

India: The World's "Largest Democracy" Marching to a Police State

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Evidence keeps mounting daily of India's descent into a police state where the freedoms guaranteed in the Constitution: free speech, freedom to express opinions against the policies of the government, are being honored more in the breach than in the observance. Two examples of this suffice.

The first example concerns the actions of the Delhi police in prosecuting and persecuting all those who had courageously expressed their opposition to the Citizenship Amendment Act (CAA) and related regulations through peaceful, non-violent, mass open air protests that began in the national capital and subsequently spread to other cities. The protests were led mainly by young Muslim women supported by students, civil rights activists and people of all ages and all walks of life. These protests continued through December, January and most of February when violence erupted in north-east Delhi after ruling BJP politicians gave highly provocative speeches urging their audiences to "shoot the traitors", i.e. the protestors. In the aftermath of the violence where 53 people, mostly minority Muslims, were killed, property burned and looted and places of worship such as mosques desecrated, none of the BJP leaders who incited the violence have been apprehended while many of the protestors have been arrested and charged under draconian laws like UAPA (unlawful activities prevention act) that allow the authorities to jail those arrested for long periods without bail or a trial.

As reported in the Wire news portal on August 28, 2020, Amnesty International in a very recent report accused the Delhi police of committing torture and serious rights violations during the Delhi riots and even "indulging in violence with rioters" and behaving with "rampant impunity." The report "highlighted that though a pregnant student, Safoora Zargar, was arrested by the police under the Unlawful Activities Prevention Act 'and sent to jail during the COVID-19 pandemic for her alleged role in the riots', 'till now, not even a single political leader that made hate speeches which advocated violence in the build-up to the riots has been prosecuted'". Though Amnesty recommended that the Union Ministry of Home Affairs initiate a thorough and independent investigation into the allegations against the Delhi police, its own report admitted that the Home Minister Amit Shah had given a clean chit to the Delhi cops a few days after the riots.

While the Delhi cops are clearly in the forefront of dragging the country towards a police state, other jurisdictions are trying to compete. The Mumbai police, for example, issued an outrageous order to a 24-year-old Dalit woman student, Suvarna Salve, a slum dweller and lead singer of a cultural troupe who had participated in an impromptu anti-CAA demonstration last January 6. The order called for her to furnish a surety of Rs 50 lakh (about \$70,000) that would be forfeited for any future misbehavior in the eyes of the Mumbai cops. She was also dubbed a "habitual offender", despite this being the first time she was ever charged, and threatened with "externment", another colonial-era rule that allows authorities to banish someone they didn't like from their own home.

The second example is the Bhima-Koregaon case, now over two years old, where a group of lawyers,

academics, poets and human rights activists, many of them elderly folk in their eighties, seventies and sixties, have been arrested under sensational charges, the most fanciful of them a plot to assassinate Prime Minister Modi. Dubbed as “urban Naxals” by the lapdog Indian media, the people in this group, incarcerated in overcrowded jails under inhumane conditions, where one of them, the 80-year old poet Varavara Rao, was exposed to and caught the coronavirus infection. They have been repeatedly denied bail by the lower courts. With no indication of their trial beginning any time in the near future, the very process itself has become the punishment. Some of them, given their advanced age, may in fact die as undertrials. The state could care less.

These patently arbitrary actions of the executive branch of the state are, admittedly, not unique to the current BJP regime alone that has been in power since 2014. Despite the liberal-democratic constitution adopted after it attained independence, the Indian government retained some of the undemocratic laws it inherited from the British colonial regime, notably the law against sedition that has no place in a democratic society and was abandoned years ago in Britain itself. Incidentally, the sedition law has been used several times in India in recent months to jail people, especially minority Muslims, who criticized actions or policies of the government, particularly those related to the CAA.

But the “unkindest cut” of all to democratic rights has been delivered by the judicial branch of the state, particularly the Supreme Court, that democratic and human rights activists had relied on a decade ago as a protection from arbitrary actions of government. However, in the last couple of years as majoritarianism surged, especially in the wake of the BJP’s electoral victory last year, the court has become a virtual doormat of the executive, meekly succumbing to its wishes and ignoring legal challenges to all repressive and authoritarian actions. There was the strange, if not grotesque, spectacle of the court spending time in the last few weeks adjudicating and pronouncing punishment of senior advocate Prashant Bhushan for his offensive tweets that seemed to “violate” the Court’s “dignity”, while it ignored and postponed for months on end any consideration of, let alone judgment on, the hundreds of petitions for habeas corpus related to the arbitrary arrests following the dissolution of the J&K state last August. This action speaks volumes about the current temper of the court. In a constitutional democracy the court is generally regarded as an essential and final safeguard against authoritarian acts of government that transcend democratic norms. On the basis of its current decisions, India’s Supreme Court seems to be failing this test. With the legislative bodies in abeyance ever since the emergence of the coronavirus pandemic, and the courts simply kowtowing to the wishes of government, India’s descent into a police state appears unstoppable at the moment. But in a vast and diverse country, the embers of the struggle against authoritarian rule will continue to smolder and not get extinguished. Hopefully, in the not too distant future they will be again flare up; in the meantime, as the poet said: “chale chalo ke voh manzil abhi nahi aayi” (keep going; we have not reached our destination yet).

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