocracy and influence. This image is definitely of the colonial legacy. . . . You have to try to pull the Civil Services out of this image. . . . The public should never feel that you live behind doors.

—Prime Minister Narendra Modi speech, 2019¹

The Indian bureaucracy, specifically the Indian Administrative Service (IAS), has shared a complex relationship with India's prime ministers and the diverse political regimes they sought to craft. David Potter describes this as a relationship of dependency, cooperation, and conflict. Historically, it is in the interstices of this dependency, cooperation, and conflict that the dynamics of the relationship between India's political regimes and the bureaucracy have been shaped, contributing both to the continuity and the change in bureaucratic traditions. Potter traces the sources of conflict to a deep frustration with the structures and processes of the Indian bureaucracy and their appropriateness for postcolonial India. India's first prime minister, Jawaharlal Nehru, expressed this frustration in his letters to the chief ministers, where he argued for the need to overhaul the bureaucracy, break it free from its colonial roots, its culture of red tape and corruption, thereby making it more responsive to the challenges India confronted after Independence.² These frustrations weaved their way through the decades and through numerous administrative reform commissions that were set

up periodically. They persist well into the 21st century and remain the defining feature of the relationship between India's prime ministers and their bureaucrat soldiers.

Prime Minister Modi's immediate predecessor, Manmohan Singh, echoed Nehru's frustrations when he took office in 2004. In one of his earliest speeches as prime minister, he remarked, "The government, at every level, is today not adequately equipped and attuned to . . . meet the aspirations of the people. . . . No objective in this development agenda can be met if we do not reform the instrument in our hand."³ Yet these age-old frustrations have failed to translate into radical bureaucratic reform in India. Indeed, as Potter notes, despite their frustrations, successive prime ministers have relied on the traditions of the bureaucracy, its structures and processes, to pursue political and policy agendas. Continuity has ensured predictability, allowing prime ministers to navigate the political and executive terrain and enabling the concentration of power within the Prime Minister's Office in some regimes. In other words, India's prime ministers have remained dependent on the very pathologies of the bureaucracy that frustrate their policy ambitions to monopolize power and pursue party agendas.

The relationship forged between the bureaucracy and the political leadership under Prime Minister Modi continues in this tradition of dependency and conflict. The prime minister's frustrations, encapsulated in the opening quotation, echo those of his predecessors. Civil service reform has remained an oft repeated theme in the prime minister's political and policy agenda. In 2014, candidate Modi rode to power on the back of a promise of strong leadership and good governance. "Maximum governance, minimum government" was the campaign mantra.⁴ In 2016, in a statement reminiscent of his predecessor's diagnosis of the Indian challenge, he said, India cannot march into the 21st century with the "administrative systems" of the 19th century.⁵ In his second term, new civil service reforms have been inaugurated with much fanfare. However, the lines of conflict have sharpened. In February 2021, the prime minister launched his sharpest attack yet on the bureaucracy, through a speech delivered in Parliament on his governments' disinvestment policy when he rhetorically asked: "What is this great power that we have created? What are we going to achieve by handing the reins of the nation to babus?"⁶

At the same time, like prime ministers of the past, Prime Minister Modi too is dependent on the bureaucratic apparatus and relies on its deep cooperation in pursuit of his political project. As I will argue in this chapter, the bureaucracy has emerged as a crucial instrument in legitimizing a central-

ized, technocratic, personality driven policy agenda, all of which are the hallmarks of the political regime under Prime Minister Modi. Together they represent a subtle and systemic effort at entrenching the political stranglehold over the bureaucracy, while also centralizing governance by fusing party and state.

This chapter offers a thick descriptive account of the evolving relationship between the bureaucracy (specifically the IAS) and the political project of the Modi government. In doing so it seeks to offer insights into the dynamics between politics and bureaucracy in India, and the trajectory of bureaucratic reform in India.

The Contemporary Indian Bureaucracy and Its Political Economy Drivers

The foundations of Independent India's bureaucratic traditions are mired in its colonial legacy. The colonial administration was shaped by an ethos of revenue extraction, and law and order, through coercion. Indians or "natives" were viewed with deep distrust by the colonial administration; the state was distanced from the people and organized to extract from them, rather than serve them. An elite Indian Civil Service (ICS) cadre was created to work as trusted agents of the British government who in turn controlled the local bureaucracy. This manifested itself in a culture of *kagbaz ruz* or document rule: through files, papers, signatures, and bureaucratic hierarchy, where accountability was sought through careful, laborious documentation and exercise of hierarchy.⁷ The ICS tradition was thus framed by the dominance of elite generalists in policymaking positions, and a rule bound, procedure-driven mechanism of accountability, between the ICS and their subordinates, negotiated through red tape.

Independent India's bureaucracy inherited the ICS organizational structure, with only minor restructuring (described in the next section) and its associated culture of distrust. In its contemporary avatar, the bureaucracy has remained committed to its colonial passion for paper and procedures. Files, written procedures and records have further entrenched themselves as the instruments through which the bureaucratic hierarchy exercises control over its subordinates. Systems where the hierarchy seeks to exercise control over subordinates inevitably centralize decision-making within the Indian Administrative Service through rules, procedures, and demands for compliance. Such systems foster what Akshay Mangla calls

“legalistic” norms: norms that promote a culture of strict adherence to rules, hierarchies, and procedures, often at the cost of being responsive to local needs.⁸

Legalistic norms have long been a source of deep frustration, conflict, and disenchantment, interfering with the capability of the Indian bureaucracy to deliver on its promise for India's prime ministers. Potter cites Nehru's frustrations with the bureaucracy from his letters to chief ministers where he emphasized the urgency of getting out of the “ruts and routines of signing papers and files and a recognition that the inherited administration is simply not designed to respond to the needs of democracy and development.” Reforming the Indian bureaucracy was on Nehru's agenda in 1948. It remained so till his death in 1964, when he expressed his failure to change India's colonial administration as his greatest regret.⁹ This failure to reform India's bureaucracy in a truly transformative manner remains a consistent feature for all of Independent India's prime ministers.

To understand the dynamics of this relationship and the challenge of bureaucratic reform in India, it is important to locate this discussion within the political economy of bureaucratic behavior. Dennis Encarnation's study of India's central bureaucracy best illustrates how political economy shapes bureaucratic responses. India's bureaucratic organization, Encarnation highlights, is structured through myriad institutional structures, each with varying degrees of autonomy and decision-making powers. The functioning of these institutions and their response to political power is shaped by the need for legitimacy and resources. Alignment with political culture is a critical determinant of the legitimacy and power that departments can yield. In this sense, the bureaucracy and its organizations can be crucial tools in a politician's pursuit of monopoly power, thus entrenching the dependency dynamic of the relationship highlighted by Potter. At the same time, the logic of internal administrative culture, or what Encarnation calls internal political economy (norms, patterns of socialization, recruitment and leadership, hierarchy and decision-making structures)—the inherited features of India's bureaucracy—incited bureaucrats to devise strategies that would resist any attempt to divest them of power. Encarnation's frameworks, which were devised in the 1970s to understand the Indian bureaucracy, remain, as this chapter will highlight, relevant even today. It is in the intersection of political culture and the internal administrative culture that the dynamics of the relationship between political regimes and bureaucracy have been shaped. This, in turn, has a significant bearing on the agendas for long-term structural administrative reform in India.¹⁰

The Current State of Play

A useful starting point to understand the dynamics of the bureaucracy in the present political regime is through an assessment of the current state of play. Have there been significant shifts in the structural design of the IAS since 2014, and what is the nature of these changes?

This question is best answered through the prism of the constitutionally defined design features of the IAS. Even though India inherited its bureaucratic organizational architecture from its colonial past, the key structural features of the IAS were laid out by the Constitution. K. P. Krishnan and T. V. Somanathan identify the following key structural characteristics embedded in the constitutional design:¹¹

- *All-India character*: The IAS was designed with the objective of creating a policy making environment that reflected an understanding of practical implementation at the center, while the States remained informed by a national perspective. The IAS was thus designed to be all-India service, both in name and character. To achieve this goal, cadre allocation rules were framed to ensure appropriate distribution of officers between the center and the states. The center was not allocated its own cadre of IAS officers. Rather, a proportion of IAS officers were allocated to the center (the central deputation reserve or CDR). Officers were expected to alternate between the center and states through their career.
- *Dual control*: The IAS was designed as a single service recruited centrally but with dual accountability to the State and central governments. While cadre management control vested in the central government, the IAS was expected to principally serve and hence be accountable to State governments for performance.
- *Merit-based, independent selection*: The IAS was designed as a “mandarin type” career civil service with recruitment through a competitive examination process to assess the knowledge and skills of candidates. The examination was managed by an independent constitutional body: the Union Public Service Commission (UPSC).
- *Protection from arbitrary punishment*: Political neutrality was the defining feature of the IAS (and indeed the entire bureaucracy). To enable neutrality and empower officers to function without fear of political consequences, Article 311 was introduced into the Constitution to provide legal protection to civil servants.¹²

Frustrations with the functioning of the Indian administration led to the setting up of several commissions tasked with reforming India's bureaucracy. These commissions introduced tweaks to this initial design with the stated objective of modernizing the IAS and making it more responsive to the changing social and economic dynamics in contemporary India. The most far reaching of these, identified by Krishnan and Somanathan, has been affirmative action, introduced in the 1990s after the adoption of the Mandal Commission recommendations. This led to changes in the promotion criterion for state service cadres entering the IAS and increased the age limit of prospective candidates. While these tweaks have resulted in changes in the character and culture of the IAS, none of these represent radical reforms in its structures and processes, despite the stated frustrations of India's powerful prime ministers.

When Prime Minister Modi came to power in 2014, on the mantra of strong and decisive "maximum governance," his government got to work, introducing formal and informal changes to the everyday functioning of the government, tweaking design features in a bid to demonstrate their commitment to his campaign mantra. These changes were positioned within the grammar of good governance, managerial efficiency, performance, and probity. Taken together, they offer important insights into the emerging dynamic of the relationship between the political system and the bureaucracy on the one hand, and the governments' vision for civil service reform on the other. This section offers a descriptive account of key changes that have been underway, to set the context for analyzing the external political economy that has shaped the contours of these shifts, and their long-term implications.

All-India Character

Within weeks of taking office, the newly constituted Prime Minister's Office (PMO) introduced an important change in the process of making senior appointments. These changes were introduced through the reconstitution of the Appointments Committee of the Cabinet. The committee was now reconstituted to include only the prime minister and the home minister, excluding, as was the norm in the United Progressive Alliance, the minister of the concerned ministry.¹³ This was the first and most significant step in the direction of strengthening the Prime Minister's Office (a defining feature of the Modi regime and its relationship with the bureaucracy) and the prime minister's role in the selection of key bureaucrats.¹⁴ In this process, the prime minister was able to personally handpick several

officials including those he had worked with while serving as chief minister in Gujarat, a trend that continued well into his second term.¹⁵ While prime ministers have regularly handpicked officers and placed them in key policy positions, the departure made by the Modi government was in formally changing the appointments process, in a manner that signaled far greater involvement of the PMO. An important illustration of this was an amendment to the Telecom Regulation Act that prohibited appointing a former chairperson in subsequent government positions.¹⁶ This rule proved a bottleneck in appointing a senior officer to the PMO in 2014. Consequently, an ordinance was promulgated, and the law quietly amended with scant attention to due process.

Despite the stated objective of an all-India character, a long persistent challenge in the structural design of the IAS has been the disproportionate representation of states, in terms of the number of officers at the central government. This, as several commentators have highlighted, has contributed to undermining civil service effectiveness since policymaking positions are not adequately representative of the diversity and depth of experience that states need in order to ensure the right balance between their implementation constraints, state-specific administrative culture, and good policy design. Krishnan and Somanathan in their analysis identified a cluster on 10 states (including Himachal Pradesh, Bihar, and Kerala) that have disproportionately higher numbers of officers in Delhi. This trend has continued well into the Modi years (see table 8.1).¹⁷ However, by signaling a preference for certain kinds of officers in senior positions, particularly from one cadre, it has also served to entrench a very particular, single-state governance culture in the everyday functioning of the bureaucracy. This is precisely what the all-India character of the initial IAS design was guarding against.¹⁸

Another persistent weakness with cadre allocation has been the relatively low conversion of the Central Deputation Reserve into actual occupation of positions in the central government. In 2012, the actual number of officers in the central government was 48 percent of the prescribed number. Since 2014, this number has consistently dropped from 41 percent in 2014 to 36 percent in 2019, causing serious cadre management issues at the central level.¹⁹ The gap is particularly sharp at the middle management level (deputy secretary to joint secretary level). While there is no direct evidence for the reasons for this low uptake of central government positions, this trend has created the opportunity for introducing a radical shift in cadre management at the center: the expansion of key central government posts to officers from cadres beyond the IAS.²⁰ Prior to 2014, all top-level positions within the central government were peopled by the

IAS and other All India services (88 percent at the secretary level, 92 percent at the additional secretary level, and 77 percent at the joint secretary level). Since 2014, a concerted effort has been made to break with tradition and expand empanelment to non-IAS cadres, in particular the railways and forest cadre officers.²¹ There are differing perceptions about the significance and effectiveness of these changes. On the one hand it undermines the objective of bringing state policy perspective into the national domain. Equally, it is argued that removing the IAS stronghold in policymaking will encourage greater competition within the civil services. Regardless of its merits, this shift represents an important structural change in the design of cadre management within the IAS. Politically, they are part of a gamut of reforms packaged to demonstrate the government's commitment to good governance reforms and incentivizing performance. It also builds regime specific loyalty.

Dual Control

In their analysis of the civil services, Krishnan and Somanathan argue that the principle of "dual control" was on shaky ground in the post-1991 coalition era, because the center had failed to protect IAS officers from the vagaries of state politics.²² This was visible in the excessive and arbitrary transfers and the increasingly shortened tenures that are now a persistent feature of the Indian bureaucracy.²³

The return of a single party majority at the center in 2014 has upended this, through excessive centralization and concentration of power within the PMO. The PMO introduced a number of administrative processes that enabled forging direct communication between the prime minister and the IAS officers, a process that traditionally has been negotiated through cabinet ministers and state chief ministers. The most notable of these changes was the introduction of a new platform, PRAGATI (Proactive Governance and Timely Implementation), an interactive platform between the PMO, government of India secretaries, and the chief secretaries of states. PRAGATI meetings became the hallmark of the governance agenda in the first term. These meetings were designed for the prime minister to directly monitor the progress of key developmental projects, address bottlenecks, and in this process incentivize performance. But they also engineered an important shift in bureaucratic functioning by enabling the prime minister to bypass political players and forge a direct relationship with the IAS. This entrenched the control of the PMO over line departments, marking a sharp departure from the coalition era, when ministers played an often out-

sized role in governance and decision-making. With the stated objective of strengthening performance, the PMO has emerged as the final arbiter on all administrative and policy decisions. According to some observers, even cabinet notes (routine administrative business) are first examined by the PMO before circulation.²⁴

Another important factor that has contributed to reshaping the principle of dual control is the structural change in the institutional architecture for fiscal and administrative federalism, brought on by the dismantling of the Planning Commission in 2015. This was by far one of the most far-reaching reforms undertaken by the Modi government in its first term. The Planning Commission was widely acknowledged as an institution that wielded extraconstitutional powers over the states and enabled administrative centralization. Its replacement, the NITI Aayog, was expected to emerge as a new institutional space for promoting center-state cooperation. However, rather than restore dual control, the creation of the NITI Aayog opened new sites to further enable centralization. Perhaps inadvertently, the dismantling of the Planning Commission created an institutional vacuum. Despite its flaws, the Planning Commission played an important role in providing an institutional structure for negotiating center-state relations at the highest political level. The commission was home to the National Development Council, headed by the prime minister, which provided chief ministers a site for political engagement on fiscal, administrative, and development matters. Moreover, the process of planning itself, mandated in regular center-state deliberations, created a space for dialogue and trust building at the level of bureaucrats who sought compromises, and arrived at negotiated settlements on key matters of administration, away from the political theater. Crucially, the Planning Commission played an important, albeit poorly executed, coordination function as well between state governments and line ministries at the center, negotiating intergovernmental fiscal transfers.

The NITI-Aayog was not designed to perform any of these functions. Indeed, its interpretation of the coordination function with states is limited to a narrow pursuit of competitive federalism—ranking states on key development indices and generating databases for “evidence based” planning. Moreover, the NITI-Aayog has no budgetary powers, thus the institutional space for negotiating fiscal transfers has been appropriated by central line ministries, especially the Finance Ministry.²⁵ In the absence of institutional spaces for negotiating resource allocations, disputes emerging between finance ministries and line departments at the center and states inevitably began making their way to the Prime Minister's Office for negotiations and

decision-making, thus deepening the power of the PMO on the one hand, while also severely undermining state autonomy on the other.²⁶

This centralization of power within the PMO has meant that bureaucrats and their departments consider the PMO as the key source of legitimacy and resources (following Encarnation's framing of what drives bureaucratic behavior), thus shaping incentives to align their mandates to PMO specific priorities rather than department specific purpose and mandates. This is a significant shift in bureaucratic behavior, from an era when power was more dispersed, and organizations had the capacity to shape mandates to align with their department's stated purpose.

Merit-Based, Independent Selection

Debates on recruitment and selection have long dominated discussions on civil service reforms in India. Every reform committee ever constituted has highlighted the importance of changes in recruitment and promotions as necessary conditions for making the civil services efficient and results oriented. At the entry level, the debates have focused on reforms in age criterion, examination processes, and rules for service allocation. Once in a while, service debates have also focused on the need to bring in specialist skills through lateral, outcome-oriented results frameworks and performance-based promotions.

Unsurprisingly, these very debates and instruments have found a place in the Modi government's approach to the civil services. The grammar of good governance, efficiency, and performance has created a framework to pursue careful tweaks in design. On examinations and recruitment, reforms have been introduced in cadre allotment. In 2016, the government floated a proposal recommending that cadre allocation be linked to a candidate's performance in the unified foundation course, rather than rankings in the Union Public Service Commission examination, which had hitherto been the norm. The proposal was met with a mixed response as many within the IAS argued that these changes could introduce subjectivity and bias into what was widely considered a relatively objective, if flawed process. In 2019, the government adopted a modified version of this proposal by introducing a 10 percent weightage given to performance of civil service probationers during the foundation course.

To strengthen performance once in service, three critical reforms have been introduced. First, in October 2014, the government introduced biometric, real time, attendance monitoring for all government of India employees. Second, a 360-degree feedback or multisource feedback

structure came in to complement the existing appraisal mechanism in the bureaucracy.²⁷ This was introduced as a critical element of the empanelment process that identified officers for promotions to senior positions. Third, the government has warmed to the issue of bringing in lateral entrants from the private sector. The issue of specialization, and whether the Indian bureaucracy needed to move away from its current “generalist” IAS-led policymaking that dominates national policymaking in India, has been an issue of deep debate within and outside the IAS for decades now. Potter records Nehru referring to the need to consider moving away from the generalist approach. In 2019, days before the first Modi government went to the polls, it gingerly tested the possibility of implementing a lateral entry program. Ten recruits were hired and brought into the government at joint secretary level positions.

In 2020, the reform agenda expanded to address gaps in training and capacity building for the civil services through a program called Mission Karmayogi. Launched in September 2020, this mission is aimed at strengthening the in-service training apparatus in the civil services. The training is provided through a new digital platform, called iGOT Karmayogi, a comprehensive online capacity building platform with a centralized institution for planning and coordination.²⁸ In addition, under the mission, an eminent council led by the prime minister to approve and monitor civil service capacity building plans has been set up. The stated mandate is to make government employees “more creative, proactive, professional and technology enabled,” ending the culture of working in silos and ensuring transparency in governance and decision-making.²⁹

As this brief review highlights, civil service reform has been central to the Modi government's administrative and policy agenda. The holy grail of “good governance,” “performance-based systems,” and “managerial efficiency” has long dominated debates on civil service reforms in India. In the 1990s, as new public management principles gained popularity, intellectual frameworks for debating civil service effectiveness began increasingly to focus on private sector management techniques like performance pay, results frameworks, and public-private partnerships, to infuse competition in service delivery. These debates have served as the foundation of Modi's civil service reform approach. In this sense they mark a continuation, or rather an uncritical acceptance, of a pathway for reforms charted by dominant intellectual debates on the civil services in India. Another common feature underlying these changes is a commitment to the use of technology. From biometric attendance to creating new online platforms for deliberation and monitoring, like PRAGATI and iGOT for Mission Karmayogi,

technology-based innovation is at the heart of the reform agenda unveiled since 2014. But what differentiates these reforms from the debates in the past is the extent to which the reform choices reflect the political project of the prime minister and his party.

The next section locates these reforms within the broader political economy context in order to better understand the role that regime types play in shaping bureaucratic culture, and what this holds for the long delayed political project of bureaucratic reform in India.

The Political Economy of the Reform Agenda: Of Frictions and Continuities, with a Twist

*You have ruined 5 years, I will not let you ruin the next five.*³⁰

This statement, reportedly made by Prime Minister Modi in a meeting with senior bureaucrats in October 2019, encapsulates the politics shaping the relationship between the Modi government and the bureaucracy. Like his predecessors, Modi too views the bureaucracy, its structures, processes, hierarchies, and inefficiencies, as a significant impediment. What distinguishes Modi, however, is his ability to draw on this well-known frustration and make it a tool of political mobilization.

Modi came to power in 2014 against the backdrop of a series of corruption scandals and a narrative of policy paralysis and maladministration that had severely damaged the national government. The nexus between political corruption and bureaucratic complicity was at the heart of the anticorruption sentiment that these scandals fueled within the political and public sphere. Candidate Modi leveraged this moment to craft a counternarrative of decisive leadership, and efficient, business-friendly, corruption-free governance that was the hallmark of the so-called Gujarat Model, which he promised to bring to Delhi. It is in this context that “maximum governance, minimum government” became the campaign slogan. The 2014 BJP election manifesto emphasized governance as a campaign promise committing to the inculcation of the “Kartavya bhavna” (emphasis on duty) in public servants.

On gaining office, one of the first public messages sent out was that good governance would be the cornerstone of his government: “There has been more attention paid to the size of the government and not so much to its quality.”³¹ Building on the “Gujarat model” narrative, in his message he committed to ushering in an era of “dynamic, people centric gover-

nance . . . in order to fulfil the aspirations of masses, we have to sharpen the tool called the Government machinery, we have to make it keen, more dynamic, and it is in this direction that we are working.”³²

Modi got to work, showcasing this strong leadership days after being sworn in as prime minister. The decision to amend laws and promote bureaucrats of the prime minister's choosing, referred to in the previous section, was the first step in this project. This was followed by biometric attendance, PRAGATI, and the 360 degree feedback process. In addition, headline-grabbing decisions related to dismissal and penalizing errant officers were taken. In 2015, the minister of state for the PMO (personnel, public grievances, and pensions) told the Indian Parliament that action had been taken against 381 bureaucrats including IAS officers. Many of these measures continue to dominate headlines well into the Modi government's second term and frame the public narrative of the relationship between the prime minister and the bureaucracy.

At the heart of this narrative is the image of the prime minister as a decisive, hard-working, no-nonsense leader, pushing hard to undo long decades of governance failure produced by a corrupt, dynastic politics and a complicit, inefficient bureaucracy. Several scholars have pointed to the inextricable link between the carefully crafted image of Modi and the BJP's current brand of Hindu nationalism. It is through the careful crafting of his persona as a charismatic, strong leader that Modi has secured moral legitimacy with the voter. This is what Neelanjan Sircar has described as Modi's “politics of vishwas” or politics based on complete trust.³³ Trust in the leader is inculcated through a communication machinery that has crafted a way for Modi, to borrow from Mehta, “to colonise our imaginations, our hopes, our fears.”³⁴ Every tool available has been strategically deployed to craft this vishwas. It is in this crafting that the Modi regime's relationship with the bureaucracy needs to be understood.

Decisive action through ordinances, tweaks in service rules, and high-profile firings have been complemented with periodic leaks in the media of the bureaucracy being worked literally through sleepless nights under the watchful eye of Modi's PMO. These widely publicized decisive “reforms” are a lead performer in the Modi regime's political theater. The adversarial relationship with the bureaucracy and the positioning of Modi as a decisive leader fighting to reform the flawed bureaucracy is essential to sustaining the imagery of vishwas. And it is this imagery that has framed the choice of many reforms described above—techno-managerial, focused on carrots and sticks to incentivize “performance,” rather than deep structural change.

But this image of frustration is intertwined with a dependency on the

bureaucracy that is unique to the Modi regime. A defining characteristic of the politics of vishwas is the careful co-option of the senior bureaucracy in its production. Even as the Modi regime pitted itself in direct conflict with the bureaucracy, it has actively sought its participation in the political project, thereby blunting its own ability to engineer deep structural reform within the bureaucracy. This careful politicization of the bureaucracy is characteristic of relationships between political regimes and the bureaucracy, since Indira Gandhi's premiership in the 1980s. It is particularly manifested when the political project seeks to establish a direct connection with the voter. In order to achieve this political goal, the culture of hierarchy and centralization that shape the bureaucracy's political economy logic are useful instruments.

Much like Indira Gandhi, Prime Minister Modi's brand of politics rests significantly on directly engaging with the voter through populist appeals. To establish her political hegemony, early on in her regime, Indira Gandhi drew on the bureaucracy to bypass the local political bosses within her own party to reshape structures of electoral support by directly appealing to voters.³⁵ Gandhi relied on "committed bureaucrats" and demanded their active involvement in her political project.

The Modi regime's relationship with the bureaucracy is similar to Indira Gandhi's project. Through a range of tools, bureaucrats have been commanded to participate in the government's political project of vishwas. Bureaucrats, rather than politicians, are therefore the primary agents of communicating government policy to the public. It is today a commonplace observation in media commentary that ministers (with very few exceptions) are invisible to the public. The prime minister and his team of "committed bureaucrats" are the agents of policy articulation, communication, and implementation. Much like Indira Gandhi's regime, policy under Prime Minister Modi is an entirely technocratic affair shorn of consultation and deliberation. Ideas are generated through the PMO and communicated to the public either directly by the prime minister himself or through routine technocratic policy processes. The infamous decision to demonetize high value currency in 2016 and the 2020 agriculture laws, which were first promulgated as ordinances in the post Covid-19 induced lockdown "relief" package, are classic illustrations of this particular *modus operandi*. Institutional sites for deliberation and consultation, the Parliament and even the cabinet, have largely been dispensed with, as have informal sites through intraparty structures. Decisions are communicated as policies of the prime minister himself, and the party is commanded to mobilize.

Centralization of power is a necessary condition for achieving this polit-

ical goal. Within the government, technology platforms like PRAGATI and video conferencing with state and district administrators are routinely deployed. Through these modes of direct communication, the prime minister has sought to consolidate his position as the “commander in chief” of the bureaucracy, to the exclusion of his cabinet and, most importantly, state chief ministers to whom, under the principle of dual control, state bureaucrats are directly accountable. Perhaps the best illustration of this is the governments’ welfare agenda. Modi’s welfare schemes were emblematic of his term in power. Politically these schemes are closely tied to the project of *vishwas*: Modi the trusted leader, providing direct benefits to all citizens. The hallmarks of welfare politics in Modi’s first term were grand announcements of schemes; tightly centralized, PMO-driven monitoring; technology enabled “direct” delivery of benefits to citizens; and cutting out state governments. Much like Indira Gandhi, this strategy has enabled Modi to renegotiate electoral structures and build a strong, direct connection with voters. Government of India financed welfare schemes, for instance, are increasingly attributed directly to Prime Minister Modi and not to state chief ministers, as was the case in the coalition era of the 1990s and early 2000s.

Bureaucrats played an important role in enabling this politics of welfare by centralizing administration. Following in the prime minister’s style of top-down monitoring, it has become commonplace for federal bureaucrats to interact directly with district-level administrators, bypassing the chief secretary (to whom district administrators are accountable) through video conferencing in order to set targets and monitor progress. Bureaucrats have also been deployed from time to time by the government to directly raise awareness with program beneficiaries, in the prime minister’s name. In April 2018, for instance, as the national election drew close, the government announced new programs to send central officials across the country to raise awareness and popularize the government’s flagship programs.³⁶ In the summer of 2020, as India went into lockdown, this phenomenon unfolded in sharp relief as central-government-led, bureaucrat-headed committees directly led the lockdown effort and its aftermath.

The one significant difference, however, between Modi’s welfare politics and Indira Gandhi’s populist politics is that, unlike Indira Gandhi, who used the bureaucracy to undercut political rivals, Modi’s political project fuses the bureaucracy and the party machinery, particularly at the grassroots. Bureaucrats and their tools of administration—schemes, monitoring systems, technology, beneficiary lists—are routinely deployed by party

workers in their electoral mobilization activities to reinforce the defensibility of Modi and deepen voter trust. As several journalists covering the 2019 election reported, even where welfare benefits have not reached beneficiaries, party workers infuse the message of trust—“*Modi hai to Mukmin hai*” (If Modi is there, it is possible) is the drum roll. And voters responded with *vishwas*. “We have full faith that if Modi returns to power, we will get our houses, toilets and gas connections” was a statement journalists repeatedly heard and reported.³⁷

Another important manifestation of the fusing of party and bureaucracy under the Modi government is the emergence of bureaucrats as active propagandists of the political agenda. One of the most visible shifts in the bureaucracy since 2014 has been its adoption of social media and its repeated participation in defending and actively promoting government policy. It is increasingly common for the senior members of the bureaucracy to find space in op-ed pages in mainstream national dailies and through social media to promote the policy achievements of the government (a space traditionally considered partisan). In some instances, bureaucrats have taken to op-ed pages to actively defend government policy from critiques by researchers and practitioners evaluating government programs, contributing to the political agenda of undermining expertise and curbing dissent.³⁸ This direct communication with the public is a new cultural phenomenon within the IAS. Traditionally, the relationship between the political executive and the bureaucracy was framed by the tenet of faithful translation of the will of the political executive. Policies initiated by government were part of a particular government’s political agenda, to which the bureaucracy was expected to serve and fulfil. Political neutrality on the policy agenda was the principal doctrine of the IAS.³⁹ The bureaucracy was not the public communicator of policy. This was seen as an explicitly political project. With the emergence of 21st-century public communication tools, most notably social media, these boundaries have been blurred. In fact, discussions with bureaucrats indicate that a new culture of communication was requested by the PMO. Officers were encouraged to set up Twitter handles and promote the government’s policy agenda in the media. The bureaucracy was of course quick to recognize the political demand and responded with quiet acquiescence. It is through this acquiescence that the bureaucracy, perhaps inadvertently, has become an active participant in *vishwas* politics.

The careful co-option of the bureaucracy also represents a new dynamic in the political economy that shapes bureaucratic behavior. In Encarna-

tion's framing, in their pursuit of survival, bureaucracies are incentivized to align themselves with the dominant political culture. Krishnan and Som-anathan described the dynamics of this alignment as "passive" neutrality, leading to a "total submission to whoever is in power." The current form of "politicization" is enabled by this passive neutrality.⁴⁰ However, the difference from known forms of politicization is that political alignment is no longer limited to carrying out orders. Rather, it expects officers to become active policy propogandists for the government. There is thus a real risk of blurring the boundaries between the bureaucracy and politicians. Centralization, a key feature of the structural changes introduced by the Modi government, is essential to achieving this end.

As I have argued in this section, the bureaucracy is indispensable to the generation and perpetuation of the politics of vishwas. On the one hand, the narrative of bureaucratic failure is critical to perpetuating the public image of the prime minister. Centralization, and the tight monitoring of bureaucrats to create the narrative of discipline, are the instruments through which the terms of this relationship have been set. The choice of reforms, described in the first section of this chapter, are carefully designed to achieve this objective.

At the same time, the bureaucracy is indispensable to enabling direct contact between Modi and the voter. Thus, new forms of politicization from carefully populating key positions with aligned bureaucrats to drafting bureaucrats to communicate directly with the public are essential to the relationship between the prime minister and his bureaucracy. In this sense, Modi, like his predecessors, continues the tradition of a relationship entrenched in dependency and conflict with the bureaucracy. Rather than reforming the structures of the bureaucracy, as is the stated intent, the dynamics of this relationship have served to further entrench and create new forms of politicization, at the risk of undermining key structural features of the bureaucracy, from its all-India character to its dual control-based accountability. Ironically, this dependency has led to a growth in the power of the bureaucracy whose executive overreach is a visible part of public life in India today. The bureaucracy's power runs so deep that several business leaders have begun to raise an alarm over the reemergence of license raj.⁴¹ This is a phenomenon that Sudipta Kaviraj describes as characteristic of the state under Indira Gandhi in the 1970s and is finding a new lease of life under Prime Minister Modi's premiership.⁴² Rather than the promise of "minimum government, maximum governance," Modi's politics has delivered maximum government instead.

Conclusion

The descriptive account of Modi's politics and the regime's relationship with the bureaucracy presented in this chapter raises important questions about the dynamics of the political and social shifts that underlie it. What enables the politics of vishwas to be sustained? And what are the underlying conditions under which it has gained moral legitimacy?

Part of the answer lies in the party structure of the BJP under Modi. There is relatively little rigorous research on the dynamics of the inner-party structure of the BJP in its contemporary avatar. However, journalistic accounts clearly suggest the emergence of a command-and-control structure where power is concentrated in the top leadership, bypassing state satraps and grassroots power brokers who are all expected to mobilize around the prime minister's unshaken popularity. This strategy lies at the heart of the communication machinery that has been deployed to generate the almost mystic appeal of Modi as the indispensable strong leader, the doer, and the protector.

At the same time, the narrative of bureaucratic failure and the popularity of the idea of "minimum government" has great legitimacy in India. The persistent failures of the Indian bureaucracy, arguably from its early foundational phase as noted by Potter through Nehru's letter to chief ministers to deliver on the promise of India's transition to modernity, and its complicity in deepening corruption and unraveling the constitutional project of delivering rights and justice, have shaped the behavior of state actors and the electorate for decades.⁴³ Together, the failures have generated a collective disenchantment, within the state and the public, about the bureaucracy's ability to perform. Our intellectual debates and popular imagination of the bureaucracy are dotted with the imagery of incompetent, corrupt, inefficient, and lazy bureaucrats that have served to undermine India's potential. "India grows at night while the State sleeps" became the emblematic phrase of the 1990s liberalization moment, as India began to arrive on the global stage. It could only do so when the state got out of the way. It is against this backdrop that statements like that of Modi's blaming the bureaucracy for having "ruined my first five years in power," and the prime minister's political attempt to position his politics in confrontation with this ruinous bureaucracy, have widespread political legitimacy.

This disenchantment with the bureaucracy has also generated a clamor for civil service reform through greater disciplining of the errant civil service officer. The bureaucrats are incentivized, the narrative goes, to shirk

and to succumb to corruption. Thus, they need to be disciplined through tighter monitoring, centralized control, and a concentration of power. Technology provides a fascinating aid to achieve precisely these goals. Biometric attendance, PRAGATI, and related reforms were welcomed in the Indian public sphere precisely because they could aid this clamor for disciplining errant bureaucrats.

Another feature of this disenchantment is a lack of trust in the capability of the public system. Public-private partnerships, lateral entry, and less state regulation are all at the heart of contemporary debates on administrative reforms within the bureaucracy (as evident from even a cursory glance at administrative reform reports). The Modi government's vision of bureaucratic reforms falls precisely within the boundaries of these debates, which have legitimized its implementation without adequate public scrutiny of the careful ways in which these very reforms have contributed to fusing the boundaries between politics and the state.

It is India's collective disenchantment with the bureaucracy that has led to the perpetuation of a politics that seeks to undermine the structures of bureaucratic independence and accountability. In the long term, reclaiming the idea of a rational-legal, independent, rule-bound bureaucracy and genuinely embarking on a project of reform will first require a new politics that sheds disenchantment and produces a narrative of possibility.

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The State of the Police

Arvind Verma

A series of disturbing events unfolded in Delhi during the winter of 2019–20. The Bhartiya Janata Party government passed the Citizenship Amendment Act 2019 (CAA) permitting non-Muslim refugees from India’s neighboring countries to acquire Indian citizenship. The bill introduced a religious clause, violating the spirit of Articles 14 and 15 of the Constitution, which guarantees the right to equality irrespective of gender, race, ethnicity, religion, and such categories. Moreover, Home Minister Amit Shah threatened implementation of the National Register of Citizens (NRC), which would verify the identity of residents to determine their citizenship status. When students of Jamia Millia University in Delhi protested against this bill the police assaulted them, going inside the campus. Undeterred, a large number of protesters assembled at Shaheen Bagh-Delhi to oppose the CAA and the NRC, which they called “anti-Muslim.” This became an unusual nonviolent protest led by women and supported by a large number of non-Muslims too. The BJP communalized this protest, alleging protestors to be antinationals, but they failed to capitalize on this and lost the Delhi elections. BJP leaders such as Kapil Mishra then targeted the Shaheen Bagh protestors, giving an inflammatory speech threatening action. Delhi police meekly ignored this provocation as well as ignoring intelligence warnings of impending violence.¹ When clashes between the opponents and supporters of CAA broke out as expected, Delhi police even withdrew from the area, allowing the violent mobs to run amok. The ensu-

ing riots that took place over three days in late February left 53 dead, of which 39 were identified as Muslims. The police watched passively as the arson, looting, and killings were perpetrated by Hindutva mobs. The fact that not even one Hindu temple in that area has reportedly been attacked suggests the background of rioters. Still, the police arrested a large number of Muslims and have yet to take any action against the BJP leaders for their provocations.

These have not been isolated incidents for there is strong evidence to suggest that the police are targeting the Muslims at the behest of the ruling BJP. Moreover, those opposing the BJP government and its ideology—critics, activists, scholars, and even journalists—are also being silenced by the police under charges of sedition and terrorism. This partisan behavior should not come as a surprise since the Indian police have served the rulers from their very inception. The police are governed by the Act of 1861 that was designed to suppress the people and ensure the continuation of the British Raj. Rulers of Independent India have unfortunately continued with this act and retained the police system that is despised, feared, and a terror to the common people. Even today, abuse of authority by the officers is common and they are rarely held accountable for the misuse of force and their illegal behavior. There is no local accountability and citizen complaints are seldom addressed promptly. Policing is heavily politicized and officers act openly at the behest of the ruling party. Police authority and investigative powers are frequently applied to harass political opponents, tame the media, extort funds from business houses, and intimidate anyone questioning or challenging the writ of elected leaders. Police serve to promote the ideology of government in office and repress minorities or sections of the populace who oppose the ruling party. The evidence for undemocratic and authoritarian functions of Indian police is overwhelming and is now being exhibited blatantly since Modi and his BJP have come to power.

These events described above, and similar ones, present a major puzzle for the Indian police. The country is known as the largest democracy with regular elections and changes in the government. There is an independent and powerful judiciary and a vociferous open media. The police too must follow the due process of law and account for the use of force. In such a situation why is it that the police are easily manipulated and forced to function at the behest of the rulers? In this chapter I explore the organizational and administrative factors that have enabled the BJP and all ruling parties to misuse the police for their partisan objectives. I examine the structure of laws that place a variety of restrictions upon the police and also the ways in

which police personnel circumvent these constraints to abuse their discretionary powers. I argue that the design of the police apparatus, the absence of accountability to the people, and extensive discretion accorded by law facilitates the ruling politicians to control the police and abuse its authority. Furthermore, over the years many administrative processes have evolved to further tighten the grip of the ruling party over the police personnel. Every political party has used the transfer and posting of police personnel to force them to serve political interests, and this politicization has become more blatant under the BJP. In this chapter I examine the nature of a democratic police and argue that while these characteristics are present in the Indian police the reality is a rulers' police that contravenes the spirit of democracy. I argue that all political parties have misused the police system for partisan objectives, leading to a system that blatantly violates the rights of citizens. I describe several incidents that illustrate ways in which the BJP has been using the police to target Muslims in particular, critics, and even journalists, to promote its ideology in the country.

The Nature of a Democratic Police Force

India meets the criterion of being a democratic country where citizens elect their representatives in generally free and fair elections. Seven decades after Independence, the Indian state follows democratic norms and every government attempts to earn popular legitimacy. The Parliament, state assemblies, bureaucracy, judiciary, the media, and the entire administrative and military machinery abide by the Constitution that has made democracy an integral part of Indian society. Every five years the political leaders have to seek a mandate for another term in office. Major political leaders have lost elections and have been voted out of office. The Indian state has engaged different social sectors and accommodated a variety of disparate interests as required by a liberal democratic polity.

While the Police Act of 1861 is still applicable, the police nevertheless have to abide by the Constitution and function in accordance with laws made by the representatives of the people. The officers are empowered to arrest anyone and even use deadly force, but they have to defend their actions and answer to a judge in an open court. The Constitution provides extensive rights to the people including the right to free speech, assembly, and the right to oppose government policies.

However, the police system is an anomaly for any democratic society. The government must value and protect individual freedom but needs

police to apply coercive force and make people behave in socially desirable ways. It is irrefutable that the police serve as the strong arm of the state and exercise monopoly over the use of force. The police are an integral part of any society and the state must have a coercive mechanism to enforce the law, to intervene on behalf of the weak, and protect the rights of everyone. The authority to curtail the rights of citizens and use force to maintain order empowers the police to threaten the people and a free society. On the other hand, confidence in the police sustains the trust and even the legitimacy of the government, and the actions of the police provide a barometer of the health of democracy. Indeed, the nature and status of India's democracy is best reflected by the police system in the country.

Gary Marx identifies the necessary conditions for the police in a democracy as a system of law respecting human dignity, authority to intervene in the life of citizens only under limited circumstances, and being publicly accountable.² Along with these constraints, the police must be equipped with powers to use force and detain citizens who pose a threat to others. These powers of arrest, search, and the use of force distinguish a uniformed officer from the citizens. Yet the nature and structure of laws is such that it provides extraordinary discretion to the officers in their functions. For instance, an officer can arrest someone on grounds that the person, in his judgment, was likely to commit a crime. In special situations, such as immediate necessity, a police officer can also search any premise without obtaining a warrant from a judicial magistrate (Section 165(1), Criminal Procedure Code 1973). Such extraordinary discretion demands that there must be well-defined constraints upon the authority of officers to detain, interrogate, search, and use force. These are provided through constant supervision by senior officers and the formal process of judicial scrutiny. Clearly, these constraints are limited, and the abuse of authority by police officers is a real threat to democracy. Given these extraordinary powers, Marx rightly asserts that the quality of democratic policing should be judged by restraint imposed upon its functions.³

The modern Indian police system is guided by the principles of the London Metropolitan Police designed by Sir Robert Peel as one where the officers are "citizens in uniform."⁴ Peel deliberately opted for an unarmed force and expected the officers to develop trust among the people who would accept their authority based on respect rather than coercion. Such police were to be accountable to the citizens and function with their consent. The system of democratic police implies it must be governed by due process, function with the consensus and cooperation of the people, and be accountable to the judiciary for its actions. The system expects the officers

to exercise discretion and to act in accordance with the principles based on humane consideration through appreciation of the higher values of law.

The Policing System in India

Based upon the above description it is clear that the Indian system *meets* most if not all the characteristics of a democratic police. India is a constitutional republic, and the police system adheres to the design of the democratic model. The police are organized under the control of state governments and the home minister; an elected representative is the de facto chief decision-maker for all police functions. The home ministry is the policymaking body and allocates the budget and other resources for the police to execute these policies. The home minister can examine any police issue and demand a report from the chief of police about any action or questionable behavior. All personnel matters such as recruitment, training, transfers, postings, and promotions are controlled by the home department. The police leadership is responsible for operational matters, but all the officers, from the lowest constable to the director-general of police, report to the home minister.

Police operational functions are governed by the Code of Criminal Procedure 1973. The Code defines how the police station in-charge will receive a complaint and register and investigate a criminal case. The use of force and arrest of a suspect, examination of witnesses, and the search for evidence are among the functions governed by the Code. The officers are required to maintain complete records of their actions and submit them to an independent judicial magistrate for evaluation. All such records are duly inspected by the supervisory officers who direct and control the investigation of a crime. Once sufficient evidence has been collected the officer can initiate the prosecution of the accused in an open court. The judiciary as an independent institution examines the charges brought forward by the investigating officer. India follows the adversarial system, and the judge ensures the accused is deemed innocent unless proven guilty beyond all reasonable doubt by the prosecution. The accused is also provided free legal aid if he does not have his own defense attorney. There is no jury system in India and the judge takes independent decisions about the validity and sufficiency of evidence brought by the prosecution. The decision to accept the charges and convict the suspect or determine that the evidence collected by the police is inadequate is solely that of the presiding judge hearing the case. The judge also determines the quantum of punishment for the per-

son found guilty. An accused can be released on bail pending trial and the charges leveled by the prosecution can also be dropped at any stage at the discretion of the judge. Famously, Indira Gandhi was immediately released from custody after her 1977 arrest on corruption charges on the grounds of insufficient evidence presented by the police. All serious crime cases and trials are conducted at the sessions court and both the prosecution and the defense can appeal the decision of the judge in the high court or even to the Supreme Court. In 2021, there were 6,096,310 criminal cases registered in various police stations throughout India, of which 2,720,265 (44.6 percent) were prosecuted. The conviction rate was low, ranging from 21.9 percent in riots to 42.4 percent in murders.⁵ The small proportion of cases ending in conviction makes clear that the Indian courts demand strong evidence in order to convict a person for criminal behavior.

The police also reflect the diversity of Indian people. Entry into the police organization is open to all the citizens through a competitive process. Recruitment policies adhere to the constitutional requirement of reserving a specific percentage of positions for personnel drawn from the Scheduled Castes and Scheduled Tribes, as well as the backward castes. In 2019, there were 184,064 Scheduled Caste and 192,276 Scheduled Tribe subordinate police personnel in various units of the country constituting roughly 30 percent of the total force.⁶

Indian laws place strict constraints upon the police officers to prevent abuse of power. The most stringent provision is Section 25 of the Evidence Act of 1872 that states that any confession made before a police officer is *inadmissible* as evidence. This provision has significant and strange consequences. All evidence collected by the police officer including the statement of witnesses must be corroborated during the trial. Similarly, any material collected from a search has to be validated by two independent local witnesses. The police are required to be searched before conducting a search of a premises to dispel any doubts about planting evidence in the house. The entire search must be observed by two local independent witnesses who are required to affix their signatures to the search document (Section 100(4) Code of Criminal Procedure). These witnesses have to come to the court to affirm that the material was recovered in their presence. The police officers' statement, even when given on oath, is not accepted as evidence without further corroboration.

The coercive power to arrest is also constrained by the Code of Criminal Procedure. While the police have the power to arrest someone on suspicion of criminal behavior, the person must be produced before a judicial magistrate within twenty-four hours. The Code of Criminal Proce-

Amendment Act 2008 now divests the police of power to arrest in all cases where the maximum possible sentence is seven years or less and “bail rather than jail” has become the guiding principle to restrict police powers. Instead, the officer can issue a “notice of appearance” if the person is required to answer questions.

Accountability System

Every democratic police by design must be accountable to the people it serves. In India this has been structured in an indirect manner. First, the police leadership are empowered to supervise and control every function of subordinate officers. Surveillance, arrest, and even collection of evidence must be approved by supervisory officers. As stated, the home ministers at the state and central levels exercises control over the police department and can take punitive action against a delinquent officer. The judiciary closely monitors all police functions and has the power to require attendance of any police officer for complaint by a citizen. Finally, India has a free media that reports about police actions and thereby can hold them accountable on behalf of the people. Yet the system is limited since there is no direct accountability to the local people. Citizen complaints are investigated by supervisory officers rather than any independent citizen authority. Accordingly, redress of citizen complaints remains a serious issue and dilutes the democratic nature of policing.

Due Process Model

The Indian police are unambiguously structured to follow the due process of law. Not only are the powers of police constrained in various ways, but the criminal justice system too is *not designed to be efficient* in its operations. As soon as the accused is brought before a magistrate after 24 hours of police custody, the individual is entitled to free legal services. The police are required to provide all the evidence to the defense during the trial including particulars of witnesses and material evidence collected during their investigation. The defense can cross-examine the prosecution witnesses including the investigating police officer. All this is a time-consuming process and, given the heavy load upon the system, court trials take as much as 10 or more years for completion. There were more than 10 million cases in 2022 that were pending trial in various courts for over five years or more.⁷

Except in cases of serious crimes, the accused are released on bail and have the freedom to move around the country or even travel abroad. Despite a number of high-profile accused fleeing the country and refusing to come back and face trial, the bail system has not been made more stringent. Seeking conviction in Indian courts is a formidable challenge to the police authorities and one that has serious consequences. A large number of criminals are able to avoid court summons and delay the process. A fair number commit crimes even when released on bail. The criminalization of politics is a direct consequence of this limitation. More than 42 percent of the elected representatives in the current Parliament have a criminal background.⁸ They continue to serve as lawmakers since the law debars only a convicted person from contesting elections. Many “mafia dons,” such as Shahabuddin, Mukhtar Ansari, Raja Bhaiyya, and Anant Singh, all won elections from jail as under-trial prisoners,⁹ exemplifying the helplessness of police to convict offenders in a timely fashion.

Subordination to Elected Representatives

Finally, a democratic police force answers to the elected representatives of the people. The home ministers at the state and central levels exercise control over the state and central police forces, respectively. Furthermore, the rules, regulations, and allotment of resources are also within the purview of the Home Ministry. An annual report of the police work is placed before state legislative assemblies and the Parliament. The police budget must be approved by the legislative process and the elected representatives can demand an answer for any question on behalf of their constituents. Police officers are occasionally called before the state legislatures or the relevant parliamentary committees to answer charges brought against the department and report action taken against delinquent officers. A large number of citizen grievances and complaints are articulated and pursued by elected representatives.

To address growing complaints of abuse of force by the officers, the government of India has further created national and state Human Rights Commissions based upon the Protection of Human Rights Act in 1993. The government has also brought the police under the Right to Information Act 2005 and appointed a number of commissions to examine the functioning of police forces. Police misbehavior and abuse of authority are frequent issues discussed in the state assemblies and even the Parliament. There is no dispute that the police in India are beholden to the representa-

tives of the people and must operate in accordance with the laws, rules, and procedures laid down by lawmakers.

If the Indian police are structured to function as a democratic force and can undertake challenging responsibilities successfully, the significant question is why the police do not routinely function as a democratic force. Perhaps the answer lies in the administrative processes and organizational culture that have politicized the police and crippled its independent functioning. A significant management rule adopted by the British was to transfer officers frequently. The objective was to ensure that they do not develop roots within the community and forge affiliation with the resident population. This rule continues today even though it is necessary for the officers to know the residents and be familiar with local conditions. This provision is used by the politicians to post an officer of their choice or to punish someone who does not toe their directive by transfer to an innocuous post. Transfer and posting of police officers have become the stick and carrot to intimidate and coerce uncooperative personnel to serve political interests or suffer the consequences. In a span of 10–15 years of service, a large number of independent-minded officers have been transferred 30–40 times from one post to another, adversely affecting the officer and his family.¹⁰ Officers who are able to stand up to political diktats are a diminishing number. These factors enable the political establishment to control the large organization and use the police authority to serve partisan interests. No wonder the National Police Commission found the culture of the police system a continuation from the British period when the police functioned ruthlessly as a government agent. The 1979 report states:

In public estimate the police appear as an agency more to implement and enforce the objectives of the Government in power as distinct from enforcing law as such as an independent and impartial agency. The dividing line between the objectives of government as such on one side and the interests and expectations of the ruling political party as such on the other side gets blurred in actual practice, and the image of police as an impartial law enforcement agency suffers in consequence.¹¹

Despite these harsh words by the National Police Commission and major recommendations to limit political control over the police organization, all subsequent governments have refused to implement the report's recommendations. Even the Supreme Court judgment in *Prakash Singh versus Government of India* 2006, directing the setting up of three new insti-

tutions—a State Security Commission to insulate the police from outside pressure; a Police Establishment Board to give autonomy to the police leadership in personnel matters; and a Police Complaints Authority to make the police accountable to local people—has not been implemented. No transformational changes in the police system have been introduced and none of the political parties in the country have shown interest in reforming the discredited police system. The police are a state subject according to List II of the Seventh Schedule of the Constitution of India and hence the exclusive domain of the state governments. But even in regions ruled by opposition parties there is no attempt to implement the orders of the Supreme Court. It is abundantly clear that all the parties find it convenient to use the police to serve their political agenda. Police officers, whether serving in the central or the state governments, are unable to act independently and if any brave one tries to ignore political commands he or she is unceremoniously sent to an innocuous post. Today, no officer is able to complete the prescribed three-year term in any office, and there are a fair number of officers who have been transferred within months of their posting. When serious incidents take place, which happens periodically, such as horrible crimes against women, there is a lot of noise, there is talk of police reforms, and then it is back to the original state of working. Unfortunately, the normal state is one to serve political interests even if it violates the law and is harmful to society.

Ideal versus the Real

Nevertheless, it holds true that no police force is truly democratic in its functions. Almost all police organizations in democratic countries frequently violate the boundaries imposed upon their functions. The American police are currently facing a backlash over charges of institutional racism. There are widespread demands for defunding the police by the Black Lives Matter movement.¹² Almost 1,000 people are killed annually by the police in the U.S. of which Black Americans are killed disproportionately.¹³ Yet it is extremely difficult to prosecute police officers in the U.S.¹⁴ The history of U.S. police in enforcing segregation and targeting the Black minority has been a shameful legacy. There is genuine apprehension within the Black community that police officers do not show restraint when dealing with Black people.¹⁵ The Miranda warning is famously known across the country and yet it is routinely abused by police officers who use deceptive ways to extract a confession.¹⁶ The British police too have been accused

of institutional racism by the Macpherson Commission.¹⁷ Charges of racism and targeting Aborigine people have been leveled against the Australian police¹⁸ and the French police for their treatment of the Algerian and Moroccan minorities.¹⁹ These examples do not absolve the Indian police but simply suggest that police relations with minorities and lower-class people everywhere are fraught with antagonism and mutual suspicion. Even in developed countries the police do not function in accordance with democratic principles.

Marx points out that the idea of a democratic police includes both the content and the procedure.²⁰ While the design and structure of the Indian police is to operate as a democratic force, the reality is somewhat different. The latitude provided by political patronage emboldens the officers to not follow the legal guidelines and use their discretion to serve political interests. Thus, deliberate violations of the Code of Criminal Procedure have become the norm rather than an exception. For instance, Section 154 of the Code of Criminal Procedure entails that upon the complaint of a cognizable crime the station house officer shall register the first information report marking the registration of a crime. This rarely happens and most station house officers weigh the political consequences before entertaining the complaint. This results in significant suppression of crimes and is a routine grievance against the police. The official records are blatantly manipulated to present a declining crime rate and situate actions favorable to the ruling dispensation.²¹ Thus, the arrest of a suspect is rarely recorded in a timely manner and the suspect is detained in police custody for days before presentation before a magistrate, in violation of the 24-hour rule. Similarly, investigating officers violate Section 165 of the Code of Criminal Procedure to search premises and other locations without due process. If anything is recovered, they create a fraudulent document showing the recovery was made in the presence of witnesses. Most search witnesses are forced and tutored by the officers to validate the search document.

Unnecessary use of force, beating, brutality, and even torture remain part of police actions across the country.²² Accordingly, the khaki uniform evokes fear among the citizens who tend to keep their distance from the police. Corrupt practices and extortion, particularly in the form of *hafta* (a weekly collection from local businesses), is a common phenomenon in the country.²³ False "encounters," or the killing of suspects as a crime control measure, is another unfortunate aspect of the police in India.²⁴ The unfortunate reality of the Indian police is that they are a coercive force that violates democratic norms and are not accountable to the citizenry.²⁵

Police officers comprehend the interests of the ruling political party

holding power and act accordingly. This is vividly brought out by the discretion exercised by officers in enforcing the laws. The officers get to select and prioritize which law violations must be addressed and which ones are to be ignored. For example, in BJP-ruled states the police prioritize enforcement of laws about cow protection, interfaith marriages, and “hurting the sentiments of Hindus.” The police have also been using laws of sedition and internal security to arrest critics of the government in the name of misinformation and disaffection that creates disharmony in society. It is significant to note that the Indian police rarely functions to protect the rights of minorities and weaker sections of society. This is best seen in the failure to enforce laws that have criminalized discriminatory and exploitative social norms and practices. Thus, practicing untouchability, demanding dowry, or keeping people as bonded laborers are serious crimes under the Special Laws enacted by the Indian Parliament. As well understood, these crimes are widespread and continue to oppress women and Scheduled Caste and tribespeople. To enforce them strictly these traditional practices have been made into cognizable crimes empowering the police to arrest the offenders without warrant. Yet Indian police hardly strive to enforce these laws and most officers remain unaware of these provisions. This discriminatory enforcement is seen in all the BJP-ruled states where the police have been more concerned about the protection of cows than the protection of women.²⁶

James Q. Wilson found that police adopt a style that is consonant with expectations of the community and political imperatives.²⁷ The selective enforcement of laws and the priority given to order maintenance and restraint imposed upon the populace is guided by political directives and expectations. Police officers quickly learn what the politicians desire and act even without their specific directives.²⁸ The partisan and politically guided functions of the police have been observed regularly but particularly in many disturbing instances. For example, between 1975 and 1977, when Prime Minister Indira Gandhi declared the Emergency, the police committed extensive abuses and used brute force to maintain her rule. The Shah Commission, which examined police excesses during this period, substantiated a large number of atrocities including forcing the poor to undergo vasectomies.²⁹ Recently, in BJP-ruled Karnataka state, a strange enforcement of the law was witnessed. An elementary school teacher was jailed on charges of sedition after her students allegedly performed a play criticizing the Citizenship Amendment Act. The police also arrested a woman whose nine-year-old daughter participated in the play.³⁰ Deliberate decisions to ignore law violations and failure to act in politically sensitive cases are common characteristics of the police. In 1984, the police failed

to protect the Sikhs when mobs roamed the streets of Delhi to kill Sikhs in revenge for the assassination of Indira Gandhi by her Sikh bodyguard.³¹ When Prime Minister Rajiv Gandhi got embroiled in the Bofors corruption case the Central Bureau of Investigation (CBI) diluted the investigation to protect middlemen associated with him.³² The Gujarat pogrom of 2002, when hundreds of Muslims were killed by zealot mobs, even saw the association of police officers targeting Muslims.³³ The reality of policing in the country has been a gross violation of its democratic ideals.

Police under the BJP from 2014 Onwards

While the politicization of the police is a reality and its nexus with the rulers continues unbroken, its exploitation has become even more brazen across the country since 2014 and particularly in the states ruled by the BJP. The ruling party governments have evolved several novel ways to promote the Hindutva ideology and in which the police have been made an active participant. This has been done through new criminal laws to target Muslims, cracking down against critics, and going to extraordinary lengths to throttle dissent. It has also coerced state governments run by opposition parties to follow its diktats through various mechanisms. It has expanded its powers to override states' authority over the police through the National Investigation Agency and administrative control over the All-India Service.

A number of laws, such as the Cow Slaughter Protection Act 2018, the Citizenship Amendment Act 2019, and the Prohibition of Unlawful Conversion of Religion Ordinance 2020, have been promulgated that seek to affect Muslims adversely. All these have been challenged in various courts on grounds of violating the Constitution and are pending decision by the judiciary. Meanwhile, the Uttar Pradesh government has used the law to ban slaughter shops and encouraged vigilante groups to target Muslims on suspicion of beef consumption. Protesters against the Citizenship Amendment Act and journalists have been charged with sedition and incarcerated for long periods under the Unlawful Activities Prevention Act 1967. Within hours of the promulgation of the Religious Ordinance 2020, police started targeting Muslim men marrying Hindu women. The law has been so framed that every religious conversion is presumed to be illegal though Hindu men marrying Muslim women have not been touched. The law has also made the act cognizable and nonbailable, empowering the police to arrest without a warrant.

The ruling party has also used police powers to stifle dissent against the

government. Activists and critics have been arrested for organizing protests and even media persons have been arrested for trying to report on police atrocities.³⁴ A young girl was dragged from her home in Bangalore and brought to Delhi for inciting the farmers through her Twitter tool kit.³⁵ In a bizarre case, the police arrested a stand-up Muslim comic on charges of indecent jokes against Hindu gods, even when he did *not* perform.³⁶ Security agencies have used financial audits and criminal investigations against rights groups and media groups and have prevented people from traveling abroad.³⁷ In a brazen exercise of authority, the police continued to arrest dissidents under Section 66A of the Information Technology Act for spreading “disinformation.” It should be noted that the Supreme Court struck down this section as violative of the Constitution in March 2015 and yet more than 1,200 people remained in police custody at the end of 2015 pending investigation or trial.³⁸

The partisan behavior is seen in the manner of investigation of the Delhi riots in 2020 by the Delhi police, which directly functions under the Ministry of Home Affairs. The police changed the sequence of events, omitted details, “simplifying the narration/experience of victims and even changing the types of accusations made in the complaints.”³⁹ A comprehensive inquiry into these riots by Justices Madan B. Lokur, A. P. Shah, R. S. Sodhi, Anjana Prakash, and retired Home Secretary G. K. Pillai has brought damaging evidence of police acting to hide the involvement of BJP leaders in provoking and carrying out the violence: “The Delhi Police failed to take punitive measures against hate speeches made by political leaders and others in the run-up to February 23 or on the day itself. Allegations of police assisting mobs and participating in attacks on Muslims, anti-CAA protest sites, and mosques have been documented, in eyewitness, media and affected persons’ accounts.”⁴⁰ Further, “The Committee holds the view that the Delhi Police failed to prevent the violence, and expresses serious concern at the instances of police complicity of varying degrees in the violence.”⁴¹ Yet no action has been taken against the delinquent police officers by the Home Ministry.

An unusual violation of democratic principles has been the misuse of central government powers to encroach upon the functions of the state police. The Constitution envisages policing to be a state subject, *vide* Article 246 read with entries I & 2 of List II of the Seventh Schedule. However, the All-India Services, such as the Indian Administrative Service and the Indian Police Service, are under the control of the central government. Officers belonging to these services serve in the states, but their cadre management is done by the Department of Personnel and Ministry of Home

Affairs, respectively. The central government has now exercised this provision to force officers to serve the interests of the BJP and disassociate from state governments ruled by opposition parties. The police commissioner of Kolkata, Rajeev Kumar, who is considered close to Mamata Banerjee, chief minister of the Trinamool Party ruling West Bengal state, was targeted by the CBI and, in a first of its kind, the residence of a commissioner was raided to arrest him in an old corruption case.⁴² Rajeev had to seek anticipatory bail from the Supreme Court to evade the humiliation of an arrest. Three senior Indian Police Service officers of West Bengal cadre have been ordered to report to the central government for their alleged failures to protect the convoy of BJP president Jagat Prakash Nadda from attacks by antisocial elements. However, without the permission of the state government the officers cannot go to Delhi, a situation that has pitted the state and central governments against each other.⁴³

Other central agencies such as the Enforcement Directorate and the National Investigation Agency have also been used to target prominent opposition party leaders and critics of the ruling party. Former finance minister P. Chidambaran, Agresen Gehlot (the elder brother of the Congress chief minister of Rajasthan), Rashtriya Janata Dal deputy chief minister of Bihar Tejasvi Yadav, Karnataka Congress leader D. K. Sivakumar, and the late Congress leader Ahmed Patel have been arrested or interrogated on various corruption charges by these agencies. Yet, B. S. Yediyurappa, the chief minister of Karnataka, and Hemant Biswas, both BJP leaders facing many corruption allegations, have not been touched. The National Investigation Agency has detained a large number of dissenters of the BJP including an 83-year-old priest, Father Stan Swamy, and several famous social activists. Members of the Popular Front of India, a Muslim organization, and even those singing parodical songs against the BJP were arrested for "anti-national" activities.⁴⁴

An even more alarming trend has been the misuse of police power against opposition party leaders that has strained and started a conflict with various state governments. Center-state relations have always been fragile, but under the BJP regime the confrontation has assumed dangerous consequences. The affected state governments have started retaliatory actions against the BJP or its supporters. When the Shiv Sena Party in Maharashtra broke away from the BJP and sought support from the Congress to form a government, relations between the two former allies became unusually strained. Arnab Goswami, the anchor for Republic TV, an unabashed and ardent supporter of the BJP, began using his channel to cast aspersions against Uddhav Thackeray, the chief minister of Maharashtra. In retalia-

tion, the Mumbai police reopened a two-year-old suicide case and arrested Goswami for abetment.⁴⁵

Confrontation between the BJP and All India Trinamool Congress Party ruling West Bengal has now reached a serious stage. Party cadres of these political groups have been clashing, leading to several murders and violent incidents. The Ministry of Home Affairs summoned the chief secretary and the director general of police of the state to come to Delhi and explain various security lapses.⁴⁶ In retaliation, Mamata Banerjee, the chief minister, refused to send her officers to Delhi, straining the relations between the state and central governments. An unusual form of confrontation was illustrated by the conflict between Rajasthan and Haryana police, each trying to prevent Members of the Legislative Assembly defecting from the ruling Congress Party in Rajasthan on behalf of their respective governments.⁴⁷

The conflict has expanded to other areas of governance too. The CBI is governed by the Delhi Special Police Establishment Act and so it requires consent of the state to investigate anyone except central government employees. Recently a number of state governments have withdrawn their consent to let the CBI investigate cases within their boundaries.⁴⁸ All are ruled by opposition parties that perceive the CBI to be acting in a partisan manner. CBI attempts to arrest the police commissioner of Kolkata were met by the local police forcibly taking away senior officers of the CBI to the police station for “questioning.” The Odisha police serving under the Biju Janata Dal launched an investigation against a family with connections to the BJP that owns a television channel critical of the local ruling party. The delicate balance of authority between the central and state governments has been seriously compromised by these conflicts.

The BJP government has also prevailed upon the police to present a positive image of its Hindutva agenda. At the command of UP chief minister Yogi Adityanath, the Ardh Kumbh Mela at Prayagraj was organized in 2019. This festival is organized every 12 years and celebrated by pilgrims taking a bath at the confluence of the Ganga and Yamuna Rivers. However, the BJP decided to celebrate this at the seven-year period in view of the impending national elections. The political imperatives were communicated in no uncertain terms to every police officer of the state. The same set of police officers who violate the law, extort from citizens, and display partisan behavior were firmly instructed to act differently to ensure the success of the festival. The vast publicity and elaborate administrative arrangements helped attract more than *230 million* pilgrims. This gathering of people during the forty-five days was not only the largest ever in

history but also an exhibition of exceptional policing. The police ensured security and comfort for everyone to bathe in the holy river and camp for several days in the sprawling Kumbh city created on the bank of the Ganges. The police-citizen interaction was noteworthy for the effusive praise given to the police by the people. In a survey of the pilgrims conducted by the Pant Social Science Institute, 98.1 percent of the respondents commended the police for their exemplary behavior and helpful attitude.⁴⁹ The entire event passed without any mishap and this remains perhaps one of the best examples of crowd management anywhere in the world. The notorious UP police, denigrated for its uncaring attitude, corruption, and poor citizen relations, presented exemplary behavior to meet the expectations of the government in office. While this may be perceived as a desirable development, communalization of police personnel was also on display. Officers exhibited Hindu religious symbols such as putting vermilion on their foreheads and tying sacred threads on their wrists. Such devotion and affinity are not seen when providing police services to the festivities of other religions. The attitude of police personnel in BJP-ruled states has raised concerns. In a survey about half of the police personnel reported that Muslims are likely to be naturally prone to committing violence.⁵⁰

Failures to Provide Security to Women

The political misuse of police organization also results in the growing crimes against women in the country. In 2021, 428,478 crimes were committed against women, “showing an increase of 15.3 percent over 2020 (371,503 cases).”⁵¹ The majority of cases under crimes against women under IPC were registered under “Cruelty by Husband or His Relatives” (31.8 percent) followed by “Assault on Women with Intent to Outrage her Modesty” (20.8 percent), “Kidnapping & Abduction of Women” (17.6 percent), and “Rape” (7.4 percent). The highest rate was in Assam (168.3) followed by Delhi (147.6), both under the control of the BJP. Disturbingly, kidnapping of girls below the age of 18 was highest in UP (3,515) followed by Bihar (2,905), which were also governed by the BJP, singly or in coalition.

The crime numbers do not reflect the true situation of criminal victimization since there is still compelling evidence of data manipulation and refusal to register the crime by the police.⁵² There is some evidence too about filing of criminal complaints to harass since court trials take a long time to complete the process. For instance, while 127,834 cases of kidnap-

ping and abduction of women were investigated by the police in 2021, 11,680 were found to be false charges. However, the police performance by its own records in handling these crimes against women seems dismal. Only 29,518 cases ended in a charge sheet for prosecution in the courts and, surprisingly, in an additional 14,753 cases, the officers failed to trace the offender or did not find sufficient evidence for prosecution. Convictions for the kidnapping and abduction of women is another measure of police skill in investigation. In 2021, only 1,618 cases ended in conviction and 4,405 cases ended in acquittal. In all, there were only 17,533 cases of conviction for *all* the crimes prosecuted in the country, a sad commentary about handling of these crimes by criminal justice agencies. Conviction percentage rates in the states of Andhra (5.6%), Assam (3.9%), Gujarat (5.0%), Karnataka (8.2%), Odisha (8.3%), and West Bengal (2.5%) were the lowest in the country. Finally, the ratio of people convicted by the courts in comparison to those arrested and charge sheeted by the police (26,325/479,876) is just about 5 percent, which suggests the abject failure of police in the country.⁵³

While the numbers tell only a partial, and misleading, story, there is little doubt that crimes against women have been steadily increasing over the past four decades and are a matter of grave concern. Despite the changes in law after the horrible 2012 Nirbhaya rape case, disdain for women's security persists. Female victims continue to face harassment and indifference from police officers and patriarchal attitudes continue to plague Indian society. In a comprehensive 2020 study, Human Rights Watch reported that government efforts to enforce the law to protect women in the informal or unorganized sector were limited.⁵⁴ This indifference, particularly for women from the Dalit or Muslim community, is most brazenly exhibited by the release of 11 men convicted for raping Bilkis Banu, a Muslim woman, during the 2002 riots in Gujarat. The ruling BJP government of Gujarat permitted remission of their sentence under questionable circumstances and party members garlanded them after coming out of prison.⁵⁵

Still, the public outcry and media attention is having some impact in making the police more responsive to female victims of crime. The Telangana government has created a new post of a "Reception" woman officer to interact with citizens needing help with the police. A study has found this to be an effective mechanism to ensure that the first contact of the victim with the police is a positive interaction and handled professionally.⁵⁶ Another study also reports that help desks staffed by women police officers have led to increased registration of cases of gender-based violence.⁵⁷ Police training institutes are including courses on gender sensitivity and more women

are being posted to the police stations. Women in police constitute around 10.5 percent of the total force in 2020, which is an improvement from 7 percent of the police in 2017.⁵⁸ However, the target of 33 percent reservation for women remains a distant goal. Addressing crimes against women effectively does not seem to be a priority for the police or the government.

Conclusion

There is little doubt that the state of the police in India is dismal and for the past few years has deteriorated considerably. The police are functioning in a partisan manner at the behest of the BJP to target political opponents and arrest protestors on flimsy charges. Even recalcitrant police officers, refusing to execute party interests or those perceived to be aligned with opposition parties, are being punished. The BJP government has ignored the Supreme Court order to reform the police and loosen political control over the organization. The Uttar Pradesh chief minister has brazenly stated, "*Agar apradh karenge toh thok diye jayenge* (If they commit crimes, they will be knocked down),"⁵⁹ and supported several dubious killings targeting Muslims in the state. Today, the police remain unaccountable to the people and function with brutality and violative of the law. Judicial supervision has not stopped officers from staging encounter killings, forcibly taking Hindu girls away from their legally wedded Muslim husbands, and filing crime cases against critics and journalists. The criminal justice system was deplorable, but now it is crumbling. It is taking more than a decade to complete the criminal proceedings, resulting in almost 70 percent of the accused languishing in jails as undertrial prisoners. This situation has further added to the coercive functions of the police. A large number of people, arrested on trumped up charges of sedition, threats to national security, and spreading disharmony in society, still end up spending months in jail. There is no attempt to repair the system and make it more effective. The whims of politicians are becoming the directive to the police in ascribing criminality and manufacturing material to embarrass their rivals.⁶⁰

However, when police are able to operate independently the results have been promising. In the recent Covid-19 pandemic, police officers showed evidence of working for and with the people in an extraordinary manner. The officers helped with the transport for the migrants walking home and in arranging shelter and distributing food and in many cases even sharing their own food to feed the people stuck in various places. Police officers even entertained the weary and home-bound citizens with songs and skits

to raise their spirits. A good number of reports from media that are generally critical of police behavior praised the officers for their devotion to duty and service to the people.⁶¹ Unfortunately, professional and service-oriented conduct only happens when police functions are aligned with the interests of the ruling party or when sometimes the officers are able to operate independently.

Is the present state of policing showing different trends than in previous periods? To answer this question, we need to acknowledge that the police are an integral part of government and cannot remain independent of political actors. The police cannot function as a democratic force unless the political leaders grant them operational freedom. If the Indian police have not changed from their colonial past and remain a threat to the rights of people, then the government bears major responsibility. If the officers continue to act with impunity, play a partisan role in social conflicts and particularly during communal riots, kill suspects of crimes, harass opponents of the ruling party, and display indifference toward victimization of the Scheduled Castes, tribes, women, and children, then the blame lies upon the elected rulers who control the police organization. As mentioned above, the Indian police are organized at the state level and controlled by a small elite group of officers belonging to the Indian Police Service cadre. The police leadership has been compromised by the power of transfer and posting controlled by the ruling political party. Furthermore, the law provides extraordinary discretion to the police personnel, which further facilitates the politicians to misuse power for their partisan interests. Despite a Supreme Court directive and recommendations of several commissions, the political parties have not shown any interest in changing the police apparatus. Accordingly, whatever is happening in the current period reflects upon the ruling political parties. The misuse of the police system to pursue ideological objectives, to suppress critics, dissenters, activists, and to let vigilante groups target Muslims is clearly happening at the behest of the BJP. There is also a real apprehension of inducting the Hindutva doctrine within the ranks of police organization. As such, the police reflect the current state of Indian democracy: functioning, promising, but also alarming.

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Investigative Agencies

Ajay K. Mehra

Investigative agencies in India, most of them specialized in their role and responsibilities (except the police and its associated wings such as the Criminal Investigation Department), are public institutions entrusted with specific tasks. They have their origins in the specific needs of a given time and circumstances. In a dynamic political system such as India, which has continually witnessed political and social transitions since Independence and has witnessed growing political competition, public institutions have had to bear the stresses and strains of such transitions in a variety of ways. If pre-1991 politics and political economy created a particular environment and conditions for the functioning for such institutions and posed challenges and concerns of a certain nature, the postliberalization polity and economy in India—with greater economic competition, an accelerated pace of urbanization, along with increased interstate and interregion migrations—have brought in added challenges.

This chapter examines the performance of the two premier investigative agencies in India—the Central Bureau of Investigation (CBI) and the National Investigation Agency (NIA). Created in 1946 and in 2009, respectively, the CBI and the NIA both have institutional features that are designed to protect civil liberties and resist politicization. Much, if not most, of the work that these agencies conduct is in line with the highest traditions of specialized policing and investigation. Their institutional performance and behavior are expected to be nonpartisan. Nevertheless, since 2014 the Bharatiya Janata Party–led National Democratic Alliance (NDA) government has heightened deployment of both the CBI and the NIA in ways that

run counter to India's rich tradition of respecting civil liberties. The CBI, for the most part, is frequently used to harass political adversaries and other prominent voices who oppose the BJP's agenda. At the same time, the CBI has a limited ambit for investigating crimes that might implicate the ruling regime. The NIA, on the other hand, despite its formation as an antiterror investigation agency after the 2008 Mumbai terror attack, is often directed toward hampering larger opposition movements, especially those movements involving minority groups. Lately, the Union government has also used it as a police force at its disposal that can snatch a contentious or controversial case from the police of an opposition-ruled state. Taken together, India's investigative agencies are being used to undermine the tradition of a loyal opposition, threatening the long-term vitality of India's democracy.

The institutional origins of both agencies shape how these agencies are used by the ruling government. The CBI has its origin in the Delhi Special Police Establishment (DSPE) Act, 1946, which retained the SPE set up in 1941 by the government of India to investigate cases of bribery and corruption in transactions within the War & Supply Department during World War II. The NIA came into existence in 2009 following the passage of the National Investigation Agency Act (2008). It was conceived and created following the 26/11 (2008) terror attack in Mumbai, which exposed the failure of the intelligence agencies and the limited ability of the existing bodies to track terrorist and terror-related activities and events.

Also, aside from its own cadre, which is patterned on police organization, the supervisory cadre and the leadership of the CBI is drawn from the Indian Police Service (IPS). The NIA also draws its leadership from the IPS. Obviously, whatever erosion and decline that has taken place in the Indian police in general, and the IPS in particular, would impact all the investigative agencies and police in general. For example, the decline in the police and the IPS has been diagnosed *inter alia* due to political interference and intrusion of political considerations in cadre management.¹ These larger institutional changes naturally impact the two investigative agencies under analysis here.

The Central Bureau of Investigation

Origin and Growth

The origin, institutionalization, organizational growth, operational culture, and the role of the CBI begins with the Special Police Establishment

set up by the government of British India in 1941. The agency had its utility, so it was retained to investigate cases of bribery and corruption by central government employees after the war. It was given statutory status by the DSPE Act, 1946 that retained the organizational setup designed for the SPE in 1941.²

In June 1962, Union home minister Lal Bahadur Shastri set up a committee under the chairmanship of K. Santhanam tasked with understanding the nature and extent of corruption in the country, and to suggest measures to deal with it.³ The committee's recommendations resulted in the formation of two agencies to fight corruption. The CBI was formed in April 1963 and the Central Vigilance Commission was created in February 1964.⁴ Their roles have remained entwined ever since.

The DSPE Act No. 25 of 1946 lays out the power and functions of the CBI. Initially, the CBI was put under the charge of the director, Intelligence Bureau, and it was given the responsibility of investigating corruption cases involving any department of the government of India. In 1948, it was given its own inspector general, to be drawn from the coveted IPS cadre. With the creation of the CBI in 1963, the DSPE reincarnated as its Investigation and Anti-Corruption Division.⁵ The CBI's mandate now was not only to investigate cases of corruption but also violations of central fiscal laws and serious crimes committed by organized gangs and thugs, besides collecting supporting intelligence, statistics of crime, and conducting police research and making special studies. It is India's official single point of contact for liaison with Interpol.

Interrogating the CBI

The CBI is known to have maintained a reputation of high professionalism till the 1970s. In the ensuing decades, the CBI succumbed to political influence. A low point for the CBI came on May 9, 2013, when Supreme Court justice R. M. Lodha (now retired) heard a case of coalfield license allocation to private companies. Justice Lodha criticized government interference in CBI investigations and described the CBI as a "caged parrot" and "its master's voice."⁶ Asked for his reactions, CBI director Ranjit Sinha wryly said that "whatever the Supreme Court says is correct."⁷ The CBI is an institution under stress due to administrative pressures and political interference. This reality has held irrespective of the political dispensation in New Delhi, although the misuse of the CBI has grown in recent years.

Two issues deserve special analysis. First, consider the CBI's operations in the states. Since the CBI is a federal agency, where and how it acquires

sanction to operate in the states can often involve political influence. And, second, the issue of leadership, particularly the selection, appointment, and operational autonomy of the director.

Section 6 of the DSPE Act, 1946 provides for the modalities for the CBI to operate in the states of the Indian Union. The CBI can operate in a state either by seeking consent for each case or by a grant of general consent. The clause relating to “general consent” was brought in under which the state governments give their consent for the CBI to conduct an inquiry into cases that the agency is authorized to investigate in their territory. Failing this, the CBI is supposed to seek permission on a case-to-case basis. A state granting its general consent and withdrawing it at some point of time, alleging political use of the CBI, has not been uncommon. However, during 2018–20, eight states had withdrawn their consent, alleging “harassment by the Union government” and the misuse of the agency for political gains.⁸ The states that had withdrawn general consent for the CBI are Chhattisgarh, Jharkhand, Kerala, Maharashtra, Meghalaya, Mizoram, Punjab, Rajasthan, and West Bengal. Except for Meghalaya and Mizoram, which is being ruled by the National Peoples’ Party and the Mizo National Front, which are parts of the BJP-led NDA, the other seven states are ruled by non-BJP and non-NDA parties.⁹ In fact, the Communist Party of India condemned the use of central agencies, including the CBI, to destabilize the Left Democratic Alliance government in Kerala and other non-BJP governments in states.¹⁰ The CBI is often caught between the politics of the ruling dispensations at the center and the states. However, withdrawal of consent by so many states in the recent past is politically significant and indicates institutional tampering and decline, leading to demands for statutory remedy against political misuse.¹¹

Second, institutionally the modalities of appointment of the director of the CBI, the kinds of political pressure the office has to bear, and how the incumbent interacts with the political dispensation are significant. The procedure of selection and appointment of the CBI director has evolved with the aim of keeping the agency nonpartisan. In *Vineet Narain vs. Union of India* (1997)—a public interest litigation on the Jain Hawala case, in which several cabinet ministers, chief ministers, governors, leaders of the opposition, and bureaucrats were charge sheeted for corruption—the Supreme Court prescribed a nonpartisan selection committee headed by the Central Vigilance Commission to choose the CBI director in 1998. The Lokpal Act (2013) led to an amendment to the DSPE Act on January 16, 2014, creating a bipartisan and ostensibly politically neutral committee for the appointment of the director consisting of the prime minister

(chairperson), the leader of the opposition in the Lok Sabha, and the Chief Justice of India as members.¹² The committee picks the director from a panel prepared “from amongst officers belonging to the Indian Police Service” on the basis of “seniority, integrity and experience in the investigation of anti-corruption cases” (Sections 4(3)(a), (b)). The normal tenure of the director of the CBI was fixed at two years. Once appointed, the director of the CBI cannot be removed except on the advice of the same committee that appoints her/him.

However, political controversies relating to the CBI director did not cease with these changes. Previous incidents with CBI Director Joginder Singh (1996–97) and U. S. Mishra (2003–5) are notable, but the Alok Verma–Rakesh Asthana episode in 2017 deserves special mention as it provides the starkest, most bizarre, and unprecedented example of politicization of the CBI.¹³ Knowing well that incumbent director Anil Sinha was retiring on December 2, 2016, the committee headed by the prime minister did not meet to appoint his successor. Additional Director R. K. Dutta, the second man, who was to be given interim charge, was transferred out on November 30. Consequently, the third in seniority, Special Director Rakesh Asthana, was appointed the interim director on December 3, 2016. Media reports indicate that the aim at the highest level was to eventually appoint Asthana the director.¹⁴ Asthana held the charge until Alok Verma was appointed director on February 1, 2017. Soon, the organization witnessed an ugly feud between the two with Verma slapping a corruption case against Asthana and Asthana retaliating.¹⁵ The government reacted by sending the two on leave and appointing M. Nageshwar Rao, who was said to be always on the right side of the BJP but had charges of corruption pending against him, as interim director on October 24, 2018 until Rishi Kumar Shukla was appointed regular director on February 2, 2019.¹⁶ Content analyses of media accounts put the blame squarely on Prime Minister Modi.¹⁷ On the retirement of Shukla on February 2, 2021, a regular CBI director could not be appointed and Additional Director Praveen Sinha, an IPS of Gujarat cadre, was appointed acting chief.¹⁸ A public interest litigation was filed in the Supreme Court of India by the nongovernmental organization Common Cause for the appointment of a regular director.¹⁹ Passing judgment on the public interest litigation on April 5, 2021, the Supreme Court expressed displeasure at the state of affairs and directed the Union government to appoint a regular CBI chief.²⁰ Since the prime minister chairs the selection committee, the buck stops at his table and points to either callousness or a design, perhaps a search for a pliable officer. Indeed, the leadership issue is as much a matter of the IPS cadre as it

is of how the government, rather the political dispensation, deals with it on issues relating to appointment, management, and when a politically loaded case comes up to the CBI.²¹

The cases against ex-directors A. P. Singh, Ranjit Sinha, and Alok Verma and former Special Director Rakesh Asthana came under the lens again on September 28, 2020, when a special CBI court, while examining investigations in a bribery case pertaining to meat exporter Moin Qureshi, said: “Why is the CBI dragging its feet in a case involving two of its ex-directors that may lead to pursue investigations against them?” The court stressed a “frank and honest” investigation was needed in these cases. It asked if the agency had investigated the role of its former director Alok Verma, or whether Verma had allegedly stalled the investigations. It also asked searching questions on the cases against the former special director Rakesh Asthana. The CBI said that it would take “substantial time” to investigate these. Obviously, the judiciary is taking note of anomalies, institutional issues, and political interference within the CBI and asking uncomfortable questions.²²

While the CBI has been accused of directing its investigation in several cases influenced by the existing political dispensation, there are a few cases in which the agency was accused of targeting individuals and companies for political reasons. In January 2016, the CBI raided the office of Rajendra Kumar, a senior Indian Administrative Service officer then serving as the principal secretary of the Delhi government, accusing him of abusing his official position in awarding Delhi government contracts totaling ₹95 million to a private firm, Endeavour Systems Pvt Ltd. The National Capital Territory of Delhi is a Union Territory with a legislature and chief minister. The CBI seized some official papers.²³ The Delhi government, which was ruled by a neonate Aam Admi Party led by Chief Minister Arvind Kejriwal, had been at odds with the BJP ruling at the center. Naturally, the Aam Admi Party cried vendetta. The CBI issued clarification that their raid was not aimed at the Delhi government. On the plea of the Delhi government the court asked the agency to release some of the documents seized in the raid on January 20, 2016.²⁴ Kumar appeared before a CBI court in January 2018 when his bail was extended, but nothing much has been heard of the case since.

The relationship of the Narendra Modi government with the media has been far from congenial. Accusations of managing the media and hostility toward critical media houses have flowed thick and fast since the government first came to power in 2014.²⁵ New Delhi Television (NDTV), owned and managed by Prannoy Roy and his wife, Radhika Roy, is one such media house in the line of fire. It has not only attracted criticism from the party;

its media managers have also been a target of trolls. Instead of protecting NDTV, the CBI has been used as a tool of harassment. On June 5, 2017, the CBI raided the house and office of the husband and wife duo. As accusations of a vendetta and an attack on press freedom went wild in the media and political circles, the CBI issued clarifications. Refuting the claims of “political vendetta” and a “witch hunt,” it accused NDTV of “wrongful gains” and “criminal conspiracy.” Asserting that it “registered the case based on the complaint of a shareholder of ICICI Bank and NDTV after carrying out due diligence,” it rejected the accusation of “acting under pressure.”²⁶ The CBI named “shell company” Radhika Roy Prannoy Roy Holdings, which was linked to NDTV in the criminal case, for causing losses to ICICI Bank. It related to a loan of ₹3.66 billion given to the company on personal guarantees by the Roys who pledged their NDTV shares, which were valued more than the prevailing price at the Bombay Stock Exchange. Within a year, ICICI Bank settled to foreclose the loan with a part-waiver that resulted in a loss of ₹480 million to the bank. According to the CBI’s first information report, NDTV and ICICI entered into a criminal conspiracy to transfer ownership of the news company to a shell company against banking rules and the Securities and Exchange Board Act. While ICICI declined to comment, media circles were abuzz with charges of attacks on press freedom.²⁷ While the case was still on, on August 21, 2019, the CBI lodged a fresh case against NDTV for an alleged foreign direct investment rule violation. Despite finding no evidence in this case, the owners of NDTV continued to be persecuted. The fresh case related to the company’s \$150 million investment in its non-news business by NBC Universal, then owned by the US-based General Electric.²⁸ In the meantime, harassment of the Roys has continued. Most recently, they were stopped at Mumbai airport from flying abroad on August 7, 2020.²⁹ And on August 24, 2022, industrialist Gautam Adani, known to be close to Prime Minister Narendra Modi and the BJP, acquired 29.18 percent shares in NDTV and made a ₹4.93 billion open offer for purchasing another 26 percent directly from shareholders.³⁰ By December 2022 Gautam Adani acquired 65 percent shares of NDTV.³¹

The CBI’s action against P. Chidambaram, Congress leader and former Union home and finance minister, also left several unanswered questions. Chidambaram and his son, Karti (a Congress member of Parliament), came under the CBI lens for alleged irregularities in foreign direct investment worth ₹46.2 million in INX media without the approval of the Foreign Investment Promotion Board in 2007. The CBI raided properties belonging to the Chidambarams in Chennai on May 16, 2017 and on June 13,

2017. P. Chidambaram was arrested by the CBI on August 21, 2019 at his residence in Delhi in a dramatic move even as he was trying to get judicial redress. The CBI registered a case in this regard on October 21, 2019 and two days later raided 14 residential properties owned by the Chidambarams in different cities. He was released after 106 days of incarceration on December 4, 2019. Chidambaram blamed the government for trying to stifle his voice as he was incessantly criticizing the government in his weekly column in the *Indian Express*.³² In fact, media reports also detailed the numbers of opposition leaders, including that of the Congress, arrested in one case or the other by the Modi government.³³

Clearly, even as the decline of the CBI as a public institution of crucial importance began in the 1980s, not only has it been brazenly used lately but the government has also been remiss in handling the apex appointment in the agency. In fact, the government lately has been brazen in bringing in a favorite officer as the chief, overruling objections from the leader of the largest opposition party (the Congress in this case).³⁴

The decline in the trust of this institution meant to combat corruption has been alarming and disturbing. A recent analysis by the *Indian Express*, a prominent Indian daily, shows that while the Congress-led United Progressive Alliance during its decade-long reign used the CBI against opposition leaders, with the ascension of Narendra Modi-led NDA, the abuse of this agency has increased manifold. In the UPA regime, 60 percent of the opposition leaders were in CBI net; during the NDA regime from 2014 to 2022, the share of opposition leaders in CBI net rose to 95 percent.³⁵

The National Investigation Agency

The need for a counterterrorism agency was first felt in the wake of the 26–11 (November 26), 2008 terror attacks in Mumbai. Ten terrorists came from the sea and were effectively able to shut down the economic capital of the country by mounting terrorist attacks on multiple locations. Given the audacious daredevilry of the act and the way the Indian security system, both coastal and land-based, including all the intelligence agencies, was taken by surprise, the need for an agency with a comprehensive mandate was felt. Consequently, the Indian Parliament passed the National Investigation Agency Act on December 31, 2008. With the act, India got a federal counterterrorism law enforcement agency. The agency is mandated and empowered to deal with terror-related crimes across the country. It does not have to seek permission from states in

initiating or dealing with any case. It has branches in Jammu, Lucknow, Raipur, Kolkata, Guwahati, Mumbai, Hyderabad, and Kochi, covering six (Jammu and Kashmir, Uttar Pradesh, Chhatisgarh, West Bengal, Assam, Maharashtra, Telangana and Kerala, respectively) states of India. It maintains its own most wanted list. Its jurisdiction extends to (a) citizens of India in the country and outside India; (b) persons in the service of the government wherever they may be; and (c) persons on ships and aircraft registered in India wherever they may be.

The superintendence of the NIA has been vested in the central government. It is headed by an officer designated as director general, belonging to the IPS. The officers of the NIA have an India-wide jurisdiction for investigation of the scheduled offences and any arrest they may have to make in connection with that. The act gives the officers of the rank of sub-inspector and above the powers of the officer-in-charge of a police station in the area “in which he is present for the time being and when so exercising such powers shall, subject to any such orders aforesaid, be deemed to be an officer-in-charge of a police station discharging the functions of such an officer within the limits of his station.”

The powers of the NIA are limited to investigating only the offences given in the schedule of the act, designated as scheduled offences. The schedule relates to offences that are extraordinary in nature, which includes terrorism, terrorism-related activities, and other “anti-state” activities.³⁶ It is important to note that the ambit of “offences against the state” is wide and comprehensive enough for a regime and political dispensation to turn the agency against political opponents and ideologically divergent groups. There is a two-track process of initiating an investigation. First, the NIA has been institutionally linked to the processes of policing in the states. Thus, the process details that in case of a report of a scheduled offence the police station concerned would immediately inform the state government, which would inform the central government, which in turn would designate the case to the NIA. During the process of the case being transferred to the NIA, the police station concerned would continue to investigate the case. Second, the NIA can be assigned a case on any of the scheduled offences for investigation by the central government on a *suo motu* basis. The moment the central government decides to assign a case to the NIA *suo motu*, the concerned police station(s) in the concerned state “shall not proceed with the investigation and shall forthwith transmit the relevant documents and records to the Agency.”³⁷ The NIA can, if it feels the need, associate the concerned state government with the investigation. It can also, with the previous approval of the central government, transfer the

case and trial of the offence to the state government. In the course of the investigation of the scheduled offences the NIA can also investigate any other offence alleged to have been committed by the accused. However, the state government is empowered to investigate a scheduled offence in case the NIA does not step in.

Interrogating the NIA

The BJP-led government sought to amend the National Investigation Agency Act in 2019. Union home minister Amit Shah introduced the amendment bill on July 8 in the Lok Sabha and stated that it aimed to provide the agency with powers to investigate scheduled offences such as human trafficking, the circulation of fake currency, the manufacture and sale of prohibited arms, and cyber-terrorism. It made provision for the creation of special courts for adjudicating such crimes and allowed the NIA jurisdiction over scheduled offences committed outside India, subject to international treaties and the domestic laws of other countries. A special court in New Delhi would preside over such cases. It was criticized as anti-democratic by the opposition, who protested the amendment. The government justified the amendment as a zero-tolerance policy toward terrorism. The government also assured the opposition that it would not be misused and not turn India into a “police state.”³⁸ One of the major concerns of the opposition was that the following the amendment, the act would be misused on the basis of religion. Assuring the opposition that the act and its amendment were meant to tackle terrorism and would not be used on the basis of religion, the home minister contended that the lack of a stiff law had led to an increase in acts of terrorism.³⁹

The NIA came under scrutiny for its political overreach for the first time on June 24, 2020, 11 years and six months after it came into existence, when the Union Ministry of Home Affairs transferred the Bhima Koregaon/Elgar Parishad case from the Maharashtra Police. The Maharashtra Police had been conducting the investigation of the case from its inception. In this case, a conclave of human rights activists all opposed to the BJP’s Hindutva agenda held a rally in Pune on December 31, 2017. The next day, on January 1, 2018, the annual Dalit congregation was held at Bhima Koregaon, a village 26 kilometers away from Pune to commemorate their victory over the Peshwa Army in 1818. Commemorating 200 years, it had a special significance that year. Some groups carrying saffron flags (the colors of the Hindu groups) entered the congregation site. A scuffle ensued,

resulting in the death of Rahul Fatangale, along with injuries to many. An eyewitness account named Hindutva leaders Milind Ekbote and Sambhaji Bhide for alleged incitement; they also were named by Pune rural police, but the police could arrest only the former.⁴⁰ Obviously, both sides blamed each other for the violence. The opposition parties particularly blamed the BJP and other Hindutva groups for disturbing the peace of the Bhima Koregaon meet.⁴¹

The Pune city police came into action immediately and launched a probe.⁴² Consequently, a complaint was filed with the Pune Police that a Maoist group was seeking to exploit the age-old rivalry between Dalits and Marathas and had engineered riots in Bhima Koregaon. Going beyond this, the Pune Police alleged an extremist left conspiracy to topple the elected government in New Delhi with the help of the Communist Party of India (Maoist) and a plot to kill the prime minister.⁴³ As a consequence, several Republican Panthers were named for delivering provocative speeches in the Elgar Parishad congregation on December 31 and igniting a communal conflagration that resulted in violence at Bhima Koregaon the next day. Police filed a first information report against them for allegedly making provocative speeches and launched multiple raids in April 2018 at the residences of activists in Delhi, Mumbai, and Nagpur. Following “investigations” a first information report was registered, and five activists were arrested by the Pune Police under the Unlawful Activities Prevention Act, an act normally used in cases of terrorism.⁴⁴ This was followed by the arrest of four more activists. They claimed to have recovered some documents, including a letter written by a person identified only as “R,” which, the police claimed, talked about a plot to assassinate Prime Minister Narendra Modi in a “Rajiv Gandhi-type” attack.⁴⁵ The letter also allegedly referred to a requirement of ₹80 million to purchase an M-R rifle and 400,000 rounds of ammunition to execute the plot. The letter reportedly mentions human rights activist Varvara Rao’s name. Not surprisingly, in a country-wide raid on August 28, 2018, a human rights lawyer and several prominent activists—all termed as “Urban Naxals”—were arrested; all were charged under the Unlawful Activities Prevention Act. The evidence against the activists was based on data—correspondence, documents, and so forth—from their computers.

The cases were filed and investigated by the Pune Police when Maharashtra was ruled by the BJP-led NDA. In the October 2019 Legislative Assembly election, the BJP lost seats and its alliance with the Shiv Sena broke over claims to the chair of chief minister. A new alliance of Shiv Sena, the Nationalist Congress Party, and the Congress, named as Maharashtra

Vikas Aghadi (Maharashtra Development Front), formed the government. Even though no provocative or preemptive action was taken by the new government on the Bhima Koregaon/Elgar Parishad case, the emerging possibility of withdrawal of the cases made the Union government move to take charge of the case from the Maharashtra Police. On January 24, 2020, invoking Section 6(5) of the National Investigation Agency Act, the Union government transferred the case to the NIA from the Maharashtra Police.⁴⁶ The act, however, does not say anything about a case that is already being investigated by a state's police. The fact that the Maharashtra Police were already investigating the Bhima Koregaon/Elgar Parishad case and had filed a charge sheet in the court, that the state government had not recommended its takeover by the NIA, and that the state government was not consulted made experts cry foul.⁴⁷ It became the first instance in which a case in an advanced stage of investigation by a state police was transferred under Section 6(5) of the National Investigation Agency Act. Partisanship is writ large in the act. Critics pointed out that since the NIA has limited institutional spread across the country, it would need the support of the Maharashtra Police in any case. The NIA proceeded to carry out an investigation and arrested Delhi University associate professor M. T. Hany Babu, an anticaste activist, on July 28, 2020.⁴⁸ If that was not enough, an 83-year-old Jesuit priest and activist, Stan Swamy, was arrested by the NIA on October 8, 2020 from Ranchi, capital of Jharkhand state; he was ailing, suffering from Parkinson's disease, and the oldest to be arrested in the case. He was accused of links with the Communist Party of India (Maoist) and possessing allegedly incriminating literature in his computer, which he denied.⁴⁹ His interim medical bail was opposed by the NIA and rejected by the special NIA court on October 23, 2020. The NIA also declined to allow him a straw for drinking fluids, since due to Parkinson's he had difficulty in drinking from a cup or a glass; it was finally provided to him by the court. Rejecting his bail order, the special NIA court said on March 23, 2021, "Fr Stan hatched a serious conspiracy to create unrest in the entire country and to overpower the Government, politically and by using muscle power." He moved (petitioned) the Bombay High Court for a medical bail. His condition worsened and he contacted Covid-19 and was ordered by the Bombay High Court to be shifted to a private hospital. On July 4, 2021, he suffered a cardiac arrest and was put on a ventilator. He eventually passed away on July 5, 2021.⁵⁰

For the first time since it came into existence in 2009, the NIA has obviously been drawn into the rut that several central investigative agencies have already been in for quite some time. In opposing medical aid to

ailing poet Varvara Rao on the ground that he was “trying to use pandemic, old age to his advantage,” the NIA reflected the brute face of the state.⁵¹ Later, when Stan Swamy, suffering from Parkinson’s disease due to which his hands shook too much, asked for a sipper and a straw to drink, the NIA allegedly opposed it. The agency later denied that it had seized his sipper.

A later revelation exposed the possibility of a plot against the arrested activists. A substantial part of the evidence against the activists linking them with the Maoist outfits was based on data, correspondence, and documents retrieved from their computers. It was, for example, claimed that 10 letters were found on the laptop of Delhi-based activist Rona Wilson addressed to the Hyderabad-based activist-poet Varvara Rao regarding their Maoist links and the plot against the Indian state. Surprised by the unconvincing claim, Wilson’s lawyer sought help from a human rights body in the US, which forwarded the pen drive relating to the claim provided by the prosecution, mandatory under the law, to a reputed company, Arsenal Consulting. Arsenal undertook the examination of the pen drive pro bono. The data in the drive was further examined by three more leading digital forensic experts, whom the *Washington Post*, which was given a copy of the data, consulted. The inquiry revealed that the 10 impugned letters were inserted in Wilson’s computer through malware over a period of two years.⁵² Rona Wilson moved the Bombay High Court, challenging his incarceration by stating that evidence were planted by the Pune Police and later the NIA took it forward.⁵³ Of course the Ministry of Home Affairs denied any tampering of the laptop of Wilson.⁵⁴

The NIA extended the claim of a “Maoist plot” in Bhima Koregaon to Andhra Pradesh and Telangana in April 2021. The Communist Party of India (Maoist) has indeed been active in these two states, but as in the Bhima Koregaon case, the net was cast wider in arresting journalists, lawyers, littérateurs, and civil right activists. A first information report was registered in March 2021, naming 64 individuals across a spectrum of the intelligentsia. Searches were conducted in 31 locations across eight districts in the two states, which began on March 31 and continued till April 1. The persons and their premises searched were accused on the basis of Marxist and Maoist literature seized from them. Many of these have been known to have been agitating and protesting over police high-handedness, custodial deaths, rehabilitation of project ousters, and helping people file habeas corpus petitions. The NIA report stated that some of these were “involved in instigating villagers to stop combing [search] operations, obstruct police from entering villages, revolt against police parties and to hold rallies against the government.” In most cases people were booked

under the stringent Unlawful Activities Prevention Act in order to deny them bail.⁵⁵

Thus, in the Bhima Koregaon case, 16 prominent citizens of the country were arrested by the National Investigation Agency since 2018.⁵⁶ While one, Stan Swamy (83), died of covid in 2021, a lawyer activist, Sudha Bhardwaj, was released on a bail granted by the Bombay High Court on December 8, 2021. The NIA opposed the bail in the Supreme Court, but the appeal was turned down and she was released.⁵⁷ P. Varavara Rao was granted bail on medical ground by the Supreme Court in August 2022. Gautam Navlakha, kept on house arrest, was granted bail by the Bombay High Court on December 19, 2023.

Recently, the Union government used the NIA against the farmers and their organizations agitating against the three farm laws—Farmers’ Produce Trade and Commerce (Promotion and Facilitation) Bill, 2020, Farmers’ (Empowerment and Protection) Agreement on Price Assurance and Farm Services Bill, 2020 and Essential Commodities (Amendment) Bill, 2020—passed by the Indian Parliament in the monsoon session in 2020, which received presidential assent on September 27, 2020. Farmers, their unions, and opposition parties continued to protest against the three laws and kept the pressure on for their repeal since August 2020. On November 23, farmers announced their *Dilli Chalo* (Let’s go to Delhi) call. Consequently, tens of thousands of farmers gathered at the border of the roads approaching Delhi. Since there were substantial number of farmers and farm unions from Punjab, the rumors of ultra-Sikh Khalistan movement supporters penetrating the agitation were floated. Banned outfits such as Sikh for Justice and Babbar Khalsa international were said to be attempting to incite rebellion against the government. The NIA was pressed into action and it summoned 40 prominent leaders of the movement to testify before it. Opposition parties such as the Congress and the Akali Dal accused the center of using the NIA to scare farmers.⁵⁸ The NIA issued a clarification that 40 leaders were summoned only as witnesses and it should not be seen in the context of the ongoing farmer’s agitation. However, protesting farm unions rejected the explanation issued by the NIA and slammed the summoning of the leaders.⁵⁹ The summons to testify was ultimately dropped.

Two connected issues deserve underlining in the context of the role of the NIA and the intentions of the Modi government with regard to public security. Bibek Debroy, the chairman of the prime minister’s Economic Advisory Council, in a signed article titled “The Good Cop” in the *Indian Express* on May 12, 2022 floated a proposal for shifting police and public order from State List (List II) in the Seventh Schedule of the Indian

Constitution to Concurrent List (List III).⁶⁰ The obvious intention is that the Union government has a decisive say in this matter. Significantly, the same proposal had been made by a NITI Aayog-sponsored paper titled *Building Smart Police in India: Background into the Needed Police Force Reforms* published in 2016, when Debroy was a member of the NITI Aayog.⁶¹ This came under criticism in the public domain.⁶² Not to be daunted, and perhaps to push the idea of the Union government's visible presence (or more) in the domain of public security, Union home minister Amit Shah stated while inaugurating an NIA office in Raipur, the capital city of Chhatisgarh state, that the NIA will have branches in all the state capitals by 2024.⁶³ The context should not be missed that in 2024 the next general elections are due in the country. This is despite the fact that under Section 6(4) the Union government can transfer any case from any state police to the NIA for investigation, as has been done in the Bhima Koregaon case.⁶⁴

Conclusion

We have examined two central investigative agencies in this analysis, the CBI and the NIA, the first emerging out of a pre-Independence need to investigate anticorruption cases and the second created following a nefarious and terrible terrorist attack masterminded from across the border in 2008. Both agencies are led at the supervisory and apex levels by IPS cadre. The officers of the cadre are brought on deputation and after finishing the tenure of deputation repatriated back to their respective state cadres, to the central armed forces, or to the central bureaucracy. Obviously, they would carry some baggage of the politics that has seeped into the police organizations in the country. As we link our arguments in the analysis to the discussion of institutions at the outset, it emerges sharply that organizational and institutional norms have been bent in the cases of both institutions. In using the institutions and bending their role outcomes to suit the objectives of their partisan politics, the regimes have impacted the institutionalism of the two investigative agencies. That the political dispensations ruling the country have not hesitated to infuse politics is obvious. Deinstitutionalization of the agencies is the obvious result. The process has been hastened in the past decade.

Another premium investigative agency, the Enforcement Directorate, which investigates economic fraud, has not been included in this analysis in order to limit the scope of the chapter. It is necessary to underline here that this agency too has been misused against people who are considered

dissenters and inimical to the ideology of the government of the day. The *Indian Express* reported that since 2014, when the Narendra Modi-led NDA took over, there has been a fourfold increase in Enforcement Directorate cases against politicians, 95 percent of which are against politicians from the opposition.⁶⁵

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The Political Causes of Modi's Mixed Record as an Economic Reformer

John Echeverri-Gent, Aseema Sinha,
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In both 2014 and 2019, the Bharatiya Janata Party–led National Democratic Alliance (NDA) won large electoral mandates. When democratically elected governments win electoral mandates, especially in Westminster-style parliamentary systems, they usually have a great deal of autonomy to implement their desired policies. This institutional expectation was enhanced by the regime change in 2014. Many expected Modi, elected Prime Minister in 2014, to be a liberalizer who would, according to his own campaign slogan, bring “minimum government, maximum governance.”¹ Others, who more closely inspected Modi’s rule in Gujarat, were less convinced that Modi would liberalize, but felt that with his mandate, he would at a minimum focus on increasing the rate of growth. Some critics drew attention to the uneven social development record of Gujarat as well. As prime minister, Modi himself constantly publicized his economic policies, emphasizing their transformational impact. However, in contrast to expectations, India’s economic performance under Modi has been uneven and the style of economic governance erratic.

While India’s economy has grown rapidly since the Covid-19 pandemic, this came after a decidedly mixed performance. India’s GDP growth during Modi’s first three years in power reached a peak of 8.26 percent in 2016–17, followed by a declining growth rate for three consecutive years, slump-

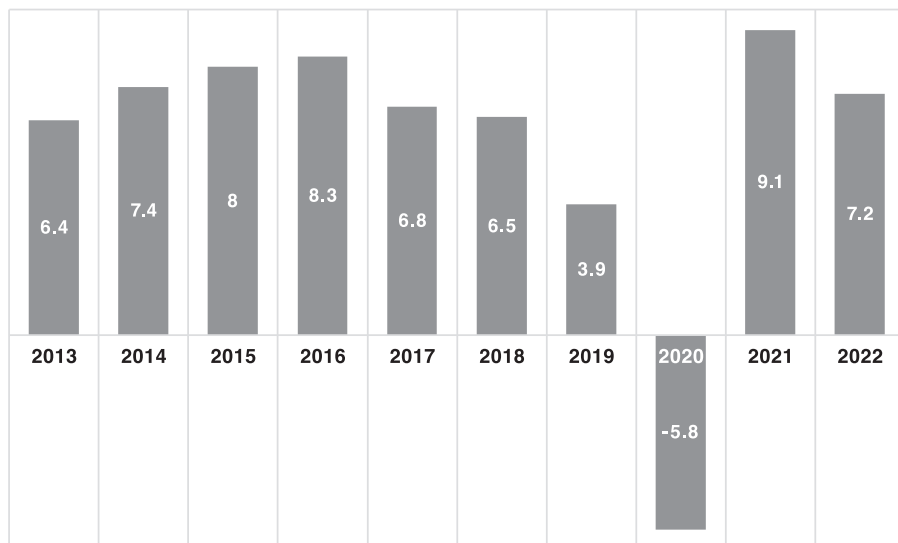


Fig. 11.1. India's Annual GDP Growth, 2013 to 2022 (annual %).
 (Source: Data from World Bank, *World Bank Database*,
<https://data.worldbank.org/indicator/ny.gdp.mktp.kd.zg?locations=in>)

ing to 3.87 percent in 2019–20. With the economic and social impact of the Covid-19 pandemic, economic growth dropped further to -5.83 percent (see fig. 11.1). According to calculations by economists Ashok Gulati and Purvi Thangaraj, India's annual average growth rate during the first nine years of the Modi government (2014/15 to 2022/23) at 5.7 percent was less than the 6.8 percent average growth rate of the United Progressive Alliance government (2004/5 to 2013/14) when calculated using the new, 2011–12 base series introduced by the Modi government and more than two percent less than UPA's 7.7 percent growth using the previous series with the 2004–05 base.² Despite the decoupling of investors from China, FDI and private investment remains surprisingly weak.

The management of India's economy has become more complex in recent decades, with greater openness to global markets and a more demanding electorate. The regional dimension of India's economy adds further complexity. The state governments have considerable powers within the federal system to influence economic outcomes and compete between themselves to attract inward investment.³ Notwithstanding this complexity, India's economic growth has accelerated since the 1990s and, along with it, poverty levels have been reduced significantly, though the absolute number in poverty remains high. Using the official poverty line, a

decline from 45 percent to 22 percent was shown between 1994 and 2012. However, the same period saw growing inequality whether measured in terms of income or consumption.⁴ The official estimate in 2012, which counted 270 million people living in poverty, was called into question. The Rangarajan committee, which reported in July 2014, argued that the 270 million figure was an underestimate. The first Modi administration did not take a view on this figure and did not identify an alternative measure. Recent World Bank analysis, using the Consumer Pyramid Household Survey (CPHS) conducted by the private sector Centre for Monitoring the Indian Economy because the Modi government discontinued counting poverty, found that India's poverty headcount at the \$2.15 poverty line (2017 PPPs) continued to decline from 22.5 percent in 2011 to 11.9 percent in 2021. Using the same CPHS survey data, the World Bank has found that India's interpersonal inequality, after increasing from a Gini coefficient of 31.7 in 1993 to 35.7 in 2011, leveled off under Modi equaling 34.7 in 2015 and 34.21 in 2021.⁵ However, spatial inequality between wealthier and poorer states measured by per capita State Gross Domestic Product has remained persistently significant since 1992.⁶

Why has India's economic performance under the Modi government been so uneven? Why has Modi's performance as an economic reformer been so mixed? The political changes brought about by the Modi government help to answer this question while offering some clues regarding the economic basis of democratic possibilities in India. Attention to economic foundations and reform prospects is important to assess India's ongoing democratic performance as the economy ought to provide a stable and potentially well-distributed source of well-being and prosperity to its people, ensuring support for and trust in democratic institutions. Diversity of economic policy voices in shaping the economy may be an important aspect of democratic policy-making, with complementary effects on growth prospects, private investment flows and business confidence. Credible sources of economic information have a direct impact on the economic and political accountability of the country's economic system.

In his analysis of the challenge posed to democratic political leaders who must gain electoral support from the "excluded masses in an elitist political economy" where liberalizing reform disproportionately benefits the wealthy, Atul Kohli observes that India's political leaders have responded with two institutional changes. They created a "two-track polity, with an electoral track and an economic governance track separated from each other."⁷ In the electoral track, politicians search for "legitimizing narratives"—such as Hindu nationalism, caste politics, charismatic

leadership, populism⁸—to secure popular support without imperiling class hierarchy. Economic policymaking is concentrated in the economic governance track. Here, technocratic decision-makers are insulated from popular politics and decentralization attenuates the accountability of national leaders. The growing importance of private sector investment and the decline in the share of central government investments elevated the relative importance of state governments' policymaking authority especially in the 1990s and 2000s. Constitutional amendments in the 1990s further decentralized authority to local governments. Kohli asserts that decentralization has simultaneously empowered private interests to appropriate resources for their private benefit while enabling national-level leaders to claim credit for popular policies and blame state and local governments for implementation failures.

We contend that the key to understanding India's economic performance under the Modi government lies in analyzing how Modi has altered the two-track model. The Modi government has marginalized technocratic policymakers while centralizing and politicizing decision-making in the governance track. The Modi government's penchant for using economic policies to achieve political objectives has dissolved the distinction between the electoral and technocratic tracks. The decision-making style of the BJP government under Modi is peremptory, personalized, publicity-seeking, and credit claiming which reduces pluralistic economic voices and expertise. Modi's NDA government shifted technocratic experts out of key decision-making positions within the central government and replaced them with politically loyal officials. It asserted political control over institutions like the Reserve Bank of India (RBI) and India's institutional system for providing economic statistics. Such centralization impedes policy initiatives that require technical expertise and liberalization, which separate markets from politics. It also reversed the trend toward trade liberalization that had gathered pace in the 2000s.⁹

In the era of liberalization before the Modi government's ascension to power, India did not follow a "Washington Consensus" model, but instead claimed to seek reforms with "a human face."¹⁰ Governments prioritized increasing growth and used the increased revenues to create a fiscal basis for programs intended to improve peoples' livelihoods and address their welfare needs. In the 1990s, these policies included agricultural price supports, food subsidies provided through the Public Distribution System, labor policies protecting workers in the organized sector, and assorted rural poverty alleviation programs.

The Modi government's merging of the electoral and governance track

is evident in the Hindu nationalists' deployment of economic nationalism as a framing strategy for its economic policies. At a time when the Modi government was using Hindu nationalism to increase its political appeal, it framed its economic policies with nationalist slogans. It introduced "Make in India" in 2015 and "Aatmanirbhar Bharat" (Self-Reliant India) in 2020, uniting nationalist themes in economic policies. This also resonates with a turn away from globalization and self-directed protectionist policies around the world. Modi defends his advocacy of India's global role in domestic rallies and global fora.¹¹ Though it has increased India's openness to foreign investment, the Modi government has reversed the trend toward trade liberalization that reduced India's average most favored nation tariffs from 125 percent in 1991 to 13 percent in 2014 and raised India's average tariff to almost 18 percent by 2020.¹² It has rejected membership in the Regional Comprehensive Economic Partnership while simultaneously renewing trade agreements with key Western allies such as the United States and Australia. Infusing economic policy with nationalism has enhanced the Modi government's nationalist appeal even as it has produced inconsistent and ineffective policies.

More generally, the Modi government's politicization of the governance track and frequent disregard for expertise has generated a contradictory mix of market-affirming reforms (the Insolvency and Bankruptcy Code, the goods and services tax, physical infrastructure, public digital infrastructure, labor, and agriculture), protectionist measures, and capricious decision-making. Some initiatives, such as demonetization and the March 2020 lockdown in response to the Covid-19 pandemic, were precipitately announced and imposed widespread public sacrifice while reaping limited public benefit. Reforms such as the goods and services tax were poorly devised and repeatedly revised. Failure to provide adequate implementation capacity diminished the effectiveness of bankruptcy reform, one of Modi's most important reforms. The Modi government has "politically managed" official economic statistics to obscure data that might embarrass it.¹³ Even when it advanced new policies in domains where reform was urgently needed—for instance, agriculture and labor—the Modi government's impatience with democratic consultation meant it missed opportunities to improve its initiatives and provoked, in the case of agriculture, powerful political resistance. Acceleration of infrastructural investment in roads, ports, railways, and telecommunication infrastructure especially after 2019 should enhance India's growth prospects.

At the same time that the Modi government was politicizing the economic governance track, it also made substantial changes in the electoral

track. In the 1990s, the electoral track was dominated by issues of religious nationalism and caste, often summarized as “Mandir” and “Mandal.”¹⁴ The United Progressive Alliance (UPA) government from 2004 to 2014 added a series of social welfare programs grounded in citizen rights such as the right to work, the right to information, the right to education, and the right to food security—generally expanding the role of policy in electoral politics. Poverty and the well-being of the needy were addressed through programs like the National Rural Employment Guarantee Scheme (NREGS), whose goal was to provide 100 days of paid labor per year to the rural poor. India’s two-track polity seemed to appeal to opinion leaders, and also foreign investors who signaled their appreciation of India’s strategy by their investment in India’s economy. With the political ascendance of the BJP, popular mobilization has been organized through appeals to majoritarian Hindu nationalism and crafting Modi’s image as a corruption-free, devoted, strong, and decisive leader.¹⁵ Welfare policies designed to build popular support also constitute the electoral track. Modi has reinvented and expanded social welfare policies, many of which originated under the previous government, in ways that prioritize the distribution of private goods such as cooking oil, bank accounts, and toilets to voters in a way that associates their tangible benefits with the prime minister. Modi’s new social welfare programs contributed to his successful general election campaign in 2019, but it is not clear whether such programs will support India’s long-term economic development. Muting alternative economic voices and undermining credible sources of information affect the democratic structure of economic policy-making.

The chapter begins by providing an overview of the Modi government’s policy initiatives and India’s economic performance since 2014. It then discusses the politicization of the technocratic policy track and its economic consequences. Changes in the electoral track are considered next. Finally, we conclude by elaborating the implications of these developments for the challenges confronting India’s long-term growth prospects.

Economic Reform Under Modi: An Inconsistent Policy Mix

Economic policy under Narendra Modi’s NDA government has been uneven and inconsistent. In several areas—bankruptcy, the goods and services tax, agriculture, labor—the Modi government’s approach has been market-affirming. Infrastructure investment has been an important focus of the government after 2019, which is likely to have a positive effect in

the long-term. In other areas—like trade policy and demonetization—the Modi government's economic policy has been market-repressive, including a number of actions that privilege the interests of loyal business groups. Modi's policy initiatives are almost always announced with impressively ambitious objectives and ostentatious display. However, a significant number of them have not been based on sound economic analysis and imposed sacrifices on the general public. Business groups value the stability and infrastructural investment provided by the Modi government, but are wary of excessive central government controls and its tendency to favor some business groups.¹⁶ Perhaps, the sole unifying factor underpinning Modi's economic policies is that they have been shaped by his political and electoral interests.¹⁷

The Modi Government's Market-Affirming Policies

The Insolvency and Bankruptcy Code, 2016 (IBC) boosted India's economic dynamism by liberating assets from defaulting and zombie firms, alleviating the stress on banks created by mounting bad loans, and helping to develop the country's market for distressed assets. Before the enactment of the IBC, India was one of the few major economies without a bankruptcy code, and delays in the liquidation and rehabilitation of distressed assets contributed to India's mounting nonperforming asset problem. A key motivation for passage of the IBC was the government's desire to improve India's rankings in the World Bank's Ease of Doing Business rankings. The IBC has made a substantial contribution to alleviating India's distressed asset overhang. By the end of 2023, 7,058 bankruptcy cases were admitted to the IBC system; 5,057 of these cases were closed, with 2,001 cases still on-going. Creditors have recovered 3.16 lakh crore (US\$ 38 billion) through resolution plans. Even more encouraging is the fact that more than 26,000 cases were settled before being admitted, saving potential underlying default of approximately Rs. 9 lakh crore (US\$ 74.7 billion).¹⁸ The performance of firms following their resolution under the IBC has greatly improved. According to a study by the Indian Institution of Management, Ahmedabad, average sales increased by 76 percent in three years since resolution. Total assets of post-resolution firms grew by some 50 percent with a 130 percent increase in capital expenditures. Profitability ratios have converged with benchmark averages, and there has been a significant revival of market valuation of the firms after resolution.¹⁹

The 2017 goods and services tax was designed to advance the creation of a national market by replacing myriad state tax codes with a single value

added tax (VAT). Prime Minister Modi declared India's goods and services tax "a model for the world."²⁰ While the Modi government deserves credit for completing the complicated negotiations between central and state governments, the flawed design and hasty implementation of the complex tax code imposed avoidable hardships on small producers and exporters, tarnishing Modi's reputation as an extraordinary economic manager.²¹

The Modi government cut corporate taxes and increased infrastructure investment—policies usually associated with market promoting reforms. Shortly after its reelection for a second term, in September 2019, the government reduced corporate taxes on existing firms from 30 percent to 22 percent. Taxes on manufacturing firms incorporated after October 1, 2019, were slashed from 25 percent to 15 percent. At the same time the Modi government has made a strong commitment to increase its capital expenditures on physical and social infrastructure. Investments in capital infrastructure projects have been continuously increased to 16.6 percent of total government expenditure by 2023 with a focus on roads, railways, waterways, and ports. Infrastructure constitutes around 2.5 percent of GDP in 2023.²² Central government capital expenditures have steadily grown from 1.5 percent of GDP in 2017–18 to a budget commitment of 3.3 percent in 2023–24 (see fig. 11.2). The tax cuts and increased government capital expenditures were intended to boost private sector development, but after a sharp decline from 30.8 percent of GDP to 24.5 percent from 2011 to 2016, the private sector has yet to respond. From 2017 to 2021 private sector investment as a share of GDP averaged only 24.7 percent per year (see fig. 11.3). Foreign direct investment declined to 1.5 percent of GDP in 2022 from a high of 2.5 percent in 2020 despite the opportunity presented by firms decoupling from China and announcement of high-profile inflows by Apple.²³

The India Stack initiative promotes financial inclusion and market dynamism by creating digital infrastructure comprising government-supported application programming interfaces (API)—including unique identification, digital documentation, and finance—that enable firms to build apps to provide consumer services for welfare payments, digital transactions, loans, healthcare, and education. In 2021, the government used India Stack facilities to make \$66 billion in direct payments to beneficiaries. The direct payments prevented billions of dollars of leakage through corruption and directly connected Modi's central government with welfare beneficiaries, enhancing Modi's ability to claim credit for the benefits. The unified payments interface (UPI), India's digital payments system, processed 260 million transactions daily for a total annual value of \$22.3 trillion. The Modi

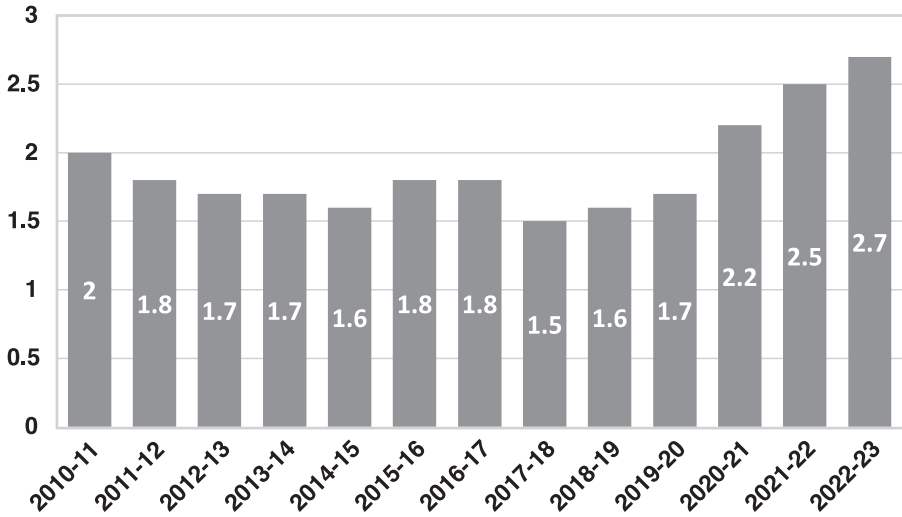


Fig. 11.2. Central Government Capital Expenditures as Percentage of GDP, 2010–11 to 2022–23. (Source: Data from Reserve Bank of India, *Handbook of Statistics on Indian Economy*, Table 232, <https://rbi.org.in/Scripts/AnnualPublications.aspx?head=Handbook%20of%20Statistics%20on%20Indian%20Economy>)

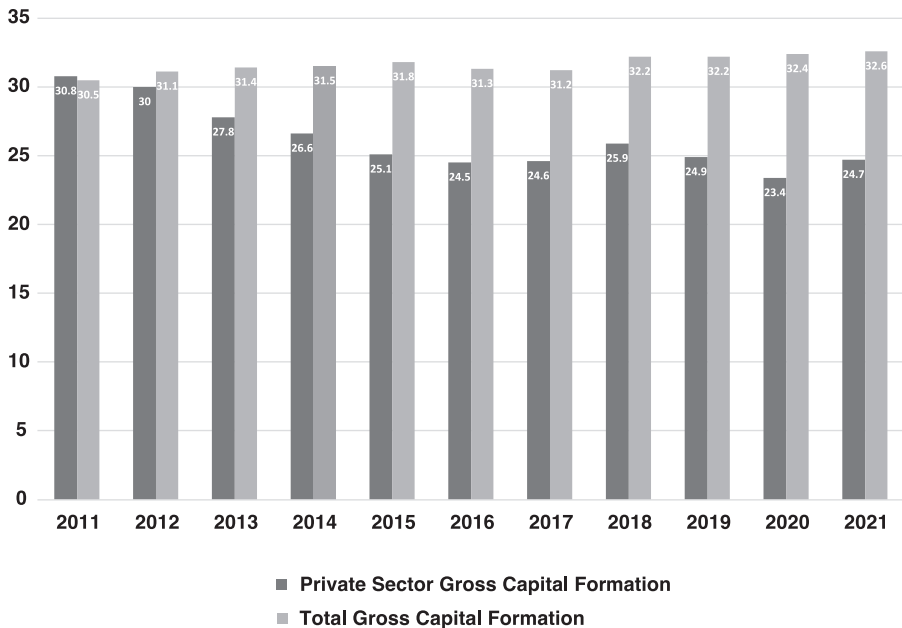


Fig. 11.3. India's Gross Capital Formation as a Percentage of GDP, 2011 to 2021. (Source: Data from World Bank, *World Development Indicators*, <https://data.worldbank.org/indicator/NE.GDI.TOTL.ZS?locations=IN>)

government views the technologies that compose the India Stack as a means of promoting India's service exports around the world, and as president of the G20 in 2023, Prime Minister Modi promoted the international adaption of India's global public digital goods repository as a means to promote financial inclusion and "a prosperous and secure digital future."²⁴

New labor laws were rushed through parliament amid the pandemic. Few would dispute that India's complex and anachronistic labor laws needed reform, and they were rendered increasingly ineffective as businesses found ways to circumvent them. The BJP was so eager to take advantage of the impact of the pandemic on labor's capacity to mobilize opposition that during the spring of 2020 six of its state governments issued directives that altered labor laws in ways that greatly reduced labor rights, even though the NDA had already introduced labor reform legislation in parliament during December 2019. In September 2020, the national parliament passed three new labor codes that supplanted 44 existing labor laws. The reforms shifted the balance of power in business's favor. The threshold requiring firms to secure permission to fire workers was raised from establishments with 100 workers to units with 300 workers. The new laws facilitated fixed-term employment and contract labor. They imposed restrictions on strikes and increased the difficulty of organizing new trade unions. The reforms, simultaneously, provided limited benefits to workers. They required employers to issue appointment letters specifying terms of employment to all employees, and guaranteed contract workers the same salaries as regular employees. The reforms promised to extend the social security fund to unorganized sector workers. However, despite the benefits provided to workers, the government's failure to build a political consensus on the reforms has led it to delay their implementation due to its fear of a political backlash.²⁵

On June 3, 2020, as part of a group of policies packaged as the Aatmanirbhar Bharat Abhiyan (Self-Reliance India Campaign), the Modi government issued three directives liberalizing agricultural trade. In September 2020, the parliament enacted the directives into law. The new legislation amended the Essential Commodities Act of 1955 to remove price controls on cereals, pulses, oilseeds, edible oils, onions, and potatoes except in times of natural calamities. They terminated requirements compelling farmers to sell commodities in government-regulated markets, and they promoted the development of contract farming. Leading experts such as Ashok Gulati of the Indian Council for Research on International Economic Relations have given support for the reforms.²⁶ Other observers view the reforms as a signal that the government seeks to

curtail its commitment to agriculture “in terms of investment, regulation, and extension work.”²⁷

Regardless of the new policies' merits, we wish to underscore the consequences of the Modi government's approach to passing this parliamentary legislation. With more than 41 percent of the workforce in a sector that produces only 16 percent of GDP through operational holdings averaging only 1.08 hectares, Indian agriculture must undergo a structural transformation if the 263 million people in its workforce—including more than 144 million agricultural laborers—are to see improvement in their livelihoods.²⁸ In a democracy, successfully bringing about such a transformation requires that the government have the trust of the farmers and laborers whose lifestyles will be dramatically transformed. The Modi government pushed the agricultural reforms through parliament without a deliberative process that could have helped to build confidence, by refusing to allow review of the policy proposals by parliamentary committees, drastically limiting parliamentary debate, and insisting on a voice vote rather than a roll call vote in the upper house of the parliament.

As a result, farmers mobilized to demand that the government retract the reforms. The Modi government's initial response to the mobilization was to arrest leaders of farmer organizations and opposition politicians, and then use tear gas, water cannons, and police batons on the thousands of farmers who remained undaunted by police road barriers and checkpoints. The farmers' protests persisted for 14 months until Modi announced in November 2021 that he would repeal the laws. Modi's pre-emption of the process of democratic consensus-building essential for major reforms demonstrates the limitations of his inclination toward authoritarian governance. Consequently, India continues to await agricultural reforms that can uplift the livelihood of the 40 percent of its workforce employed in the sector.

The Modi Government's Market-Repressing Policies

“Make in India” was one of Prime Minister Modi's highest-profile policy initiatives in the first term. Announced during his very first Independence Day speech from the Red Fort on August 15, 2014, the Make in India initiative was supposed to increase the share of manufacturing from 16 percent to 25 percent of GDP by 2025 and create 100 million additional manufacturing jobs by 2022.²⁹ Central to the government's plans to achieve these ambitious objectives were its efforts to improve India's ranking in the World Bank's Ease of Doing Business rankings and attract additional

foreign direct investment. The initiative grabbed headlines but lacked a coherent or well-designed plan to link manufacturing with trade, investment, and other policies. The government succeeded in increasing India's Ease of Doing Business ranking from 142 in 2014 to 63 in late 2019.³⁰ However, the performance of the manufacturing sector has been disappointing. The average annual rate of manufacturing growth declined from 6.5 percent in the eight years before the "Make in India" program was announced (2007–14) to 5.8 percent in the eight years following the announcement (2015–22).³¹ In May 2020, Modi's trade policy for the *Aatmanirbhar Bharat* (Self-reliant India) initiative moved away from market liberalization by announcing production-linked incentives (PLI) for fourteen industries and a phased manufacturing program that increased import duties on finished products and to a lesser extent on components for the project. The new policy led economic analyst Swaminathan Aiyar to observe that the efforts to build a full value chain at home contradicted the objective of integrating India into global value chains.³²

India's performance in increasing FDI inflows has been mixed. In current dollars, the average net inflows grew from \$31.9 billion in the eight years prior to 2015 (2007–14) to \$47.5 billion in the following eight years (2015–22). In recent years, India attracted some major foreign investment projects that have integrated it with important supply chains. For instance, Apple, which reportedly produced iPhones valued at more than \$7 billion in 2022, announced in September 2023 that it would ramp up its total production to \$40 billion in the next five years.³³ Google planned to set-up a global fintech operation center in GIFT City, Gujarat and invest \$10 billion in India's digitization fund. Amazon announced that it would increase its \$11 billion in investments by \$15 billion by 2030 and enable \$20 billion in exports.³⁴ However, even with these projects, the annual average of net FDI inflows as a share of GDP at 1.8 percent for the eight years after Modi introduced Make in India (2015–22) was less than the average of 2.1 percent for the eight previous years (2007–14).³⁵ In 2022, FDI inflows were 1.5 percent of the GDP, declining from 2.4 percent in 2020. There seems to be a mismatch between announcements of high-profile projects and actual FDI inflows on the ground, which is likely to keep India growth rates lower than expected despite India's long-term potential and opportunities opened by global shifts.

Demonetization epitomizes Modi's penchant for centralized policy-making and precipitates government intervention. It illustrates Modi's confidence in his own judgment over that of conventional experts.³⁶ Using demonetization to combat corruption by rooting out "black money" had

failed in earlier attempts and was widely discredited among most economists, including those at his own central bank, the RBI.³⁷ Nonetheless, Modi was undaunted by the critiques, and he used the initiative as evidence of his decisive leadership. The surprise announcement of demonetization on November 8, 2016, imposed social costs that far outweighed its benefits. The value of black income—which has historically been generated through tax evasion, more specifically property tax evasion—and wealth that was removed from the economy was minuscule. According to the RBI, 99 percent of the invalidated banknotes were exchanged with India's banks, and within a year, the amount of currency in circulation had returned to its pre-demonetization level.³⁸ Demonetization was responsible for up to 3.5 million lost jobs and a 15 million person reduction in the labor force according to the Centre for Monitoring the Indian Economy.³⁹ After growing by 4.4 percent over the two quarters from April through October 2016, industrial growth stagnated during the next two quarters,⁴⁰ and GDP growth declined from 7.5 percent in the quarter ending on September 30, 2016, to just 6.1 percent in the quarter from January 2017 and 5.7 percent in the quarter ending in March 2017.⁴¹

The response to the Covid-19 pandemic is another example of centralized control over policy to make policy interventions without consulting the available expertise. On the evening of March 24, 2020, Prime Minister Modi delivered a nationally televised address announcing a stringent lockdown to combat the Covid-19 virus, warning that “if we are not able to adhere to this lockdown sincerely for 21 days, believe me, India will go back 21 years.”⁴² The crackdown was announced without consultation with public health experts, state governments, or parliamentary leaders. Indeed, Modi preempted parliamentary debate on the lockdown by ending the ongoing session the day before his address. At the same time the government portrayed the lockdown as a necessary bold action, it attempted to preempt criticism by asking that the Supreme Court issue a ruling requiring government pre-approval for all media and press coverage of the pandemic. Though the Supreme Court denied the government's request, it directed the media to “refer to and publish the official information about the developments.”⁴³ Supporters of the government found additional ways to silence criticism of its policies. In the four months following the lockdown, government critics were widely denounced for spreading “fake news,” and more than 50 journalists were either arrested, faced police charges, or were assaulted.⁴⁴

Hastily implemented without careful deliberation, the lockdown imposed severe sacrifices, especially on the poor. After only four hours, the

confinement of India's 1.4 billion people was enforced by the police. Cities, workplaces, and all transport were shut down. An estimated 140 million people lost their jobs.⁴⁵ Modi initially announced that the relief package accompanying the lockdown would amount to 10 percent of India's GDP, but after Finance Minister Nirmala Sitharaman elaborated the details most economists estimated the value of the relief to be between 1 to 2 percent of India's GDP.⁴⁶ The IMF's chief economist worried that India's spending on relief was inadequate.⁴⁷ Since there was no plan to support the tens of millions of migrant workers and all transportation was shut down, millions of the workers journeyed hundreds of miles back to their villages on foot and bicycles until the government finally authorized emergency trains to transport tens of millions stranded workers back to their homes. Though the government promised to test all travelers before boarding the trains, its arrangements were woefully inadequate, and the trains became contagion zones spreading the pandemic to the farthest reaches of the country.⁴⁸ Former World Bank chief economist Kaushik Basu caustically observed that Modi's "lockdown-and-scatter" policy spread the virus throughout the country and damaged the economy, leading the world to lose confidence in India.⁴⁹ The sudden and indiscriminate lockdown was a key factor in India's 24 percent drop in GDP from April through June 2020, among the world's steepest. Private consumption plunged 27 percent from the previous year and investment declined 47.5 percent.⁵⁰ Using data from the Centre for Monitoring the Indian Economy because India has not published official survey data since 2011, the World Bank estimated that 56 million people sank below the poverty line in 2020.⁵¹ Despite the widespread hardship, Home Minister Amit Shah proclaimed that "the whole world is witnessing how one of the most successful battles against Covid-19 is being fought here."⁵² Consistent with other measures to identify the prime minister with programs to improve social welfare, a new relief fund was set up, PM-CARES. In contrast to the existing prime minister's National Relief Fund, PM-CARES is not subject to the same provisions for public scrutiny.⁵³ Modi's approval remained very high, at 74 percent, and the BJP's electoral victory in the November legislative assembly elections in Bihar suggested that the prime minister did not suffer the full political cost for his handling of the pandemic.⁵⁴

Failing to pay a political price for its response to the first wave of Covid-19, the Modi government did not adequately prepare India for a second wave. Mixing nationalism with hubris, Modi declared, "With 'Made in India' solutions, we controlled the spread of the virus and improved our health infrastructure."⁵⁵ On February 22, 2021, the BJP passed a resolution

proclaiming that India “defeated Covid under the sensitive, committed and visionary leadership of Prime Minister Shri Narendra Modi.”⁵⁶ Aspiring to be the “pharmacy to the world,” India signed contracts to produce the AstraZeneca vaccine and export it to countries around the world. Promoting its Aatmanirbhar Bharat (Self-Reliant India) policy, it also funded Bharat Biotech, a domestic vaccine producer with little experience in scaling-up production. It rushed its vaccine into production before completing the proper testing while rejecting applications from foreign vaccine producers such as Pfizer Biotech to license local production. Having signed contracts to export millions of doses, by mid-February 2021, the government faced serious vaccine shortages with vaccines sufficient to protect only 3 percent of India’s population. Against the warnings of health experts, the BJP permitted the public celebration of the Kumbh Mela in April, a Hindu festival that gathered millions of pilgrims over a month. Preoccupation with winning elections led the top BJP leadership to hold massive political rallies in West Bengal and three other states with few attendees wearing masks and virtually no social distancing. The BJP continued its election rallies until April 18, 2021, after virtually all other parties had ended their public meetings. The national task force of experts convened to advise the government on Covid-19 never met in February and March 2021. Even as the wave ramped up in April 2021, it met only twice. Premature triumphalism meant that India was grossly unprepared for the massive wave that hit in the middle of March 2021. By the end of April 2021, according to official statistics, the surge produced more than 380,000 daily cases—almost certainly a substantial undercount. India experienced widespread shortages of oxygen and the government urgently sought foreign supplies. Indian companies were obliged to renege on their vaccination export contracts and produce for the Indian public. On April 19, 2021, Prime Minister Modi announced that he would make vaccines available to all Indians above the age of 18 by May 1, but vaccine supplies remained insufficient. By November 2021, just 53 percent of the population had been vaccinated, which left almost half of the population vulnerable to infections.⁵⁷

Politicization of the Economic Governance Track

Modi came into office promising to rebalance economic policymaking by drawing the states into a discussion about the character of national development. The replacement of the Planning Commission, which was said to have been too didactic, with the National Institution for Transforming India, or

NITI Aayog (NA), was a move in this direction. The NA was supposed to allow state governments more influence over the national agenda for planning by providing a forum where they would meet each other and policy planners on more equal terms. However, the Modi government has sidelined the NA. Central policymakers have ignored its reports, and unlike the Planning Commission, the NA has no control over spending allocations.⁵⁸ The marginalization of the NA's influence over policymakers in New Delhi reflects a more general centralization of decision-making authority.

On the campaign trail in 2014, Modi criticized the UPA government for "policy paralysis" and promised more decisive governance. Once in office, he involved himself personally with economic policymaking. He chaired meetings in which senior civil servants from relevant ministries outlined policies and projects. Modi also supervised the implementation of favored policies, participating in long review meetings. The Prime Minister's Office became an important location for decision-making and policy design. This close supervision and tight control of policy also enabled economic policies to mesh more closely with the political objectives of the BJP government, as illustrated in the example of demonetization discussed above.

The days in which a finance minister in the UPA could hold the prime minister at arm's length are gone. Under Modi's leadership decision-making has been concentrated in the Prime Minister's Office, reducing the autonomy of the finance minister. The political impact of individual policy decisions is taken into consideration. Thus, there has been heavy emphasis on using schemes that establish a close connection between the central government, and indeed the prime minister himself, and voters. Yet Modi seems less interested in how individual policies might be worked into a comprehensive reform program that would promote growth. One senior official judged that Modi was "very practical. He listens. But he has no patience with intellectual inputs or with a strategic forward-looking approach."⁵⁹

We have already described how the centralization of policy-making authority in the hands of the prime minister and his closest economic advisors has led to impetuous and counterproductive interventions in the case of demonetization and the government's response to the Covid pandemic. The politicization of economic governance has also shaped the Modi government's relations with Indian business in ways that threaten to diminish India's long-term economic prospects. While the Modi government has cultivated an anticorruption image, the reality is more complex. Although it has taken initiatives such as the institutionalization of an auction system to allocate natural resources in an effort to eliminate the scandals of the previous government and the Indian Bankruptcy Code to return the capital

of inefficient crony capitalists to financial institutions, Modi's centralization of authority within the state and ruling BJP has, in effect, centralized control over the political benefits generated in return for the government's patronage.⁶⁰ The license permit raj of previous governments bifurcated Indian business into politically influential incumbent firms that gained privileged access to rents and protection from competition by government regulation and smaller, mostly informal sector firms that were excluded from government largesse. This bifurcation served as the foundation for the growing inequality at the onset of economic liberalization.

The Modi government appears to give special favors to politically supportive firms while threatening businesses that diverge from its political line with raids by its investigative agencies. The Adani Group, politically aligned with Modi since his days as chief minister of Gujarat, secured six out of six government contracts for airport privatization. It has become the largest mine operator for Coal India and has won numerous contracts in city gas distribution and highway construction. The group's ability to increase its debt was key to financing these projects. Its debt grew from \$4.4 billion in 2011 to \$11.2 billion in 2015. It expanded its debt more than any other Indian corporate group during the first year of the Modi government. By 2022, after a \$30 billion borrowing binge, the Adani Group was one of the most indebted businesses in India.⁶¹ As Rohit Chandra and Michael Walton note, the Adani Group has won many of these contracts through competitive bidding. Its ties to Modi, however, are a valuable asset in securing contracts and accessing capital not available to less politically connected firms.⁶² By the end of 2022, the Adani group owned eight airports and 13 seaports. Though 60 percent of its revenue is derived from coal related businesses, it has built India's capacity for renewable energy generation by becoming a leading supplier. It has also diversified into the media, defense, and cement sectors.⁶³ During the Modi government's rule, Gautam Adani's personal wealth multiplied from \$2.8 billion to \$90 billion in 2022.⁶⁴ At the end of 2023, Adani's wealth declined to \$70.8 billion after his companies were alleged to be involved in stock market manipulation.⁶⁵ Reliance Jio has been another Modi favorite. Its proprietor Mukesh Ambani founded the telecommunications firm after making his fortune in oil, gas, and petrochemicals. Even though Reliance Jio entered the telecom sector as a full-service provider only in 2016, after a series of favorable regulatory decisions,⁶⁶ it became India's biggest telecom company with a 43.3 percent revenue market share in June 2022.⁶⁷ In contrast to many of the politically connected firms under the old regime, the Adani and Reliance groups are sophisticated, globally competitive enterprises that argu-

ably could be groomed as “national champions.” However, their rapidly growing market power could also stifle competition and innovation, and their ability to negotiate favorable deals with the government threatens to undermine state authority to implement equitable rules for the entire business community.

While the Modi government uses the levers of power to reward its supporters, it deploys them to sanction its opponents. Prior to the Modi regime, India’s “stigmatized capitalism,” as former chief economic advisor Arvind Subramanian called it,⁶⁸ was known to deploy the tax system and Income Tax Department raids against businesses viewed as supporting political opposition. Indeed, during the 2014 general election campaign, the BJP’s election manifesto charged, “The UPA Government has unleashed tax terrorism.” However, despite its pledges to provide “a non-adversarial and conducive tax environment,” the Modi government has increased tax litigation. According to one report, the amount of taxes under litigation grew from Rs. 4.67 lakh crore at the beginning of the Modi government to 10.16 lakh crore in March 2018.⁶⁹ The suspicion that a significant motivation for tying up of this immense sum of funds in tax litigation is to punish corporate and individual taxpayers is supported by the facts that the Income Tax Department wins less than 30 percent of tax litigation and expects to recover less than 2 percent of funds at stake.⁷⁰ Income tax raids were also conducted against opponents of favored businesses. On September 7, 2022, Indian tax authorities conducted raids on three nonprofit organizations critical of an Adani-operated Hasdeo Arand coal mine in central India.⁷¹ In addition, they have also raided the offices of critical news media and leaders of the political opposition.⁷²

The Modi government’s manipulation of the rule of law and disdain for the legal rights of business extends to foreign businesses, a continuation of prior policies. The controversial Vodafone case involving more than \$2.6 billion extends back to 2012, when the UPA government circumvented a Supreme Court ruling in favor of Vodafone by amending the Income Tax Act to authorize retroactive taxation on capital gains for assets located in India even when the transaction took place outside of India. While in the opposition, the BJP criticized the UPA government’s action, but it continued to enforce the amendment after taking power in 2014. In addition, the Modi government demanded that Vodafone pay \$7 billion in retroactive levies and penalties in a dispute over the proper calculation of the company’s liability in a 1999 revenue sharing agreement with the government. The Modi government became embroiled in a similar tax controversy with Cairn Energy, a British oil company. It was only after international

tribunals unanimously ruled against India in 2020 that India dropped its efforts to enforce retroactive taxes.⁷³ The Modi government has accepted constraints on its business regulation with the greatest of reluctance. After being sued by more than 20 foreign investors, it terminated 54 bilateral investment treaties. In 2016, it has promoted its own model bilateral investment treaty that reduces the legal obligations on the Indian state, but no foreign countries have signed agreements under the new model. The Modi government's reluctance to accept regulatory constraints of international law contradicts its efforts to attract FDI.⁷⁴

The Modi government's management of information since 2014 reflects its desire to loosen the mechanisms of political accountability. Heavy emphasis has been placed on reporting positive news. The method of calculating growth in GDP was altered in January 2015 in a move that continues to be criticized. The new method reflected favorably on the economic performance of the Modi government as it has produced higher growth figures. In 2019 Arvind Subramanian, the chief economic advisor from 2014 to 2018, estimated that rather than the official growth rate of 7 percent from 2011–12 to 2016–17, India's actual growth rate was about 4.5 percent.⁷⁵ The government embargoed unflattering unemployment data in the year before the 2019 elections leading to the resignation of the head of the National Statistics Commission. It did not release the data until after the elections. Data sources such as Annual Employment Surveys have been discontinued, leaving analysts more dependent on sources like the Periodic Labour Force Survey with more questionable reliability and which are more susceptible to manipulation.⁷⁶ The Consumption Expenditure Survey—the basis for calculating poverty estimates—has not been published since 2011. In the years before the 2021 budget, the Modi government obscured the weakness of its fiscal position. The size of the fiscal deficit has been queried by the comptroller and auditor general who estimated that the government had substantially understated the figures, projecting a figure of 5.86 percent for 2017–18, in place of the 3.4 percent reported in official budget papers. The Modi government's image of fiscal responsibility was inconsistent with its practices wherein expenditures were kept off the books and funded by loans from a range of government-controlled agencies.⁷⁷

The attempts to impress the Indian public with optimistic reports have undermined the integrity of the government's statistical systems. The manipulation of economic data threatens to diminish India's longer-term growth prospects by depriving investors and consumers of accurate information and eroding their confidence in the government.⁷⁸ Presenting mis-

leading data makes it more difficult to assess India's economic problems and devise effective solutions. Politicization of the economic governance track has serious economic effects.

The Electoral Track: Distributive Benefits amid Economic Distress

Since 2014, Modi and the BJP have brought about three changes to the electoral track. The NDA government increased the salience of majoritarian politics as the BJP and the RSS attempted to use their control of the political process to advance their project of Hindutva hegemony. This posed an unprecedented threat to collective and individual rights as can be seen in the repressive termination of Kashmir's statehood, the Citizenship Amendment Act, and the increased frequency and severity of everyday violence against Muslims.⁷⁹ The second major change was the careful construction of a charismatic image of Narendra Modi as a selfless, decisive, and devoted leader of the nation.⁸⁰ The 2019 national election demonstrated that Narendra Modi's political leadership was the BJP's most potent political resource despite some electoral defeats in states such as West Bengal and Karnataka. The third important change in the political track was how Modi and the NDA government altered India's social welfare policy.

Kohli describes how decentralization enables central politicians to claim credit for successes while shifting the blame for policy shortcomings to state governments with their inadequate state capacity.⁸¹ The dynamics described by Kohli seem an accurate portrayal of social welfare programs under the UPA government. From 2004 to 2014 the UPA government initiated a series of social welfare programs grounded in citizen rights such as the right to work, the right to information, the right to education, and the right to food security. With the implementation of these rights-based programs, the UPA made grand pronouncements while shunting responsibility for fulfilling these rights largely to local bureaucracies and politicians. Many of these programs increased the availability of public goods and some of them were framed as rights. The NDA government altered this strategy. They combined consolidating a Hindutva agenda with a new welfarism based on distributing tangible private goods like cooking gas, bank accounts, low-interest loans, toilets, housing, power, and emergency medical insurance.⁸²

The popularity of these welfare schemes helped to ensure that the government has not yet faced a political backlash over its economic policies or its failure to address growth challenges. Some businesspeople worry that

the Hindutva agenda will undermine the social peace necessary for economic investments and revival. Many others experience a reticence to voice their sentiments freely. Some of these welfare programs originated under the previous Congress-led UPA government, but the BJP marketed them in a way that identified them with Prime Minister Modi. New delivery systems using mobile technology and biometrics in some cases improved implementation efficiency and scope. Nonetheless, many of these programs inadequately address the underlying causes of the social problems. Like conventional patronage programs, they failed to mitigate the underlying causes of India's growing inequality.⁸³ Nonetheless, the new welfare schemes have been popular among the rural poor and women.

Conclusion

Our chapter has assessed the Modi government's economic management from 2014 to 2022. We highlighted the mixed nature of its economic policies with some policies being market affirming and others repressing market forces. Utilizing Atul Kohli's two-track framework we illuminated how Modi has politicized India's economic governance while elevating the importance of Hindu nationalism, constructing Modi's image as a strong political leader, and providing a new welfarism based on the distribution of private goods such as cooking gas, bank accounts, toilets, housing, and loans in the electoral track. The changes have built popular support while neglecting the provision of social goods including education and health that address the fundamental causes of poverty and inequality. Infrastructural investment in digital and physical structures, including green energy, has been an important achievement. Yet, growth rates have been uneven and the outlook for investment uncertain.

In politicizing economic governance, the Modi government has marginalized technical policy expertise in favor of political marketing. In a democracy, autonomy without expertise can lead to counterproductive policies. This is especially a danger when policies strengthen the appeal of the leader at the cost of institutional integrity and the epistemic foundation of effective policymaking. Policies like demonetization, whose primary advantage is to burnish Modi's image as a decisive decision-maker, and India's response to the Covid-19 pandemic have ignored broad consensus among policy experts and imposed widespread economic hardship. Not only has the Modi government sidelined policymaking experts, but it has also concealed and manipulated economic information in ways that

obscure the shortcomings of its economic performance while exaggerating its economic accomplishments. Criticism has been repressed. Together these actions undermine the rational process of decision-making that is vital to India's long-term economic welfare. They also hold indirect clues regarding the democratic economic policy-making structures as economic institutions have been politicized and alternative economic voices sidelined.

These changes erode the economic basis of India's democratic possibilities. Modi's capricious policies impose sacrifices among vast segments of Indian society that signal a lack of concern for their welfare. The government's disdain for the give-and-take of economic policymaking in domains of vital concern for important constituencies creates barriers to realizing policy goals no matter how well policy proposals are formulated. Since 2014, Narendra Modi's politicized system of economic policymaking has diminished India's capacity for efficacious technological and public policy innovation, and reduced spaces for alternative economic voices, policies, and economic data. Capricious policies and the inability to formulate reforms through democratic consultation increase economic and democratic instability. Perhaps most importantly, Modi's economic policies—its favoring of business supporters, its intimidation of critical business groups, and other market repressing measures—diminish economic pluralism and consequently undermine the foundations for diverse bases of autonomous social power and pluralism of social and economic voices. These, of course, are the fundamental social bases of democracy. It would be an ironic tragedy if Modi's Hindu nationalism and centralized control ultimately curtail the distinctive economic and political genius of the Indian people and prevent Indian society from realizing its remarkable potential.

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PART III

Society

NGOs and Civil Society

Rahul Mukherji

India's democratic institutions are singularly challenged on the eve of its 75th birthday. The symptoms characterize both a drift and layered move toward authoritarianism.¹ Drift occurs when the old institutions are interpreted differently for different purposes. No new rules or laws undergird such behavioral change. Layering, on the other hand, connotes gradual legal or policy change, when new explicit policies or laws gradually come to challenge the hegemonic norm. Such gradual path-dependent changes toward authoritarianism are widely recognized as competitive authoritarianism, especially when they make it more difficult for the political opposition to organize effectively.²

Today's authoritarian takeovers are an evolutionary process. Gradually the institutions of democracy, such as the courts, the media, the internet, and the regulators, are captured. In addition, the business community is intimidated, and crony capitalists encouraged. The leadership tries to eliminate the independence of the civil service as well. Most of these regimes had a professed anti-elite orientation. They looked down on the supposed sophisticated, foreign-influenced elites as ones who had not served the old and venerated culture.³ These characteristics of the authoritarian temptation, which typify regimes ranging from Viktor Orbán's Hungary to Jarosław Kaczyński's Poland, are beginning to characterize India's widely acknowledged democratic institutions under Prime Minister Narendra Modi.

This chapter will discuss how India's nongovernmental organizations (NGOs) and activists are being attacked in a manner that can potentially reshape the relationship between the state and society in India. NGOs in India have a variety of ideological moorings.⁴ Even though they may not be directly associated with a political party or the state, these organizations may work more closely with some political parties. Often this ideology and the grassroots support of NGOs produces political benefits. Tariq Thachil, for instance, found that NGOs closer to the Bharatiya Janata Party helped it win elections in the Indian state of Chhattisgarh.⁵ This was unprecedented in a traditionally Congress-ruled area with voters biased against the BJP. In the same state, however, Gandhian NGOs may have facilitated the return of the Congress-ruled government led by Bhupesh Baghel in 2018. NGOs may not directly be part of the state but they can affect politics because of their grassroots connections and consequent electoral impact. If the state can control the ideology of the NGOs, it can have a more direct impact on citizens. It is for these reasons that the Indian state may have amended the Foreign Contribution Regulation Act (2010) again in 2020, which affects all NGOs that utilize foreign funds. The state is also deploying other means to deal with NGOs using Indian sources of funding. NGOs can potentially help the BJP's ideological project of replacing the secular ideal with a Hindu nationalist one.

Let us consider just two significant attacks on the idea of India enshrined in the Constitution. The first is on the principle of secularism and minority rights. If the right-wing Hindu nationalist BJP and its social arm, the Rashtriya Swayam Sewak Sangh (RSS), are able to deal a blow to the more secular and cosmopolitan Gandhian and progressive NGOs, this will become a powerful driver of the idea of Hindu nationalism. Akin to European regimes in Poland, Hungary, the Czech Republic, and Slovakia that are opposed to Muslims and immigrants, the BJP is also opposed to Muslim immigrants from Bangladesh, Pakistan, and Afghanistan. It is for these reasons that the Citizenship Amendment Act (2019) discriminates against Muslim immigrants who wish to apply for Indian citizenship. Similarly, not only was Article 370 of the Indian Constitution struck down and the special status of the Muslim majority state of Jammu and Kashmir revoked, the state was divided into two union territories (Jammu & Kashmir and Ladakh) under direct central rule. The latest manifestation of this instinct is the law passed by the government of Uttar Pradesh that will make Hindu-Muslim marriages difficult to perform.⁶

In addition to Muslims, the most oppressed social minority, the Scheduled Caste groups or Dalits, are also at the receiving end of the state. NGOs

fighting for Dalit rights such as Navsarjan, the National Confederation of Dalit and Adivasi Organizations, People's Watch, and Human Rights Law Network have lost their Foreign Currency Regulation Act (FCRA) permission. Such is the fear among some of the leaders of these NGOs that they are even unwilling to talk to scholars and journalists, except as anonymous sources of information.

The second major recalibration of the idea of India has to do with Indian federalism.⁷ States were denied compensation for the goods and services tax (2017) promised to them. This especially affected Covid-19 management because health is a subject governed by subnational states in the Indian Union. Not only did the center not compensate the states, the center also pushed states to borrow at market rates.⁸ In addition, the three farm bills drafted without consulting the states were enacted in 2020. At a time when opposition politics at the national level hardly poses any threat to the BJP, the social movement opposing the farm bills impacting Indian farmers seems promising for Indian democracy.

Social movements seeking to preserve and nurture India's diversity and serve the downtrodden need NGOs. NGOs helped the state in managing the Covid-19 lockdown of March 24, 2020. It was NGOs that came to the aid of migrant workers forced to remain confined under curfew-like conditions without jobs. At that time, the state was unwilling to hear the petitions defending migrant labor in the Supreme Court filed by NGOs and leading social activists.⁹

It is for these reasons that recent attacks on NGOs and activists are a "backlash" on the human rights landscape in India. Such a policy response occurs when rights are perceived to be in opposition to the interests of the ruling dispensation.¹⁰ This "backlash" has engendered both drift and a layered path toward authoritarianism. For example, the cancellation of the FCRA permits of 20,000 NGOs, denying them permission to use foreign funds, constituted drift—using old rules to curb NGO activity. Thereafter, in a layered move in September 2020, the old rules were changed to make it tough even for NGOs with FCRA permission to operate in India.

The current BJP dispensation's idea of India seeks to curb dissent. This chapter will analyze threats to Indian NGOs arising out of a variety of measures leading to the September 2020 amendments to the Foreign Currency Regulation Act. This is a historic decision to strengthen the state with respect to foreign-funded civil society organizations at the very moment when the Indian corporate sector was persuaded to bow to the dictates of the state and contribute to trusts such as the Prime Minister's Citizen Assistance and Relief in Emergency Situations (PMCARES) Fund.

This could be considered a layered policy attack on NGOs that were not benign to the BJP. The fund was established after the Covid-19 epidemic had become full blown. The PMCARES trust, which enjoys tax benefits and can accept foreign contributions, does not come under the scrutiny of the citizens' right to information. There was no special need for such a private trust with public benefits for the ruling dispensation, when the existing Prime Minister's Relief Fund was accountable to citizen audit. Was PMCARES a way to coerce the Indian private sector to contribute for the prime minister's concerns, something that would impact domestic funding for NGOs?

This chapter highlights the importance of ideas within the state for performing governance.¹¹ The professed ideological orientation of the political party mattered less than the ideas that came to dominate the state. The BJP under Prime Minister Vajpayee was kinder toward both Muslims and Indian federalism than the current political dispensation. Both the BJP and the Congress-led coalitions successfully pursued a private sector orientation and globalization under Prime Ministers Narasimha Rao, Atal Bihari Vajpayee, and Manmohan Singh.¹² These initiatives launched India on the path toward rapid economic growth. To give another example of how a party's professed ideology mattered less than the ideology that evolved within the state, the Communist Party of India–Marxist (CPIM), driven by trickle-down economics, failed to implement the right to work in West Bengal. The center-left Congress Party, on the other hand, more concerned with direct redistribution, succeeded in implementing the same right in undivided Andhra Pradesh.¹³ The dominant ideas within the state mattered more than the professed ideology of the Congress Party or the CPIM. The Hindu nationalist elements within the BJP in charge of the state seek to defy two important tenets of the Indian Constitution—secularism and federalism. The social power of NGOs inimical to that cause need to be curbed.

The state in India has moved decisively toward curbing social forces to pursue an alternative idea of India. That alternative idea is a more Hinduized and centralized state, which meets with resistance from social forces on the ground. To give just one example, the 2020 elections in Bihar saw the emergence of the Rashtriya Janata Dal as the single largest party, even though the BJP-led National Democratic Alliance coalition has formed the government in the state. Citizens of India who still vote freely against the BJP are served by a large number of NGOs that subscribe to that cosmopolitan idea of a secular and federal India. If the dominance of these NGOs is reduced, and those tied with the social arm of the BJP–RSS is enhanced—the BJP's social engineering project is more likely to succeed.

This chapter will demonstrate that the actions of the state in India point in that direction—curbing the powerful social forces against its constitutional vision. This is aided by a weak opposition at the center. The chapter will first describe measures undertaken by the state against NGOs and civil society organizations within the purview of the legal structure that the BJP inherited in 2014. This constitutes the drift toward authoritarianism. It will then proceed to demonstrate how the Foreign Contribution Regulation (Amendment) Rules 2020 drastically changes the situation for NGOs that are dependent on foreign funding, especially at a time when Indian corporates that have donated generously to PMCARES are unwilling to donate for human rights causes. Moreover, tax rules were changed in 2020 to control NGOs. The FCRA amendment in 2020, initiating PMCARES, and changes in tax rules constitute a layer of policies and laws that undermine the old freedoms granted to civil society.

Curbing NGOs and Activists with Old Laws

The laws inherited by the BJP in 2014 were deployed to deal with a large number of NGOs and activists. These actions of the state constituted a drift toward competitive authoritarianism. The Indian state was now deploying the old legal framework for new purposes. Actions under the Foreign Currency Regulation Act (2010) led to a large number of cancellations of FCRA permissions for NGOs. NGOs such as Greenpeace and Amnesty International had their bank accounts frozen. Finally, activists such as Harsh Mander and Apoorvanand, who were fighting for the rights of Muslims during the Delhi riots of February 23–29, 2020,¹⁴ were charge sheeted. The police charged the filmmaker Rahul Roy and progressive scholars such as retired Jawaharlal Nehru University professor Jayati Ghosh in Delhi who spoke for the victims of the riots associated with Muslim intolerance. Cancellation of FCRA permissions, freezing the accounts of NGOs such as Greenpeace and Amnesty International, and the charge sheets and first information reports (FIRs) clearly constituted an assault on civil society.¹⁵

The hostility of the current government toward NGOs builds on a conservative position taken by the previous United Progressive Alliance government (2004–14), which was relatively more respectful of civil society organizations. The FCRA 2010, driven by national security considerations, had introduced the provision that FCRA clearances were to be renewed every five years. Little did the United Progressive Alliance regime real-

ize that this additional power granted to the Home Ministry would be deployed to intimidate civil society in search of a secular India.

This provision was deployed to cancel 16,497 FCRA licenses between 2015 and 2019, whereas the same figure was 3,989 between 2010 and 2014.¹⁶ These included international NGOs such as Greenpeace. It also included many domestically based NGOs, especially those fighting for the marginalized Dalit community.¹⁷ When I asked a senior NGO leader to corroborate a video connected with crony capitalism and the infamous farm laws (2020) that had raised the ire of the Indian farmer, this person corroborated the event but asked not to be cited by name. Reporting could lead to the cancellation of his NGO's FCRA permission. He cautioned, "We have to be tight-lipped. We are living in horrible times." How would the BJP-dominated National Democratic Alliance deal with an NGO like Greenpeace or Amnesty International that had turned to Indian sources of funding? Thrusting tax authorities upon domestically oriented NGOs was the way to deal with organizations that had withdrawn from foreign funding. In June 2014, soon after the BJP came to power, a report of the Intelligence Bureau stated that NGO protests had reduced economic growth by 2 to 3 percentage points.¹⁸ Greenpeace, for example, was the first target, especially because environmental activism was hurting the Adani Group, an industrial conglomerate with close ties with the prime minister since his tenure as the chief minister of Gujarat (2001–14). Greenpeace's senior campaigner, Priya Pillai, was stopped from taking a flight to London in 2015. She was to speak to British parliamentarians regarding the ill-effects of coal mining in central India.

The government froze Greenpeace's account with the Industrial Development Bank of India in 2019. The authorities alleged that Greenpeace was receiving foreign funds even after its FCRA license was withdrawn. The Enforcement Directorate within the Ministry of Finance, famously known as the ED, was investigating a private firm, Direct Dialogue Initiatives Limited, that was tasked with raising funds for Greenpeace. While the ED alleged that the firm had raised funds from foreign sources between 2016 and 2018, Greenpeace claimed that it had raised all its funds from domestic sources. In other words, it had not violated the law. In November 2019, the Karnataka High Court allowed Greenpeace to withdraw money from its accounts upon submitting bank guarantees. A journalist who reported this story found that while Greenpeace was available for comments, ED officials were not.¹⁹

Amnesty International did not register under FCRA and turned to Indian donors instead. Adopting a domestic orientation was not just a way

of dealing with the ED. It was also a way of promoting human rights within India by participating in the movement within the country. Amnesty had 10,000 donors who contributed between Rs. 400 (\$5.50) and Rs. 1000 (\$13.50) per month. It had a few large Indian donors as well. Despite Amnesty's claim of no foreign source, the ED froze its bank accounts. The result was that Amnesty was not even able to deal with the basic entitlements of its 37 permanent employees.²⁰

How was Amnesty targeted in this fashion even without an FIR or charge sheet lodged by the police? The ED directed the banks to stop operations in Amnesty's bank accounts on October 25, 2018 and the accounts were frozen the next day. Amnesty was rescued by a Karnataka High Court ruling of November 26, 2018, which allowed the payment of salaries. Why then did the ED conduct a debilitating debit freeze on August 25, 2020? The freezing of bank accounts brought the activities of Amnesty and its 37 employees to a grinding halt. Amnesty had legal sources of funding but no access to these resources anymore. The ED could run its writ based on the allegation of FCRA violation as long as Amnesty was unable to resolve the case of *Indians for Amnesty International Trust vs. the Union of India* registered on October 20, 2020.

Amnesty's saga during this period is largely one of fighting for the rights of the Muslim minority in Jammu and Kashmir after the abrogation of Article 370. It also reported violence against Muslims during the Delhi riots.²¹ Both the projects were in defense of the idea of a secular India with citizenship rights enshrined in the Constitution. Jammu and Kashmir was the only Muslim majority state in India with a special autonomous status. The abrogation of Article 370 in August 2019 converted Jammu and Kashmir into two union territories under the centralizing influence of Delhi. Amnesty's report *Let Kashmir Speak* reported on the lockdown of Kashmir in the immediate aftermath of the abrogation of Article 370.²² This event came with the detention of top political leaders. Leaders were imprisoned without cause. Many of these leaders were offered release on bail for Rs. 50,000 (\$677.40), which they promptly refused. Even retired government servants were detained without substantial reason. Many youth were imprisoned and released after they committed to remain quiescent. Journalists who had the permission of the district authority were stopped from reporting by the police and paramilitary forces. Media owners found it very difficult to run their newspapers under these conditions. Doctors could not perform their tasks because of shortages. Critical medical supplies were not delivered because of the lockdown. Lack of communications facilities impacted doctor appointments. Soon after publishing this report

on human rights violations in Kashmir, Amnesty testified before the US Congress in October 2020.²³

Amnesty's second report of March 2020 highlighted the conditions in Kashmir under the shadow of Covid-19. It argued that the public health emergency was an important reason to reconsider detention. Amnesty deployed the right to information to access information regarding detentions. Repressive laws such as the Jammu and Kashmir Public Safety Act continued to perpetuate detentions without reason. It noted that over 5,000 Kashmiri citizens were detained between August and December 2019. Of these detentions, 251 were in jails outside Kashmir. It pointed to the incidence of verbal detentions, highlighting evidence from the Office of the Tehsildar, South Srinagar. It reported the detention of Dr. Shah Faesal, the leader of the Jammu and Kashmir People's Movement, whose trip to Istanbul was successfully aborted. His detention was made on the basis of verbal orders of the executive magistrate and the tehsildar of Budgam. Dr. Faesal was offered a bond to pledge that he would not participate in political activities. Upon refusal to sign the bond, he was promptly detained.²⁴ The detention of former chief minister Mahbooba Mufti was allegedly for leading a party that "has been of a dubious nature."²⁵ The dossier of former chief minister Farooq Abdullah alleged that "his activities against the Union of India under the guise of politics . . . has been successful in execution of such (radical) activities."²⁶

The final nail in the coffin, however, was Amnesty's report highlighting collusion between the leaders of the BJP and the Delhi Police in perpetrating violence against Muslims during the Delhi riots of February 23–29, 2020. This report establishes a clear relationship between the Citizenship Amendment Act and these riots. The CAA had led to nonviolent protests by Muslims supported by many Hindus, which demonstrated that the CAA contravened the provision of secularism in the Indian Constitution. The report traces CAA protests and relates them to violence at Jawaharlal Nehru University and Jamia Milia Islamia (University). Both were inspired by the BJP and none of the perpetrators were booked.²⁷

By January 2020, many Muslim women would come out and protest in a place called Shaheen Bagh near Jamia Milia Islamia—they would remain there all night to mark their displeasure. While the peaceful protest in Shaheen Bagh was growing in strength, the BJP went on a vilifying campaign. Prominent leaders of the BJP such as Home Minister Amit Shah aroused anti-Muslim sentiment, which was elaborated by others such as Anurag Thakur, Kapil Mishra, and Parvesh Verma. The report not only links the Delhi riots as a kind of reprisal against these peaceful protests, it

also demonstrates the complicity of Delhi Police in robbing Indian Muslims of their fundamental rights of safety and livelihood. No BJP politician or police personnel has been booked by the Delhi Police despite compelling evidence.²⁸

Amnesty's case before the Karnataka High Court followed in 2020. First, they held that they could not have violated FCRA since all their donations are from domestic sources. Second, they were being harassed without any clear evidence to the contrary. Finally, they were fighting for the very human rights enshrined in the Indian Constitution. This was the reason why there was no FIR or charge sheet against the organization.²⁹

While Amnesty was intimidated for working for the rights of Muslims in Kashmir and Delhi, Gandhian and progressive politicians and activists committed to nonviolence were charged with instigating violence. These include Harsh Mander, a Gandhian activist who resigned from the Indian Administrative Service to work for social causes. With a stellar record of service to the nation, Mander was charged with provoking the riots in Delhi. Mander was one of the interlocutors who had provided evidence for Amnesty's report on the Delhi riots. He is well known for a speech at the Jamia Milia Islamia's peaceful protests urging the protestors not to take arms—no matter what the provocation. Apoorvanand Jha, a professor of Hindi Literature at Delhi University, was similarly charged with provoking violence. A supplementary set of charges in connection with FIR 50/2020 mentioned the names of some other respected individuals including filmmaker Rahul Roy; a retired professor from Jawaharlal Nehru University, Jayati Ghosh; the general secretary of the CPIM, Sitaram Yechury; a Jawaharlal Nehru University student, Umar Khalid; and an eminent political scientist and activist, Yogendra Yadav. While no one from the Delhi Police or the BJP was booked for inciting violence during the Delhi riots, some respected citizens who had worked for the peaceful protestors defending the secular fabric of the Indian Constitution were appropriately warned.³⁰

Tax Registration Rules 2020 and Foreign Contribution Regulation Act (FCRA) Amendment 2020

The previous section demonstrated how the old rules drifted toward new purposes. New rules and a constitutional amendment in September 2020 carried the stamp of a firmer resolve to rein in social actors. This was the layered path of India's tryst with competitive authoritarianism. To make matters worse for NGOs, Finance Minister Nirmala Sitharaman

announced a number of amendments to the finance bill on February 1, 2020. In the past, NGOs could register under section 12A of the Income Tax Act to receive tax-free income. Donors, in turn, would receive tax benefits under section 80G of the Income Tax Act. In the past, this benefit, once granted, was not taken away. Sitharaman introduced a new provision that registration under section 12A of the Income Tax Act would be valid for only five years. NGOs were now under the threat of withdrawal of the 12A permission after every five-year period.³¹ This applied to all NGOs irrespective of their funding source.

Control over tax benefits was followed by increased surveillance and regulation over foreign funding of NGOs. The FCRA Amendment bill earned speedy presidential assent. There was not even a rumor about the bill until September 20, 2020, the day the bill was introduced in Parliament. It was passed in the lower house the next day, in the upper house on September 23, and was cleared by the president on September 29. There was hardly any debate in the Parliament and nor was there consultation within the relevant parliamentary standing committee. This is part of a larger effort to rapidly consolidate the hegemony of the state over social actors.

A majority of the NGOs vehemently opposed three important strictures of the act. The print media has discussed this matter, but the electronic media has largely remained silent. These stipulations could severely curtail activities such as research and advocacy using foreign funds. Many NGOs are scared of airing their grievances for fear of losing tax benefits and coming under the scrutiny of FCRA 2020. Lawyer Noshir Dadrawala noted that while India received foreign investment worth \$40 billion in 2017/18, the comparable figure for foreign funding of NGOs was just \$3 billion (2018/19). Moreover, this amount was shared among 20,000 NGOs.³²

What then are the new challenges for NGOs in the 2020 amendments? First, NGOs with FCRA permission can use only up to 20 percent of the foreign funds for administrative purposes, whereas the earlier figure was 50 percent. Administrative costs include all hiring and travel costs, with the exception of expenses toward training and collection of field data for an organization dedicated to research and training. Salaries of hospital doctors and schoolteachers are exempted from the definition of administrative costs. These strictures are especially worrisome because the Home Ministry can suspend organizations without an inquiry. The duration of the suspension was raised from 180 days to 360 days in the amended act. This provision will hurt NGOs such as Oxfam and many others who carry a substantial administrative burden. Oxfam's FCRA was not only not renewed,

it was recently under income tax surveillance. Such large NGOs had supported many smaller ones pursuing an idea that was consistent with the Constitution.³³ The 20 percent administrative cost rule and the income tax search without any reason has seriously undermined Oxfam's capacity for research and advocacy.³⁴

The second debilitating provision is that an FCRA-approved NGO will not be able to lend to another NGO with an FCRA license. Oxfam, for example, typically with a budget of \$8–\$10 million, along with others such as Participatory Research in India, or even smaller organizations, subcontracted work to other groups. These small NGOs at the local level have the capacity to deliver on the ground, but not the capacity to articulate larger needs in terms of proposals that will catch the eye of donors. Such subcontracting will now become impossible. Either smaller NGOs will come under the control of larger ones, or they will languish without funds.

The third stipulation that has raised concerns about excessive intrusion in the sector is the provision that all NGOs in India have to open their FCRA accounts with the State Bank of India's main branch, which is located on Parliament Street in New Delhi. Whereas there was substantial surveillance of NGOs in the past, it was not deemed necessary to centralize all the foreign dealings of all Indian NGOs in one branch office in Delhi. India's 20,000 NGOs will now have to operate through one bank branch. Given the onerous nature of the reporting stipulations, the Ministry of Home Affairs had to extend the submission deadlines of annual reports.³⁵

Figures furnished by an NGO, which will remain unnamed, revealed the following funding characteristics. The budget of this NGO is about \$1.5 million. Between 45 percent and 60 percent of its funding has come from foreign donors since 2014. The executive director complained that at a time when PMCARES has taken away substantial domestic funding that came in the name of corporate social responsibility, such restrictions on foreign funding can be debilitating. Both the 20 percent administrative cost rule as well as the stipulation of no transfer of funds from one FCRA organization to another will substantially reduce work possibilities. And the provision to shift all foreign operations of all NGOs to the State Bank of India will certainly make it tough for all NGOs. NGOs, after all, are known for working in fairly remote parts of the country rather than being close to the epicenter of power. One hopes that the administrative burden that this will entail for NGOs and the concerned bank branch will not lead to a demonetization-like situation when Rupee 500 (\$6.70) and Rupee 1,000 (\$13.50) denominations were removed with almost no notice in November 2016, to the utter dismay of all concerned. At that

time, not even the governor of the Reserve Bank of India was informed of the decision.

It is for these reasons that the association of NGOs has spoken against what they call “draconian” measures. The Voluntary Association Network India (VANI) has held that the FCRA Bill 2020 is a “death blow to development relief, scientific research and community support work of the NGO community.”

This was especially unexpected when the work of NGOs for Covid-19 relief was even praised by the state.³⁶ VANI held that the FCRA amendment assumes that foreign funding is degrading the work of NGOs. The FCRA (2020) makes it easy for the government to intervene without any legitimate cause. It will impact cooperation among Indian NGOs. If the salary of field staff is counted as administrative costs, this will impact the ability of NGOs to deliver on the ground. VANI was in favor of regulation but not of disrupting the work of NGOs. The provision to move all FCRA accounts to the Parliament Street branch of the State Bank of India is viewed as a hugely disruptive measure. This, along with the stipulation that one FCRA licensed organization cannot lend to another, will lead to the closure of thousands of NGOs dependent on foreign funds. For all these reasons, VANI had advised the government to refer the FCRA Bill 2020 to a select committee of the Parliament for review.³⁷

What Does This Mean for the Rashtriya Swayam Sevak Sangh (RSS)?

It is important to situate the activities of the RSS in this regulatory context. Will the supervision over NGOs accelerate the rise of RSS to the detriment of the social forces that agree with a cosmopolitan vision of India? In English the acronym RSS could be translated as the National Self-Help Association. Its five to six million members are votaries of the idea that India belongs to Hindus. That idea of India directly challenges the constitutional provision of secularism based on respect for all religions. The founding fathers of the RSS, such as Vinayak Damodar Savarkar and Madhav Sadashiv Golwalker, subscribed to the view that India is a “Hindu Rashtra”—in other words, a nation of Hindus. They were even in awe of fascism in Europe and praised it. Over time, the definition of who is a Hindu has become more inclusionary, but the original idea of the “Hindu Rashtra” was not given up.³⁸ This exclusionary principle motivated one of its members, Nathuram Godse, to assassinate Mohandas Gandhi. The RSS is a mega NGO that works with a large number of organizations to pursue

a variety of goals. One such stated goal is economic and social development for furthering the cause of the Hindu Nation.³⁹

The RSS has become politically salient in Indian politics today with Prime Minister Modi having joined the organization at the age of 8 and Home Minister Amit Shah at age 14. Much of the cabinet and many powerful ministers belong to the RSS. The RSS's rise in power within the political manifestation of the BJP has shaken the secular foundations of India. This has manifested itself in the discriminatory Citizenship Amendment Act, and in pursuing the National Register of Citizens. It is for these reasons that Jammu and Kashmir lost its special status with the abrogation of Article 370 and the two political units—Jammu & Kashmir and Ladakh—were turned into separate Union Territories directly under central rule. Jammu and Kashmir was the only state in the Indian union with a majority of Muslims and had enjoyed a special status. Similarly, the Babri Masjid was not only brought down, a temple is now being constructed atop the ruins of the mosque. This was a mosque that was alleged to have been constructed atop a temple that consecrated the mythical birthplace of Lord Ram.⁴⁰

The rise of NGO surveillance can lead to the further dominance of the RSS. NGOs often work more or less closely with some political parties. Sewa Bharti, supported by the RSS, would work with the BJP, but Gandhian-inspired NGOs such as Ekta Parishad and Mazdoor Kisan Shakti Sangathan are more likely to work with the Congress Party. There are more left-oriented NGOs that could work with left parties or the Congress Party. If the government uses its surveillance powers to attack all NGOs that are ideologically unacceptable, this could reduce the political space in India.

The RSS is reputed for its welfare activities, which can be deployed as socioeconomic service for political benefit.⁴¹ It has done a commendable job of delivering basic services such as health and education. It performs a remarkable role during crises. True to its reputation, it was much sought after during the Covid crisis, especially after the sudden and rather unplanned lockdown of March 24, 2020. Not only did the RSS serve the citizens of Delhi, it was also much sought after in Uttar Pradesh, Bihar, Assam, Maharashtra, Karnataka, Telengana, Madhya Pradesh, and even Kerala. Between 50,000 and 100,000 volunteers were mobilized to distribute relief packages. In most cases, it was the district administration that would seek the help of the RSS. It is reported that the district magistrate of Varanasi, the constituency of Prime Minister Modi, pleaded with the RSS for help. The RSS worked even in Kerala where the BJP was never politically salient. More than 700 RSS-funded NGOs qualified for govern-

ment funds and subsidized food. It is only in West Bengal that the RSS was checked to the greatest extent by the Trinamool Congress.⁴²

The rise of the RSS as a social welfare organization at the very moment when there is much greater surveillance over NGOs is a cause for worry. This could strengthen social forces working socially and communally for a "Hindu Rashtra," at a time when NGOs more loyal to the secular and federal character of the Indian Constitution could be undermined.

Conclusion

This chapter argues that the saga of the state's dealings with NGOs and activists characterizes both a drift of old frameworks and a layered consolidation of a legal structure toward competitive authoritarianism that will impede an independent civil society's quest to retain the secular and federal character of the republic. It will help the consolidation of state-society relations in the service of a centralized Hindu nation. The BJP is politically powerful and its social arm, the RSS, operates like a mega social arm of the state. It has taken quite some time for the RSS to find this kind of a political space on the 75th anniversary of the Republic.

It is therefore not surprising that the BJP government has deployed old rules to ban NGOs from using foreign funds at the very moment when the RSS is flush with largesse from the state. In addition, the FCRA Amendment of September 2020 has made it even more difficult for NGOs to work with foreign funds. They have less funds now for research, advocacy, and field staff. They will find it more difficult to perform as a cooperative network. And all the foreign funds are now managed by one branch of the State Bank of India located in New Delhi. This level of oversight brings additional powers to scrutinize and disrupt NGO activities without any substantial basis. Such scrutiny could potentially suspend the operations of an NGO for a year. In addition, even domestically oriented NGOs have to get their tax exempt status renewed every five years. NGOs are justifiably worried about their fate as the Indian state unambiguously seeks to homogenize the nation on the basis of a professed Hindu identity. In this legal environment, activists who defend the Constitution are arrested while the perpetrators of violence seeking to create a Hindu nation can move around freely.

Social forces have not entirely given up despite India's surge toward competitive authoritarianism. This was evident from the coming together of 200,000 to 300,000 farmers around the national capital to raise their

voice against the three farm laws, which were passed hurriedly without respecting parliamentary procedure.⁴³ The farmers were united regarding the nonconsultative manner in which the farm laws were passed to benefit larger landholders and corporations at their expense. They successfully demanded the repeal of such laws. Subsequently the states of West Bengal and Punjab were won by non-BJP parties, even though the most populous state, Uttar Pradesh, went to the BJP.

NOTES

1. On drift as a form of incremental institutional change, see James Mahoney and Kathleen Thelen, *Explaining Institutional Change: Ambiguity, Agency, and Power* (Cambridge: Cambridge University Press, 2010), 1–37; and Jacob S. Hacker, “Privatizing Risk without Privatizing the Welfare State: The Hidden Politics of Social Policy Retrenchment in the United States,” *American Political Science Review* 98, no. 2 (June 2004): 243–60; Rahul Mukherji and Seyed Hossein Zarhani, “Policy Paradigms and Path Dependence: The Endogenous Roots of Institutional Displacement and Drift in India,” *Global Public Policy and Governance* (Springer, 2021), <https://doi.org/10.1007/s43508-021-00007-w>

2. Steven Levitsky and Daniel Ziblatt, *How Democracies Die* (New York: Crown, 2018).

3. Larry Diamond, *Ill Winds: Saving Democracy from Russian Rage, Chinese Ambition, and American Complacency* (New York: Penguin, 2019), 59–80. For an excellent ethnographic account, see William J Dobson, *The Dictator’s Learning Curve* (London: Harvill Secker, 2012).

4. On the variety of tasks that NGOs perform in India, see Rajesh Tandon, “The Civil Society–Governance Interface,” in *Does Civil Society Matter?*, ed. Rajesh Tandon and Ranjita Mohanty (New Delhi: Sage, 2009), 60–76.

5. Tariq Thachil, *Elite Parties, Poor Voters: How Social Services Win Votes in India* (New York: Cambridge University Press, 2014).

6. See, for example, Palaniappan Chidambaram, “A Fraud on the Constitution,” *Indian Express*, December 6, 2020, https://indianexpress.com/article/opinion/columns/constitution-law-modi-govt-p-chidambaram-7093190/?utm_source=newzmate&utm_medium=email&utm_campaign=opinionsunday&utm_term=.n5N3otAU5BbpUH0BZIUOnTiQ1iGiLLw_y0PJuaAA; Abhinav Chandrachud, “UP’s ‘Love Jihad’ Ordinance Has Chilling Effect on Freedom of Conscience,” *Indian Express*, December 3, 2020. <https://indianexpress.com/article/opinion/columns/up-love-jihad-law-religious-conversion-anti-conversion-law-7078370/>

7. On the impact of the economic reforms (between 1991 and 2014) on state-center relations, see Lloyd I. Rudolph and Susanne Hoeber Rudolph, “The Iconization of Chandrababu: Sharing Sovereignty in India’s Federal Market Economy,” in *India’s Economic Transition: The Politics of Reforms*, ed. Rahul Mukherji (New Delhi: Oxford University Press, 2011), 231–64; and Seyed Hossein Zarhani, *Governance and Development in India: A Comparative Study on Andhra Pradesh and Bihar after Liberalization* (London: Routledge, 2019).

8. Rahul Mukherji, “COVID vs. Democracy: India’s Illiberal Remedy,” *Jour-*

nal of Democracy 31, no. 4 (October 2020): 99–100; Mukherji and Zarhani, “Policy Paradigms and Path Dependence.”

9. On how NGOs and the state worked together to successfully deal with Covid in Kerala, see Thomas Isaac and Rajeev Sadanandan, “COVID 19, Public Health System and Local Governance in Kerala,” *Economic and Political Weekly* 55, no. 21 (May 2020); S. M. Vijayanand, “Kerala’s Management of COVID 19: Key Learning,” *Ideas for India*, May 2, 2020, <https://www.ideasforindia.in/topics/governance/kerala-s-management-of-covid-19-key-learnings.html>. On how activists and NGO’s approached the Supreme Court, see Mukherji, “Covid vs. Democracy,” 99–100.

10. Stephen Hopgood, Jack Snyder, and Leslie Vinjamuri, “Introduction: Human Rights Past, Present, and Future,” in *Human Rights Futures*, ed. Stephen Hopgood, Jack Snyder, and Leslie Vinjamuri (Cambridge: Cambridge University Press, 2017), 1–23. <https://doi:10.1017/9781108147767.001>

11. Peter A Hall, “Policy Paradigms, Social Learning, and the State: The Case of Economic Policymaking in Britain,” *Comparative Politics* 25, no. 3 (April 1993): 275–96; Mark Blyth, *The Great Transformations: Economic Ideas and Institutional Change in the Twentieth Century* (New York: Cambridge University Press, 2002); Rahul Mukherji, *Globalization and Deregulation: Ideas, Interests and Institutional Change in India* (New Delhi: Oxford University Press, 2014); Himanshu Jha, *Capturing Institutional Change: The Case of the Right to Information Act in India* (New Delhi: Oxford University Press, 2020).

12. Mukherji, *Globalization and Deregulation*, 108–46.

13. Rahul Mukherji, Himanshu Jha, and M. N. Roy, “Ideas and Policy Paradigms: Explaining the Fall of Welfare Politics in West Bengal,” *Indian Politics and Policy* 2, no. 2 (Fall 2019): 53–84; Rahul Mukherji and Seyed Hossain Zarhani, “Governing India: Evolution of Programmatic Welfare in Andhra Pradesh,” *Studies in Indian Politics* 8, no.1 (June 2020): 7–21.

14. This paper suggests that these riots in northeast Delhi that led to 53 deaths, a majority of whom were Muslims, was a kind of revenge against the peaceful protests of Muslim women against the Citizenship Amendment Act.

15. A first information report is made by the police on the basis of some charges made to the police. Subsequently, a person can be charge sheeted by the police on the basis of an FIR.

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22. *Jammu and Kashmir Situation Update and Analysis* (London: Amnesty International, 2020), accessed December 12, 2020, <https://amnesty.org.in/wp-content/uploads/2019/10/Amnesty-International-India-Kashmir-Situation-Update-Final.pdf>

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Ethnic and Religious Tensions

Thomas Blom Hansen

The Bharatiya Janata Party's road to an absolute majority in the general elections in 2014 and 2019 has been paved by riots, pogroms, and a steep rise in tensions between Hindu and Muslim communities across the country. The other main factor in the rise of the BJP has been the steady proliferation of Hindu nationalist organizations, and their idea of Hindutva (Hindu-ness) as the core values of the Indian nation, into all walks and corners of Indian society. The correlation between the incidence of riots and attacks on minority communities, and the growth in electoral support for the BJP, is well established by now, both among social scientists and other observers. Prominent examples are the electoral gains by the Shiv Sena Party and the BJP in Maharashtra in 1995, less than two years after the bloody Bombay riot in 1993; Modi's resounding electoral victory in Gujarat in December 2002, less than a year after the anti-Muslim pogrom across the state earlier that year; and BJP's resounding victory in Uttar Pradesh in 2014, seven months after the riots that rocked the western Uttar Pradesh district of Muzaffarnagar in 2013. However, the relationship between actively fomenting antiminority violence, electoral gain, and winning public office is not always as straightforward as is represented in much journalism and political discourse.

The first complication has to do with time: How quickly, and surely, do situations of violence and communal tension result in changed electoral preferences and outcomes, and for how long? Can the staging of public

violence still be sustained as a political instrument when a party and movement is in power? When communal riots take place, local authorities and state governments are often blamed for their inability to maintain public order and incidents of public violence can become a liability.

The second complication concerns broader shifts in Indian society in the past decades that seems to have made both public violence and antiminority hate speech more acceptable than before. Several shifts are noticeable: since 2014 most antiminority violence seems to have been committed by a range of "Hindutva franchises," specifically outfits that are ideologically aligned with the BJP and RSS but not directly connected or affiliated with the Hindu nationalist movement. These outfits are at times tacitly supported by local law enforcement agencies but cannot be assumed to be integral to a larger BJP-driven electoral strategy.

If, on many occasions, fomenting riots and communal tensions have paid electoral dividends to the BJP, it seems that the drivers of support for the BJP have changed in the past decades. Today, the BJP seems largely to win votes and retain popular support through the unprecedented ideological dominance of Hindutva across Indian society, and the party's entrenchment in government institutions. Building on this consolidated power, the BJP has since 2018 launched legislative and policy measures that aim at redefining both belonging and citizenship in India. Examples are the changed status of Kashmir, the Citizenship Amendment Act, the launching of the National Register of Citizens, the change of domicile laws both in Kashmir and the northeast, the changes in the Enemy Property Act, and other emerging legislation.

In this brief overview, I will try to elucidate how ethnic¹ and religious tensions in India have evolved in the past few decades across India's political landscape. I shall begin with a brief discussion of the relationship between religiously motivated violence and competitive electoral politics. I argue that much of the literature on this issue posits an overly direct and instrumentalist relationship between the two. Instead, I argue, we have to factor in the long-term cumulative effect of the spread of communal, antiminority ideology in the electorate.

I proceed to argue that religious and ethnic violence in India needs to be situated in a broader context of the incidence of many kinds of public, collective violence. Drawing on national crime statistics, I argue that public violence is widespread and common because it is an integral part of the political process and is generally performed with near impunity. In the final section, I look at the new legislative and governmental face of Hindutva that seeks to change the definition of "Indianness" and citizenship. I argue

that these measures not only promote a majoritarian definition of citizenship but actively seek to roll back protections of property, civil rights, and resource access among the country's ethnic and religious minorities.

Violence and Democratic Politics: The Debate

The literature on public violence in India has for decades been focused on major conflagrations and clashes between Hindu and Muslims that are usually described as communal violence and riots. These terms have roots in colonial policing and suggest clashes and confrontations between two mobilized communities. The fact is, however, that virtually every major riot in India in the past four-five decades has been a concerted attack on Muslims by organized members of the majority Hindu community. As Megha Kumar has shown, the massive riot in Ahmedabad in Gujarat in 1969 set the tone for the decades to follow. The 1969 riot was first and foremost an organized attack on Muslim neighborhoods and the style, the sexual violence, and the rabid anti-Muslim rhetoric of 1969 were largely repeated in subsequent riots in 1985 and again, most infamously, in the pogrom of 2002.²

The literature on communal violence is rich and diverse: political scientists have studied the relationship between the staging of communal riots, electoral performance, and the consolidation of political power.³ Others have explored the larger context of conditions and cleavages that make riots more likely to occur.⁴ Anthropologists and others have taken particular interest in the experiential dimensions of riots, among both victims and perpetrators.⁵ The common thread running through these debates is the focus on the riot itself as an articulation of political interest, social competition, institutional bias, social dynamics within movements and crowds, as well as the complex of fear, enjoyment, and exhilaration that seems to drive rioters.

Incidents of communal riots also have an intense presence in political discourse where they are seen as a "law and order problem" that are routinely used to criticize the performance of local governments or to transfer law enforcement officials. In public debates and among activists, journalists, and scholars, communal riots have emerged as the most central indicator of the level of tension between Hindus and Muslims in particular, and indeed an indicator of the general level of tension between different religious and ethnic communities.

The problem is, however, that the incidence of riots is a rather impre-

cise indicator of whether tensions between communities are generally high in a city or a region. The outbreak of a riot does not necessarily tell us much about what drives ethno-religious cleavages in a city or area, and whether such tensions may have political and electoral consequences. Riots are complex occurrences, in part planned and directed, but also shaped by multiple contingencies and local events beyond the control of activists and operatives on the ground. Starting and participating in a riot are, in other words, high-risk political enterprises that can work to the advantage of those staging attacks, but they can also backfire. Finally, riots have long-term effects that are rarely accounted for in the literature.

Let me illustrate these points through the lens of a recent example that I witnessed up close during fieldwork in Maharashtra in 2018. In May 2018, a four-time Shiv Sena MP, Chandrakant Khaire, from the city of Aurangabad in Maharashtra saw his political future severely threatened by the growing influence of the All India Majlis-e-Ittehadul Muslimeen across the city and in the municipal corporation. On the evening of May 11, Khaire and his supporters attacked Muslim areas in the old city with stones, Molotov cocktails, and firearms. The attack, which was actively aided by armed police, was filmed by multiple residents on cell phones, instantly producing evidence that belied the Shiv Sena activists' claim that they were acting in self-defense. There were only two casualties, both Muslim, one of them a disabled man who was unable to flee from his house. Despite attempts at depicting the incident as "Hindu self-defense" against "Muslim mobs" and despite the attempts by the city's police to block a proper investigation, including a blackout of the internet and social media for several days, the cell phone footage of Khaire and his men circulated widely.⁶ The footage, and the botched attempt to incite a riot in a city that has a long history of small and large riots since the 1960s, did not play in Khaire's favor. Imtiyaz Jaleel, a local Majlis-e-Ittehadul Muslimeen leader with a strong reputation for service delivery, narrowly won the 2019 election in the city. In speeches and interviews, he emphasized that Muslims had "not taken the bait" and had shown restraint and responsible behavior in the face of an open provocation. On his side, Khaire lost the election but only narrowly, while maintaining substantial support as a "defender of Hindus" in a city that is one of the most divided and segregated along religious lines in Maharashtra.

One can draw a number of conclusions from this event. On the face of it this seems to be an example of a failed "production of a riot," to use Paul Brass's terminology.⁷ The provocations in the old city did not trigger a larger confrontation as the Shiv Sena activists had hoped, and the stage

managers of the riot were exposed as poorly performing political entrepreneurs. Instead, the botched attack produced a consolidation of the *Majlis-e-Ittehadul Muslimeen* vote and a narrow electoral win. This certainly indicates that the staging of what Ward Berenschot calls “riot-politics” does not always work.⁸

However, it turns out that a major reason for Khaire’s loss was that a former Shiv Sena politician, Harshvardhan Jadhav, running as an independent, won almost 25 percent of the popular vote.⁹ Jadhav’s campaign rhetoric was every bit as anti-Muslim as Khaire’s although Jadhav also ran as a Maratha candidate, trying to pull votes from this powerful dominant caste formation. Jadhav castigated Khaire’s clumsy handling of the events in May 2018, implying that the sitting MP had lost his ability to confront the Muslims adequately.¹⁰ Combined, the two candidates attracted the vast majority of the city’s Hindu vote, larger than the combined vote share for the Shiv Sena and BJP in 2014. Both of them used extreme anti-Muslim rhetoric, and promised to defend the city from the return to “the rule of the Khans,” referring to the region’s history as a part of the Nizam-ruled Hyderabad state until 1948.¹¹ This militant rhetoric and the consolidation of Shiv Sena and the BJP in the city stretches back into the 1980s when the Shiv Sena established itself across the region of Marathwada and launched its unique brand of *seeda marpeet* (straight force).

So what appears as a failure of “riot-politics” in 2018/19 in Aurangabad actually indicates the success of a much longer consolidation of ideological and political dominance of Hindutva forces. This process has at times been aided by “riot politics,” but it has also relied on much broader socio-economic and cultural dynamics that have led to unprecedented levels of social and spatial isolation of Muslims across northern and western India, especially in urban areas. This process has changed the nature of tension and conflict between Hindus and Muslims. The more intimate confrontations in dense areas in the old city inhabited by both communities in the 1980s, where street fights happened among people somewhat known to each other, have today given way to more abstract and generalized anxieties and enmities across cityscapes where Hindus and Muslims are almost entirely segregated along spatial and economic lines.¹²

One larger conclusion arising from this example is that riots may have local causes but they express and condense more than the tensions and enmity in one city, or a single locality. Their long-term and translocal effects are also much more consequential than can be gleaned from the literature on communal riots. As has been shown for Gujarat, the long-term consolidation of the BJP and the ideology of Hindutva in the state went

hand in hand with the spatial segregation of Hindu and Muslims. Decades of physical threats and attacks on Muslims led hundreds of thousands of Muslims to seek physical safety in Muslim majority areas, while Hindus in areas with many Muslims have relocated to Hindu majority areas.¹³

Such processes are not limited to areas that has experienced riots because the *ideological effects of riots*—deepened suspicions and fears of the other community—are multiple, deep, and translocal. Rumors and stories, including stock items such as the threats of “Muslim mobs,” or Muslims roaming the city with the intent of seducing or abducting Hindu women, tend to reinforce and rekindle the long-standing and remarkably stable repertoires of prejudices, stereotypes, and rumors that have persisted over many decades. Such translocal ideological effects of riots are rapidly “nationalized,” to use Stanley Tambiah’s term.¹⁴ In recent decades, these effects have been multiplied by the proliferation of social media platforms that circulate rumors, doctored videos, and gruesome footage of violent acts at an unprecedented speed.

These processes of segregation of communities and translocalization of Hindu-Muslim enmities, wherever they occur, have paved the way for the emergence of the “abstract Muslim,” a ubiquitous enemy figure who can be attacked, lynched, and tortured anywhere, by any patriotic Hindu. The victims of these crimes seem random—truck drivers accused of transporting beef, a young man with a skull cap on a train, a day laborer—but the motivations and imputed audiences for these attacks are uniform: to become a celebrated patriotic hero, a *deshbhakt*, however short lived, on countless social media platforms that are popular among Hindu nationalist activists and millions of others.

To recapitulate my argument, the incidence of riots is only one, and an imperfect, indicator of the level of tension between Hindus and Muslims, and other communities. The main effects of riots are long term, spatial, and ideological. They are driving physical and social segregation of communities and they have vast translocal effects, consolidating general majoritarian and antiminority sentiments and preferences in areas and regions not connected with the riot affected area.

It is clear, in other words, that the absence of riots in states or regions—often touted by BJP-led governments as a proof of their noncommunal agenda—does not indicate that the relations between religious and ethnic communities are necessarily harmonious, or, at least, non-antagonistic. A low incidence of riots can well indicate the very opposite, as is evidenced in Gujarat and to some extent in Maharashtra where the political dominance of Hindutva forces is almost total, where there has been very few riots

in the past decade or more, and where the social, political, and economic isolation of Muslims is the most pronounced in the country.

Finally, the portrayal of communal riots as aberrations—common among activists, law enforcement, and scholars alike—tends to obscure the crucial and often overlooked fact that public violence of many kinds have played an important and growing role in India's political life for many decades.

Majorities, Democratic Politics, and “Normal” Violence

From the 1980s onwards, the idea of mobilizing majorities in elected bodies as caste coalitions, or along lines of religion and language, became an ever more powerful idea across India. It challenged the older ideal of political parties attracting votes across different communities and minorities in order to consolidate a legitimate political majority. In Sanskrit, *babumata* literally means “esteemed by many” and it seems that by the 1990s this aspect of *babumat*, that is majority as a moral force, began to acquire a more effective and visceral reality on the ground. The moral force of a majority emerged in no small measure from regional politics across India.

The linguistic movements of the 1940s and 1950s had mobilized powerful sentiments on the assumption of an inherent superiority, and naturalness, of a polity based on the linguistic affinities of a majority as well as the strength of emotional bonds this made possible. Prior to the rise of Hindutva, most of the morally charged rhetoric of sacrifice, of “treason,” of emotional outrage and attachment, often accompanied by physical attacks on newspapers and public figures, emerged in states where strong linguistic and regional polities had emerged since the 1950s. Let me mention two examples. In Tamil Nadu, the Dravidian movement mobilized much public fervor in its campaign against the imposition of Hindi in the 1960s, and later around the semi-deification of leaders like M. G. Ramachandran. As a result, political life in Tamil Nadu evolved into a highly emotionally charged space where dramatic gestures of fasting, self-immolation, and physical attacks on opponents and media outlets have become commonplace.¹⁵ In Assam, the so-called Assam Movement from 1979 to 1985 (aka the Anti-Foreigners Movement) mobilized large numbers of Assamese students and others against what was portrayed as an ongoing “infiltration” of outsiders (allegedly Muslims from Bangladesh). During this sustained campaign, several leaders and activists died in confrontations with authorities and political opponents.¹⁶ These figures are to this day celebrated on December 10 as Swahid Diwas. In 1983, the campaign took a deadly

turn with the Nellie massacre where almost 3,000 Muslims were killed in confrontations with local Assamese villagers and tensions remained high across the state for years afterward. The exact circumstances of the Nellie massacre remain unclear and the official fact-finding Tiwari report is still classified.¹⁷ These events directly paved the way for the launch of the National Register of Citizens in 2004 (see below).

Powerful language ideologies drove such movements for purification and reinvention of modern vernaculars. These ideologies promised to overcome traditional social and caste defined diglossia, and to overcome the sense of inferiority vis-à-vis English that was reproduced on a daily basis in the vernacular press and in institutions of government, science, the national press, and higher learning.¹⁸ Most importantly, the language movements enabled flourishing vernacular publics to be experienced as culturally intimate in historically unprecedented ways. The vernacular was now that which could be shared and mobilized with many strangers as a medium of intimacy and solidarity *vis-à-vis* outsiders. It could also be the medium of a less restrained and more nakedly majoritarian sentiment, a “split public” divided between a more formal English-speaking public and a more intimate vernacular sphere.¹⁹

These intensified, segmented, and vernacular publics are crucial in understanding the steady deployment of “routine” public violence, such as the destruction of public property—buses, police vans, offices, schools—by protesters of many kinds. These acts are often recorded in police records as “public vandalism” rather than political events or riots, and not always classified as a disturbance of public order.

For the Indian police, the actual prosecution of crime has historically been subordinated to the maintenance of public order. This was given inordinate attention in the Indian Penal Code (IPC), promulgated in 1860 and since grown very substantially. Chapter 8 of the IPC is entitled “Offences against Public Tranquility” and consists of 18 sections ranging from the milder “unlawful assembly” (141) to “rioting with a deadly weapon” (148) all the way to sections 153A (promoting enmity groups) and 153B (assertions prejudicial to national integration), the latter carrying more severe punishments, especially if they involve “places of worship or religious ceremonies.” These sections of the IPC reference “groups” and “communities” as those being “incited” or “offended” or harboring “feelings of ill will” while the legal term “person” is only invoked in the sections referring to those who stand to “benefit” from riots (sections 154–156) or those being “hired” to commit public violence (sections 157–159).

Recently, aggregated official crime statistics since 1960 have been made

available online. They make for interesting reading despite major limitations. First, the categories and tabulations change almost annually. This makes it difficult to precisely observe longitudinal trends in reporting and incidence of certain categories of offences. Second, considering the many disincentives linked to reporting of more serious offences in any jurisdiction (such as the ubiquitous threat of transfer of responsible officers) one can safely assume that virtually all categories of incidents has been systematically underreported.

According to the figures released by the National Crime Records Bureau, the aggregated number of reported offenses against public order (all the 18 sections of chapter 8 of the IPC) stood at less than 30,000 across India in the 1960s. This number climbed to above 90,000 in 1980, and above 95,000 per year in the early 1990s. After a dip during the early 2000s to under 60,000 per year, the number has been rising since 2012, reaching 73,000 in 2016.²⁰ In 2018, the total number of offences rose to over 82,000, with 72,000 reported riot incidents.²¹

In the last decade, the Crime Bureau has started detailing the specific category of riot—as caste (2,500 incidents in 2016, 1,550 in 2018), communal (1,200 incidents in 2016, 1,000 in 2018), ‘student’ or political (1,800 in 2016, 2,000 in 2018). The rest of these disturbances—fluctuating between 60,000 and 67,000 in recent years—fall in the category of “other riots,” defined as “Civil Unrest, Community dispute, Attack on Police, dispute over Water supply.”²²

What should one make of this? First, it is clear that staging a riot or a protest of some sort, either against a public institution or another community/hostile neighbors, is a very widespread phenomenon indeed. The 2018 figures specify 15,000 riots as “property related,” and 5,000 caused by “Rivalry.” But neither the wider public, nor social scientists, actually have any clear idea about what these tens of thousands of incidents registered are about, and how they get classified. However, one can safely assume that the constant possibility of transfer, or other administrative punishments, makes police officers determined to classify as many incidents as possible in this category as they seem less serious and politically impactful than those specified as “caste” or “communal” incidents. Moreover, for political activists it is advantageous to have an incident registered as a mere public disturbance because it counts as a relatively light and bailable offense: low risk and yet high profile, something that may get noticed in the local newspaper and beyond. It can be an effective way of demonstrating that a group, or community, is willing to publicly perform this anger, risk arrest, and make a point that makes news.²³

Second, it is obvious that the provisions of the Indian Penal Code in multiple ways structures the very forms that political and social protest and expression will take. The IPC defines the perceived injury of religious sentiments of a group/community as a criminal offense (295A) and it bans the incitement of enmity among groups and communities (153A and B). Since such collective offense is banned, it becomes imperative that the imputed effect of the offense be demonstrated, not as individual sentiments but as a mirror of the spirit of the law itself, as a collective sentiment that threatens public order. Similarly, being booked under one of the IPC 140 sections becomes in itself a form of proof of a collective, or individual, sentiment and anger, and indeed a part of a political vernacular, a measure of success—something has happened (*kuchh to buaa hai*).

The Politics of Anger

Protesters often describe incidents of public violence as the inevitable effect of pent up anger and outrage, as if the scale of physical destruction is an index of the depth and intensity of their rage. Protesters almost mirror the language of the law (such as article 295A) when they blame the offenders for provoking such anger. Vigilante groups in Karnataka or Maharashtra blame the conduct of “immoral youth” for the anger that wells up in themselves, the vigilantes. The violence is inevitable, always caused by the offender because a “natural” urge to protect Hindu values is provoked and leads young vigilantes to beat up and molest middle class youth.²⁴ In a similar vein, the activists who attack contemporary art exhibition spaces, artists, and writers blame the artists for the attacks. In their view, “immoral” art and other expressions are offensive to Indian culture and the activists claim that they cannot control their own pride and anger. They must seek out and destroy this offensive art.²⁵

Such language of outrage and hurt pride has today become the predominant way to justify public violence in India. However, there is little doubt that Hindu nationalism has played an exceptionally important role in this process. The Shiv Sena was a particularly radical and effective heir to this politics of popular emotion of the linguistic movements. The Shiv Sena developed fury (*raag*/Marathi) and anger (*gussa*/Hindi) into a public virtue, an increasingly legitimate style of politics whose forceful directness indexed its authenticity and association with a rougher plebeian world. This sentiment was directly relayed by the name of Shiv Sena's newspaper

Saamma (Confrontation), which has been pivotal in making a coarser style of colloquial Marathi acceptable and legitimate, if often dismissed as poor taste among the traditional upper caste and middle-class communities.

Since the 1920s, Hindu communal politics has been historically framed as militant self-defense against perceived Muslim aggression. However, since the 1980s Hindutva discourse increasingly adopted a style of forceful anger that foregrounded hurt sentiments—such as the presumed historical humiliation of Hindus by the very existence of the Babri Masjid on the birthplace of Lord Ram—or the theme of a Hindu pride (*Hindu gaurav*), presumably resurgent after centuries of humiliation, that was so prominent during the 2002 anti-Muslim pogrom in Gujarat. The success of the BJP has been based on its capacity to instigate antiminority violence and then reap the electoral benefits of the emotional wave of aggression and fear that communal riots tend to generate long after the event, as I discussed above.

In these public actions, even excessive and cruel violence is purified and made just and moral by the imputed injury to a community or a collective emotion that provoked it in the first place. Violence is presented as purely reactive, spontaneous, and therefore inherently just. It is “*natural n’yaya*” as a Shiv Sena activist in Mumbai put it to me many years ago, something like a force that is inherent in a brave and self-respecting man: “If someone slaps me, my hands come out and I slap him. It is natural *n’yaya* (justice).” It is as if the violent act has autonomous force, pure reaction without culpability or moral responsibility.

In this light, the contemporary *gauraksha* (“cow protection”) patrols across northwestern India and their lynching of mostly Muslim men suspected of transporting beef in the past years appear as less of an aberration. These actions are extensions of an existing grammar of action whereby righteous anger—especially that of the putative majority community—is already justified and legitimate. The cause lies entirely with the offender, the Muslim, the antinational, the corrupted Westernized youth.

Why has public violence emerged as such a common expression of anger and popular sovereignty across India in the past decades? The typical answer from officials is that it has to do with political orchestration, of producing rallies and public disorder for political gain. I would like to offer a third explanation: violent crowd action—destroying public property, beating up and attacking opponents—is to this day rarely prosecuted with much vigor, if at all.

In practice, colonial policing suspended the principle of individual culpability in the context of crowd violence. This practice was continued by

the police in Independent India. Countless reports and inquiries since the 1960s have depicted crowd violence as a mere symptom of social or communal tension, and rarely as concrete action perpetrated by identifiable actors. After riots, police and public figures conventionally attribute the destruction to the “handiwork of criminal elements”—though these usually remain unnamed, and unidentified.²⁶

If we return to the National Crime Statistics some interesting patterns and findings emerge that confirm this lack of punishment of rioters. Thousands of cases of riots are classified as “communal,” “caste,” or “sectarian” each year, but it is striking that the number of individuals charged under IPC 153A and 153B—that is, the incitement of enmity between groups—fluctuated between as little as 400 and 600 per year in 2014–16. These are, we should keep in mind, often overlapping charges. Probing a bit deeper in these numbers for 2016 one finds that only 13 cases led to conviction in 2016.²⁷

Another interesting pattern emerges when one looks at the conviction rate for the broader category of “rioting” and other offenses against public order. The police claim a 16 percent conviction rate in such cases (2016), which in any case is low, but when one looks at the numbers of people arrested and charged (around 300,000/year in about 30,000 cases/year) one sees an exceptionally high “pendency” rate. In most years the “pendency rate” is around 95 percent—mostly counting cases carried over from previous years.²⁸ What does this tell us? Purely on the basis of the official, and undoubtedly somewhat “cooked” figures: that at the very highest, a few percent of those charged with disturbing public order are ever convicted. Most of those charged (more than two million individuals reported in 2014)—and we cannot assume their guilt—are on bail for years, if not decades.²⁹

This means that, in practice, *the only punishment for disturbing public order takes place as they unfold*. Until about a decade ago, the Indian police used mainly extremely forceful lathi charges or live ammunition as a means of crowd control. In recent years, efforts have been made to encourage the use of tear gas, pepper spray, water cannons, and other crowd control tactics among the country's police forces.³⁰ However, my own experience and testimonies from witnesses and victims of such crowd control measures suggest that the police are more likely to apply excessive force, and live ammunition, when confronting protesters belonging to communities that are customarily classified as “troublesome” and aggressive, such as Dalits, Muslims, and other marginalized groups.³¹

Redefining Citizenship

The definition of Indian citizenship was complicated from the beginning. The thorniest issue was the large-scale movement of people during and after Partition and the anxieties about “illegal aliens” from Pakistan and Bangladesh residing in the country. The Citizenship Act of 1955 established a simple territorial (*jus soli*) principle. Anyone residing in India at the time of the adoption of the Constitution of India in 1950 was to be considered a legitimate citizen. Anyone born in India after that point was also considered a citizen. However, the definition of citizenship has gradually been moving toward a blood/descent based principle (*jus sanguinis*) since the 1980s. In 1987, a Congress government introduced an amendment to the 1955 law that established that only those born on Indian territory to at least one Indian parent could be considered a citizen. In 2003, during the first BJP-led national government, this requirement was tightened to require that both parents must be Indian. Targeting the assumed large-scale “infiltration” of India by Bangladeshi Muslims that the BJP had campaigned against throughout the 1990s, the amendment specifically excluded children of “illegal aliens” from seeking Indian citizenship. The same amendment mandated the establishment of a National Register of Citizens, a process aiming at establishing a comprehensive data base of citizens, and to issue national identity cards to all legitimate residents in the country.³² The provisions of the National Register of Citizens began to be implemented in the state of Assam in 2014, rekindling the tensions that had led to the Assam Movement in the early 1980s. Five years later, the BJP included a promise of extending the National Register of Citizens to the entire country in the party’s election manifesto for the 2019 general election. In Assam, the first list of residents in the state was publicized in 2019, leaving almost two million names out. These individuals, predominantly Muslims, were suspected of being “illegal aliens” from Bangladesh and were left to seek verification of their identity documents, and possibly redress, through an uncertain and lengthy tribunal process. At the end of 2019, the Ministry of Home Affairs instructed various states in the country to begin the construction of detention centers for those deemed illegal aliens. No official figures of the number of detainees have been released. At the time of writing (October 2022), these centers are full and reports indicate that tens of thousands have been being released since March 2020 in order to reduce the risk of Covid-19 transmission.³³

The Citizenship Act was further amended in late 2019 with the Citi-

zenship Amendment Act. Unlike the previous amendments that established blood and descent as the basis of citizenship, the Citizenship Amendment Act used religious community as a basis for eligibility for citizenship, a provision that specifically excluded Muslims. The act grants the option of citizenship to non-Muslim refugees/migrants from Bangladesh, Pakistan, and Afghanistan ostensibly on the compassionate ground of their assumed persecution as religious minorities in their native countries.³⁴ Clearly, the law reflects the long-standing objective of defining India as a homeland for Hindus and other religious communities “native to India.” It also reflects the RSS’s equally long-standing vision of the entire subcontinent as Akhand Bharat, “Greater India,” and any non-Muslim from the region as belonging to the Hindu homeland. The new law provoked large-scale and vociferous protests from many groups in November and December 2021. Protesters pointed out that the Citizenship Amendment Act violated the secular principles of religious freedom and nondiscrimination enshrined in the Indian Constitution. The protests were met with overwhelming force by the police in many states, particularly in Uttar Pradesh where police attacked Muslim neighborhoods, detained hundreds of protesters, and threatened independent reporters and news media.

The curtailing of Muslim rights, and property, across India also drove the Indian government’s amendment of the Enemy Property Act (promulgated in 1968, after the Indo-Pakistani war of 1965, and modeled on the 1939 British law of the same name). The 1968 act enabled the government of India to put properties of families who had left for Pakistan under the authority of the office of the Custodian of Enemy Property. In 2017, the act was expanded so that all Muslim families whose more distant relatives left for Pakistan now potentially face confiscation of their properties, at the discretion of the Office of the Custodian. Along with the Evacuee Property Act of 1950, this legislation converted alienable land of “enemies of the state” into national property, held by the custodian in perpetuity. With the amendment in 2017, any property owned by a relative of someone who had left for Pakistan could be declared enemy property and thus the property of the nation. As a result, the number of properties held by the Custodian of Enemy Properties has risen from a little over 2,000 in 2010 to more than 15,000 in 2017, a number that is still rising.³⁵ Further, it allowed the custodian to sell off properties, supposedly to non-Muslims deemed to be proper members of India’s sovereign people.³⁶

My last example pertains to recent modifications of the so-called domicile laws in various parts of India. An Indian citizen can reside anywhere

on the national territory and can claim domicile for tax, electoral roll, registration of marriage, or business purposes if she or he can prove permanent residence in a locality over a period of time. Domicile certificates are generally required to seek public office, school admission, and reservations based on caste. The latter is a gray area as the list of caste communities eligible for reservations are specific to each state. In some states, such as Assam, Madhya Pradesh, and Maharashtra, “sons of the soil” movements have demanded that government jobs, and educational seats, be reserved for those native to the state.³⁷ However, restrictions based on domicile certificates are most extensive in the northeast, in Jharkhand, Uttarakhand, and other areas considered ethnically and culturally distinct or covered by the sixth schedule of the Indian Constitution, or both, and protect the rights and land ownership of Scheduled Tribe communities.³⁸ In several of the northeastern states, and in most of Jharkhand, land can only be purchased by those considered as “original” inhabitants and the same restriction pertains to holding public office. Many states operate cut-off dates that determine a family’s eligibility for domicile. In Assam, this is prior to the Bangladesh war in 1971 that resulted in an influx of refugees. In most of the smaller northeastern states, the cut-off date is 1950 when the region was formally incorporated into the Indian republic.

Since 2014, the BJP government has generally pushed for a more flexible application of the domicile laws, enabling traders, bureaucrats, and others who have migrated, or wish to migrate, to these “restricted areas” to obtain domicile status. In 2016, protests broke out across Jharkhand against a change in the domicile laws that would allow nonnative residents who had lived in the state for more than 30 years to obtain a domicile certificate.³⁹ After the government of India abrogated Article 370, which granted a special status for Jammu and Kashmir within the Indian Union, new domicile laws were introduced in 2020. The new laws allow nonnative residents to obtain domicile after 15 years, or less if they had advanced educational qualifications or were related to officials of the Union government.⁴⁰ This has generated fears that the BJP seeks to enable a gradual policy of “Hindu colonization” by letting non-Kashmiris purchase land and occupy dominant positions in the newly incorporated Union Territory’s government and economy. This would be to the detriment of local Kashmiri Muslims who have been left severely disadvantaged in educational and economic terms by more than three decades of armed conflict and military occupation under the dreaded Armed Forces Special Powers Act.⁴¹

Conclusion

Ethno-religious tensions have undoubtedly increased in India over the past decade although this increased tension does not necessarily manifest in increasing incidence of riots and a higher death toll. The BJP government routinely highlights the fact that reporting of riots and deaths related to communal violence have been somewhat lower since 2014 than it was during the previous Congress-led administrations.⁴² In recent years, the Government of India has increasingly delayed the release of official data (such as the 2021 census data), concealed or manipulated data (such as the real death toll during the COVID-19 pandemic), or changed the parameters (as in the case of how GDP is calculated). Can one assume that law enforcement agencies and the Ministry of Home Affairs (MHA) also fudge or withhold data in order to portray its own efforts in the most flattering light? According to official data released by MHA in recent years, India is becoming ever more peaceful every year with declining rates of homicides, riots, public disturbances, but also terrorist attacks. Interestingly, this positive trend began precisely in 2014, if we are to believe MHA and the National Crime Records Bureau that from 2021 reported a dramatic decline in the incidence of public order offences.⁴³ The editors of a recent volume on internal security in India take these officially reported figures at face value and attribute them to what they call “growing state capacity.”⁴⁴

As I have argued above, the incidence of communal riots is an inadequate measure of the relationship, or tensions, between ethnic and religious groups. The vast majority of this kind of violence is today simply attacks on Muslim areas and communities. It is well established that Hindu nationalist outfits have been involved in almost all the antiminority violence in the past decades and it stands to reason that when in government, the BJP and its allies stand to gain less from continued “riot politics.”

As I have suggested above, “communal violence” should be understood as but one of several kinds of public violence that occur across India at a high and constant rate. Even if underreported in official police statistics from the Ministry of Home Affairs, high levels of public violence have become a stable component of political life in India not least because public violence can be committed and staged with de facto impunity, as I show above relying on the National Crime Statistics. This general atmosphere, as well as the anti-Muslim bias in much of the Indian police force, renders religious, ethnic, and social minorities very vulnerable. Since 2014, public discourse has also shifted toward a muscular Hindu majoritarianism and a routine depiction of Muslims and critics of the BJP as *deshdrohi*, traitors

to the nation. The general atmosphere of accelerating hate speech and the perception of public violence as a natural, if not inevitable, result of Hindu anger have rendered Muslims extremely vulnerable. Policy measures aiming at (re-)defining Indian citizenship based on blood and religious identity only add to a sense of dread and fear among the country's many minorities. This experience of fear and ubiquitous stigma was recently captured by a long-standing friend and informant, a journalist in the Urdu press, who told me: "We are all lumped together as Muslims, we are all seen as clan-nish and half criminals . . . no matter what I say or do, people will only look at my name and say, oh, but he is Muslim. I am already guilty."

NOTES

1. Here I use the term "ethnic" in the more conventional sense of communities marked by distinct linguistic and historically evolved cultural identities, including claims to distinct territories, rather than the broader use of the term in political science literature that often includes caste identities. See, for instance, Kanchan Chandra, *Why Ethnic Parties Succeed: Patronage and Ethnic Head Count in India* (Cambridge: Cambridge University Press, 2004).

2. Megha Kumar, *Communalism and Sexual Violence in India: The Politics of Gender, Ethnicity and Conflict* (London: I.B.Tauris, 2017); Parvis Ghassem-Fachandi, *Pogrom in Gujarat: Hindu Nationalism and Anti-Muslim Violence in India* (Princeton: Princeton University Press, 2012); Ward Berenschot, *Riot Politics: Hindu-Muslim Violence and the Indian State* (New York: Columbia University Press, 2012).

3. Paul Brass, *Theft of an Idol: Text and Context in the Representation of Collective Violence* (Princeton: Princeton University Press, 1997); Paul Brass, *The Production of Hindu-Muslim Violence in Contemporary India* (Seattle: University of Washington Press, 2003); Steven Wilkinson, *Votes and Violence: Electoral Competition and Ethnic Riots in India* (New York: Cambridge University Press, 2004); Amrita Basu, *Violent Conjunctures in Democratic India* (New York: Cambridge University Press, 2015).

4. Ashutosh Varshney, *Ethnic Conflict and Civic Life: Hindus and Muslims in India* (New Haven: Yale University Press, 2002); Pradeep Chhibber, *Democracy without Associations: Transformation of the Party System and Social Cleavages* (Ann Arbor: University of Michigan Press, 1999).

5. Stanley Tambiah, *Leveling Crowds: Ethnonationalist Crowds and Collective Violence in South Asia* (Berkeley: University of California Press, 1996); Veena Das, *Mirrors of Violence: Communities, Riots and Survivors in South Asia* (New Delhi: Oxford University Press, 1990); Beth Roy, *Some Trouble with Cows: Making Sense of Social Conflict* (Berkeley: University of California Press, 1994); Sudhir Kakar, *The Colors of Violence: Cultural Conflict, Religion, and Violence* (Chicago: University of Chicago Press, 1996); Thomas Blom Hansen, *Wages of Violence: Naming and Identity in Post-colonial Bombay* (Princeton: Princeton University Press, 2001); Parvis Ghassem-Fachandi, *Pogrom in Gujarat: Hindu Nationalism and Anti-Muslim Violence in India* (Princeton: Princeton University Press, 2012).

6. The riot and its aftermath are thoroughly described and documented in a

fact-finding report conducted by the Mumbai-based Center for the Study of Society and Secularism, "Aurangabad Communal Violence: Fact Finding Report 2018," accessed March 6, 2021, <https://csss-islam.com/fact-finding-reports/aurangabad-communal-violence-fact-finding-report-2018/>

7. Brass, *Production of Hindu-Muslim Violence*.
8. Berenschot, *Riot Politics*.
9. Elections.in, "Aurangabad General (Lok Sabha) Elections and Results 2019," accessed March 21, 2020, <https://www.elections.in/maharashtra/parliamentary-constituencies/aurangabad.html>
10. Alok Desai, "Four Cornered Contest Holds a Surprise," *The Hindu*, May 10, 2019.
11. Shiv Sena coined slogans such as *Shivshabi pahije ki razakari pahije* ("Do you want Shiv Sena rule or razakar rule?"), or *Khan paahije ki baan paahije* (The Khan or the Arrow), referring to Shiv Sena's bow and arrow symbol.
12. My ongoing work in the city of Aurangabad explores the long-term spatial and social consequences of the city's long and bloody history of violence between Hindus and Muslims since the "Police Action" in 1948 and its history of Dalit activism and caste conflicts since the 1960s. See Thomas Blom Hansen, "When the Past Is Tense: A Democratic History of Monuments in an Indian City," in *State of Democracy in India: Life and Politics in Contemporary Times*, ed. Manas Ray (Delhi: Primus Books, 2021); Thomas Blom Hansen, "Social Segregation, Memory and Everyday Hindutva in Middle India," in *New Hindutva: The Rise of Democratic Authoritarianism in India*, ed. Srirupa Roy and T. B. Hansen (Cambridge: Cambridge University Press, forthcoming). For an overview of the situation of Muslims in northern and western India, see Laurent Gayer and Christophe Jaffrelot, eds., *Muslims in Indian Cities: Trajectories of Marginalization* (Oxford: Oxford University Press, 2012).
13. See, for instance, Erica Field, Matthew Levinson, Rohini Pande, and Sujata Visaria, "Segregation, Rent Control, and Riots: The Economics of Religious Conflict in an Indian City," *American Economic Review* 98, no. 2 (2008): 505–10.
14. Tambiah, *Leveling Crowds*, 221–43.
15. See M. S. S. Pandian, *The Image Trap: M.G. Ramachandran in Film and Politics* (London: Sage, 2014); Francis Cody, "Populist Publics: Print Capitalism and Crowd Violence beyond Liberal Frameworks," in "Media/Utopia," ed. Arvind Rajagopal and Anupama Rao, special issue, *Comparative Studies of South Asia, Africa, and the Middle East* 35, no. 1 (2015): 50–65.
16. Sanjib Baruah, *India against Itself: Assam and the Politics of Nationality* (Philadelphia: University of Pennsylvania Press, 1999).
17. Makiko Kimura, *The Nellie Massacre: Agency of Rioters* (New Delhi: Sage Publications India, 2013).
18. Veena Naregal, *Language Politics, Elites and the Public Sphere: Western India under Colonialism* (London: Anthem Press, 2001); Lisa Mitchell, *Language, Emotion and Politics in South India: The Making of a Mother Tongue* (Bloomington: Indiana University Press, 2009); Rama S. Mantena, "Vernacular Publics and Political Modernity: Language and Progress in Colonial South India," *Modern Asian Studies* 47, no. 5 (2013): 1678–1705.
19. Arvind Rajagopal, *Politics after Television: Hindu Nationalism and the Reshaping of the Public in India* (Cambridge: Cambridge University Press, 2001); Thomas

Blom Hansen, "Recuperating Masculinity: Hindu Nationalism, Violence and the Exorcising of the Muslim Other," *Critique of Anthropology* 16, no. 2 (1996): 137–72.

20. See *Crime in India, 2016*. Statistics, National Crime Records Bureau, Ministry of Home Affairs. Government of India, <http://ncrb.gov.in/>. Space does not permit a deeper analysis here of the regional distribution of such public order disturbances but it seems clear that the now easily accessible crime statistics should provide an interesting, if far from reliable, source for social scientists interested in public protests in India.

For an analysis of the possible correlation between riots and other public disturbances, and the rate and scale of public service delivery, see Patricia Justino, *Civil Unrest and Government Transfers in India*, IDS Evidence Reports 108 (Sussex: IDS, 2015). The problem in Justino's analysis is that she does not account for the differentiation of different kinds of "unrest" and their possible differential causes. In her analysis the variable is public service delivery alone, again a category that she only applies in a highly aggregated manner that cannot account for, or possibly explain, regional differences.

21. Table 1A.4, 32–40. <https://www.thehinducentre.com/resources/article30555376.ece>, accessed on January 8, 2023.

22. Other ways of measuring this could be the incidences of police shooting or lathi charge, for instance. The crime bureau tells us that in 2016 there were 184 instances of firing wherein 92 civilians were killed and 352 injured. In the same incidents we are told, almost unbelievably, that as many as 727 policemen were injured. There were 2,184 cases of lathi charge where 35 civilians died, and 759 were injured. Again one is surprised to read that the police claim as many as 4,713 injured policemen in the same incidents (Crime Statistics, 2016, Table 16B.1).

23. The 2018 figures have added two new categories that probably overlap substantially: "Rioting while in Andolan/morcha" [agitation/march], 4,000; and "Rioting/Attacks on police personnel and government servants," 3,500.

24. Ian Cook, "Immoral Times: Vigilantism in a South Indian City," in *Majoritarian State: How Hindu Nationalism Is Changing India*, ed. Christophe Jaffrelot, Thomas Blom Hansen, and Angana Chatterji (London: Hurst and Co., 2019).

25. Malvika Maheshwari, *Art Attacks: Violence and Offence-Taking in India* (Delhi: Oxford University Press, 2018).

26. Most police actions before and after riots have conventionally targeted individual "charge sheeters" or what in police parlance is known as a "notorious character." Thanks to the dogged work of activists such as Teesta Setalwad and others, the judicial aftermath of the pogrom in Gujarat in 2002 was one of the first high-profile instances of individuals being named, prosecuted, and convicted of crimes committed in the context of crowd violence. However, in most cases, suspects were acquitted, or cases were dismissed on the grounds of insufficient evidence. For an overview of the judicial aftermath of the Gujarat pogrom, see Stephan Sonnenberg, "When Justice Becomes the Victim: The Quest for Justice after the 2002 Violence in Gujarat" (Stanford: International Human Rights and Conflict Resolution Clinic, Stanford Law School, 2014).

27. *Crime in India, 2016*, table 18A.1, <http://ncrb.gov.in/>

28. NCRB, "Table 18A.1," in *Crime in India, 2016*.

29. The categories and tables rendered by the National Bureau of Crime Sta-

tistics change and vary from year to year, making robust multiyear comparisons very difficult. In the 2014 figures, we are told that 308,544 persons were arrested in connection with rioting. Of those, 90 percent were charged (284,733). Only 64,922 (table 12.3) got out on bail, which means that most others were released while a few would have been kept in custody. We are also told that the total number of persons charged in a pending trial is 2,575,243 in 2014. Out of those as many as 1,462,757 (both figures are from table 12.4) are on bail while the status of the remaining one million individuals is unclear.

30. It was not until 2016 that the Ministry of Home Affairs published a manual for crowd control authored by a retired IPS officer. The manual cites a range of academic works on crowds and details various techniques that can diffuse tension, distract crowds by nonviolent means, and so forth. The author emphasizes multiple times that citizens have a right to assembly, that not all unlawful assemblies warrant forceful police response, and that any assembly connected with religious events must be treated with respect and caution. P. P. S Sidhu, *Précis on Crowd Control*, Bureau of Police Research & Development, Ministry of Home Affairs (New Delhi: Government of India, 2016), accessed March 6, 2021, [https://bprd.nic.in/WriteReadData/CMS/Crowdpercent20Control-Allpercent20chapters\(1-114\)English.pdf](https://bprd.nic.in/WriteReadData/CMS/Crowdpercent20Control-Allpercent20chapters(1-114)English.pdf)

See also Kriti Shah, "Dealing with Violent Civil Protests in India," *Observer Research Foundation*, April 7, 2017, <https://www.orfonline.org/research/dealing-with-violent-civil-protests-in-india/>

31. See Thomas Blom Hansen, *The Law of Force: The Violent Heart of Indian Politics* (New Delhi: Aleph Books, 2021).

32. Government of India, the Citizenship Amendment Act (2003).

33. See the Global Detention Project, "India Immigration Detention Profile," accessed March 6, 2021, <https://www.globaldetentionproject.org/countries/asia-pacific/india>

34. https://indiancitizenshiponline.nic.in/UserGuide/E-gazette_2019_20122019.pdf (accessed January 8, 2023). For a critical assessment of the law by Human Rights Watch, see "India: Citizenship Bill Discriminates against Muslims," Human Rights Watch, December 12, 2019, [https://www.hrw.org/news/2019/12/11/india-citizenship-bill-discriminates-against-muslims#:~:text=The%20Citizenship%20\(Amendment\)%20Bill%2C%202019%20amends%20the%20Citizenship%20Act,for%20citizenship%2C%20but%20excludes%20Muslims](https://www.hrw.org/news/2019/12/11/india-citizenship-bill-discriminates-against-muslims#:~:text=The%20Citizenship%20(Amendment)%20Bill%2C%202019%20amends%20the%20Citizenship%20Act,for%20citizenship%2C%20but%20excludes%20Muslims) (accessed March 6, 2021).

35. Nikita Doval, "The Casualties of the Enemy Property Act," *Mint*, July 18, 2017. <https://www.livemint.com/Politics/6i2xVa95WhvYII3E0fAZP/The-casualties-of-the-Enemy-Property-Act.html> (accessed March 6, 2021). For a recent report on additions to the list of enemy properties, see Rahul Tripathy: "Centre Identifies over 3000 New Enemy Properties," *Economic Times*, March 1, 2021. <https://economictimes.indiatimes.com/news/defence/centre-identifies-over-3000-new-enemy-properties/articleshow/81261179.cms> (accessed October 14, 2022).

36. Sanobar Umar, "Constructing the 'Citizen Enemy'—the Impact of the Enemy Property Act of 1968 on India's Muslims," *Journal of Muslim Minority Affairs* 39, no. 4, (2019): 457–77.

37. Aporva Viswanath, "Domicile-Based Job Quota: The Law, SC Ruling and Special Case," *Indian Express*, August 23, 2020, <https://indianexpress.com/article/explained/domicile-based-job-quota-the-law-sc-rulings-and-special-cases-6561814/>

38. Ipsita Chakravarty, "To Which Inhabitant Shall a State Grant Domicile Status," *Scroll.in*, May 23, 2016,

<https://scroll.in/article/808438/to-which-inhabitants-should-a-state-grant-domicile-status>

39. "JMM to Protest Jharkhand Proposed Domicile Policy," *The Hindu*, September 4, 2016, <https://www.thehindu.com/news/national/other-states/jmm-to-protest-jharkhands-proposed-domicile-policy/article8453616.ece>

40. Ghazal Khan, "Explainer: All You Need to Know about Jammu and Kashmir's Domicile Law," *Economic Times*, July 23, 2020, <https://economictimes.indiatimes.com/news/defence/explainer-all-you-need-to-know-about-jammu-and-kashmir-domicile-law/articleshow/77122595.cms?from=mdr>

41. The Armed Forces Special Powers Act remains in force in much of the northeastern region of India to this day. See *Human Rights Watch*, "India: Repeal Armed Forces Special Powers Act," August 18, 2008, <https://www.hrw.org/news/2008/08/18/india-repeal-armed-forces-special-powers-act#>

42. See the figures compiled by the Ministry of Home Affairs in response to questions raised in the Lok Sabha in 2018. See Chaitanya Mallapur, "Communal Violence up 28 percent under Modi Govt but Short of UPA's Decadal High," *Business Standard*, February 9, 2018, https://www.business-standard.com/article/current-affairs/communal-violence-increases-28-under-modi-govt-yet-short-of-upa-high-118020900128_1.html

43. The report *Crime in India 2021* reports a dramatic decline of riot incidents to 61,964 out of which only 530 are categorized as "communal" and the largest categories are "land and property disputes" (9,196); "enmity/rivalry" (4,205) and "other riots" (18,708). <https://ruralindiaonline.org/en/library/resource/crime-in-india-2021-volume-i/> (accessed January 8, 2023).

44. A. Ahuja and D. Kapur, eds., *Internal Security in India: Violence, Order, and the State* (Oxford: Oxford University Press, 2023).

Hindutva, Caste, and State Vigilantism

Christophe Jaffrelot

The rise to power of the Bharatiya Janata Party in 2014 was a reaction to the growing assertiveness of middle and lower castes that Narendra Modi's predecessors had permitted in the wake of government reforms taken to elevate these groups. For the core group of BJP supporters, made up of the urban upper-caste middle class, Modi was the instrument of a counterrevolution as he combined a plebeian face (himself being from a lower caste) and a socially conservative ideology (as a pure product of the Rashtriya Swayamsevak Sangh, or RSS, a Hindu nationalist militant organization). By mobilizing Hindus in the name of religion and polarizing society along communal lines, the BJP ostensibly sought to neutralize caste divisions.

The rise to power of the BJP in 2014 not only enabled upper castes to stage a comeback at the helm of the central government but it also allowed this government to dilute policies of positive discrimination, which, in India, are also known as "reservations" consisting in quotas for lower castes and tribal groups in the bureaucracy and the public sector. Apart from politics and policies, Modi, the BJP, and the RSS have sought to recraft society: the new dispensation has made it possible to propagate an extreme version of Brahminical Hinduism and to impose these norms, via vigilante groups first, and secondly through state vigilantism.

Caste Conflict in the Political Arena: The Making of a Post-Mandal Counterrevolution

In 1979, a commission led by B. P. Mandal was organized to identify the socially and educationally “backward” classes of India. The Mandal Commission identified lower caste groups (including more than 50 percent of the country’s population at the time) and recommended reservations for government jobs and for education. In 1990, Prime Minister V. P. Singh decided to implement the recommendations of the Mandal Commission report regarding the reservations of 27 percent of the public sector and the bureaucracy to Other Backward Classes (or OBCs, the government’s term). The Mandal moment that started in 1990 was a phase of social democratization of India’s political democracy that I have described as a “silent revolution,”¹ because it resulted in the rise to power of OBCs and Dalits, at least at the state level and in north India, at the expense of the upper castes. It then brought on a counterrevolution—a sequence of action/reaction that one could find elsewhere in the last decades, as Michael Walzer has shown.²

Opposing Mandal

The Hindu nationalist movement reacted negatively to Singh’s announcement to adopt the recommendations of the Mandal Commission. From the very start, this movement has been borne by the upper castes due to the social conservatism it promotes. Indeed, while in theory it aims to abolish the “nation-dividing” caste system, such an ambition does not rule out a strong adherence to Brahminical values³ and the Hindu traditional social order. Deendayal Upadhyaya, the most prominent post-Independence Hindu nationalist ideologue, claimed that the original caste system, known as the *varna vyavastha*, needed to be restored in its pristine form. In his book *Integral Humanism*, published in 1965, he argues that “society is ‘self-born’” and forms an “organic unity” inherited from a caste-based antiquarian arrangement that should not be disturbed:

In our concept of four castes, they are thought of as an analogous to the different limbs of Virat-Purusha.⁴ . . . These limbs are not only complementary to one another, but even further, there is individuality, unity. There is a complete identity of interest, identity of belonging.⁵

This social, organic harmony is necessarily hierarchical, as is evident from the metaphor of the body inherent in the Virat-Purusha (where the Brahmin comes from the mouth, whereas the Shudra was born from the feet). Attached as they are to the social status quo, Hindu nationalists could, in particular, only be hostile to positive discrimination, which they found particularly problematic when it set castes against one another, thereby hampering the Sangh Parivar's efforts to unite the Hindu majority behind a common cause, as during the mobilization brought about by the implementation of the Mandal Commission recommendations.

When, on August 7, 1990, Prime Minister V. P. Singh announced he would implement the recommendations of the Mandal Commission, the RSS reacted vehemently. Its English-language weekly magazine, *The Organiser*, called it a reactivation of the "caste war" that was a source of division in a nation that the Sangh was striving to unify over and above caste and class differences. One editorialist even wrote: "The havoc the politics of reservation is playing with the social fabric is unimaginable. It provides a premium for mediocrity, encourages brain drain and sharpens caste-divide."⁶ *The Organiser* then came to embrace the cause of the upper castes. Another columnist for instance wrote of "an urgent need to build up moral and spiritual forces to counter any fall-out from an expected Shudra revolution."⁷

The BJP, which could no longer disregard OBCs, who made up 52 percent of the population and therefore of the electorate, was faced with a dilemma: if it did nothing for them, it was destined to remain in the opposition; if it defended quotas, it would lose a large portion of its traditional base made up of upper castes. Paralyzed, BJP leaders did not dare openly attack Singh's decision to implement the recommendations of the Mandal Commission so as not to alienate OBC voters. They instead experimented with three strategies, sometimes in succession, sometimes simultaneously. They first suggested replacing caste-based quotas by other categories based on income.⁸ Second, in autumn 1990, the BJP attempted to divert lower caste attention to quota policies by relaunching the movement for the construction of a temple (Mandir) on the site where, they claimed, Lord Ram (a very popular Hindu god) was born, in Ayodhya—and where, they said, a mosque had been built in 1528. BJP president L. K. Advani himself led the Rath Yatra, a long procession of cars started in Somnath (Gujarat) that crossed nine Indian states in September-October 1990, to unify all Hindus behind the issue of Lord Ram's birthplace on which the Babri Masjid supposedly stood. The BJP thus hoped to put caste divisions aside and encourage the OBCs to view themselves as Hindus first and foremost.

TABLE 14.1. Castes and Tribes among BJS and BJP Voters, 1971–2009

Castes and Tribes	Population (%) ^a							
	1971	1980	1996 ^b	1998 ^b	1999	2004	2009	
Upper and Intermediate Castes ^c	17.6	6.7	17.1	23.6	38.5			
Upper Castes						46	38	34
Intermediate Castes						30	26	15
OBCs	52	3.5	10	23.6	34.6			
<i>Lower OBC</i>						19	24	22
<i>Upper OBC</i>						21	22	22
Scheduled Castes	15.05	2.1	14.3	14.4	20.9	12	13	12
Scheduled Tribes	7.51	4.1	5.4	19	25.6	19	28	23

Source: Data for specific years collected from the following sources. For 1971–1998: “CSDS Data Unit” surveys cited in S. K. Mitra and V. B. Singh, *Democracy and Social Change in India: A Cross-Sectional Analysis of the National Electorate* (New Delhi: Sage, 1999), 135–37. For 1999: Y. Yadav, with S. Kumar and O. Heath, “The BJP’s New Social Bloc,” *Frontline*, November 19, 1999, 32, <https://frontline.thehindu.com/politics/article30159297.ece>. For 2004 and 2009: Y. Yadav and S. Palshikar, “Between Fortuna and Virtue: Explaining the Congress’ Ambiguous Victory in 2009,” *Economic and Political Weekly* 44, no. 39 (September 26, 2009): 41.

^a These figures are taken from the Mandal Commission Report.

^b BJP and its allies.

^c In 1971, 1980, 1996, and 1998, intermediate castes and upper castes are bracketed together.

The third strand of the party strategy was to orient its discourse to a more favorable stance on the quotas recommended by the Mandal Commission. The chief advocate of the first strategy, K. N. Govindacharya, called the policy to which caste was to be the principal application “social engineering.”⁹ Lower caste leaders were co-opted into the party apparatus in the early 1990s. Hukumdev Narain Yadav, an Ahir (OBC), was thus appointed to the National Executive in January 1994 and Uma Bharti, a Lodhi (OBC), was made head of the Bharatiya Janata Yuva Morcha (the BJP youth wing).

The BJP nevertheless remained a party of upper castes from the standpoint of the social background of both its cadres and its elected officials,¹⁰ as well as its voters (see table 14.1).

While the BJP’s electoral allies helped it top the symbolic mark of 30 percent of OBC voters in 1998, the percentage of OBCs who voted for the party fell back to slightly over 20 percent in 1999 and remained at this level throughout the first decade of the 2000s. The proportion of Scheduled Castes (or Dalit) voters hovered around 12–13 percent. With such scores, the party could not hope to rule alone. The defeats it suffered in 2004 and 2009 represented even greater challenges for the Sangh Parivar as the winning coalition, the United Progressive Alliance led by the Congress, con-

ducted policies that tended to upset the social status quo. Thus in 2006, the Central Educational Institutions (Reservation in Admission) Act allocated a 27 percent reservation for OBCs in public institutions of higher education, including the highly selective Indian Institutes of Technology (IITs) and Indian Institutes of Management (IIMs). In June 2006, *The Organiser* vigorously opposed this plan, in vain:

The Congress-led-UPA government at the center is bent upon destroying the last bastion of merit in the country by introducing the extended reservation system to allow the students of socially disadvantaged groups to get admission in our institutions of excellence like the IITs, IIMs, etc., not on the basis of merit but on the strength of quota.¹¹

After the BJP was defeated in 2004, and even more so in 2009, it became urgent to hone a strategy that would enable it to seize power and prevent the deepening of social policies that went against the Hindu nationalist ideology and the interests of its base. It was in this context that Narendra Modi was picked as the man of the moment, owing in part to his ability to transcend caste barriers, wielding a variety of Hindu nationalist populism that he had already fine-tuned in Gujarat.

Modi's Populism and Caste

Narendra Modi was the second BJP chief minister coming from an OBC caste (after Kalyan Singh). He belongs to the Ghanchi caste, which produces and sells cooking oil, a caste that has been classified as part of the OBCs since the late 1990s. His father traded in it, but also ran a tea shop where Narendra, as he narrated later, served customers as a child. In 2014, Modi made copious use of his lowly social background, a theme that he had not highlighted to that extent as Gujarat chief minister. This was because in some parts of India, such as Bihar, the lower caste repertoire had far more resonance.¹² He resorted to this register to distinguish himself from the Nehru/Gandhi family whom he continued to depict as monarchical heirs who held the underprivileged in contempt. He now called Rahul “Mr. Golden Spoon.”¹³ He laid into Priyanka Gandhi, Rahul’s sister, whose popularity was a source of concern for the BJP. Modi explained in a rally that the only reason she was in politics was out of filial piety. Priyanka retorted that the level of such a remark was “low,” a word Modi immediately—and

tactically—interpreted as a reference to his caste. In a television interview with Arnab Goswami, he went on the defensive:

Don't I have the right to at least state the truth? Is it because I come from a humble background, from a humble family? Has this country become like that? Has my democracy submitted itself to one family? And when a poor man says something, there is uproar.¹⁴

Goswami, whose interview was a model of sycophancy, of course did not object that there were no insinuations about social hierarchy in Priyanka Gandhi's remark. Casting himself as the standard-bearer for India's downtrodden—for the people against the patricians—in an election rally in Muzaffarpur, Bihar, Modi added that the next decade would belong to Dalits and OBCs.¹⁵ In the 2019 campaign he again emphasized his plebeian background and reiterated that his family belonged to a “most backward caste.”¹⁶

This discourse fits in Modi's populist repertoire. Pierre Ostiguy has convincingly argued that the populist, to relate to the masses, has to show that he shares their culture, their manners, and their language, by opposition to the elites' “propriety.”¹⁷ Not only do populists “act like” ordinary people, but they enjoy transgressing the codes of good behavior, shocking the establishment in the name of an authenticity that the elites have betrayed by their cosmopolitanism or their bourgeois or even aristocratic *ethos*. From that standpoint, like the common people, populists readily claim to be victims. The repertoire of victimization is all the more powerful when the political *establishment* is perceived as betraying the people. But on the other hand, as Ostiguy aptly demonstrates, populists exhibit the exceptional virtues through constantly staged performances (especially in the media), drawing on a performative repertoire. As a result, “the leader is both *like me . . . and an ego ideal*.”¹⁸

In the case of Modi, if the “strong man” dimension has been well documented, the victimization side of his story remains under-studied. But he constantly claimed that he had been victimized by the “Delhi Sultanate,” an establishment he would call the “Khan Market Gang” in 2019 and which has always been identified with the Nehru/Gandhi family. As head of a peripheral state, he cast himself as a victim.¹⁹ “I have been facing negativism of the center at every front. It often appears as if they are dealing with an enemy nation when it comes to Gujarat.”²⁰ His victimhood rhetoric reached new heights during the 2012 election campaign in which Modi claimed, “Of all the Chief Ministers that the country has seen in the last 60

years, I have suffered the maximum injustice at the hands of the center.”²¹ But Modi appeared to be the victim of the English media too. A founding incident, from this standpoint, occurred in 2010 on NDTV²² when Karan Thapar began an interview with Modi by talking about the communal violence he allegedly encouraged in Gujarat in 2002, and a defensive Modi could not come up with a retort and instead walked off the set.²³

For some OBCs, it meant that one of them was victimized for the same reason they felt victimized. They believed they did not benefit as much as the urban, upper-caste middle class from economic growth and the modernization process for which they do not have the codes, lacking as they are the necessary education and social networks: they do not speak English (or not well) and do not know how to deal with female assertiveness in the public sphere. This prompts them all the more to take refuge (and find self-esteem) in a staunch defense of Hindu traditions and to support Modi who, even more importantly perhaps, promised jobs too.

This shift of OBCs toward the BJP opened a new sequence in the social and political trajectory that had begun with the Mandal affair in the 1990s: the mobilization that had been set in motion at that time had precipitated the emancipation of OBCs, who were still living in the shadow of the dominant castes. Starting in the 1990s, these groups had formed their own political parties and began to dream of climbing the social ladder, not only because they benefited from quotas in the civil service but also because of the promise of growth contained in the economic liberalization of 1991. Twenty-five years later, not only were the jobs not there but the OBCs, not having a command of English, were still in a position of inferiority vis-à-vis the middle class. On the rise but frustrated, they found an alternative identity in Hindutva by identifying with Modi, in whom they had high hopes. For many OBCs, Modi was “like me” and the “ego ideal,” to use the words of Ostiguy.

While the BJP had already obtained the support of the urban, upper-caste middle class, Modi brought to the party voters who resented their sociocultural marginalization by the establishment, mostly OBCs—the “plus vote” that the BJP needed, as evident from table 14.2. The percentage of OBCs who supported the BJP jumped from 22 percent in 2009 to 34 percent in 2014 and 44 percent in 2019.

However, populists claim to be the spokespersons of the plebeians when, in fact, they simply want to mobilize the poor by making promises and by polarizing society along identity-based lines. Modi did just that: he claimed that he was a man of the people, but he prepared the ground for the upper castes' comeback to power.

TABLE 14.2. The 2009, 2014, and 2019 Lok Sabha Elections: Votes by Caste, Tribe, and Religion

Parties	Congress			Congress Allies			BJP			BJP Allies		
	2019	2014	2009	2019	2014	2009	2019	2014	2009	2019	2014	2009
Upper castes	12	13	25	5.5	3	9	52	48	28	7	9	7
OBC	15	15	24.5	7	4	7	44	34	22	10	8	6
Scheduled Castes	20	19	27	5.5	1	6.5	33.5	24	12	7	6	3
Scheduled Tribes	31	28	39	6	3	8	44	38	24.5	2	3	2
Muslims	33	38	38	12	8	9	8	8.5	4	1	1	2
Others	39	23	35	4	4	8	11	20	11	12	15.5	12.5

Source: CSDS-Lokniti, NES for 2009, 2014, and 2019, cited in C. Jaffrelot, "Class and Caste in the 2019 Indian Election—Why Have So Many Poor Started Voting for Modi?," *Studies in Indian Politics* 7, no. 2 (November 2019): 1–12.

Caste, Power, and Policies: An Upper-Caste Elite Revenge at the Expense of Reservations

In terms of promises, the BJP electoral platform in 2014 included a section entitled "Scheduled Castes, Scheduled Tribes and other Weaker Sections: Social Justice and Empowerment," which read:

The BJP is committed to bridge the gap, following the principle of *Samajik Nyaya* (social justice) and *Samajik Samrasata* (social harmony). The social justice must be further complemented with economic justice and political empowerment—we will focus upon empowering the deprived sections of society. Steps will be taken to create an enabling ecosystem of equal opportunity—for education, health and livelihood. We will accord highest priority to ensuring their security especially the prevention of atrocities against SCs and STs.²⁴

As for SCs, or Dalits, the aim at the top of the list of BJP campaign pledges was to form an "ecosystem" conducive to furthering education and the sense of enterprise. In practical terms, however, the funds earmarked for Dalit education in the Indian budget have been reduced. While this budget item, within the Special Component Plan (a subcategory of the annual budget), is supposed to be proportional to the demographic weight of the Dalits (16.6 percent of the population), it fluctuated between 6.5 and 9 percent during Modi's first term.²⁵ As a result, scholarship funds were cut drastically. Nearly five million Dalit students have been affected by this reduction and by delays in payment.

In parallel, the Modi government and BJP state governments have undermined the system of positive discrimination that had been a large factor in helping the Dalits emancipate themselves from the legacy of centuries of caste oppression. First, the erosion of the public sector has resulted in a steady decrease of the number of jobs occupied by Dalits in the reservations framework. For instance, the number of civil service candidates shortlisted by the Union Public Service Commission (UPSC) dropped by almost 40 percent between 2014 and 2018, from 1,236 to 759.²⁶ This evolution was not only due to the continuation of old trends (like the rise of vacancies and the privatization of public sectors undertakings) but also to new policies. The creation of a lateral entry into the Indian administration is a case in point. This reform was intended to “to draw expertise from the industry, academia and society into the services.”²⁷ In February 2019, 89 applicants were shortlisted (out of 6,000 candidates from the private sector) to fill 10 posts of joint secretary.²⁸ This new procedure diluted the reservations system because the quotas did not apply.

Second, the introduction of a 10 percent quota in 2019 for the economically weaker sections has altered the standard definition of backwardness, that is, the foregrounding of economic backwardness, while at the same time restricting such a quota to upper castes alone who are neither socially nor educationally backward. By setting an income limit of Rs. 8,00,000 (10,667 US dollars) per annum, below which households are classified under the economically weaker sections, the government made this quota accessible to about 99 percent of the upper castes—not to the poor only. For Ashwini Deshpande and Rajesh Ramachandran, it “completely overturn[ed] the original logic of reservations on its head.”²⁹

By stipulating a quota for non-SC–ST–OBC (Other Backward Class) families earning Rs. 8,00,000 or less, the government is effectively creating a quota exclusively for Hindu upper castes who are not in the top 1 percent of the income distribution. This means that despite being presented as a quota on economic criteria and not caste, the reality is that this is very much a caste-based quota, targeted towards castes that do not suffer any social discrimination; on the contrary, these rank the highest on the social scale of ritual purity.³⁰

By introducing this quota, the Modi government sent a twofold message: one, the Mandal moment is over, as caste-based quotas are not the only reservation technique anymore; and, two, the upper castes will be in a

position to get jobs that would otherwise have been taken by OBCs or SCs. Indeed, the SCs/STs/OBCs who, thanks to their marks, would have made it through the general category, would not anymore because the 10 percent quota in this general category decreases the number of seats available.³¹

Modi, Champion of the Elite

Not only has the Modi government undermined the reservation system, but it has also enabled upper caste leaders to make an impressive comeback in Indian politics and allowed them to promote conservative values.

The Resurgence of Upper Castes in Indian Politics

While in the Hindi belt—a meta-region that represents almost half of the seats of the lower house—the proportion of Lok Sabha MPs from the upper castes had already started to increase in 2009 at the expense of OBCs and Muslims, this trend continued in 2014, largely due to the BJP's unprecedented win. Indeed, 47.6 percent of BJP MPs came from upper castes in 2014.³² As a result, the percentage of Hindi belt MPs from upper castes rose to 44.5 percent, on par with its representation in the 1980s, whereas the share of OBCs dropped to 20 percent.³³ Among the BJP upper caste MPs, Brahmins and Rajputs are especially overrepresented. This overrepresentation of upper castes among the BJP MPs was nothing compared to the composition of the Modi government, where they represented 79.4 percent of the ministers and ministers of state. As K. Adeney and W. Swenden have shown, such an overrepresentation had never prevailed since the Mandal moment.³⁴

The BJP certainly did not ignore the lower castes. For instance, many were given new responsibilities in the party machine.³⁵ But most of the time, the move was limited and very calibrated so as not to alienate the upper castes: rather than putting newcomers in places occupied by existing cadres, they were appointed to additional posts created especially for them. In Uttar Pradesh, for instance, out of 75 district president jobs, 54 were now occupied by OBCs and 3 by Dalits.³⁶

The 2019 elections reconfirmed the 2014 trend. In fact, the social profile of the 17th Lok Sabha suggests that 2019 marked the culminating point of the reaction to Mandal that BJP had tried to orchestrate since the 1990s. The main beneficiaries of the Mandal moment, the dominant OBCs of the Hindi belt, appeared, indeed, as the collateral casualties of these

elections. The Yadavs (a very large caste of cowherders that represented about 10 percent of the population of UP and Bihar in the 1931 census, the last one where castes were enumerated) are a case in point, as there is probably no better example of a dominant OBC in terms of numbers and socioeconomic clout, but they are not the only ones: for the first time, the share of the nondominant OBCs (smaller and not so affluent caste groups, or both) has been larger than the share of the dominant OBCs among the Lok Sabha MPs of the Hindi belt.³⁷

In UP, 59 percent of the “poor” OBCs supported the BJP, against 33.5 percent who turned to the alliance of the Samajwadi Party (SP) and the Bahujan Samaj Party (BSP). The fact that “rich” and “middle” class OBCs voted more for the BSP-SP alliance and that “poor” OBCs supported the BJP more is understandable when this big category that is the OBCs is disaggregated along caste lines and caste is factored in: the SP remains a Yadav party to a large extent, and Yadavs tend to be richer than the average OBC.³⁸ As the non-Yadav OBCs, who often belong to poorer strata of society, usually resent Yadav domination and especially the way they have cornered most of the reservations, the BJP has successfully wooed them by nominating many candidates from this milieu. Whereas 27 percent of the SP candidates were Yadavs in 2019, Yadavs represented only 1.3 percent of the candidates of the BJP, which, on the contrary, gave tickets (electoral candidacies) to 7.7 percent Kurmis and 16.7 percent “other OBCs,” who often came from small caste groups.³⁹ This strategy translated into votes: while 60 percent of the Yadavs voted for the SP-BSP alliance, 72 percent of the “other OBCs” supported the BJP,⁴⁰ showing that the OBC milieu was now polarized along *jati* (caste) lines.

In the same way that the BJP consolidated the non-Yadav voters against the SP, the party has also become the rallying point of the non-Jatav voters against the BSP, the Jatavs representing the largest and most affluent Dalit caste in Uttar Pradesh: here again, the BJP has cashed in on the resentment of small Dalit groups that accuse the Jatavs—who are indeed better off than other Dalits⁴¹—of monopolizing access to reservations. In Uttar Pradesh, the BSP has given more than 20 percent of its tickets to Jatavs, whereas the BJP's nomination list was 5 percent Jatav, 7.7 percent Pasis (another Dalit caste opposed to Jatavs), and 9 percent “other SCs.”⁴² Certainly, the BSP-SP got 75 percent of the Jatav vote, but it received only 42 percent of the “Other SCs” vote, against 48 percent that went to the BJP. In a way, therefore, the 2019 elections marked the revenge of the plebeians.

But it marked even more clearly the second episode—after that of 2014—of the revenge of the upper-caste elite, which had already rallied

TABLE 14.3. The Caste Profile of the Lok Sabha BJP Members of Parliament in the Hindi Belt

	1989	1991	1996	1998	1999	2004	2009	2014	2019
Upper castes	32	49	56	58	45	32	30	87	80
Intermediate castes	2	4	8	9	9	7	2	14	14
OBC	10	13	21	24	21	13	11	38	35
SC	10	16	26	21	22	14	8	36	33
ST	7	3	7	9	13	11	11	16	15
Muslims	1	1			1				1
Others	1	1	1	1	0	1	0	0	0
<i>Total</i>	63	87	119	122	111	77	62	191	178

By Percentage	1989	1991	1996	1998	1999	2004	2009	2014	2019
Upper castes	50.8	56.3	47.1	47.2	40.2	41	47.6	45.5	44.9
Intermediate castes	3.2	4.6	6.7	7.3	8	9	3.2	7.3	7.9
OBC	15.9	14.9	17.6	19.5	18.8	16.7	17.5	19.9	19.7
SC	15.9	18.4	21.8	17.1	19.6	17.9	12.7	18.8	18.5
ST	11.1	3.4	5.9	7.3	11.6	14.1	17.5	8.4	8.4
Muslims	1.6	1.1	0	0	0.9	0	0	0	0.6
Others	1.6	1.1	0.8	0.8	0	1.3	0	0	0

Source: Data from SPINPER, the Social Profile of the Indian National and Provincial Elected Representatives. SPINPER is a CNRS-supported international virtual lab between Ashoka University and Sciences Po.

behind the BJP against Dalits' and OBCs' assertiveness. Like in 2014, upper-caste representation among BJP Lok Sabha MPs was significantly higher (at 36.3 percent, more than 7 percentage points above the average) than for its opponents (23.1 percent for Congress and 19.3 percent for regional parties), as evident from table 14.3.

The overrepresentation of upper-caste MPs on the BJP side reflects the distribution of its electoral candidacies. Across the country, the BJP nominated 146 upper-caste candidates (out of 414 candidates); 109 of these tickets went to Brahmins (71) and Rajputs (38) alone.⁴³ This overrepresentation of upper castes largely stemmed from the Hindi belt states, the BJP's stronghold. In these 10 states,⁴⁴ 90 out of the BJP's 198 candidates belonged to the upper castes. Eighty-one of them were elected. If one removes SC and ST candidates from the picture to consider only those who contested nonreserved seats, 62 percent of the "general" category candidates of the BJP for members of Parliament were upper castes, against 37 percent for all other parties' candidates combined.

But the overrepresentation of upper-caste politicians among the BJP MPs is nothing compared to the situation prevailing among the BJP ministers in the government that Narendra Modi formed after the 2019 elec-

tions. Out of 55 government members, 47 percent were from the upper castes (including 18 percent Brahmins), 13 percent were from intermediate castes (including Jats, Patels, and Reddys), 20 percent were OBCs, 11 percent were from the Scheduled Castes, and 7 percent from the Scheduled Tribes. The rest—two people—were from the minorities, one Muslim and one Sikh.⁴⁵

In 2019, as in 2014, the national-populist repertoire of Narendra Modi achieved what it was designed for: to submerge caste identities by using religion as the most effective unifying factor of the Hindus—beyond caste and class—to enable the upper castes to rule.

Reasserting Upper-Caste Hegemony in Society

Valorizing Brahminical Values and Legitimizing Caste-Based Hierarchy

Not only were upper castes back in larger numbers at the helm of the Indian state(s), but BJP leaders eulogized their moral superiority without any inhibition. At a “Brahmin Business Summit” in Ahmedabad, the chief minister of Gujarat, Vijay Rupani, emphasized the Brahminical roots of the Sangh Parivar, something the organization, till then, avoided. He declared that “the Brahmin community has always spoken about national interest, and because of that, the community has joined with the BJP and the RSS.”⁴⁶ The BJP Speaker of the Lok Sabha itself, Om Birla, went one step further, as the way he eulogized the Brahmins came as a defense of the caste system:

Brahmin community always works towards guiding all other communities, and the community has always held a guiding role in this nation. It has always played a role in spreading education and values in the society. And even today if just one Brahmin family lives in a village or a hutment, then that Brahmin family always holds a high position due to its dedication and service. . . . hence, Brahmins are held in high regard in society by the virtue of their birth.⁴⁷

Until then, Sangh Parivar ideologues had been shy to attribute the superiority of Brahmins to their birth. Birla also defended caste endogamy as the best way to sustain the social order and unity. Speaking on the occasion of a Brahmin Parichay Sammelan, that is, a meeting of Brahmins meant to help them to choose Brahmin spouses for their sons and daughters, he added: “If we want to bind the society together, then there is only

one arrangement today; like our ancestors used to forge alliances for marriage, we today have *parichay sammelan* (and if we want to save the society, then this is the lone alternative).⁴⁸ For Om Birla the unity of his society can only come from the caste order—it has, therefore, to be hierarchical.

Indeed, BJP leaders have displayed caste-based observances that reflected their belief in the lower castes' impurity. For instance, after Yogi Adityanath was elected chief minister of Uttar Pradesh, Hindu priests "made elaborate arrangements for sacred purifying rituals at the sprawling chief minister's bungalow,"⁴⁹ which had been previously occupied by Akhilesh Yadav, Kumari Mayawati, and Mulayam Singh Yadav—all members of lower castes.

Incidentally, the Information and Broadcasting Ministry and the Ministry of Social Justice and Empowerment issued orders stating that the word "Dalit" should not be used anymore in official communication, but only the term "Scheduled Caste."⁵⁰

Caste-Based (State) Vigilantism

The ruling party not only eulogized the upper castes and revived upper caste practices: it tried to impose them on society. During Narendra Modi's first term, Hindu nationalist vigilante groups launched campaigns targeting Muslims in the name of their fight against "love jihad" (as Hindu nationalists accused Muslim men of seducing Hindu women to marry them and convert them), reconversion, and cow protection. Lower castes, and Dalits in particular, have been collateral victims of these campaigns in several different ways. First, vigilante groups, like the *Bajrang Dal*, which were preventing Hindu girls from meeting Muslim boys by resorting to intimidation, in the street or on university campuses, implemented this kind of cultural policing also *vis-à-vis* intercaste relations. In fact, this was already very much commonplace in BJP-ruled states, as evident from the activities of the *Bajrang Dal* in Gujarat in the 2000s. One of its leaders, who had taken part in the 2002 pogrom, Babu Bajrangji, after that went on a crusade to "rescue" girls of his caste—the dominant caste of the Patels—who had married a Muslim or a man of a lower caste. One of his pamphlets explained that love marriages harmed Hindu traditions, and that rescuing a Hindu girl was equal to saving 100 cows.⁵¹ In the space of a few months, over 700 girls were thus "rescued," forced to abort when they were pregnant, and remarried to a man of the Patel caste—a sign of the orthopraxic obsession that plagues Hindu nationalists. Some parents whose daughter had "married beneath her station" without their approval and run away,

usually to Mumbai, use Babu Bajrangi's services to find them and bring them back home.

Second, the cow protection movement initiated (or relaunched) by the Gau Raksha Dal or the Bajrang Dal targeted not only Muslims but also Dalit groups—like chamars, whose main activity was leather work. In Gujarat, once again, Dalit leather workers were attacked by Hindu vigilantes in Una in 2016. Seven members of a Dalit family who had purchased a dead cow and were skinning the carcass were attacked by *gau rakshaks* who accused them of cow slaughter. They were not only stripped and paraded but also beaten up and the incident recorded on video.⁵² They were attacked again after they decided to convert to Buddhism.⁵³

Third, and precisely, vigilante groups played a similar role vis-à-vis conversion of Hindu Dalits to another religion. Thus, in 2018, Bajrang Dal activists in Uttar Pradesh forcibly reconverted (and shaved) a young Dalit who had become a Muslim, he said, “because upper caste people don't allow a decent life for Dalits.”⁵⁴ Again, such practices were already commonplace in Gujarat where the government, under Narendra Modi, had made it an official policy. In 2003 the Gujarat assembly passed a “Gujarat Freedom of Religion Act” prohibiting conversion “by use of force or by allurement or by any fraudulent means.” Besides, those who wished to convert needed to get prior permission from the district magistrate, a prefect-like, powerful bureaucrat.⁵⁵ Dalits resented this decision that could make changes of religion more difficult. Indeed, in October 2013, 60 Dalit families of Junagadh (Gujarat) converted to Buddhism, but problems occurred. One of the new converts justified his decision by citing his resentment that the Dalit children had “to sit separately while eating their lunch.”⁵⁶ But according to the state, these Dalits had not obtained the permission of the district magistrate in advance. The organizers claimed that they did, but a probe was initiated—an unprecedented move.⁵⁷

The involvement of the state in religious conversion not only found expression in laws and ordinances: police also started to implement upper-caste norms in society. This evolution is evident from the way Dalits were singled out in the context of the state's action against so-called Urban Naxals,⁵⁸ as evident from the Bhima-Koregaon case. In June 2018, the police of Maharashtra (a state ruled by the BJP at the time), in the course of investigating the Bhima Koregaon case, arrested five “Urban Naxals” who were accused not only of instigating violence but also of plotting a “Rajiv Gandhi style” assassination of Narendra Modi.⁵⁹ Among them were academics, lawyers, trade unionists, social workers, human rights activists, and a Dalit intellectual, Anand Teltumbde, who is a former business executive, regular

contributor to *Economic and Political Weekly*, a professor at the Goa Institute of Management,⁶⁰ and author of many books, including *Republic of Caste*.

While searching the houses of some of the accused, the police of Maharashtra indulged in cultural policing, listing books that were not banned as evidence against them⁶¹ and commenting upon their political ideas and social attitudes. The policemen who searched the house of the daughter of one of the accused, Varavara Rao, and his son-in-law, who heads the Department of Cultural Studies at the English and Foreign Languages University of Hyderabad, asked them, “Why are there photos of Phule [a low caste leader who played a pioneering role in the 19th century] and Ambedkar [a Dalit thinker and activist who played an equally important role in the 20th century] in your house, but no photos of gods?”⁶² To Rao’s daughter, they said, “Your husband is a Dalit, so he does not follow any tradition. But you are a Brahmin, so why are you not wearing any jewelry or sindoor? Why are you not dressed like a traditional wife? Does the daughter have to be like the father too?”⁶³ These policemen echo here the discourse of Hindu nationalist vigilantes when they try to make people comply with the high tradition of their religion associated with upper castes and specific forms of worship, and when they reject leftist ideologies in an anti-intellectual manner. But the fact that these vigilantes wear a uniform makes a big difference. The Bhima Koregaon case shows that the police repressed “urban Naxals” not only because of their ideas—therefore making them political prisoners—but also on account of their lifestyle, which betrayed the Hindu orthopraxy, including the caste system. In that sense, the state was now doing the job of the vigilantes, inventing a form of state vigilantism.

Conclusion

In India, as in the US after Barack Obama became president and in Brazil after Lula da Silva became president, national populism has been the instrument of elite groups that felt threatened by the new dispensation. For the Indian upper-caste middle class, Narendra Modi was the perfect antidote to the Mandalisation process because he believed in the Hindu high tradition but came from a low caste and could, therefore, bring to the BJP the “plus vote” it needed to take power. OBCs, who had started to emancipate themselves thanks to Mandal but who still felt frustrated because of their inability to join “the great Indian middle class,”⁶⁴ supported Modi, a man “like them” but still of a superior essence. The rise to power of the BJP has not only resulted in the comeback of upper-caste politicians

at the helm of governments and the dilution of reservation policies, but also in the legitimization of the Brahminical view of society and the correlative imposition of this hierarchical brand of Hinduism on everybody. This transformation of the public space was achieved by vigilante groups of the Sangh Parivar, which did not merely transgress the law but replaced it by the social norms—the orthopraxy—of the upper castes. While groups like the Bajrang Dal do it unofficially, BJP governments—at the center and at the state level—have invented a kind of “state vigilantism,” not only because of the new laws that have been created but also because of the cultural policing enforced by men in uniform. While there are different types of authoritarianism, the new dispensation in India exemplifies a style of control that is as much based on political power and surveillance as on the enforcement of social order, hierarchy, and orthopraxy.

NOTES

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Indian News Media

Taberez Neyazi

The role of news media and journalism in a democratic society has been the subject of many academic debates. Despite the differences in perspectives, most studies recognize the value of an independent news media in safeguarding the public interest.¹ News media are expected to perform at least three important functions: as watchdogs, as civic forums, and as mobilizing agents. The watchdog role of the media requires it to critically investigate, monitor, and report the abuse of public power. Media as a civic forum should provide space for the articulation of diverse and contesting viewpoints so that citizens can arrive at their own informed decisions and make meaningful political choices. As a mobilizing agent, media needs to enable citizens to learn about public affairs and to participate in politics. Of these functions, the watchdog function of the news media is considered sacrosanct when analyzing political journalism in a democracy. Holding the powerful, particularly the government, accountable has been emphasized in existing democratic theories.

However, when we look at how journalism functions in India, we find that these normative ideals about the media have been relegated to a secondary role, often overshadowed by the pressures of political influence, commercial interests, and the growing trend of sensationalism. Several journalists have raised concerns about the freedom of the press in the country under the Narendra Modi-led Bharatiya Janata Party government since 2014.² Globally, India's rank in the Press Freedom Index has been

dropping continuously since 2016 when India ranked 133 out of 180 countries. In 2023, India ranked 161 out of 180 countries and has been listed below Pakistan (150) and Afghanistan (152). Surprisingly, the decline in press freedom has been occurring against the backdrop of growing penetration of the internet in the country. One would expect that more usage of the internet enables ordinary citizens and journalists to avail themselves of this opportunity to express themselves on multiple online platforms. Several reports testify to the fact that Indian journalists are regularly attacked for their opinions.³ Research suggests that such attacks are part of a farm of paid trolls organized to counter opposing opinions.⁴

Alongside the decline in press freedom in the country, there has been a rise in authoritarian populism.⁵ One component of authoritarian populism is a robust and top-down communication infrastructure. Populist leaders use the communication infrastructure to communicate directly with the masses. In this respect, the rise of digital media has provided populist leaders globally with fertile opportunities to connect directly with their constituents.⁶ Yet, in a country where access to the internet is still limited compared to developed countries, populist leaders need to use other media that have vast networks, such as television, newspapers, and radio. It is in this context that we need to understand declining press freedom in India and the increasing clout of the government in the flow of information.

Writing in the context of the transformation in the news media industry, Lance Bennett et al. argue that “it is the institutional press that matters most for governance—precisely because it speaks with such a singular voice, and because that voice is, in effect, the voice of government itself.”⁷ We see a similar transformation in India, but the role that was played by the mainstream press in the US has been usurped by mainstream news channels. India has the largest number of 24-hour news channels and newspapers in the world,⁸ and with the proliferation of internet sources the spectrum of information available to Indians has surpassed that of any other nation. However, it is still the 24-hour news channels that matter most for governance, because television reaches the largest number of homes and can set the agenda for public discourse. In a nationally representative survey conducted by Pew Research in 2018 (see fig. 15.1), an overwhelming majority, that is, 76.8 percent, reported that television is important for them to keep up with political news and other developments. Television was followed by newspapers (56.5 percent) and radio (33.6 percent). The survey reported that the internet was used by 29.1 percent of the Indian population. Despite the growing access to the internet since then, the mainstream media continue to remain important for reaching out to the vast majority of the people.

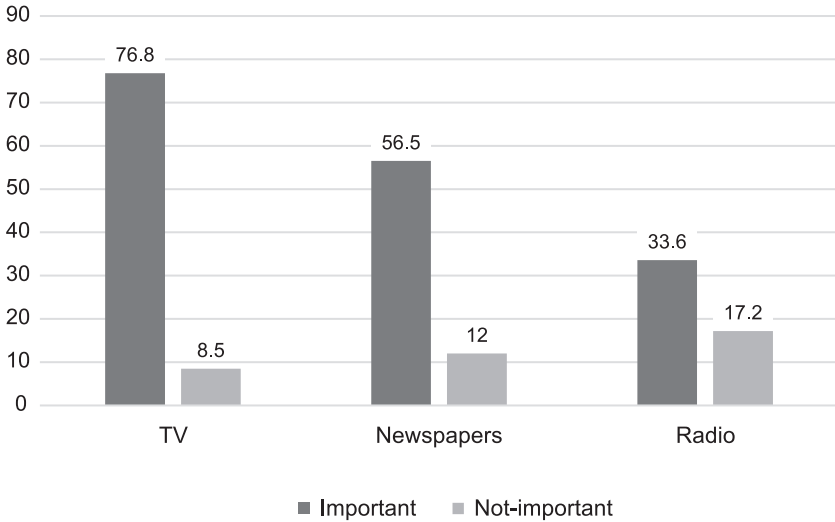


Fig. 15.1. The Importance of Media for Political News

In this chapter, I analyze the functioning of the Indian news media since 2014 after the BJP-led government came to power. I analyze the changing relationship between the news media and the political system and how this has affected information flow in the context of the rise in authoritarian populism. While analyzing these developments, I focus on how the Indian news media has been performing its role as a watchdog, as a civic forum, and as a mobilizing agent, which is at the core of democratic theories. I largely analyze mainstream media such as newspapers and television, but also draw some examples from digital media. Before starting the discussion, I contextualize the debates about press freedom in the country to show while India has never been a heaven for journalism, the recent attacks on press freedom are unprecedented.

Press Freedom Background

Unlike the constitutions of some other democratic countries, freedom of the press is specifically mentioned in the Indian Constitution, in Article 19(1), which guarantees freedom of speech and expression to citizens. Several judgments by the Supreme Court of India and judicial interpretation of the freedom of the press since the 1950s have accorded it the constitutional status of a fundamental right.⁹ Freedom of the press is not absolute and is subject to certain “reasonable restrictions” as stipulated in Article 19(2)

of the Indian Constitution, which also applies to freedom of expression. These restrictions are quite expansive, including the security of the state, the sovereignty and integrity of India, public order, decency or morality, and incitement to an offense.¹⁰ However, the most important source of contention about press freedom is the defamation clause included in the Indian Penal Code 1860, which allows criminal prosecution with imprisonment up to two years and a fine. In addition, defamation charges can also be initiated under Indian civil laws.¹¹ The defamation clause places restrictions on the constitutional rights of free speech and press freedom by making it illegal to defame individuals and harm their reputation by false allegations. Indian defamation laws have been used by both the government and corporations to target journalism, which is discussed later in this chapter.

In 1988, the Rajiv Gandhi government tried to bring an antidefamation bill to curtail press freedom. The bill aimed to curb “criminal imputation” and “scurrilous writings.” The bill was enacted in light of the detailed coverage of the Bofors scandal (allegation of kickbacks paid by the Swedish arms maker AB Bofors to secure an arms deal with India) in the Indian media, particularly in the *Indian Express* and the *Hindu*, two noted national English dailies. Although the act passed in the Lok Sabha, the lower house of the Indian Parliament, the Rajiv Gandhi government had to withdraw the bill after nationwide protest.

Similarly, the existence of a sedition law, a colonial era law to protect the British government from public criticism, has been used by the government to target journalists and activists. Under the provision of the sedition law of the Indian Penal Code, seditious acts are punishable with from three years to life in prison. While the sedition law has been considered contradictory to freedom of speech, it has not only been used extensively by state and central governments, but it has also found support in the judicial scrutiny to protect the state from antidemocratic speech.¹²

Reporters without Borders, which documents the state of press freedom globally, specifically mentioned the misuse of the sedition law by the government to target journalists as one of the important factors responsible for the decline in India's global ranking in press freedom. In January 2021, five journalists were arrested under the sedition law, which is the most since 1992.¹³ There exists an institutional environment that allowed the BJP government to exploit it to their benefit and further restrict press freedom in India.

The Emergence of a Polarized Media System

While talking about press freedom in India in 2000, Soli Sorabjee, a noted constitutional expert and lawyer, remarked:

On the whole it has been a good watchdog. It has played an important and constructive role in India by exposing deception and secrecy in the working of the administration and public institutions. Several scams have been brought to light by a vigilant press. It has been instrumental in promoting the human rights of the lowly and the lost.¹⁴

The above statement shows that notwithstanding several problems with the functioning of press freedom in the country, as outlined above, the news media has been able to perform its role as a watchdog. Can we say the same thing when we look at the functioning of news media today? In another statement in 2014, the Editors Guild of India remarked that

by delaying the establishment of a media interface in the Prime Minister's Office, in restricting access to ministers and bureaucrats in Offices and in reducing the flow of information at home and abroad, the government in its early days seems to be on a path that runs counter to the norms of democratic discourse and accountability.

This statement was issued after the BJP-led government completed 100 days in office in 2014.¹⁵ Much has changed since then in how the news media functions in the country and a tighter media regime has been created. While there has been a quantitative growth in the number of media outlets and access to traditional and new media, this growth has not necessarily led to the free flow of information.

It must, however, be noted that India's news media system is highly diverse and complex. India had a strong tradition of public service broadcasting until the 1980s in addition to high newspaper readership. But since the early 1990s there has been a proliferation of private channels and viewership of the public service channel, Doordarshan, has shrunk to a small audience share, mostly attracting audiences in the rural and semiurban areas. At the same time, it should be noted that unlike in Western Europe and the United Kingdom, public service broadcasting in India often acted as the mouthpiece of the government of the day.

In addition to the national media in English and Hindi there are vernacular language news outlets, which play an important role in setting the political agenda.¹⁶ This diversity of newspapers and news channels in 14 major Indian languages reflects not only linguistic diversity but also regional and cultural diversity. More recently, there has been a substantial increase in the number of internet users, which now stands at over 500 million. At the national level, there are national media that purport neutrality from the state, but the elite English-language press is alleged to have a bias toward left-liberal ideology that overlooks the interests of the larger audience of the vernacular masses. In the context of this perception, recent decades have witnessed the emergence of several English-language news channels such as Republic TV and Hindi news channels such as Sudarshan TV that are overtly partisan and that have a large audience reach (Republic TV is the single largest television news channel). Moreover, some Indian states already had partisan media systems, where the news media outlets tend to support one or other political party.¹⁷

The growth of a partisan media system at the national level has accelerated since the 2014 election, and the emergence of the right-wing BJP as a dominant political party at the national and state levels has bolstered the emergence of a system in which media either support or oppose the ruling party. The Modi-led BJP government has made efforts to control the media both directly and indirectly to shape public perception about the government's policies. Direct control can be seen in the rise of television channels such as Zee TV, Republic TV, News 18, News 24, Sudarshan TV, and Times Now that promote only the BJP's point of view on their channels. There are many anchors on several news channels who are BJP sympathizers. Government advertising, which is a major source of revenue for the industry, has been used to put further pressure on media houses; those that are seen as hostile to the government are less likely to receive government advertising. Reports suggest that big business houses have stopped or withdrawn advertising from certain media groups. On many occasions NDTV, which was earlier seen as anti-BJP, has had its advertising assignments withdrawn by business houses as an intimidation tactic.¹⁸ Even before the Modi government, advertising was used to reward media houses that were favorable to the government.¹⁹

What is less visible is the indirect control exerted on news media, which is unprecedented. Anchors who are seen as critical of the Modi government have been asked to leave and there are indications that the government is closely monitoring the news. Punya Prasun Bajpai, a senior journalist, who was working with ABP News, was forced to resign because he refused to

follow the channel's pro-government stance. In his exposé, Bajpai wrote that he was specifically asked not to mention Prime Minister Modi's name while criticizing the government.²⁰ He further revealed that in order to control the narrative on news channels, the government has employed 200 people who regularly monitor the media.

Similarly, Bobby Ghosh, the editor of *Hindustan Times*, a national English daily, resigned from the newspaper in September 2017. He had started *Hate Tracker*, which "focused on the motive and impact of hate crimes in India."²¹ According to several reports, the government was unhappy with *Hate Tracker* and soon after the exit of Ghosh, *Hindustan Times* pulled down *Hate Tracker*.²² After Ghosh resigned on September 11, an email was sent to the *Hate Tracker* team that they should not post anything related to *Hate Tracker* on Twitter and Facebook.

The claim by Punya Prasun Bajpai that the government closely monitors news channels is reflected in how regional media is scrutinized. Following the coverage of protests in Delhi against the amended citizenship law, the Ministry of Information and Broadcasting imposed a 48-hour ban on two Kerala-based news channels—Asianet News and Media One. Such a ban on news media should be imposed only in extreme cases and only after due diligence and in consultation with an independent media regulator. In their broadcast on February 25 the ministry reported that the channels violated the provisions of the Cable Television Networks Rules, 1994 because they "highlighted the attack on places of worship and siding towards a particular community."²³ After an outcry from the opposition and civil society groups, the ban was lifted within 48 hours. While lifting the ban, Prakash Javadekar, then the information and broadcasting minister, noted that "our basic thought process is that the freedom of press is absolutely essential in the democratic set up and that is the commitment of the Modi government."²⁴ We see a clear contradiction between the government's actions and its assertion on press freedom.

These developments under the Modi-led BJP government are also reflected in a 2021 report by Reporters without Borders that dubs India as "unfree." They argue that "criminal prosecutions are meanwhile often used to gag journalists critical of the authorities, with some prosecutors invoking Section 124a of the penal code, under which 'sedition' is punishable by life imprisonment." This is not to say that there is no diversity in the news media in India. However, although there is diversity in the print media, most news channels (with a very few exceptions) now act as mouthpieces of the government. The news outlets that espouse diversity and contradictory opinions are peripheral and do not play a major role in setting the public agenda.

Restricting Access to Media

In a democratic society, the government is expected to provide access to media for their news-gathering process. Without relatively unfettered access, the media cannot perform its function as the Fourth Estate or watchdog. The media acts as a conduit between the government and the citizens and allowing free access to government information is essential for journalists to perform their function as watchdogs.

However, there has been a remarkable change in how the government interacts with the media. In July 2015, the Home Ministry issued guidelines to its officials not to meet with media persons without prior appointment. The order also restricted the movement of journalists within the premises of the ministry and stated that “the information flow to media persons will be arranged in Media Room No 9. An additional director general (media) has been appointed who act as the ‘single point dissemination’ of all publicity material to the media, including clarifications sought by it. Other ministries, including the defense ministry, had already instructed its officials not to communicate outside of official channels.”²⁵

In a continuation with this highly regulated communication policy, the Modi-led BJP government in its second term further tightened the flow of communication between the government and the news media. The Ministry of Finance in July 2019 issued an order restricting the entry of accredited journalists within the premises of the ministry without prior appointment.²⁶ Although the order was criticized by the media fraternity including the Editors Guild of India, the restrictions were not eased. The restriction of access to government ministries affects the production of source-based stories. Another change introduced by the Modi-led BJP government was discontinuing the practice of taking journalists along on their diplomatic tours. Only the public service broadcaster, Doordarshan, has been allowed to accompany government officials on diplomatic tours.

In yet another move restricting press freedom, the government imposed restrictions on the entry of journalists into Parliament premises and the press gallery. This was introduced in the pretext of rising Covid cases in the country in 2020. Under the new system, entry passes for journalists to Parliament are issued once a week based on a lottery. Several journalists criticized the move in addition to organizing a protest on December 1, 2021 in India's national capital, Delhi. Journalists allege that the move is a precursor to a “complete ban” on spot coverage of parliamentary sessions by the media. Despite the criticisms by journalists and media organizations such as the Press Club of India, journalists' access to Parliament continues

to remain limited. This kind of measure not only shields parliamentarians from media scrutiny, which is essential for any well-functioning democracy, but also reflects the authoritarian tendencies of a democratic government.

Prime Minister Modi has also insulated himself from probing questions by journalists by rarely holding press conferences, unlike all previous prime ministers, or by giving interviews only to journalists who are considered sympathetic to the government. Instead of involving the news media, Prime Minister Modi has been using social media, particularly Twitter and Facebook, to communicate the government's stance on various issues directly to the public. In October 2014, Modi launched the program *Mann Ki Baat* in which he addresses the people of the nation every month through the radio and Doordarshan. This program is now broadcast in 19 Indian languages. These direct methods of communication together with restricted access for journalists reflect the changed communication strategy of the Modi government compared to its predecessors.

Access to government information has thus been used as a strategic weapon by the Modi government to control the media narrative to shape public opinion in its favor. Having received a full mandate in the election does not imply that the government can act in the best interests of the majority without any accountability to the citizens.

Managed Media, Managed Democracy

The Modi government has used both traditional and digital media platforms to amplify its voice and restrict opportunities for diversity in public debates. The extensive media management of the Modi government has resulted in a unidirectional flow of the government's own message that has replaced a healthy public debate with a monolithic promotion of the government agenda. This resembles a "photo-op" approach to democracy that was noticed during the Stephen Harper-led Canadian government.²⁷ The Modi government has deployed strategic government communication tactics "to persuade citizens to accept policies and measures that are not necessarily in their best interests."²⁸

Journalists are expected to monitor the exercise of power by the government. Is the government efficient, honest, and fulfilling its responsibilities toward the people? How far are the programs and policies of the government based on principles of equality and serve the interests of society as a whole? Are minority interests protected or is the government merely advancing majoritarian interests? These are the important functions that

the news media examines in its role as a watchdog. However, most of the news media has abandoned its function of monitoring the government and has aligned with the government agenda and started monitoring the opposition parties. This is contrary to what is expected of the role of the media in a democracy—to monitor the misuse of power by the government and elected representatives and hold them accountable to the public.

The mainstream media is largely acting as an extended public relations arm of the ruling government. Most of the prime-time discussions on national media promote the government agenda and target the opposition. For example, Christophe Jaffrelot and Jumle Vihang in their study of Republic TV prime-time debates over a period of two years found that close to “fifty percent of Republic TV’s political debates criticized the opposition, but it has not conducted even one debate that we could classify as being in the opposition’s favor.”²⁹ Any attempt by the opposition to question government actions on national issues is often attacked as “anti-national.”³⁰

The opposition has come out with a counterattack on “Godi media,” which denotes the media’s closeness with the ruling party and their reporting of only one side of the story. Newspapers such as *The Hindu* and *The Telegraph*, which are considered left-liberal, have often expressed opinions against the government, and the *Indian Express*, which is considered an anti-establishment newspaper, provides space to both the government and the opposition. More recently, several digital media such as *The Wire*, *Scroll*, and *Newslaundry*, which are left-liberal voices, have emerged. However, there have been continuous efforts to gag these independent voices through intimidation. For example, the Reliance Group filed defamation suits against three news media groups—NDTV, *Citizen*, and *National Herald*—seeking damages of INR (Indian rupee) 22,000 crore. Another lawsuit was filed against *The Wire* in November 2018 seeking damages of INR 6,000 crore.³¹ There has been one civil and one criminal defamation case filed against *The Wire* by Jay Shah, son of Home Minister Amit Shah. In addition, cases have been filed against media houses by political leaders. These examples show that critical voices exist, and several news media are performing their role of watchdog. However, these critical voices are peripheral and lack the power to set the public agenda.

Amid these challenges to independent media voices, the 2022 acquisition of a 65 percent stake in NDTV by Adani Enterprises, owned by billionaire Gautam Adani—who is considered close to Prime Minister Narendra Modi—is crucial. This acquisition is significant because NDTV is known for its distinct editorial stance, often characterized by indepen-

dent reporting and critical analysis of government policies, distinguishing it from many other mainstream media outlets. The change in ownership led to the resignation of several prominent NDTV journalists, presumably over concerns regarding editorial freedom under the new management.³² Furthermore, this acquisition underscores the ongoing influence of traditional news media in shaping public opinion and the current political dispensation's apparent reluctance to tolerate opposing viewpoints.

Professionalized Communication

The use of media by political actors to further their political and policy goals has increased recently, facilitated by the rise of modern communication technologies and more professional public relations. The earlier personal relations between journalists and political actors are increasingly being replaced by strategic planning in which political actors use public relations experts to design political strategies, frame issues, and establish the media agenda. After introducing several changes to its communication strategies, the Modi-led BJP government more recently in 2020 devised a new approach to improve its image, both nationally and globally. It established a committee of nine groups of ministers to design a communication strategy to improve the government's image and address criticisms. These strategies included identifying negative influencers, engaging and working with positive influencers, limiting interaction with foreign journalists, and developing public service media with an international reach. In addition, the recommendations include "projecting India's soft power, the country's standing in the international community and marquee government initiatives such as Aatmanirbhar Bharat and Digital India."³³

The media management strategy has often been used to counter opposition and create a more favorable image of the government. The management of public perception can benefit the political actor notwithstanding contrary realities. This is evident from the fact that despite the decline in public spending in social sectors such as health and education, rising unemployment, and distress in the agriculture sector, the BJP has been continuously winning elections. Similarly, despite the complete failure of demonetization to achieve its stated objectives as reflected in several research studies, it has been presented as a monumental success.³⁴ Many modest achievements of the Modi government have been amplified to the extent of presenting them as a rupture with the past and they are often debated in the government's friendly national television news channels

with glorifying words. India has entered an era of the permanent campaign, where political actors no longer make any distinction between governance and the election campaign. Governance through publicity has been used as a strategy to counter declining public trust in the government. Such a development is not good for a democracy because evaluations of issues, policies, and programs would be judged by their newsworthiness rather than their implementation and performance on the ground.

While explaining the upsurge of authoritarian populism in India, Priya Chacko argues that there was already fertile ground for the rise of authoritarian populism in India because of the neoliberal policy pursued since the 1990s, which disenfranchised and impoverished the common people.³⁵ However, we also need to look at how an unregulated media industry, particularly the news channels, has helped the established political order use it to advance its populist agenda to manipulate public opinion. The press has become so close to reporting the government's side of the story that they have become distanced from the people. Official versions of stories are often reported with uncritical analysis. Instead of questioning the government and holding it accountable, the mainstream news media has become obsessed with "soft news" and the opposition's failure. Any criticisms of government policies by the opposition are discussed with disdain in the news media studio with the objective of vilifying the opposition as uncooperative and "anti-national." The democratic responsibilities of the media have been forgotten. Corporate ownership has imposed new constraints on the functioning of the media.

At the same time, there seems to be a growing support among the people for the government's policy toward the press. In the Pew Research Global Attitudes Survey, only 37 percent of Indian respondents agreed that press freedom is very important to them.³⁶ This was the lowest score among the major democracies and even lower than Indonesia (45 percent) and much lower than Brazil (60 percent). When we look at how respondents' party identification might have shaped their evaluations of the importance of the press freedom by comparing the evaluations of self-declared BJP and non-BJP supporters, we find an interesting pattern. BJP supporters are more likely than non-BJP supporters to say that press freedom is not important, and the differences are statistically significant. These differences between the BJP and non-BJP supporters in their commitment to press freedom may explain why the Modi-led BJP regime has adopted a more restrictive policy toward the news media. The alignment between the BJP's policy toward the news media and their social constituencies' view of press freedom is reflective of global trends in right-wing populism's relationship

with the media.³⁷ Media freedom is of little concern to right-wing populist leaders, who often depend on a top-down communication approach.

Conclusion

This chapter explored the functioning of the Indian news media since 2014 and the relationship between the rise of authoritarian populism and the communication strategy of the Modi-led BJP government. Studies suggest that robust communication strategies have been one of the hallmarks of populist leaders to maintain political power.³⁸ While there have been several critiques of the Modi government, little attention has been paid to analyzing communication strategies in the upsurge of authoritarian populism.³⁹ In this chapter, I show that the Modi government has used a multipronged approach toward journalists and the news media to control information flow and create a more favorable perception of the government. The government is not only deploying spin to package stories for media attention, but it is also using access to government information strategically. Access to government information and politicians has been restricted to journalists who are willing to abide by the government's agenda. After the issuance of a series of orders restricting the access to journalists to government ministries and introducing a system of prior appointment, only journalists who are considered sympathetic to the government gain access. Through these strategies, the Modi-led BJP government has established control over the news media and limited the media's scope to perform its role as a watchdog.

While Prime Minister Modi has been very active on social media, he also realizes the limitations of this medium because more than half of India's population is still not online. As a result, he has adopted multiple communication strategies. Through the radio, he reaches out to the masses who have no access to the internet. At the same time, most of the news channels show partisan support for the government and speak in a single voice, often amplifying official voices. This unidirectional flow of the government's message has limited the promotion of pluralist ideas and viewpoints in the public arena.

We also noted that the institutional constraints on the effective functioning of an independent press and free speech were present even before 2014. Take, for example, the sedition law and defamation law, which have been used even by previous governments against journalists. However, the Modi-led BJP government has taken advantage of these institutional fac-

tors to further restrict press freedom in the country, while also imposing new restrictions. Although the print media has been able to exhibit some independence from government pressure and maintain a certain degree of neutrality, most of the news channels have been busy promoting the government's agenda in their reporting and coverage of events. While normative democratic theories envisage the media as acting as watchdogs by holding the powerful responsible, the evidence from India shows the pre-occupation of the news media in reporting stories of the politically powerful without critical scrutiny and thus reinforcing the government's agenda.

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Social Media in Elections

Modi and After

Joyojeet Pal

As the campaign for the 2019 general elections was starting off in March 2018, Narendra Modi addressed the BJP's parliamentary party meeting at their brand-new office in Deen Dayal Upadhyaya Marg. There, he noted that anyone wishing to be considered for a Lok Sabha ticket (electoral candidacy) should expect to have at least 300,000 followers on Twitter.¹ A party setting a cash donation threshold from an aspiring candidate to party coffers was not new, but the social media requirement was a marker of a new kind of performative political actor.

The diktat was indicative of a direction the party was taking. It was not sufficient for politicians to have a hold on the popular vote in their electoral constituencies alone, there was an essential performative element of their online being. The months that followed would affirm just how dominant the BJP was on social media. Although traditional outreach and the ability to engage the electorate through its organizational structure remained foundational to the party's preelection strategy, social media provided a form of continuity for individual leaders and the party alike. It came to be the line of attack for public signaling, and with the gradual conversion of Twitter feeds into "soundbytes for the press" it grew to be a cornerstone of the party's mainstream media management strategy. Politicians did not stop engaging the mainstream media, but rather than depend on channels

for coverage, candidates moved to a process in which their online being was largely designed and managed by professionals running multiple social media channels, typically around a central account on Twitter. This put the candidates in charge of what subjects they engaged, social media feedback served as a signal for what subjects worked or did not for the candidate and party alike, and the party information technology cell mechanisms would work out how much that messaging would be amplified on social media. If something became sufficiently newsworthy online, print and television would cover things as newsworthy,² in a pattern increasingly common with political agenda setting through social media channels in various parts of the world.³

From Brand Building to Organizing

The provenance of the now aggressive social media use in Indian politics goes back not just to the affordances of outreach enabled by Twitter, Facebook, and others but to the early presence of a small but active population of upper-class Indians online, who coalesced around variants of Hindutva ideology in the 1990s,⁴ which eventually evolved into an organized support base for the BJP in the 2004 general elections.⁵ The BJP was the first political party to capitalize on this discourse of technology and start publishing news, views, and party manifestos online, prior to the 1996 general election⁶ and almost a decade before its main rival, the Indian National Congress, launched its web presence. This was aided significantly by a surge of diaspora nationalism following the first elected BJP government and Prime Minister Vajpayee's US trip,⁷ and helped build an image of a global, internet savvy, modern party—one that was not at odds with its conservative, traditionalist rhetoric.⁸ This early lead would eventually lay the foundation for the early political action and fan communities on Orkut and Facebook in the late 2000s nationwide,⁹ but also specifically in Gujarat, a state that was an early adopter in the use of technology in political outreach.¹⁰

Much recent work has examined the role of technology in politicians' communications in India, in that presenting a leader as technology-savvy plays a role in assisting their brand value. Technology is not just the medium, but part of the message. Nowhere was this more true than in Narendra Modi's rebranding as a tech-savvy administrator, riding his reputation as the nation's selfie-shooter-in-chief, whose digital communications became a hallmark of his political style.¹¹ Branding as a technocrat comes with advantages—Rajiv Gandhi, once referred to as the “computer

man,”¹² was among the first in the digital age whose history of eschewing politics cemented the “apolitical” part of his branding, presenting his outsider status as a virtue.¹³ After the 1990s, a number of politicians used this technocratic branding,¹⁴ most significantly N. Chandrababu Naidu. The chief minister and self-described “CEO” of Andhra Pradesh would grab the national imagination as a technology-wielding administrator who spoke directly to a middle-class aspiration by presenting an alternate vision of the political leader.¹⁵

The first of the current crop of Indian politicians, such as Amit Jogi, Jayant Sinha, and Mohan Kumaramangalam, had accounts on social media as early as 2007. However, they, like Shashi Tharoor, India’s first political star on Twitter,¹⁶ used social media outside of any electoral work, typically as private citizens—at the time as scions of political families. The breakout event on Indian political social media was the 2011 Lokpal agitation in New Delhi, a loosely organized movement of protestors seeking anticorruption legislation. This urban movement, located in the capital city, was buoyed by a core of millennial generation protestors coordinating events through Twitter and Facebook. The event created several new social media stars, including Kiran Bedi, Arvind Kejriwal, and Yogendra Yadav,¹⁷ and helped cement the notion that a civil society movement could be created on social media.¹⁸ The movement served as a textbook case for future campaigns—an iconic central figure, the normative use of patriotism, engineered viral content, careful attention to timing,¹⁹ and the use of celebrity endorsers.²⁰ However, the movement was also important for its critical failing—its distributed nature. With over 500 Facebook groups and 25 Twitter handles, the movement had no clear central messaging strategy,²¹ which was a key difference with the BJP’s campaigns that followed in the coming years.

We see the waves of Indian politicians joining Twitter in figure 16.1.²² The first wave, around 2010, included chief ministers or active contenders including B. S. Yediyurappa of Karnataka, Omar Abdullah of Kashmir, Nitish Kumar of Bihar, Oommen Chandy of Kerala, as well as party scions such as Uddhav Thackeray of the Shiv Sena and Akhilesh Yadav of the Samajwadi Party.²³ The second major wave was in late 2013, first around the Delhi elections and then in the lead up to the 2014 general elections.

By the time of the 2014 general election, Narendra Modi was by far the biggest star on Indian social media. Despite the election being seen as a turning point in the use of social media in elections, it was still dominated by the BJP—the then president of the Indian National Congress, Rahul Gandhi, did not even have a social media presence. Indeed, Modi

himself was primarily, if not solely, accessible to the press only through social media.²⁴ The 2014 general elections served as proof that a politician could not only be rebranded online but also rely solely on social media as a primary means of output, a lesson that the entire political spectrum had internalized by 2019. As shown in figure 16.1, while only a small number of politicians were on Twitter till late 2015, there was a massive increase starting in 2016, peaking in 2018 in the run-up to the general elections.

Pervasive Social Media in 2019

Concerns raised about social media studies of politics as being of limited relevance due to the size of India's online population in 2014 were irrelevant by 2019, on a trajectory that suggests this will only be more important by 2024. According to a report on social media use in India, by January 2020 India had 687 million active internet users, of which about 400 million were active mobile social media users. Over half the Indian population had access to social networks in 2020, up from less than 20 percent just five years before that²⁵—YouTube, Facebook, and WhatsApp together clocked in at over 300 million users in 2020, whereas Twitter is among the less used of all the major social media, used by a little over 7 percent of all Indian internet users. Over three-fourths of first-time voters in 2019 noted that social media was important in Indian politics.²⁶

At the same time, we also see a gradual plateauing of traditional broadcast television,²⁷ in which entertainment content is several times more viewed than news,²⁸ as well as an increasing polarization of viewership on television news channels, especially in the direction of the state-aligned channels.²⁹ The dropping of internet access prices precipitated by Reliance Jio and the subsequent increase in the reach of internet-enabled media such as YouTube, Hotstar, Netflix, and Amazon Prime³⁰ have dramatically increased the number of Indians consuming media online, with market research reporting that 97 percent of connected Indians were watching videos online.³¹

The numbers are reflected in where the politicians feel their listeners are. A look at the expansion of Twitter activity between 2008 and 2020 (fig. 16.2) shows us how palpable the increase in both the volume of social media activity and the number of politicians active with over 20,000 active individual political accounts tweeting in 2019. The increase of online consumption of content created a new market for YouTube-based outreach, in addition to video content on Instagram. Short video content has been an

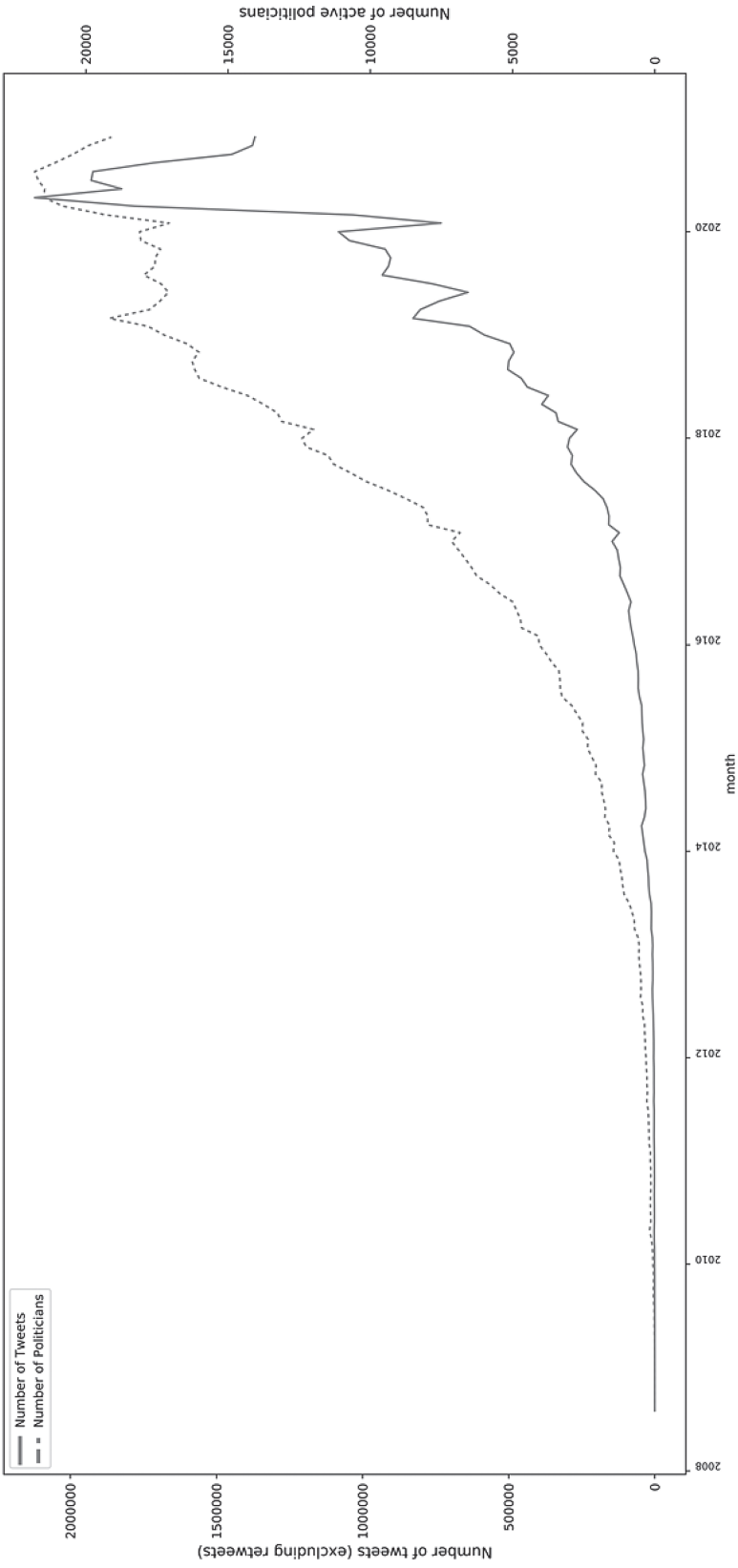


Fig. 16.1. Total volume of political tweeting alongside the number of active politicians on social media each month between 2008 and 2020. (Source: Data from the Nivaduck database of Indian politicians.)

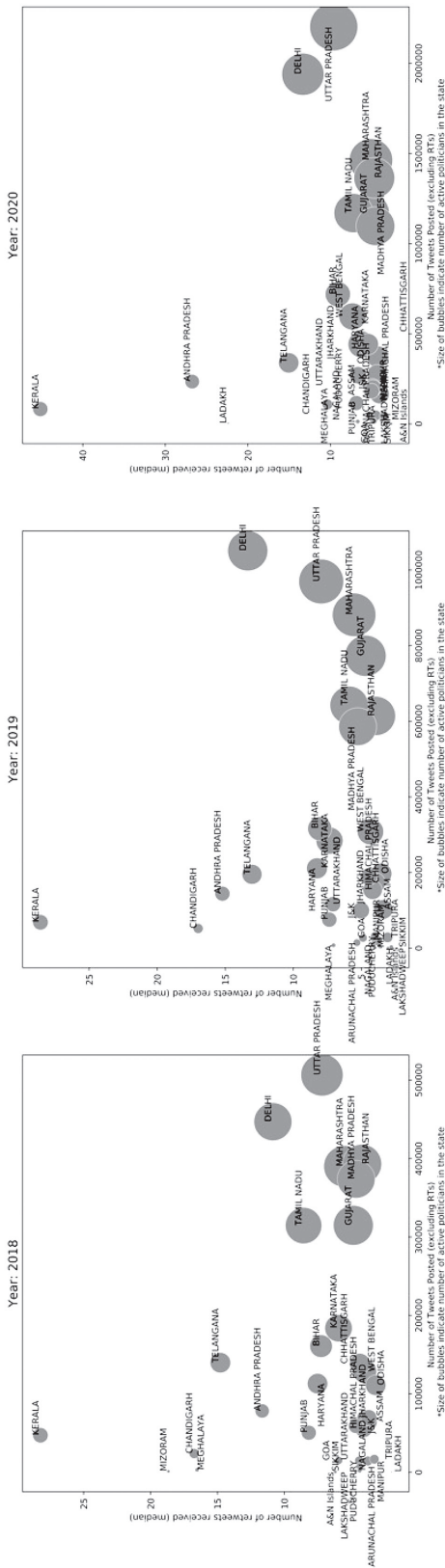


Fig. 16.2. Top 50 politicians on Twitter in 2018, 2019, and 2020 by following. Bubble size represents the number of followers, x-axis represents the number of tweets in the calendar year, y-axis represents the median rate of retweet. (Source: Data from the Nivaduck database of Indian politicians.)

important growth area, since it translates well to transferring onto other channels, particularly WhatsApp. Most major political parties—including the BJP, the Indian National Congress, Samajwadi Party, All India Trinamool Congress, Dravida Munnetra Kazhagam, and Shiromani Akali Dal—have YouTube channels for themselves as well as key leaders.

What Modi was able to do by getting on the bandwagon early (he has been the world's most followed elected leader by a distance) was to corner the imagination of the younger, early adopter population on social media. While the 2014 election saw technology used mainly for outreach and a good dose of gimmickry, including Modi's much talked about holograms,³² the 2019 elections saw the use of what was learned from several state elections in the interim to turn social media into the organizational frontline.³³ While Twitter continued as the main source of direct speech from politicians, Facebook enabled groups and close-network proselytization among the urban middle classes, while encrypted platforms including WhatsApp became a site for organizing, but with a healthy dose of misinformation and polarizing content.³⁴

While opposition parties followed the BJP's approach in hiring brand consultants to manage both their parties and individual leaders, the approach by 2019 had moved to organization. Parties planned how individual politicians would be depicted online, and where the party or party leader would be highlighted over the candidate.³⁵ Campaign workers down to villages were required to use social media, and the grassroots mobilizations and voter turnout process was often managed through WhatsApp.³⁶ Negative campaigning, including media manipulation³⁷ and systematic disinformation, were institutionalized by parties.³⁸

Some of Modi's own signature style, such as speaking directly with a first-person "leader-to-citizen" voice, reviewed content across platforms,³⁹ and curation of photographs,⁴⁰ were incorporated into the outreach strategies of leaders of parties with regional voter bases like Samajwadi Party leader Akhilesh Yadav and Yuvajana Sramika Rythu Congress Party leader Y. S. Jagan and others, and they built careful and well-networked brands on social media, almost all using Twitter as their primary accounts for output. However, a look at figure 16.3 at the 50 most followed politicians on Indian Twitter from 2018 to 2020, and the extent to which they get retweeted, shows that the BJP has a clear dominant position.

A few general trends are worth noting from these figures. First, clearly Narendra Modi remains dominant in terms of the volume of tweeting as well as the median retweet rate of his tweets, but the politician who consistently gets more retweets on average is Rahul Gandhi, though his activity

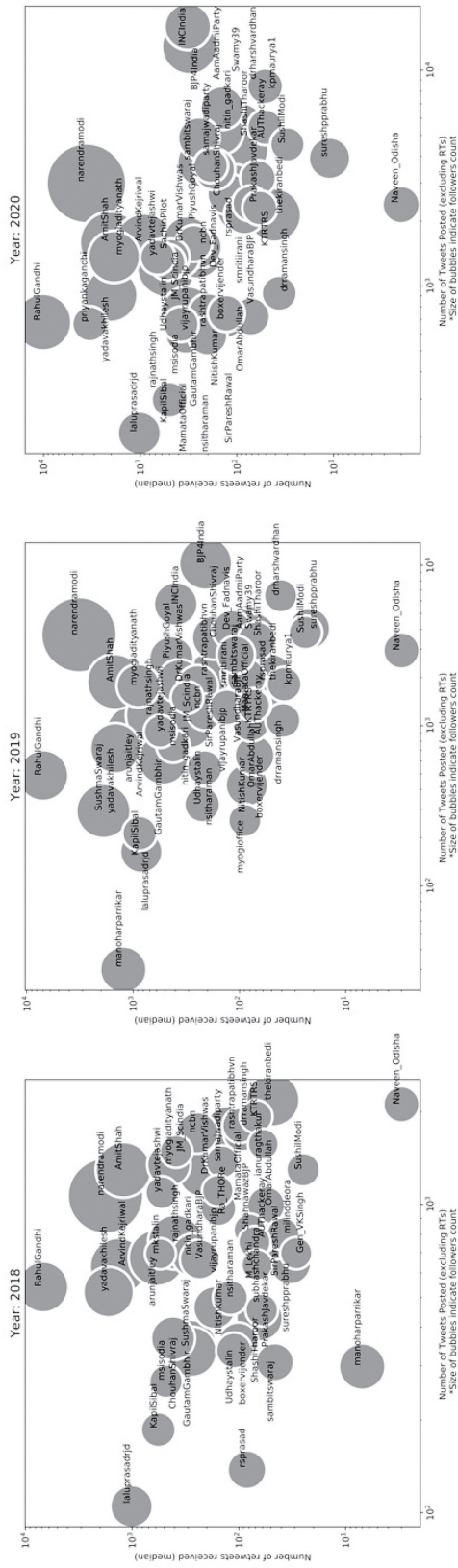


Fig. 16.3. Politicians on Twitter in the states of India in 2018, 2019, and 2020 by total activity. Bubble size represents the number of active politicians, x-axis represents the number of tweets in the calendar year, y-axis represents the median rate of retweet. (Source: Data from the Nivaduck database of Indian politicians.)

on Twitter is a lot less frequent. We see two other patterns. First, that the majority of non-BJP politicians who are highly followed and retweeted are leaders or members of political families from regional parties—including leaders from Dravida Munnetra Kazhagam, Shiv Sena, Rashtriya Janata Dal, the Samajwadi Party, Biju Janata Dal, and so forth. The Indian National Congress has a fairly small footprint in the highly followed accounts despite its position as the second-largest party. The second trend we see is that there is a consistent increase in the frequency with which politicians tweet, and a gradual increase in the extent to which their tweeting gets engaged, with a peak in 2019. This trend adds further weight to the likelihood of political tweeting getting more institutionalized by parties.

Looking at the patterns of social media use in states, we see in figure 16.2 that there is a general relationship between the size of the state and the amount of activity of its politicians on social media. While UP and Delhi, by virtue of their population size and capital status, remain the regions of most Twitter activity, a few states like Gujarat, Rajasthan, and Madhya Pradesh consistently have more politicians active on social media for their population sizes than, for instance, West Bengal, Bihar, and Karnataka. From among the other larger states, Kerala, Andhra Pradesh, and Telangana have a greater concentration of relatively more retweeted politicians, even if fewer of them.

This trend suggests that the states where the BJP is active tend to have a relatively high degree of Twitter activity. This finding is supported by other machine-learning-based examinations of word embeddings that have shown that the northern and Hindi-speaking states tend to talk about similar topics, and have greater connections between politicians, compared to regional-language-speaking and southern states. To paraphrase in plain words, a BJP politician in UP could easily sound like a BJP politician from Madhya Pradesh or Rajasthan and vice versa, whereas a BJP politician in Karnataka or Kerala is more likely to sound like politicians from other parties within those states, rather than their own party colleagues from other states.⁴¹ This suggests a hegemonic effect of political Twitter activity in northern states on social media, and a distance from the peripheries represented by the non-Hindi states.

The growth of social media use in India, and especially the expansion of regional-language use and content, has also meant that politicians are constantly moving to new ways of keeping on top of engagement. While Twitter remains the preferred choice of direct output for politicians and parties, Facebook and Instagram are also well used. Here again, Modi clearly leads the way with an official/curated presence on Twitter, Face-

book, YouTube, Instagram, LinkedIn, Pinterest, and Tumblr, as well as now defunct platforms including Google+ and Orkut. Modi's dominance on these platforms also speaks to his team's investment in the ways in which these platforms can be used to corner the interest economy, irrespective of whether the direct audience is a voter or not. Thus, Modi was an "influencer" on LinkedIn, where he would post management relevant content, remains the most followed Indian on both Facebook and Twitter, and the third most followed on Instagram.⁴² On YouTube, Modi remains the most followed political influencer in the world, and has a channel with over 100 playlists, including all his national addresses,⁴³ effectively converting his radio missives into an on-demand streaming archive. A look at a screenshots from Modi's Instagram feed in figure 16.4 shows the level of careful staging of pages there as well.

Personalization and Virality

The reason Modi remains a central case for any conversation on social media is the sheer expanse and depth of his online footprint. Before social media, Modi already had his own site for citizen feedback, fundraising, and as a soapbox for issues.⁴⁴ Much of this came into being after his "Vikas Purush" and "Gujarati Asmita" campaigns, for which he used an appearance at the summer Davos meeting in Dalian⁴⁵ where a series of political brand management efforts, which were driven by a team of experienced communications professionals,⁴⁶ moved him from a hardliner image to one focusing on aspiration and development,⁴⁷ though still balancing his sectarian image as the "Hindu Hriday Samrat" (emperor of Hindus).⁴⁸

The period of Modi's rebranding remains a critical moment in the history of social media use for political purposes in India. The strategies of his early campaign were critical, since they emphasized both the use of professionals in the outreach process and the shift to online engagement. The systematic framing of Modi as a legitimate, worldly, and palatable politician required an undermining of the sectarian story and an emphasis on the elements of accessibility—that world leaders, celebrities, and common citizens wanted to be seen with him, a story that was much easier told on social media than through a relatively antagonistic mainstream media.⁴⁹ His social media campaign was propped up by software companies that created a trendsetter in Indian political media—online-only news channels that exclusively provided content favorable to the BJP.⁵⁰ The virality of such content would often be driven by careful online astroturfing enabled



 **narendramodi** • Follow

 **narendramodi** • After today morning's plogging exercise at #Mamallapuram. Let's keep working to keep India clean. #SwachhBharat

7w



 **rajjaat4622** POLYBAG TO BAN H

10h Reply

 **gayaprasadpa** Very nice

9h Reply

 **hh_diamondking** 

4,821,726 likes

OCTOBER 12



 **narendramodi** • Follow ...

 **narendramodi** • Spent time with our brave soldiers and security forces at Longewala in Rajasthan.

10w



 **model_sonu_7** Jai Hind 

7th Dec

3,313,082 likes

NOVEMBER 14, 2020

Add a comment... Post

Fig. 16.4. Screenshots from Narendra Modi's Instagram Feed

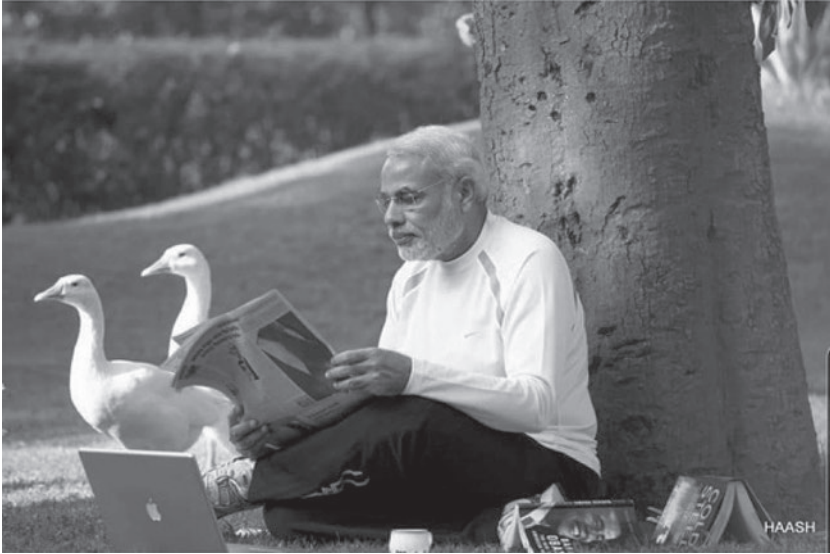


Fig. 16.5. A publicity image of a morning-exercising Modi seated in sylvan settings with books by Barack Obama and Lakshmi Mittal, birds of peace, a financial newspaper, and an open laptop computer.

by both the centralized information technology cell of the company and a number of other arms and volunteers working independently but with coordination in what is best described as a movement.⁵¹ In this, the BJP built a social media institution mirroring its organizational boots on the ground, something equally difficult to re-create by other parties.

A key to maintaining online virality in the run-up to the 2014 campaign was the use of carefully curated “influencers,” typically accounts that had several thousand followers and were consistent in talking about the campaign, and often aggressively trolling opponents. At the end of the 2014 campaign, the prime minister invited 150 social media influencers to his home, in an event that got tagged with the hashtag #SocialMedia150. One of the most important things that the online campaign was able to do was present the Indian National Congress as being run by a simpleton under a scheming mother, often through the use of doctored videos, at once using gendered means of attacking Sonia Gandhi and doubling down on the idea that people may vote for crooks, thugs, or aristocrats, but they won’t vote for fools. The idea was remarkably powerful, and continued to haunt the party into the 2019 campaign.⁵² Many of these online political influencers were “followed back” by Modi himself, and over time went on to successful

social media supported careers thereafter.⁵³ Indeed, the 2014 campaign led to the creation of a new body of professionals who specialized in various forms of election management, but particularly focused online, some of whom built careers out of the 2014 campaign to move on to new parties across the ideological spectrum.⁵⁴

The BJP also kept up with the professional management of social media well after the 2014 results, but with more expansion of in-house capability. Campaigns like Swacch Bharat, Narendra Modi's 2014 nationwide "Clean India" operation to get a focus on hygiene practices, made extensive use of social media platforms, adapting chain outreach techniques such as those on the ALS (amyotrophic lateral sclerosis) water bucket challenge to engineer viral spread and celebrity endorsement. Some of the experienced professionals who worked BJP campaigns moved into party positions, and by the onset of the 2019 elections, the party had over 120,000 registered social media volunteers who would play a part in proselytizing the elections.⁵⁵ Besides Facebook and Twitter, groups were set up to manage social media at every booth (local polling unit) to manage outreach on WhatsApp, Sharechat, and TikTok—in battleground states like West Bengal, as many as 55,000 WhatsApp groups were created by parties during the campaign period.⁵⁶

Professionalization of social media management has gone hand in hand with data driven approaches to campaign management more broadly. Prashant Kishor, a strategist in Modi's 2014 team, moved over to work with Nitish Kumar in Bihar, who he later helped with a vote bank plan that undermined his main opposition Rashtriya Janata Dal's caste-based arrangements on the ground while simultaneously building an online brand around development and stability. In neighboring Uttar Pradesh, the country's largest and most electorally important state in the lower house, Samajwadi Party leader Akhilesh Yadav was presented as a gentle, modern leader, tweeting images that presented him as a thoughtful husband and a smiling, engaging leader, moving away from the image of his father, the strongman party founder and wrestler Mulayam Singh Yadav (fig. 16.6).

The social media campaigns of non-Hindi-speaking regional states were important in setting an agenda of state exceptionalism. In West Bengal, the All India Trinamool Congress chief Mamata Banerjee departed from her typical reticence with direct social media contact to start sending regular images and messages, often in her native Bengali, presenting herself as defending the state against an invasive Hindi-belt culture being brought in by the BJP. In Tamil Nadu, the Dravida Munnetra Kazhagam tweeted almost exclusively in Tamil and organized sustained campaigns of



Fig. 16.6. Samajwadi Party leader Akhilesh Yadav wishing his wife, Dimple, happy birthday on Twitter

running anti-BJP hashtags whenever Modi was in the news or planning to visit the state.

A new professionalization of the social media managed campaign included changing last mile communication by mediating it technologically. Several parties besides the BJP—including the Yuvajana Sramika Rythu Congress Party and Telugu Desam Party in Andhra Pradesh, All India Trinamool Congress in West Bengal, Biju Janata Dal in Orissa, and Telangana Rashtra Samiti in Telangana introduced mobile apps for citizen outreach. Booth workers could be tracked on GPS to report back the number of home visits they made, and pamphlets handed out to citizens could be printed with QR (quick response) codes to track outreach. The election commission's lists were freely available to party workers who kept note of their likely voters in each booth, and on Election Day tracked who did and did not show up to vote at assigned booths, using WhatsApp to send reminders to known absentees that they needed to show up before the polls closed.

A final aspect that differentiated the BJP's use of social media with that of other parties was the use of celebrity influencers. With perhaps the exception of Tamil Nadu, where celebrities have stayed true to the Dravidian party base,⁵⁷ and in West Bengal, where several entertainers lined up to fight elections for, or actively promote, the All India Trinamool Congress online,⁵⁸ the BJP has dominated the use of celebrity influencers in both sports and entertainment. While Modi openly courted entertainers in 2013 through calls for bringing out the vote, couching the effort more as altru-

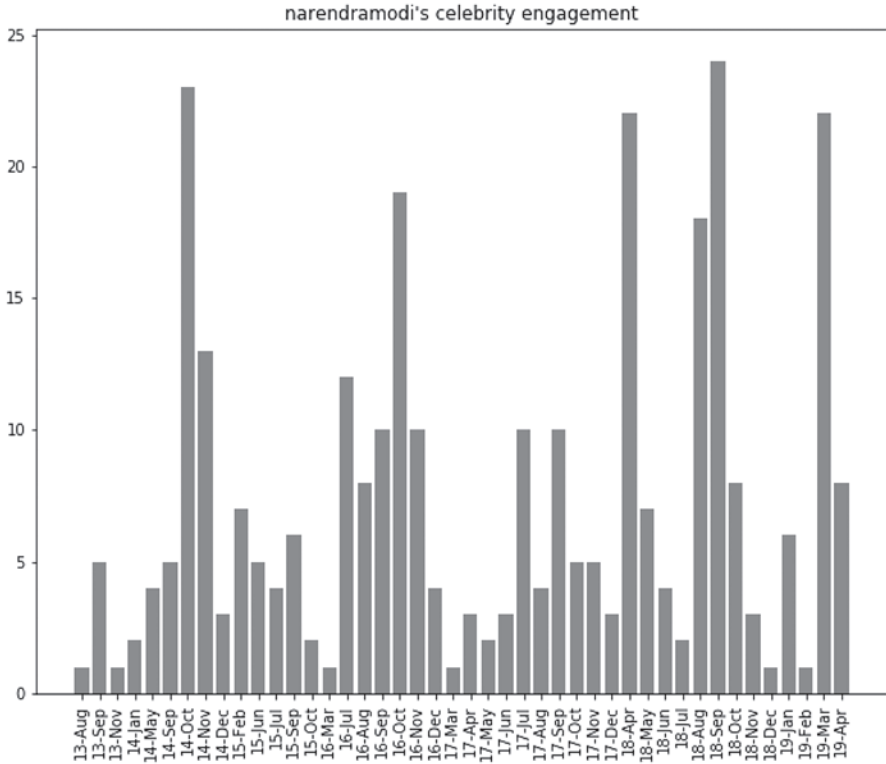


Fig. 16.7. Number of Tweets with Celebrity Engagements by Narendra Modi by Month since August 2013

istic than party-centric, his efforts to keep engaging celebrities through online postings continued into his first tenure.

Prior to 2013, celebrities were fairly guarded about engaging with Modi, for the negative reaction his brand brought. But 2013 also saw a radical remaking of celebrity-politician engagement. As we see in figure 16.7, Modi has engaged significantly with celebrities, in several months reaching out to 20 or more celebrities in his tweets. Not only does Modi depart from past heads of government who had limited engagement with celebrities outside of key events, he engages directly with celebrities even more than those who have moved to politics from lives in entertainment or sports. Modi made it a practice to thank celebrities who wished him around his birthday, so there are typically peaks around Septembers of each year, and also made congratulatory messages during sporting events. This kind of engagement is extremely valuable in popularizing initiatives that



Fig. 16.8. Modi's Tweet to Film Stars Prior to the 2019 Election

are presented as apolitical, such as #SwacchBharat, #HumFitTohIndiaFit, and #SelfieWithDaughter, but equally importantly, it creates an easy segue when he turns to them for political reasons.

The cultivation of celebrities would eventually crescendo in March 2019, a month before polling began, with public tweets to 65 celebrities, covering an overwhelming majority of the most followed and retweeted on social media, asking them to bring out the vote. As with 2014, these callouts did not have an explicit partisan call, but the difference between the style of outreach is also obvious in figure 16.8, where the references to popular cinema are integrated into the message to actors Madhuri Dixit, Ajay Devgun, and Anil Kapoor, as Modi appears to be making a plug for their 2019 film *Total Dhamaal* and in the process attempts to sound as if they were “in” with popular culture.

It is not as though celebrities have been uniformly aligned with the BJP and Modi through this period, it has just been made much more inconvenient not to. A group of 900 celebrities put together a public call to citizens to support Modi's reelection bid.⁵⁹ Now on the flip side, a group of artists and intellectuals wrote an open letter to Prime Minister Modi himself, urging action against mob lynchings, and the letter went viral on social media. The letter writers were later charged with sedition, public nuisance, and hurting religious feelings.⁶⁰ Public figures, including Aamir Khan, Deepika Padukone, and Navjot Sidhu, have been financially targeted when their political positions have been perceived as critical of the government.⁶¹

Indeed, the role of celebrities in the BJP's campaign logic was perhaps

most important in Modi's eventual appearance on a televised interview, in which popular film star Akshay Kumar interviewed him, re-creating his successful 2012 Google Hangouts engagement with Ajay Devgun, a Hindi film actor who had just starred in a huge blockbuster.⁶² The questions in the interview were stage managed, as was the actor's engagement with the interview. In contrast, Rahul Gandhi's engagements tried to be more authentic, eschewing studio interviews for unrehearsed, ad-hoc, and group interactions. While much will be said about these in time, there is little doubt about which were more effective.

Conclusion

One of the lasting legacies of political social media's impact in India, as elsewhere in the world, is the muddling of the information environment. The social media ban on Donald Trump shows how even the companies that monetize and benefit from virality have misgivings about what it does to their brands and perception of the kinds of information and action they enable.

Amit Shah famously boasted that his volunteers could make any—true or untrue—things go viral. The continuing conversations and much research on the levels of disinformation on social media in India are indicative of how political media has been muddled with incessant flows of questionable information, intended to polarize.⁶³

Such misinformation is by no means one-sided. While the BJP's information technology cell has been credited with some of the early misinformation intended to undermine Rahul Gandhi, as the tools of the trade were better grasped across parties, so did their manipulation. Following reports of misinformation, Facebook took down over 687 pro-Congress pages and 15 pro-BJP pages for systematic disinformation, and work showed that disinformation was far from haphazard, but came in well-planned, coordinated efforts from professional consultancies in the business of communications outreach.⁶⁴

Much reporting has referred to the 2019 election as a "WhatsApp Election"⁶⁵—mostly to highlight the negative impact it had on the quality of information making the rounds during the election,⁶⁶ and on the democratic process more broadly.⁶⁷ In the words of Ankit Lal, a strategist for the Aam Aadmi Party, "We wrestle on Twitter. The battle is on Facebook. The war is on WhatsApp"⁶⁸—the darkest hole of social media, where parties had least access to counter the kinds of misinformation being spread

about them online. As research by the Oxford Internet Institute has shown, disinformation was highest on encrypted platforms.⁶⁹

The issue with misinformation in political outreach is often that it is not solely or even primarily lies, but a spectrum of information ranging from outright lies to biased output intended to polarize. The targeting of political enemies is not new, but social media has changed the scale and speed with which it can transcend spaces. As Rahul Gandhi was targeted as naïve, West Bengal chief minister Mamata Banerjee was routinely referred to as “Mumtaz Begum,” reaching into prejudices against Muslims. The long dead Jawaharlal Nehru reemerged as the new villain of the right, presented as a fascist sympathizer, a womanizer, and an alcoholic, sometimes from the top echelons of the BJP.⁷⁰

Systematic disinformation was uncovered in the election season through the work of investigative journalist Samarth Bansal who showed that the “Association of Billion Minds,” a women’s rights nonprofit with over 150 employees and 12 regional offices, was in fact providing political outreach intelligence and campaign slogans, and managed two of the highest-spending Facebook pages during the 2019 election.⁷¹ The sophistication of the campaigns was driven in part by the professionalization and market expertise of the individuals who drove these campaigns, many of whom did not come from politics or public work, but rather from tech, and deeply understood the mechanics of online engagement, and engaged big data analysis companies to back them up. Indeed, the role of tech companies in actively courting, fueling, and benefiting from the dominance of the BJP on social media emerged when Facebook’s top public policy executive’s anti-Muslim messages and direct links to the government were exposed.⁷²

In the end, what matters is that the BJP has an unassailable majority in the center, arguably for years to come. Parliament increasingly functions as though on executive order, since no credible legislative challenge to any of the government’s plans can be made. As a result, social media then becomes a space where policy is performed by politicians. Projects with majoritarian appeal, including the Citizenship Amendment Act the National Register of Citizens,⁷³ and border skirmishes with Pakistan are presented in patriotic terms, while others, such as demonetization and Covid lockdowns, are presented through pseudo-events of performative appeal such as the candlelight vigils and clapping efforts for frontline workers during Covid. In such cases, the use of the online means of amplification, including the voices of celebrity influencers, reinforces the sense of widespread acceptance.

The role of social media in Indian elections has to be seen in its larger context, as something far more than the sum of its parts. When it began,

being online was a means for politicians to present a technocratic picture of themselves as public figures, but in the current day, this has evolved to much more—a politician who cuts a picture of themselves as a technocratic leader speaking directly to the people also enjoys the benefits of only talking about those issues they want to address, of avoiding direct interactions with the press, and of carefully curating the ways in which they are visually depicted.

The real effect of the professionalization of political outreach online is seen most potently in the way that the total information environment has been altered by social media. While disinformation played an important role in negative campaigning, the positive value of aggressive campaigning through champions such as celebrities also played a critical role in the success of the campaign. Celebrities are a key part of the Indian election story because of their place as public figures in an engaged democratic process, and this helps reinforce the narratives of the sides they pick. In one of the governments that has made some of the most sweeping changes in postcolonial political history, this may augur poorly for the future of the country's democracy.

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