

An SOS for India's Democracy and Media

April 15, 2022

Siddharth Varadarajan

The Wire

India's democracy has always been less than perfect and its media has tended to mirror those imperfections. But the reason I have chosen to speak on this subject today is because we are at a particularly dangerous moment in the life of both.

Of course, when we look at the decidedly shaky state of all our 'pillars of democracy', it is worth remembering the long arc of neglect, indifference and vandalism that has brought us here. The situation the Republic finds itself in [has not been the product of a day](#), nor is it the handiwork of a single person or party – this much is very clear. Future historians will no doubt be accurate when they say New Delhi was not destroyed in a day. But we must also have the honesty to recognise that the fabric of Indian democracy has been so badly – and deliberately – damaged by Narendra Modi, his party and his government that we are today at an inflexion point from which there will be no easy deliverance of the kind India experienced in 1977, when Indira Gandhi was voted out of power after she had imposed a two-year state of "emergency."

Why do I say this? For one, the undeclared emergency today is not the product of the whims or insecurities of one leader but marks a milestone in the implementation of a project that has been in the works since 1925, the project of Hindutva. But since this lecture is also about the media, consider this piece of evidence. By 1977, most media houses were chafing at the restrictions imposed on them by Mrs. Gandhi, even those who, infamously, had chosen not just to bend but crawl. But today, a large section of the media has fused itself with the ruling power vertical and is doing all it can to enable and accelerate the democratic backslide and the communal targeting of Muslims that is an integral part of this process. Another large section is unwilling to use the freedom it has to report on what is going on. This unwillingness of the media has contributed in no small measure to the crisis of democracy in India.

Since we are talking about the fate of hundreds of millions of people, there is every reason for us to be gloomy and despondent about what lies ahead. And yet, as we face the very real danger of losing our democracy, it is important for us to believe that we can and will pull ourselves back from calamity.

In my lecture, I will therefore try to transcend the gloom and doom by pointing to the small rays of sunshine that still exist.

Democracy is not something you put on display in a museum but a way of life which you must fight to conserve and strengthen and extend. Of course, it is not without irony that Narendra Modi is planning a reliquary for democracy in the very building which currently houses India's parliament. Having just bought the first ticket to the ugly new 'Museum of

Prime Ministers' in Delhi – built to overshadow the Nehru Memorial, in defiance of India's heritage conservation laws – Mr. Modi hopes to inaugurate his 'Museum of Indian Democracy' in 2025. That year will also mark the birth centenary of the Rashtriya Swayamsevak Sangh, the Hindu supremacist organisation to which the prime minister and most of his top leaders belong. These men would dearly like to celebrate their centenary with other milestones. And the work to get there has begun in earnest already.

I. 'A work in progress'

When he visited Delhi in July 2021, US Secretary of State Anthony Blinken was asked at a joint press conference with his Indian counterpart how he would “address the Indian government's backslide on issues such as human rights.” This was an obvious reference to the mass arrests and repression that had accompanied the scrapping of Jammu and Kashmir's autonomy and statehood, the repression of those who had opposed the controversial Citizenship (Amendment) Act and the new farm laws, the targeting of Muslims and Christians by Hindutva organisations, and the persecution of journalists – with more than 50 journalists across the country [facing criminal prosecution](#) for stories they have done.

Mr. Blinken was [cautious, even guarded, in his response](#), tempering his assessment of what was happening in India by presenting what he calls the 'democratic recession' as a problem the United States is also confronting:

“Every democracy, starting with our own, is a work in progress... We've seen the challenges that our own democracy has faced in the past and faces today. But this is, in a sense, common to all democracies. We... talk about in our founding document the search for a more perfect union. That, by definition, means that we're not perfect and that our entire quest is to get closer and closer to the ideals that we set for ourselves... And ultimately, I think we have in our democracies self-righting mechanisms that are made up of free citizens, of different backgrounds, different faiths, a free media, independent courts, powered by a system of free and fair elections.”

Mr. Blinken's rather anodyne comments drew a response from India's external affairs minister, Dr. S. Jaishankar, and I will quote him in full because it represents the clearest statement yet – in the idiom of modern politics – of the attitude of the Modi government towards democracy. Dr. Jaishankar said he told Mr. Blinken three things on the question:

“One, that the quest for a more perfect union applies as much to the Indian democracy as it does to the American one – indeed, to all democracies. Number two, that it is the moral obligation of all polities to right wrongs when they have been done, including historically. And many of the decisions and policies you've seen in the last few years fall in that category. And third, that freedoms are important, we value them, but never equate freedom with non-governance or lack of governance or poor governance. They are two completely different things.”

Before I subject Dr. Jaishankar's three points to closer scrutiny, let me share with you what emerged in the latest meeting he had with Mr. Blinken, on April 12.

This time, the U.S. Secretary of State did not wait for a question to be asked about his views on the state of Indian democracy. Instead, [as part of his opening statement](#) at the 2+2 meeting with the Indian foreign and defence ministers in Washington, he made the following observation:

"We also share a commitment to our democratic values, such as protecting human rights. We regularly engage with our Indian partners on these shared values, and to that end we're monitoring some recent concerning developments in India, including a rise in human rights abuses by some government, police, and prison officials."

This was a direct rebuke, made sharper by the fact that Mr. Blinken not only referred to a rise in human rights abuses but was open about pointing the finger at the Indian state itself.

Dr. Jaishankar's response came a day or two later. He [suggested that](#) views of the sort his American counterpart had offered on India were driven by "interests, lobbies and vote banks" and that India too had views on the human rights situation elsewhere, including the United States.

There is no doubt that the Biden administration, like its predecessors, has an instrumental view of human rights around the world which determines the extent to which violations are acted upon or ignored. Mr. Modi's tenure as prime minister has overlapped with the Obama and Trump administrations. If Mr. Blinken's assertion linking a "rise in abuses" to the actions of Indian "officials" rests on [the State Department's own documentation](#), the State Department's reports earlier, too, were hardly flattering. So if Presidents Obama and Trump chose silence in the face of India's deteriorating human rights record, was it because they were driven by a different set of "interests, lobbies and vote banks" than President Biden? Or could it be that the scale of violations in India, coupled with New Delhi's refusal to condemn the Russian invasion of Ukraine, has tilted the scales in Washington's mind?

My lecture is not about foreign policy and geopolitics, so I will set aside this line of thought and return to the state of India's democracy and media. And to the three points Mr. Jaishankar made in defence of the Modi government.

Don't talk to us about human rights and democracy, he had said, because – as Mr. Blinken had himself conceded – the quest for a 'perfect union' is common to both India and the US.

The second point Dr. Jaishankar made was that the Modi government has a "moral obligation" to right historical wrongs, and was doing so through "many of its decisions and policies". He didn't identify any specific decisions but the scrapping of Kashmir's autonomy, the passage of the discriminatory Citizenship (Amendment) Act and his government's push for a Ram temple at Ayodhya – which he has elsewhere [described](#) as 'a pledge redeemed, a heritage reaffirmed' – would seem to fall in this category of reversing what the BJP would consider 'historical wrongs'.

It is a different matter that these decisions and policies have contributed to the violation of peoples' rights on an unprecedented scale and to the growing sense of insecurity and vulnerability felt by Indian Muslims. We also know that the rhetoric that exhorts the righting of historical wrongs is part of the armoury of Hindutva, which believes India's quest for freedom began not with the advent of British colonialism but of what they call 'Muslim rule' some eight centuries ago. Mr. Modi himself speaks of ['1200 years of slave mentality.'](#) which takes us back to the 9th century, some hundred years after the Arab conquest of Sindh.

Third, and somewhat cryptically, Dr. Jaishankar said that while the Modi government values "freedoms", i.e. democracy and human rights, these should not be equated with a lack of governance. The Indian External Affairs Minister was no doubt referring to the laments Mr. Blinken had heard from the civil society activists he had met in Delhi at [a well-publicised interaction the same day](#). The Indian government had [already scoffed](#) at the "self-appointed custodians of the world" for various global freedom and governance indices on which India's ranking has fallen sharply in recent years. By saying freedom should not be equated with poor governance, Dr. Jaishankar was recycling the old authoritarian cliché about trains running on time. The message is that good governance is what the Modi government is providing, even if this encroaches on freedoms.

Last November, the intelligence czar in the Modi government – National Security Adviser Ajit Doval – [expanded on this third point when he warned trainee police officers](#), "The new frontier of war – what we call fourth-generation warfare – is civil society." It is civil society, he said, "that can be subverted, that can be suborned, that can be a divided idea, that can be manipulated to hurt the interest of a nation."

Taken together, what Messrs. Doval and Jaishankar are saying is that the work of civil society activists, human rights defenders, environmentalists, farmers' unions, Dalit and Adivasi activists, students and independent media can all be manipulated to hurt the interests of the nation. And that standing up to this subversion, this abuse of freedom, is what good governance and the rule of law are all about. In a nutshell, civil society is dangerously (and inherently) uncivil.

The official narrative concedes that problems of abuse can still arise – democracy is, after all, a work in progress, a common quest across all democracies – but that India's constitutional institutions are up to the task of resolving these glitches. It is to this claim – so central to our audit of the state of Indian democracy – that we must now turn.

II. 'The quest for a more perfect Union'

Secretary of State Blinken was being polite and diplomatically impeccable when he spoke of a 'common quest' for a 'more perfect union' in every democracy. So it is not surprising that Dr. Jaishankar would latch on to that. To the non-diplomats among us, however, it should be clear that any talk of a "common quest" is to compare chalk and cheese, or steak and *dhokla*.

Like India, the US is sharply polarised politically. And it is true that America underwent unprecedented upheavals in the last few weeks of the Trump administration, driven by lawlessness from the very top. In the same way, many of the actions which undermine the

basic rights of Indians have also emanated from the political pinnacle, but this is where the comparison wears thin. I am not qualified to speak authoritatively about the role played by the courts, the Justice Department, the FBI, election officials across America and the US media but I can say that with full confidence that in India, the role played by countervailing institutions, including the media, in the face of ongoing threats to democracy has been one of abdication and complicity. And that is what makes all the difference. Each of the “self-righting mechanisms” Mr. Blinken identified as essential ingredients of a democracy – the equality of citizens regardless of faith, a free media, an independent judiciary and a fair electoral process – are quite visibly broken in India, as I shall explain.

I will deal with the equality of citizens in the next section but let me focus here on the judiciary, on the media, and on elections, to highlight where the problem lies.

The Indian Constitution envisages the judiciary in India as an independent pillar of democracy, distinct from the executive and legislature. In reality, it is rare for the lower judiciary to confront the government when issues of fundamental rights are at stake. And when it does, its decisions are easily reversed. Aakar Patel is a former head of Amnesty International India and the author of *The Price of the Modi Years*, a recent book on Modi’s India. Last week, he was prevented from leaving the country to deliver a lecture at the University of Wisconsin. A lower court – in this case, a special Central Bureau of Investigation court – pulled up the government for the arbitrary manner in which it had stopped Mr. Patel and ordered it to allow him to fly out. Yet the CBI ignored the order, so Mr. Patel found himself [stopped a second time at the airport](#). I don’t want to burden you with detail but one aspect of this case is worth highlighting to give you a sense of the official arbitrariness that is, today, undermining the fundamental rights of Indians. The CBI told the immigration authorities to stop Mr. Patel at the airport, asserting that he was wanted for questioning in a criminal case. But Mr. Patel himself was not told that the CBI wanted to question him! Joseph K would find Mr. Patel’s predicament familiar.

The problem, sadly, is not confined to the lower judiciary. Supreme Court of India has yet to find the time to deal with various petitions challenging the constitutionality of key decisions taken by the Modi government. Chief among these is the manner in which Article 370 of the Constitution was read down to strip the people of Jammu and Kashmir of the autonomy they were guaranteed, and of their statehood. This decision was accompanied by one of the harshest and longest crackdowns on the civilian population that the Kashmir valley has ever seen: dozens of mainstream political leaders were arrested and detained, including three former chief ministers, the internet was shut down for months on end, and the functioning of the media made virtually impossible. The people of J&K have been deprived of their right to elected representatives for nearly five years now. Through all this, the Supreme Court of India has kept its intervention to the barest minimum. Since the sleight of hand used to render Article 370 a dead letter is unlikely to withstand judicial scrutiny – essentially, the required consent of the state’s elected representatives was substituted by the consent of the governor who is appointed by the federal government – the BJP government is quite happy with the delay. If and when the matter is adjudicated, the court could easily be prevailed upon to conclude that the sheer passage of time has rendered the challenge infructuous – to use the sort of word beloved of Indian judges.

I should note in passing that what Mr. Modi perpetrated was not just an assault on the autonomy of Jammu and Kashmir but on the basic structure of Indian federalism. India is actually the Union of India, and if the Union government, on the basis of its strength in the national parliament, can so easily do away with the very statehood of any state, then it makes a mockery of the federal principle. Can it do to Tamil Nadu tomorrow what it did to Jammu & Kashmir yesterday? Certainly, this must have been a question at the top of the mind of the DMK, which was one of the few regional parties to speak out in defence of the Kashmiris on this question.

Another case that the Supreme Court has steadfastly refused to hear concerns the constitutionality of anonymous electoral bonds. Introduced in 2017-18 by the Modi government, the BJP has consistently pocketed three-quarters of all money raised through this device. In 2019-2020, [this amounted to Rupees 2,555 crore](#), or approximately \$320 million. The bonds are money donated to political parties by corporations whose identity is kept hidden from the public and from the Election Commission of India. And this method of election financing was presented by the Modi government as a step towards greater transparency! A petition challenging the anonymous bonds was filed by the Association for Democratic Reforms (ADR) in September 2017. That is nearly five years ago. The Election Commission also submitted an affidavit opposing the scheme, [saying the scheme was](#) “contrary to the goal of transparency in political finance”. The last time the matter was heard was in March 2021, when the ADR sought an interim stay on the sale of these bonds, which the Supreme Court refused to grant. By then, [the Election Commission appeared to have had a change of heart](#). It opposed the call for a stay and also declared that it supported electoral bonds but only wanted them to be more transparent. On April 5, Chief Justice of India N.V. Ramana [said he would allow](#) the urgent listing of the electoral bonds matter. But no one is holding their breath.

Even though the threat that anonymous electoral bonds pose to free and fair elections is obvious – a ruling political party can strike deals with corporates for generous donations in exchange for favourable policy decisions without the public having any idea of where its money is coming from. Yet the Supreme Court has refused to expedite hearings on this crucial matter.

The Election Commission’s apparent U-turn is also of a piece with its blatantly partisan monitoring of compliance with election law when it comes to violations by prominent members of the Modi government. During the 2019 general election, the EC sat on complaints that had been made against Mr. Modi for his use of anti-Muslim messaging. For example, he mocked Congress leader Rahul Gandhi for standing from Wayanad in Kerala – a constituency, Modi said, “where the minority is the majority”. It was only after petitioners asked the Supreme Court to direct the EC to adjudicate the complaint that the three-member body moved swiftly, in a 2-1 decision, to find the charges against Mr. Modi invalid. The dissenting Election Commissioner, Ashok Lavasa, who was slated to become the next Chief Election Commissioner, soon found himself battling corruption charges which mysteriously melted away when he quit the commission to take up a job at the Asian Development Bank. I should add that when *The Wire* investigated the use of Pegasus spyware in India, we found Mr. Lavasa’s number in the leaked database of probable targets.

As if the Supreme Court's indifference and the Election Commission's complicity towards the subversion of democratic norms by the government were not bad enough, the use of Pegasus against leaders of the opposition in the midst of crucial election campaigns tells us how un-level the electoral playing field has become. This was worse than the Watergate scandal in the US because it involved the use of government officials using spyware purchased with government money to conduct political espionage against rival party leaders.

III 'Freedom as subversion': Targeting the media

Last year, *The Wire* helped break a major story about the use of military-grade spyware by an unidentified government client of the Israeli company NSO Group against a range of targets in India. Of the 300-odd telephone numbers that we were able to verify, around 40 belonged to journalists. Five of those belonged to journalists who work for *The Wire* or write primarily for it. In my case, and the case of my co-founding editor M.K. Venu, forensic tests established the presence of Pegasus on our smartphones. Others targeted included human rights defenders, lawyers, the opposition political strategist Prashant Kishore, Rahul Gandhi and even the young woman who had raised sexual harassment allegations against Ranjan Gogoi when he was the sitting Chief Justice of India.

The Modi government refused to confirm or deny its use of Pegasus and said it would not file a detailed affidavit. However, the Supreme Court rejected the government's attempt to duck an investigation on the grounds of national security. The establishment of a technical committee under the stewardship of a former judge to probe the extent to which Pegasus was used, and to identify who deployed the spyware on whose authorisation, is one of those glimmers of light I mentioned at the beginning of my talk. The government will no doubt stonewall the committee and then the ball will be back in the court of the Chief Justice of India. At that point, he must either take action – as the Constitution empowers him to do – or throw up his hands in frustration. The stakes are high – for the government, for the integrity of elections, for the right to privacy of citizens, and, of course, for the freedom of the press.

The Pegasus revelations came on top of six years of unremitting government hostility towards the media. This period has seen a refusal by the Prime Minister and his office to respond to questions from the press in a structured and transparent manner – a marked departure from the practice followed by his predecessors. Mr. Modi and other government ministers do not consent to be interviewed by any journalist or platform that is likely to be independent and want to ask follow-up questions. Ministers routinely use invective against journalists, like the word 'presstitute'. BJP supporters, driven in most cases by the party's IT cell, troll journalists and subject them to abuse. Earlier this year, *The Wire* reported on the BJP's use of a powerful, hidden app called TefFog which is capable of gaming social media trends, hacking inactive WhatsApp accounts and trolling government critics on an industrial scale – complete with a dropdown menu for paid operatives to highlight the physical features of women reporters they wish to be especially abusive against.

Now, the media might have been able to live with all of this – as we have done with frivolous defamation cases for years, except that the BJP and its governments have upped their offensive. The allegation of financial wrongdoing has emerged as a weapon against media houses like NewsClick, Dainik Bhaskar, The Quint and NDTV. This has happened in the past – [to Tehelka in 2002](#), for example. But there is now a disturbing new trend: It is becoming

routine in states like Uttar Pradesh and the Union Territory of Jammu and Kashmir to file serious criminal charges against journalists for the stories they have done or have attempted to do. Siddique Kappan has spent more than a year in a UP jail, charged as a terrorist for attempting to report on the rape and murder of a Dalit woman in the town of Hathras. In Kashmir, Fahad Shah and Sajad Gul have been booked under the Unlawful Activities (Prevention) Act and the Public Safety Act. Aasif Sultan, who has spent more than four years in jail on UAPA charges that the state knows it can never substantiate was rearrested this week under the PSA when a court finally gave him bail. In Manipur, the TV journalist Kishorechandra Wangkhem spent two lengthy bouts in jail for Facebook posts, including one where he questioned how cow urine and cow dung could protect anyone from Covid-19. It took Andamans-based journalist Zubair Ahmed 17 months to get the [high court to quash the serious offences](#) he was charged with for a tweet in which he had asked the police why they had quarantined a family simply because they had spoken to a coronavirus patient on the telephone. I can go on at sickening length. And lest you think this is a problem of the boondocks, remember that it was the police in New Delhi which filed a case of sedition – no less – against senior editors Mrinal Pande and Rajdeep Sardesai for reporting that a farmer who died during a protest in January 2021 had been shot. Another new tactic to target the media: invoking unspecified ‘national security’ concerns to cancel the broadcast license of TV channels, [as was done recently with MediaOne](#), a Malayalam new channel.

Though the burden of this criminalisation of journalism is largely falling on freelance reporters or journalists working for smaller outlets, big media houses have chosen to trim their sails. Proprietors are either risk averse or run business models which depend on government goodwill. Some, like the owners of Republic TV, Zee News, India TV and Sudarshan TV, are ideologically committed to the BJP’s cause, and derive considerable advertising support from the establishment. No amount of offensive, communal content – a violation of the broadcast code – will convince the government to withdraw their licenses. English newspapers tend to guard their own freedom but government views in the form of puff pieces and op-ed columns are much more common today than they have ever been in the past.

The Modi government has been least successful in managing the digital news media, a lament [made openly in a Group of Ministers report](#) on the government’s communication policies. In response to its inability to subjugate the digital media, the government has taken two measures. First, it introduced a cap of 26% on foreign investment in digital news – where earlier there was no cap – and also made approval subject to government permission. Second, it has introduced a new set of guidelines, known as the Information Technology Rules, 2021, which gives the government the right to order the taking down of content an inter-ministerial committee of bureaucrats finds inappropriate. *The Wire* and other news platforms have [challenged the IT Rules](#) and there is now a stay on the operation of its most obnoxious sections. But the ball remains in play and the peril continues.

As a journalist, I am naturally worried about the future of media freedom given the current trends. Our hope is that the judiciary, which has battled for a free press in the past, will continue to be an ally in freedom.

What I am less sanguine about is the growing coarseness and communalisation of public discourse in India and the failure of the courts to act in a way that sends a clear and

unambiguous message towards those actively promoting religious bigotry, especially against Muslims.

IV 'The righting of historical wrongs': Targeting Indian Muslims

Shortly after a visit to Germany in 1936, the great American public intellectual W.E.B Du Bois made a telling observation about the persecution of the Jews by the Nazi regime. As someone who had seen and written about the racism to which African-Americans in his own country were subjected, Du Bois zeroed in on what he believed was a key difference. "It was impossible" – Julia Boyd quotes him saying in her book [*Travellers in the Third Reich*](#) – to compare the plight of the blacks in the US with that of the Jews in Nazi Germany because 'what is happening in Germany is happening in a lawful way and openly, even if it is cruel and unjust. But in the US, the Negro is persecuted and repressed secretly in flagrant violation of the laws.'

Du Bois was not making light of one method of oppression but rather noting – presciently as it happens – that persecution and *especially violence elevated to the level of law* marks an inflexion point that should not be ignored. Discrimination and segregation were a part of life for Blacks – and Du Bois knew all about Jim Crow laws in the US – but he could see clearly the genocidal, eliminationist direction in which the Nazis were headed.

I was struck by Du Bois's comment because in my own assessment of the plight of religious minorities, especially Muslims, in India today this shift from being "repressed secretly in flagrant violation of the laws" – such as a large-scale massacre – to a cruel and unjust targeting and persecution that is "happening in a lawful way and openly" is occurring before our very eyes.

I have edited a book, *Gujarat: The Making of a Tragedy*, about the anti-Muslim violence in Gujarat that Narendra Modi presided over in 2002 as Chief Minister of the state. The book was conceived as a permanent public archive of a crime that had unfolded with great intensity over a wide area and lasted a few days. The 1984 massacre of Sikhs, presided over by the Congress party when it was in power, has also been documented, though not with the same degree of detail. Both of these incidents represented the high-water mark of what Paul Brass has called the 'institutionalized riot system'. The killings happened because the party in power willed them: the aim was to polarise society, mobilise Hindus and strike permanent fear in hearts of the targeted minority. The police served as ready accomplices through various acts of omission and commission. Though the main culprits all escaped punishment, the violence unleashed against the Muslims of Gujarat and the Sikhs of Delhi remained a flagrant violation of law and key instigators, especially top political leaders, were careful to remain in the shadows.

Today, the primary impulse behind the 'riot' remains but the 'system' has undergone a change of technology. Instead of a short, intense bout of large-scale violence in a geographically confined area, the preferred method is to terrorise with a thousand cuts. The field is cast wider, much wider, and the operation is conducted on a continuous basis. Most importantly, the BJP's strategy now is to persecute Muslims in a lawful and open way. In some cases, this means the use of new discriminatory statutes or the retrofitting of existing laws. It also means weaponising the law through so-called private complaints against

Muslims that the police is quick to pursue. The arrested individuals then have to struggle to find lawyers who will take up their case and get them bail.

Consider a recent example. Kuthma Sheikh was [arrested in Bagalkot, Karnataka, last month](#) for a private WhatsApp status message on Pakistan's Republic Day which simply said: "May God bless every nation with peace, unity and harmony." She was arrested on the basis of a private complaint by a man who is believed to be linked to a local Hindutva organisation. The charges invoked were two sections of the Indian Penal Code which deal with creating enmity between groups on the basis of religion, race, etc. When asked why they had arrested the woman for such an innocuous message, the police said, "We received a complaint that the post was provocative and aimed to cause friction in society. Since the uploader's intent is not determined, we are still investigating the matter." Hindutva activists pressured the local Lawyers' Association to refuse her representation, claiming she was anti-national. She eventually made bail, but not before spending two nights in jail.

This is one Muslim woman's story but there are dozens of such cases in India, mostly in BJP ruled states. Instead of investigating Kuthma Sheikh's intent behind a post he could see was harmless, the inspector never paused to wonder whether it was the intention of the complainant which warranted probing. This is because he understands the new system. In the old 'riot' system, he knew he had to look the other way when pro-government activists attacked someone. He didn't need to be instructed to do this, his inaction was instinctive. In the new system, the inspector knows his role is to throw the lawbook at any 'anti-national element' whom the Hindutva activists point their finger at. Sometimes, when the activists go too far and kill or seriously injure someone, the police will file counter-charges against the victim, as happened in the case of Akhlaq, perhaps the first victim of 'cow vigilantes' in north India,

The new system works well because it enlists and empowers vigilantism by Hindutva foot-soldiers and introduces a permanent element of uncertainty into the lives of Muslims who must now carefully consider whether their wellbeing could be jeopardised by what they eat or wear, read or post, say or do. The goal is the *erasure of the Muslim* – as visible individuals, as a collective, as a cultural or geographical marker.

Consider this depressing list, by no means exhaustive:

- The erasure of place names in Delhi, Uttar Pradesh and Madhya Pradesh;
- the ludicrous assaults on Urdu;
- the attempt to ban the hijab from schools;
- the calls for the social and economic boycott of Muslims that have gathered steam in the aftermath of the communal propaganda launched during the pandemic;
- the attempts to ban (and even criminalise) Muslim participation in Hindu festivals;
- the targeting of halal certification on meat and other products;
- the ban on the sale of meat during Hindu holy periods;
- the constant attempts to reclaim Muslim and Islamicate monuments as 'Hindu';
- the aggressive politics of taking Hindu religious processions through Muslim neighbourhoods as a means of supposedly 'reclaiming' and 'reintegrating' them with 'India';

- the summary demolition of Muslim property using bulldozers (seen recently in Madhya Pradesh and even Delhi).

These are all part of this process of erasure.

The Sangh *parivar* sees these moves as the righting of historical wrongs, to use Dr. Jaishankar's phrase. Some Hindutva leaders, notably Yati Narsinghanand, routinely call for the mass killing of Muslims and the eradication of Islam. All of these provocations have received explicit or implicit support from elected officials and leaders of the BJP. More significantly, they have never been condemned by a prime minister who claims he stands with all Indians.

This process of erasure represents only one aspect of the open and lawful persecution of Muslims in India today. But there are laws which have explicitly marked out Muslims as subjects for punitive action, and this represents a dangerous new turn in Indian politics.

I wonder how many people know that when a Muslim man abandons his wife – i.e. fails to divorce her properly as per law – he can be imprisoned, whereas a Hindu man, or a Sikh or Christian for that matter, who does the same faces no criminal sanction? I am referring to [the 2019 law which added the layer of criminality](#) to a process of divorce – the instant triple talaq – that the Supreme Court had already struck down as invalid.

In 2019, the Modi government again singled out Muslims as a category in law – via the Citizenship (Amendment) Act – this time to exclude them from the benefit of citizenship being given to all other undocumented migrants from Pakistan, Bangladesh and Afghanistan. If the goal was to provide benefits to bona fide victims of religious persecution in these countries who had fled to India – a laudable goal, no doubt – this could have been accomplished by passing a law to grant refugee status to victims of persecution and creating a transparent administrative and judicial process to have the claims of applicants processed speedily. Individuals with refugee status could then have been made eligible for citizenship, as is the norm in democratic countries with laws in conformity with the 1951 Refugee Convention. But the goal was something else – to use Dr. Jaishankar's words, it was the righting of a historical wrong. India for the BJP is the natural home of Hindus, or of people following so-called Indic religions, many of whom were left stranded by Partition. So, for the Modi government, the CAA was a logical step, with Christians added to the mix because they are an obviously persecuted minority in Pakistan.

I wish to make one further point on the CAA. BJP ministers like to argue that the CAA deals with non-Indians only and that the law does not discriminate against Indian Muslims in any way. This defence is morally spurious but it is also factually inaccurate. Consider the example of two Indian women, one Hindu and one Muslim, who have been married to two undocumented Bangladesh men, one Hindu and one Muslim. Under the unamended Citizenship Act, the children of both women are considered 'illegal migrants' and are liable to deportation along with their respective fathers. The CAA, however, offers a clear path for the Hindu Indian woman to live a normal family life free of the risk of disruption due to the deportation. But the Muslim Indian woman must continue to live with the risk of expulsion of her family from India. Surely no democratic country can countenance such blatant

discrimination as part of statute. But three years on, the Supreme Court has yet to find the time to properly hear the challenge to the constitutionality of the CAA.

In similar vein, a number of BJP-ruled states have introduced (or sought to introduce) stricter laws against religious conversion, on the spurious claim that Muslims are trying to increase their share of the population by seducing and converting Hindu women. The carve-out given to those who convert people back to their “original religion” means the *ghar wapsi* (or “homecoming”) activities of the RSS can continue even as conversions to Islam (or Christianity) are criminalized at the first instance, especially when there is an inter-faith marriage.

V Conclusions: Amidst the darkness, some rays of light

Where does this grim tour leave us? I had promised some rays of sunshine so let me try my hand at some optimism of the will.

To begin with my own case: *The Wire* is not going anywhere. Nor are we alone. There are dozens of media platforms – especially websites and some newspapers and TV channels – which doggedly pursue the path of independent journalism. There are thousands of gutsy freelance reporters – and I want to especially salute all those who are working in Jammu and Kashmir – who refuse to be intimidated even though they are in many ways the most vulnerable. Video content on YouTube has created a whole new audience and market for news. This has challenged the monopoly, and bias, of the big media. Digital news-viewing has also allowed for disinformation to be weaponised as an instrument of hate (and the role of Big Tech has been especially problematic here) but it has also created space for independent, professionally reported output.

Another source of hope against this backsliding is the resistance of political parties and regions in the south and east that see the unfolding anti-democratic project as an assault on what remains of federalism in India.

The rays of light are not just in the media or at the level of political parties. Despite the near total control of big media by the government, the fact that there were two mass movements in the space of a year – one against the CAA in 2019-2020 and the other against the farm laws in 2021-22 – shows the willingness of ordinary citizens to challenge the government and fight for principles and issues they believe in.

Helped by alternative media, these protest movements have effectively challenged the relentless democratic backsliding India has witnessed. Elsewhere in India too – whether in Silger, Chhattisgarh or in Odisha and Assam – ordinary people have not given up faith in their own power. It is these ordinary people who cherish democracy the most. They will be India's salvation.

This is the text of the lecture I delivered on April 15, 2022, revised slightly to include some of the insights raised by the three discussants – Ed Luce, Paula Chakravarty and Salil Tripathi – as well as Ashutosh Varshney. I am grateful to them, and the audience at the Watson Institute at Brown University, for their comments, suggestions and questions.

April 20, 2022

