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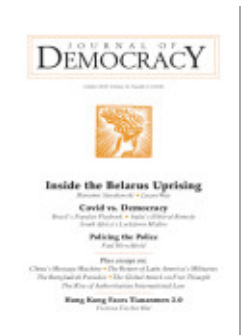
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## Covid vs. Democracy: India's Illiberal Remedy

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# Covid vs. Democracy

## INDIA'S ILLIBERAL REMEDY

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The world's largest democracy is sliding toward competitive authoritarianism, and the covid-19 pandemic has sped it along the way. Under Prime Minister Narendra Modi, India is displaying worrisome symptoms that bring to mind other democracies with populist leaders, including the United States, Brazil, and the United Kingdom.<sup>1</sup> Over time, such backsliding can end in competitive authoritarian rule if ruling parties succeed in undermining key democratic institutions to an extent that makes it difficult for the opposition to return to power.<sup>2</sup> While India has been moving along this path ever since the right-wing, Hindu-nationalist Bharatiya Janata Party (BJP) came to power in 2014, the coronavirus crisis has provided new opportunities for Modi's government to eviscerate the checks on its authority.

In responding to the virus, the BJP government not only imposed a strict nationwide lockdown—with devastating collateral damage—but also adopted a governing style that weakened the position of India's states and cut the parliamentary opposition out of decision making. Critics of the government have faced legal harassment, and all this has taken place with little sign of the robust, rights-oriented judicial review that might once have been expected from India's Supreme Court. India has not yet reached the point of no return on the road to competitive authoritarianism. Nonetheless, it is currently careening in that direction with alarming speed.

Already evident during Modi's first term, the use of the state's strong arm to undercut civil liberties and overpower opponents of the BJP's Hindu-nationalist agenda became even more pronounced after the party

won 303 out of 545 parliamentary seats in May 2019 national elections. In particular, the government has initiated a number of actions undermining the status of Indian Muslims. In a process finalized in August 2019, it “updated” the National Register of Citizens in the northeastern state of Assam in a way that left 1.9 million residents—particularly Muslims originally from Bangladesh—without legal status. These residents now face the prospect of incarceration in detention camps. Also in August 2019, the BJP took advantage of its parliamentary majority to pass legislation terminating the special status of India’s only Muslim-majority state, Jammu and Kashmir, and converting it into two separate union territories. Top Kashmiri leaders were imprisoned. This marked a significant erosion of Indian federalism.<sup>3</sup>

These worrisome trends are moving quickly. In November 2019, the Supreme Court ruled in favor of constructing a Hindu temple in Ayodhya over the ruins of the Babri Mosque (destroyed in 1992), deferring to popular beliefs that hold this site to be the birthplace of the Hindu god Ram. Although the Court tried to compensate Muslims by providing a larger site for a mosque at an alternate location, this ruling raised serious concerns about the health of Indian secularism. The next month the government adopted a Citizenship Amendment Act widely viewed as discriminatory against Muslims, sparking mass protests. In February 2020, an outbreak of sectarian violence in Delhi left 53 dead, with the larger share of the casualties among Muslims.

The covid-19 pandemic thus struck at a moment when democracy was on shaky footing in India. Like many governments, New Delhi initially responded by ordering a nationwide lockdown. On March 24, the day this measure was ordered, the country recorded only 37 new infections. On July 6, when the lockdown was lifted under intense economic pressures, the corresponding figure was 22,250.<sup>4</sup> As of this writing in September 2020, India had the world’s second-highest number of recorded cases and third-highest number of deaths (though the country ranks considerably better if these figures are considered per capita).

India’s lockdown was a colossal failure, and the problems extended beyond its lack of success in containing the virus. The lockdown, which took the form of a police-enforced curfew, left forty- to sixty-million migrant workers without access to any salary or social support, forcing them to defy the law and bear immense hardships to return home.<sup>5</sup> In addition, the manner in which Modi’s government first decided on the lockdown and then responded to its critics intensified the process of democratic erosion in several regards.

First, the central government imposed the lockdown without consulting either the parliamentary opposition or the governments of India’s states (the country’s main subnational territorial units). The states were also largely left to fend for themselves financially.

Second, India’s government paid little heed to expert technical advice

with respect to either public health or economic management. Effective democratic governance relies on a synergy between executive-branch politicians and the government's bureaucratic and technical arm. The centralized decision-making processes of autocracies, on the other hand, are often closed to the purveyors of sound technical advice. In India, decisions about responding to covid-19 were made in a centralized fashion within the Prime Minister's Office. Epidemiologists who were at odds with government policy lacked the information access they needed to independently appraise the government's claims.

Finally, the BJP government used its institutional power to shut down dissent. Taking advantage of friendly courts, it fended off challenges from journalists, activists, and others who called attention to the tragic situation of migrant workers under the lockdown. The state went so far as to seek a Supreme Court ruling requiring government pre-approval for media items on covid-19. Although the Court did not grant this request, it did "direct the media to refer to and publish the official information about the developments"—having accepted the government's argument that "fake news" was to blame for the efforts of migrant laborers to return home.<sup>6</sup> Since the start of the lockdown, more than fifty journalists have faced arrests, police complaints, or physical attacks, in some cases hit with charges specifically linked to spreading fake news or violating epidemiological regulations.<sup>7</sup> It is to the credit of India's vibrant civil society that media continue to report.

## Dealing with Political Opposition

India's lockdown was imposed with a mere four hours' notice, and the government's decision making excluded both opposition parties and the states. The provision of emergency assistance was similarly centralized—and personalized. Rather than working through the Prime Minister's National Relief Fund (PMNRF), Modi launched a trust with the acronym PM CARES (Prime Minister's Citizen Assistance and Relief in Emergency Situations). Even though some states drew heavily on their internal resources to finance an emergency response, they received very little financial support from the center. Under a government whose actions had already raised concerns about the strength of Indian federalism, this centralized emergency governance threatens to further undermine some of the main checks on the BJP's power.

***Containing the Parliament.*** Although opposition leaders sought a debate in early February 2020, soon after the first case was discovered, the lockdown was never debated in Parliament. Discussion in the lower house covered issues such as airport screening and steps taken to acquire N95 masks and other equipment.<sup>8</sup> On March 17, the minister of health and family welfare gave detailed answers in the upper house to ques-

tions pertaining to airport screening, visa restrictions, clinical management of covid-19, the setting up of a Group of Ministers, and engaging with the states and medical institutions.<sup>9</sup> On the lockdown's eve (March 23), however, the ongoing parliamentary session was abruptly halted, ruling out any legislative consideration of this measure.

Soon thereafter, the government issued a raft of notifications covering matters such as travel restrictions, the export of masks and ventilators, the new PM CARES trust, and a covid-19 mobile app titled Aarogya Setu. Introduced in early April, Aarogya Setu (like many contact-tracing apps around the world) uses Bluetooth to identify other users with whom the phone's owner has been in physical proximity, theoretically enabling it to notify those at risk if that owner tests positive. India's app, however, has raised privacy concerns due to certain design features (it tracks user location, for instance, and makes data from infected users accessible to health authorities rather than solely alerting their contacts), as well as questions about how the data it gathers will be shared. Its use is technically voluntary, but has been required by some employers and institutions.<sup>10</sup>

In other regards, the government was less enthusiastic in its embrace of technology. To get around the problem of bringing legislators together during the pandemic, some countries held virtual parliaments, but neither India's Parliament nor its standing committees chose to do so. While opposition parties urged the holding of virtual sessions, top parliamentary officials demurred on the ground that such meetings could be hacked. The numerous government notifications issued in the wake of the lockdown order thus went unchallenged by the legislative branch.<sup>11</sup>

***Centralizing Emergency Relief.*** After shutting down the Parliament, the government launched PM CARES, a donation-funded entity that nonetheless operates from a .gov website and has the prime minister as its ex officio chairman. Why did the country's leaders take this step, even though there was already both an official, statute-based National Disaster Response Fund (NDRF) and the PMNRF with about US\$500 million in its coffers? First, it may have served their interest in centralization. The new national trust was authorized to receive foreign donations and tax-exempt domestic donations, and contributions would count as part of companies' mandatory "corporate social-responsibility" spending—whereas contributions to chief ministers' relief funds in the states would not. PM CARES thus strengthened the center by putting it in a position to make decisions about how to channel funds to the resource-starved states.

Second, the close identification between PM CARES and Modi personally may have provided an extra incentive for potential donors eager to stay in the prime minister's good graces. At a time of general economic distress, sizeable donations came in from both public- and private-sector

sources. Some companies, such as Reliance Industries (which gave \$68 million), contributed despite having slashed employee salaries. Public-sector employees were called on to contribute a day's worth of their salaries to the fund, with at least one ministry initially setting up automatic monthly donations before backtracking.

Third, a new fund may have had appeal as a way of avoiding oversight. PM CARES is not subject to the same public scrutiny as the NDRF or the PMNRF. Its website offers little information about the intended disbursement of funds, although the Prime Minister's Office has made some general statements on their planned uses (including ventilator purchases, vaccine development, and support for migrant laborers). In May, the Prime Minister's Office denied a right-to-information application concerning the fund on the questionable ground that PM CARES is not a "public authority," and months later the Supreme Court turned down a petition seeking the transfer of funds from PM CARES to the NDRF.<sup>12</sup>

***Cutting Out the States.*** Under India's federal constitution, public health comes under the authority of the states. Yet the center failed to engage adequately with these subnational units, to the detriment of both Indian federalism and the pandemic response. For example, the central government based its decision making on an Indian Council of Medical Research (ICMR) covid-19 database that seems to have been rife with errors; it might have gained a more accurate sense of local hotspots had it instead relied on established collaboration between the states and a disease-surveillance program run by the National Centre for Disease Control.<sup>13</sup>

Moreover, the center has shown little interest in easing the financial pressures that the states faced once the pandemic hit. This was in part because India's revenue generation was hit by the flawed implementation of the Goods and Services Tax (GST) Act (2017) and consequent dip in revenue collection, as well as by an economic slowdown that began before covid-19 arrived in India and by the economic disaster caused by the pandemic itself. In addition, the government took a centralizing approach to its financial relations with the states. Not only would the center not deploy its resources or borrow on behalf of the states as legally mandated when the GST was introduced, but it directed the states to instead borrow the shortfall, especially for the covid-19 response effort, from the market under conditions given by the Ministry of Finance.<sup>14</sup> To give just one example, Kerala, which has been widely lauded for its covid-19 response, announced a package of more than \$2.6 billion designed both to fund public-health measures and to support residents and migrant workers during the lockdown. What the state received in return from the center was a comparatively paltry sum of \$200 million.<sup>15</sup>

With little help from the center, the states are finding it difficult even to pay the salaries of their government employees. Covid-19 arrived

when tax collection was at an all-time low following a period of depressed economic growth. Despite the fiscal emergency, the central government has not even paid the states the revenues they are owed from the GST. According to a recently retired finance secretary, the Finance Commission (a constitutionally mandated entity focused on center-state financial relations) recommended that \$9.9 billion be devolved to the states, but the center has provided only \$3.9 billion. There are also limitations on state borrowing that some economists view as a way of subjecting the states to the center's discipline.<sup>16</sup>

### Powering Without Puzzling

Good governance depends on good ideas, and in this regard the relationship between elected politicians and bureaucratic experts is key. In a well-functioning democracy, these bureaucracies enjoy some independence that enables them to concentrate on problem solving (puzzling) while executive-branch politicians keep their eyes on the electoral math (powering).<sup>17</sup> Germany's covid-19 management offers an example of such a system in action. Berlin relied on excellent technical knowledge to formulate policy, while working within Germany's federal system to win buy-in from the states.<sup>18</sup>

India, by contrast, gave little consideration to expert knowledge when it made the decision to lock down. At the top, Prime Minister Modi was aided by an apex group of seven or eight high-level career civil servants, including the cabinet secretary, the home secretary, the health secretary, and the principal secretary to the prime minister. Under India's civil-service system, these are supertechnocrats with wide experience across ministries but without specialized knowledge in the fields relevant to managing a pandemic.

Yet centralization—and the prime minister's direct involvement—failed to ensure a speedy response. For example, even though the World Health Organization declared a pandemic on 11 March 2020, the ICMR established its high-level technical committee of experts only on March 18. With a few exceptions (including Kerala), most committees established at both the central and the state levels lacked epidemiologists, virologists, and pulmonologists. They were instead dominated by politicians, bureaucrats, and sometimes clinicians. Modi also reportedly made a number of personal calls to solicit advice from entrepreneurs and other notables.<sup>19</sup>

***Neglecting Medical Opinion.*** When shaping its lockdown policy, India's government failed to take to heart several key insights from the available epidemiological research. The ICMR and the Press Information Bureau have contended that advice from the ICMR's High-Level Task Force was considered before the lockdown. The government's ac-

tions, however, suggest otherwise. Two papers published by ICMR scientists in February 2020 offered important guidance from which the Indian government's strategy notably diverged. One paper used modeling to show how widely the virus might spread without a system in place for the testing and quarantine of patients. Still, a clear government approach to testing had yet to take shape as late as mid-April. A second paper argued in favor of a community-led approach to quarantine, rather than a lockdown on the model of a police curfew. One author told journalists that a curfew-type lockdown would be effective only at isolating those who lived in less dense spaces, were rich, and could afford to remain isolated for a long time.<sup>20</sup>

Kerala's spectacular covid-19 management also offered valuable lessons for the central government. This state was vulnerable early on to the virus's spread due to its high volume of visiting tourists as well as the many people from Kerala who live abroad (and hence travel back and forth across national borders). Nonetheless, case numbers grew far more slowly than in other states, and Kerala had recorded only three deaths by mid-April. While these figures have been rising, as of early September the state's chief minister reported a mortality rate (8.4 deaths per million) that was well below the national average of 48.<sup>21</sup>

Kerala began making significant preparations in January and set out clear covid-19 guidelines on January 24, before the state recorded its first infection. Airport screenings succeeded in identifying travelers with covid-19 who were arriving from Wuhan. Thanks to the lessons of a 2018 Nipah virus outbreak, the state deployed an aggressive community-based strategy that included testing, contact tracing, and quarantine. The state's investments in public health paid off. Women's self-help groups worked closely with village-level governments, taking advantage of substantial financial devolution to the local level. More than 330,000 volunteers were enlisted, and community-level efforts sought to ensure that vulnerable groups were supplied with basic necessities. These lessons were lost on the central government.<sup>22</sup>

That government paid a steep price for disregarding both its own experts and lessons from successful opposition-ruled states. One glaring defect in its planning was a failure to consider the situation of India's migrant laborers, many of whom set out for home on foot or bicycle after finding themselves stranded without resources. Initially, authorities attempted to employ police power to restrain these laborers as they sought to return from richer states with high covid-19 infection rates (such as Maharashtra) to poorer states with lower infection rates (such as Bihar and Uttar Pradesh). Eventually the government was forced to change course, and in mid-May special trains began operating to bring migrants back to their home states.

When returnees began arriving in their poorer home states, where health infrastructures were often in abysmal condition, new outbreaks



predictably ensued. As of July 1, for instance, about 80 percent of the coronavirus cases reported by the government of Jharkhand were identified among migrant workers. The spread of covid-19 in poorer states became a cause of concern for the center in July 2020. On May 25, three premier Indian medical associations submitted a joint statement to Prime Minister Modi criticizing the lockdown for both its failure to contain the virus and its broader human toll. They specifically cited the situation of migrant workers.<sup>23</sup>

***Poor Economic Planning.*** India's economic situation was worrisome even before covid-19 hit: Growth had slowed, unemployment was at an all-time high, and the budget deficit had expanded to 10 percent of GDP. With the onset of the pandemic, the economy was thus caught between the devil and the deep blue sea. There was very little fiscal room for maneuver, yet the lockdown created an overwhelming imperative to raise spending. India now needed a savvy economic plan, but the government failed to deliver.

Rather than provide a meaningful fiscal stimulus, the government made big pledges that turned out to consist largely of funds already promised as part of earlier commitments. Consider the package of \$22.6 billion (1 percent of GDP) announced on March 26. Not only was this sum far lower than the 5 percent of GDP most economists argued was needed, but it included very little new spending. Amounts allocated for transfers to farmers and increased wages for participants in the MGNREGA employment-guarantee program were part of previously budgeted expenditures.

Some new and welcome commitments were nonetheless insubstantial when weighed against the magnitude of hardships faced by the population. These included the provision of free cooking gas for three months and collateral-free loans to women's self-help groups. The government also pledged to contribute to the employers' and employees' share of the Employees' Provident Fund (retirement savings on which participants may also draw in event of unemployment) for those earning less than Rs15,000 (\$200) per month. On April 3, the central government transferred \$2.3 billion to the states, but 36 percent of this consisted of a revenue-deficit grant already recommended by the Finance Commission before covid hit.

There was, however, close to no commitment of funds to cover the board and lodging of migrant laborers, who lacked job security and coverage under the social-security system. For example, a woman worker who ordinarily earned \$100 would receive a monthly payment of just \$6.60 under the government's emergency plan, and even this miserly sum was not offered to working men. Moreover, laborers gained access to the free distribution of food grains only in mid-May, by which time they had generally found a way to return home in order to escape starva-

tion. Media reports convey a wrenching sense of the inhuman character of the Indian lockdown.

The failure to make food or cash available to migrant workers in their places of work gave rise to downstream problems. The government's second revenue package, passed in mid-May, was focused on providing favorable terms of credit to enable small and medium-sized industries to resume work. Yet this was far more difficult for them to do once a large share of their workforce had returned home. On June 21, the prime minister announced an additional \$6.6 billion package designed to aid returned migrant laborers by creating employment in six poor states.<sup>24</sup> While this is a positive development, it is not clear how far this measure will go in solving the crisis created by the government's initial failure to assist migrant workers.

### Dealing with the Judiciary

India's Supreme Court has long been regarded as a pillar of human rights and democracy. During the covid-19 crisis, however, it has shown a subservience to the central government reminiscent of the 1975–77 Emergency. One of India's leading public-interest lawyers, Prashant Bhushan, has argued that the Supreme Court itself has been "locked down."<sup>25</sup> In responding to the plight of migrant workers under the lockdown, the Supreme Court lagged behind the High Courts of states such as Karnataka, Tamil Nadu, Uttar Pradesh, Maharashtra, and Gujarat. Effectively giving up its long tradition of human-rights-oriented judicial review, the Court turned a blind eye to acts that imperiled the right to life enshrined in Article 21 of the Indian Constitution.

Yet this behavior was in fact consistent with the recent evolution of the Court's jurisprudence, which has displayed a growing tendency to ignore excesses on the part of the central government. The Supreme Court has come under the sway of chief justices who can marginalize judges with contrarian views. As a result, important cases such as those pertaining to the 2019 Citizenship Amendment Act, which challenges the secular character of the constitution, or those pertaining to the abolition of the special status of Jammu and Kashmir, among many other pressing issues, were not heard.<sup>26</sup>

Since the start of the lockdown, public-interest lawyers such as Alakh Srivastav and Prashant Bhushan; activists Harsh Mander, Aruna Roy, and Nikhil Dey; scholar-activists such as Jagdeep Chhokar; politicians such as Mahua Moitra; and many others had raised concerns about the government's migrant-labor policy that cried out for judicial review. Their petitions argued for a number of sensible measures, including providing migrant laborers with food, shelter, and transportation home, as well as minimum wages during the lockdown. Likewise, since the central government had directed employers to continue wage payments dur-

ing the lockdown, it should follow its own rules by continuing payments to participants in MGNREGA.

Rather than applaud the media and NGOs that called attention to the plight of migrant labor, however, the Court responded with the above-mentioned mandate that media outlets reference the government's covid-19 information, effectively warning the media to tread carefully. The gravity of the situation was evident: On May 16, sixteen migrant returnees were run over and killed by a freight train in Maharashtra, and one estimate found that two-hundred laborers lost their lives trying to return home between March and May. A number of High Courts in various states expressed concern. Despite such general awareness, the Supreme Court refused to entertain a petition on May 15.

On May 26, after the central government had already changed its position and arranged for the special trains, the Court finally issued a *suo moto* notice (an action taken by the court on its own initiative, rather than in response to the filing of a case) directing the central government and the states to provide free travel, shelter, and food to migrant workers. The notice came after fifteen "senior advocates" of the Supreme Court addressed a sharp letter to the justices. Despite this order, most returnees had to buy their own tickets, often after borrowing from friends and relatives. The trains did not serve food, and many died on the way. Had the Court acted in a timely fashion, these tragic outcomes might well have been avoided.<sup>27</sup>

### Dealing with Media, Activists, and Minorities

India's media, already under attack during Modi's tenure, were further debilitated during the lockdown. India dropped two positions to the rank of 142 among 180 countries in the Reporters Without Borders 2020 World Press Freedom Index, and the Office of the UN High Commissioner for Human Rights listed India among twelve Asian countries where restrictions on "fake news" had been deployed during the pandemic in ways that raised concerns about freedom of expression. While Indian media continue to report, they face greater threats than ever before.

Since 2014, Prime Minister Modi has held virtually no formal press conferences open to the public view. On March 24, however, six hours before the lockdown, he convened a videoconference with twenty of India's leading editors and media owners. This meeting was less a press conference than an effort to enlist journalists in the project of promoting positivity in a time of crisis. The session had the desired effect, with most media dons appreciative that the prime minister had taken the time to meet with them. Very few of the participants would challenge the government's authority as the repository of the truth. Those who dared to take a different view came under pressure: A television channel that showed a large number of migrants congregating before a Delhi bus ter-

minal on March 28 received a warning from the government.<sup>28</sup> Yet while the crisis made it easier to target journalists and activists, this did not necessarily lead to their surrender. The case of Siddharth Varadarajan, a founding editor of the independent digital portal *The Wire*, shows how the media are fighting to defend the principles of secular democracy.

On April 1, Varadarajan received a First Information Report, or FIR (a police document registering an alleged offense that marks the starting point of an investigation), from the government of Uttar Pradesh. The complaint was made in connection with a March 31 story in *The Wire* covering a covid-19 outbreak linked to a thousands-strong annual gathering at the Delhi headquarters of Tablighi Jamaat, a Muslim faith organization. Devout followers from across South and Southeast Asia as well as from Europe had arrived at the congregation between late February and early March 2020. Some members had contracted the virus, and one Thai national died on March 17. There is a debate about how well the organization complied with government directives on gatherings, but by the end of March, the Tablighi Jamaat had become the target of popular vilification.

To place this situation in context, *The Wire's* report pointed out as of March 18, Uttar Pradesh chief minister and prominent Hindu nationalist Yogi Adityanath was still insisting on holding a planned religious celebration in Ayodhya from March 25 to April 2. While the mass festival was later cancelled, Adityanath (as the article also noted) did attend a religious ceremony on March 25 in defiance of official guidelines. After the appearance of this report and a tweet promoting it, Varadarajan received an FIR alleging a range of offenses: disobeying lockdown orders, promoting enmity, and, oddly, impersonation using a computer. Varadarajan, a Delhi resident, was directed to appear in court in Ayodhya even though the lockdown made this impossible. The FIR was stayed by the High Court in Uttar Pradesh following a public outcry.<sup>29</sup>

Another FIR was filed against *Scroll.in* Executive Editor Supriya Sharma in connection with reporting on hunger among Dalits in Prime Minister Modi's constituency. This filing drew substantial public criticism, including from the Editors Guild of India. Lesser-known activists and journalists working in vernacular languages, especially those in smaller towns, face greater difficulty surviving the government's onslaught. Six journalists were booked in the state of Himachal Pradesh for reporting on the lockdown's ground-level impact. Ashwani Saini of Mandi District, who produces videos for a Facebook page, received an FIR on April 8 in connection with videos that addressed the administration's failure to provide food to migrant workers, then three more on April 13, after he approached Prime Minister Modi and Chief Minister Jai Ram Thakur with his grievance. The next day his car was seized by the police for curfew violation, although as a journalist he was permitted to be out.<sup>30</sup>

The situation for activists is also troubling. Eminent human-rights ac-

tivist and former civil servant Harsh Mander, who was an early petitioner on behalf of migrant labor, was named in a charge sheet in connection with the murder of an Intelligence Bureau officer during the February riots in Delhi. The sheet cited a supposedly inflammatory speech that Mander had delivered at the respected Delhi university Jamia Milia Islamia on 16 December 2019, one day after police brutally dispersed student protests against the Citizenship Amendment Act. In February 2020, Jamia Milia Islamia became one of the centers of student violence. Mander's speech had called for the defense of India's secular constitution and noted that the country's Muslims had made a choice to stay in India rather than migrate to Pakistan.<sup>31</sup>

## Democracy Under Threat

Indian democracy is still alive, but the covid-19 pandemic has enabled the BJP to act on its competitive authoritarian propensities to a greater extent than ever before. The effort to centralize covid-19 management—ignoring Parliament and the states—not only led to a crisis of governance, but also constituted a serious attack on Indian federalism. Political powering behind an unworkable policy line, formulated without the needed consultations, engendered a failed lockdown, with cases surging rather than declining after it went into effect. The hollowing-out of judicial review and the government's attacks on the media have intensified the threat to democratic governance.

India's democracy now faces a crisis comparable to the National Emergency of 1975–77. The Emergency, the two years of formal authoritarian rule in independent India, witnessed a hollowing-out of civil liberties while the Supreme Court showed subservience toward the executive. Yet the secular character of the Indian constitution did not come under attack. Regulatory institutions such as the Election Commission, the Reserve Bank of India, and the Comptroller and Auditor General of India did not lose their integrity as they have under Modi. Today we are witnessing an unprecedented attack on civil liberties, federalism, Parliament, and independent regulatory institutions. Indian secularism faces a serious challenge.<sup>32</sup> It will take a herculean effort for a weak opposition, acting in an adverse institutional environment, to confront the BJP's authoritarian politics head on and halt India's backsliding before the country has passed the point of no return.

## NOTES

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1. Talmiz Ahmad, "Self-Absorbed, Uncaring, Incompetent: COVID Has Exposed Populist Leaders for What They Are," *The Wire*, 29 June 2020; Aurel Croissant, "Democracies with Preexisting Conditions and the Coronavirus in the Indo-Pacific," ASAN Forum, 6 June 2020, [www.theasanforum.org/democracies-with-preexisting-conditions-and-the-coronavirus-in-the-indo-pacific](http://www.theasanforum.org/democracies-with-preexisting-conditions-and-the-coronavirus-in-the-indo-pacific).

2. See Steven Levitsky and Daniel Ziblatt, *How Democracies Die* (New York: Crown, 2018); Larry Diamond, *Ill Winds: Saving Democracy from Russian Rage, Chinese Ambition, and American Complacency* (New York: Penguin, 2019).

3. Sumit Ganguly, "An Illiberal India?" *Journal of Democracy* 31 (January 2020): 193–202.

4. See <https://coronavirus.jhu.edu/map.html>.

5. Rahul Mukherji, Jai Prasad, and Seyed Hossein Zarhani, "Can COVID 19 Malign the Idea of India?" *The Viral Condition: Identities Virtual Symposium*, 15 June 2020, [www.identitiesjournal.com/the-viral-condition-virtual-symposium/archives/06-2020](http://www.identitiesjournal.com/the-viral-condition-virtual-symposium/archives/06-2020).

6. Supreme Court of India, Record of Proceedings, Writ Petition No. 468/2020, 31 March 2020, [https://drive.google.com/viewerng/viewer?url=https://www.livelaw.in/pdf\\_upload/pdf\\_upload-371977.pdf](https://drive.google.com/viewerng/viewer?url=https://www.livelaw.in/pdf_upload/pdf_upload-371977.pdf); "Indian Supreme Court Denies Government Request for Prior Censorship of Covid-19 News," Committee to Protect Journalists, 31 March 2020, <https://cpj.org/2020/03/indian-supreme-court-denies-government-request-for>.

7. Danish Raza, "India Arrests Dozens of Journalists in Clampdown on Critics of Covid-19 Response," *Guardian*, 31 July 2020.

8. *Statement Regarding the Response of Government of India to Novel Coronavirus Outbreak in China* [in Hindi], 17<sup>th</sup> Lok Sabha (10 February 2020) (statement of Harsh Vardhan, Minister of Health and Family Welfare), <http://loksabhaph.nic.in/Debates/Result17.aspx?dbst=3704>.

9. *Coronavirus Outbreak*, Rajya Sabha, 251<sup>st</sup> sess. (17 March 2020) (statement of Shri Ashwini Kumar Choubey, Minister of State in the Ministry of Health and Family Welfare), [http://164.100.47.5/Official\\_Debate\\_Nhindi/Floor/251/F17.03.2020.pdf](http://164.100.47.5/Official_Debate_Nhindi/Floor/251/F17.03.2020.pdf), 279.

10. See for instance Chinmayi Arun, "India's Contact Tracing App Is a Bridge Too Far," Council on Foreign Relations, 2 September 2020, [www.cfr.org/blog/indias-contact-tracing-app-bridge-too-far?utm\\_source=tw&utm\\_content=090220&utm\\_medium=social\\_owned](http://www.cfr.org/blog/indias-contact-tracing-app-bridge-too-far?utm_source=tw&utm_content=090220&utm_medium=social_owned).

11. Maansi Verma, "Parliaments in the Time of the Pandemic," *Economic and Political Weekly*, 13 June 2020.

12. On PM CARES see [www.pmcared.gov.in/en](http://www.pmcared.gov.in/en); Geeta Pandey, "Coronavirus: Secrecy Surrounds India PM Narendra Modi's '\$1Bn' Covid-19 Fund," BBC News, 30 June 2020; Mani Gupta and Vedant Kumar, "Centre Must Create Transparency, Trust on COVID-19 Relief Efforts," *The Wire*, 20 May 2020; Priscilla Jebaraj, "How Different is the PM CARES Fund from the PM's National Relief Fund?" *The Hindu* (Chennai), 10 May 2020; Ministry of Corporate Affairs, Government of India, "Office Memorandum: Clarification on Contribution of PM CARES Fund as Eligible CSR Activity, eF.No. CSR-05/1/2020-CSR-MCA, 28 March 2020; "Finance Ministry Issues Modified Circular on Salary Contribution to PM-CARES Fund," *Economic Times* (Mumbai), 30 April 2020; Samanwaya Rautray, "Supreme Court Refuses to Direct Modi Government on PM CARES Fund," *Economic Times*, 19 August 2020.

13. Mridula Chari and Nitin Sethi, "Flawed Covid-19 Database Used To Ease Lockdown," *Article 14*, 15 May 2020, [www.article-14.com/post/flawed-covid-19-database-source-of-decisions-to-ease-lockdown](http://www.article-14.com/post/flawed-covid-19-database-source-of-decisions-to-ease-lockdown).

14. Discussion with Atul Sarma, Member, 13<sup>th</sup> Finance Commission, Government of India, and one other senior government official who wishes to remain anonymous, 13 September 2020.

15. Sumit Ganguly, "Can India Avert a Health Apocalypse?" *Foreign Policy*, 17 March 2020; T. M. Thomas Isaac and Rajeev Sadanandan, "COVID 19, Public Health System and Local Governance in Kerala," *Economic and Political Weekly*, 23 May 2020.

16. Aditi Phadnis, "Fiscal Stimulus by FM Is Mostly Credit Oriented, Says Subhash Chandra Garg," *Business Standard* (New Delhi), 16 May 2020; Atul Sarma and Manish Gupta, "Does India's Current System of Fiscal Transfers Undermine the Spirit of Co-operative Federalism," *Scroll.in*, 7 June 2020, <https://scroll.in/article/963569/does-indias-current-system-of-fiscal-transfers-undermine-the-spirit-of-co-operative-federalism>; Nilakantan RS, "The Central Problem," *Caravan*, 1 June 2020.

17. Hugh Hecló, *Modern Social Politics in Britain and Sweden: From Relief to Income Maintenance* (New Haven: Yale University Press, 1975). See also Peter A. Hall, "Policy Paradigms, Social Learning, and the State: The Case of Economic Policymaking in Britain," *Comparative Politics* 25 (April 1993): 275–96; Rahul Mukherji and Seyed Hossein Zarhani, "Governing India: Evolution of Programmatic Welfare in Andhra Pradesh," *Studies in Indian Politics* 8 (June 2020): 7–21; Rahul Mukherji, Himanshu Jha, and M.N. Roy, "Ideas and Policy Paradigms: Explaining the Fall of Welfare Politics in West Bengal," *Indian Politics & Policy* 2 (Fall 2019): 53–84.

18. See for instance Frederick Pleitgen, "What Trump Could Learn from Angela Merkel About Dealing with Coronavirus," CNN, 16 April 2020, [www.cnn.com/2020/04/16/europe/merkel-trump-germany-federalism-analysis-intl/index.html](http://www.cnn.com/2020/04/16/europe/merkel-trump-germany-federalism-analysis-intl/index.html).

19. Uday Mahurkar, "Inside PM Modi's COVID-19 Task Force," *India Today*, 9 April 2020, [www.indiatoday.in/india-today-insight/story/inside-pm-modi-s-covid-19-task-force-1665239-2020-04-09](http://www.indiatoday.in/india-today-insight/story/inside-pm-modi-s-covid-19-task-force-1665239-2020-04-09); Sunil Nandraj, N. Devadasan, and P. L. Girish, "Analysis: Who Has Been Put on the Committees to Advise India on its Fight Against the Coronavirus," *Scroll.in*, 16 May 2020, <https://scroll.in/article/961781/analysis-who-has-been-put-on-the-committees-to-advise-india-on-its-fight-against-the-coronavirus>.

20. View based on discussions with a former health secretary and an ICMR scientist. See also, Nitin Sethi and Kumar Sambhav Shrivastava, "Frustration in National COVID 19 Task Force," *Article 14*, 23 April 2020, [www.article-14.com/post/no-action-taken-frustration-in-national-covid-19-task-force](http://www.article-14.com/post/no-action-taken-frustration-in-national-covid-19-task-force); Pranab Chatterjee et al., "The 2019 Novel Coronavirus Disease (COVID-19) Pandemic: A Review of the Current Evidence," *Indian Journal of Medical Research* 151 (Feb–March 2020): 147–59; Sandip Mandal et al., "Prudent Public Health Intervention Strategies to Control the Corona Virus Disease 2019 Transmission in India: A Mathematical Model-Based Approach," *Indian Journal of Medical Research* 151 (Feb–March 2020): 190–199.

21. See Oommen C. Kurian, "How the Indian State of Kerala Flattened the Coronavirus Curve," *Guardian*, 21 April 2020; Soutik Biswas, "Coronavirus: How India's Kerala State 'Flattened the Curve,'" BBC, 16 April 2020, [www.bbc.com/news/world-asia-india-52283748](http://www.bbc.com/news/world-asia-india-52283748); "Kerala Performing Well on All COVID-19 parameters, says Chief Minister Pinarayi Vijayan," *Economic Times*, 5 September 2020.

22. Personal interview with S. M. Vijayanand on 21 June 2020; S.M. Vijayanand, "Kerala's Management of COVID 19: Key Learning," *Ideas for India* (May 2 2020), see [www.ideasforindia.in/topics/governance/kerala-s-management-of-covid-19-key-learnings.html](http://www.ideasforindia.in/topics/governance/kerala-s-management-of-covid-19-key-learnings.html); Isaac and Sadanandan, "Covid 19."

23. "Full Text: Draconian Lockdown, Incoherent Strategies Led to India Paying a Heavy Price, Say Experts," *Scroll.in*, 31 May 2020, <https://scroll.in/article/963384/full-text-draconian-lockdown-incoherent-strategies-led-to-india-paying-a-heavy-price-say-experts>.

24. On the stimulus packages see Lekha Chakraborty and Emmanuel Thomas, Covid-19 and Macroeconomic Uncertainty: Fiscal and Monetary Policy Response,” *Economic and Political Weekly*, 11 April 2020; Arun Kumar, “Covid-19 Crisis: Understanding the State of Economy During and After Lockdown,” *Economic and Political Weekly*, 9 May 2020; Sangeeta Ghosh, “Examining Covid-19 Relief Package for MSME’s,” *Economic and Political Weekly*, 30 May 2020; “Rs 20 Lakh Crore Booster Shot: Sitharaman Unveils First Instalment Aimed at MSMEs, NBFCs, Discoms,” *The Wire*, 13 May 2020; Abhishyant Kidangoor, “Modi’s Hasty Coronavirus Lockdown of India Leaves Many Fearful for What Comes Next,” *Time*, 31 March 2020, .

25. Prashant Bhushan, “The Supreme Court Is Locked Down and Justice Is in ‘Emergency’ Care,” *The Wire*, 28 April 2020.

26. For further details, see this author’s interview with Prashant Bhushan, 11 September 2020, [www.youtube.com/watch?v=pt8KFmXCPZo](http://www.youtube.com/watch?v=pt8KFmXCPZo).

27. This section benefited from discussions with Prashant Bhushan, Nikhil Dey, Madan Lokur and Harsh Mander. They also shared important documents. See Prashant Bhushan, “Stifling Democracy Sans Emergency,” *Live Law*, 28 June 2020, [www.livelaw.in/columns/stifling-democracy-sans-emergency-159041](http://www.livelaw.in/columns/stifling-democracy-sans-emergency-159041); Mihir Desai, “Covid-19 and the Indian Supreme Court,” *BloombergQuint*, 28 May 2020, [www.bloombergquint.com/coronavirus-outbreak/covid-19-and-the-indian-supreme-court](http://www.bloombergquint.com/coronavirus-outbreak/covid-19-and-the-indian-supreme-court).

28. Sagar, “Speaking Positivity to Power,” *The Caravan*, 31 March 2020.

29. “Uttar Pradesh Starts Criminal Probe into The Wire Editor for Alleged ‘Discord’ During Covid-19 Lockdown,” Committee to Protect Journalists, 2 April 2020, <https://cpj.org/2020/04/uttar-pradesh-starts-criminal-probe-into-the-wire->; “FAQ: What Are the UP Police FIRs Against the Wire Actually About?” *The Wire*, 19 April 2020; Siddharth Varadarajan, “In India, a Pandemic of Prejudice and Repression,” *New York Times*, 21 April 2020.

30. See “Himachal Pradesh: 10 FIRs Against 6 Journalists For Reports, Posts on Lockdown,” *The Wire*, 13 May 2020; Sunil Kashyap, “NHRC Acts on Complaint of Journalist Being Targeted amid Lockdown in Varanasi,” *The Caravan*, 21 July 2020. This point was also made by senior journalist Paranjoy Guha Thakurtha in a teleconference on 29 May 2020.

31. See “‘Constitution, Love, Ahimsa’: Harsh Mander’s Speech Which Centre Now Claims ‘Incited Violence,’” *The Wire*, 5 March 2020.

32. See the author’s interview with Prashant Bhushan, [www.youtube.com/watch?v=pt8KFmXCPZo&t=1154s](http://www.youtube.com/watch?v=pt8KFmXCPZo&t=1154s).