

## Why India Exemplifies Our Global Democratic Recession

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No country is a better exemplar of our global democratic recession than India. Most unlikely at its founding, India's democracy confounded legions of naysayers by growing largely stabler over its first seven decades. India's democratic deepening has happened in *formal* ways—through the consolidation of civilian rule over the military and the ushering in decades of vibrant multi-party competition—and *informal ways*—through the strengthened norms of Electoral Commission independence, the increasing participation of women and subordinate social groups in formal political life.

India has also witnessed two significant democratic declines: one 18-month period in 1975-77 known as the Emergency and another, contemporary period of decline beginning with Narendra Modi's election in 2014. During Modi's tenure, key democratic institutions have remained formally in place while the norms and practices underpinning democracy have substantially deteriorated. This informal democratic decline in contemporary India stands in stark contrast to the 1977 Emergency, when Indira Gandhi formally eliminated nearly all democratic institutions—banning elections, arresting political opposition, eviscerating civil liberties, muzzling independent media and passing three constitutional amendments that undermined the power of the country's courts.

Yet democracy watchdogs agree that today India resides somewhere in a nether region between full democracy and full autocracy. While democracy-watching organizations categorize democracies differently, India is a 'hybrid regime'—that is, neither a full democracy nor full autocracy—in all of them. In 2021, the U.S.-based Freedom House (FH) changed India from 'Free' to 'Partly Free' in its three-ratings scale of Free/Partly Free/Not Free. The same year, Sweden's V-Dem relegated India to an 'electoral autocracy' in its four-rating scale of Closed Autocracy/Electoral Autocracy/Electoral Democracy/Liberal Democracy. And the U.K's Economist Intelligence Unit moved India into a 'flawed democracy' in its four-rating scale of full democracies/flawed democracies/hybrid regimes/authoritarian regimes. India's democratic downgrading moved 1.4 billion of the world's 8 billion people into the category of autocratizing countries. India's drop from the 'Free' to the 'Partly Free' category between caused the proportion of the world living in a 'Free' country to fully halve.<sup>1</sup> Simply put, wherever you draw the conceptual lines between the land of democracy, the sea of autocracy and the marshlands marking the hybrid regions, the democratic world is considerably less populous without India among its ranks. The question of whether India is a democracy today is not just pivotal to our analysis of India's political future but our understanding of democratic trends. India, this year the world's most populous country, is where the global battle for democracy is being fought.

Some disagree that India has substantively deteriorated into hybrid regime territory. Unsurprisingly, the Indian government has reacted with disbelief and accusations of western bias, calling India's democratic downgrade 'misleading, incorrect and misplaced.'<sup>2</sup> In August 2022, the Economic Advisory Council to the Prime Minister released a working paper calling out inconsistencies in these democracy rankings. Yet there is reason why regime assessments, like a central bank's interest rates, are best made by independent organizations. As these thinktanks have not been shy about critiquing the quality of western democracies (EUI downgraded America into a 'flawed democracy'—the same category as India—in 2016 for example), there is little evidence to back up this claim. But a minority of independent voices also resist India's re-categorization as a hybrid regime. Akhilish Pillalamarri writes in an

article entitled “Why India’s Democracy is Not Dying” that “cultural and social trends [in India today] are not necessarily evidence of democratic backsliding, but are rather evidence of social norms in India that are illiberal toward speech, individual expression, and criticism.”<sup>3</sup> And some political scientists dispute that democratic backsliding is happening globally.<sup>4</sup> So has India really departed the shores of democracy? And if so, is India’s transition into the marshlands of hybrid regimes reversible? The answer to both questions is yes.

### ***What’s in a name? Democracy’s five key dimensions***

To evaluate India’s democratic downgrading, it is first necessary to define democracy, both because adjudicating the debate over India’s democratic decline rests on conceptual clarity and because democracy undoubtedly connotes normative legitimacy. Democracy is a concept that instantiates a system of government ‘of the people, by the people, and for the people’ in Abraham Lincoln’s pithy phrase. Clarity on the non-normative dimensions of democracy that operationalise this idea points us towards the criteria we can use to assess the state of India’s democracy.

Scholars mostly agree that five institutions are important to a country’s designation as democratic. The first and most important institution is *elections* for the chief executive and legislature. Elections are the *sine qua non* institution of democracy, the core means through which a government is held accountable to citizen voice. Freedom House, chosen because it has the simplest ranking system, annually assesses democracy through 100-point scorecard, of which electoral integrity is the first sub-section. North Korea, for example, is not a democracy in virtue of the absence of elections. Yet scholars of democracy have long understood that focusing only on elections in defining democracy was a ‘fallacy of electoralism’<sup>5</sup>—and that upstream institutions crucially impact whether these elections are genuinely fair, even if the electoral moment is itself free.

A second institutional pillar of democracy is thus the presence of genuine political *competition*. Regimes where individuals have the right to vote in elections, but where incumbents make it difficult for opposition to organise are not generally considered democracies. The right to organise political opposition is reflected in the second sub-section of FH’s country reports, which asks about both the legal rights and the realistic obstacles to organising opposition. Elections are held in Saudi Arabia for example, though political parties are wholly outlawed. Regimes where political competition is not banned outright, but where incumbent executives legally manoeuvre to disqualify important rivals, are less than fully democratic. For example, Vladimir Putin’s disqualification of his most important rival, Aleksey Navalny, is one key reason that democracy watchdogs deem Russia as autocratic. As Adam Przeworski rightly quips, democracy is a system all ‘parties lose elections.’<sup>6</sup>

Democracy also requires governmental *autonomy* from other forces that can halt or wholly subvert democratic elections, the third institutional pillar. Such vetoes have typically assumed two forms during the last century: imperial/colonial regimes that prevented countries from fully shaping their own political and economic policies and regimes in which military elites effectively rule the country, even in the presence of democratic window-dressing. Thus, the third sub-section of FH’s country reports assesses whether ‘freely elected heads of government and national legislative representatives determine the policies of government.’ Pakistan and Egypt are classic cases in which contemporary regimes are understood not to be fully democratic, even when competitive elections occur in the presence of significant civil liberties, because security forces and top military officers hold unaccountable vetoes on the decisions taken by elected heads of government. Of the ten questions that FH asks to assess its first

broad category, ‘political rights,’ almost all inquire into these three pillars of elections, competition, and governmental autonomy.

But two more pillars are also conceptually crucial to democracy because these pillars enable both citizens and independent branches of government to evaluate government’s performance. The fourth pillar is (both *de jure* and *de facto*) civil liberties. Where a substantial proportion of citizens are systematically deprived of speech that is critical of the government, and assembly, as is the case of Rohingya Muslims in Myanmar, the Ahmadiyyas in Pakistan, or the Uighurs in China, it diminishes democracy because a substantial proportion of citizens do not have the means to voice dissent. Many prominent scholars have correctly argued that definitions of democracy which do not include basic civil liberties are inadequate, including this journal’s co-founder Marc Plattner, who argues that democracy needs an “*ample* degree of protection of political and civil liberties”<sup>7</sup> while Mainwaring and co-authors suggest that “illiberal” democracies should be removed from classification of democracy altogether.<sup>8</sup>

This point is worth emphasising for ‘illiberal democracy’ has become a well-worn term. Democracy requires *a meaningful degree of civil liberties* for elections to be deemed free and fair. This conception of democracy is also embraced by democracy watchdogs such as Freedom House, which awards fully 60 of its 100-point democracy scorecard for civil liberties, making it mathematically impossible for a regime with a perfect record of political rights (40 points) and no civil liberties (60 points) to rank as a ‘Free’ Regime (which typically ranges from 70-100 points). Civil liberties are often neglected by scholars who quantitatively observe that democratic backsliding is not occurring. Little and Meng, who broadly argue that democratic backsliding is not occurring globally, concede that “[i]t is worth emphasizing at the outset that most of our objective measures focus on electoral institutions and outcomes, rather than civil liberties. We acknowledge that institutions are much easier to observe and code objectively, and that it is much more difficult to systematically collect objective time-series data on rights protections.”<sup>9</sup>

An independent media that makes the formation of critical public opinion possible and increasingly understood to be part of this civil liberties pillar. Modern democracy only became possible when citizens could critique government policies. Scholars of democracy have come to understand the crucial role that an independent media plays in informing a population about the abuses of power, abuses which are inevitable under any type of regime. Independent media is particularly important because independence allows media to risk displeasing government powerholders—a task which is all but impossible when media salaries are (directly or indirectly) paid by government. As Marc Plattner recognised, “the media of the late twentieth-century offered generally reliable sources of information and fostered an arena of public discourse that encompassed a wide range of citizens. There is reason to fear that the more fragmented media world now emerging will lead to ever more specialized niche audiences, and to citizens getting their information only from sources that reflect their own predilections and political views.”<sup>10</sup>

The fifth institutional pillar of democracy is *executive checks* that prevent an elected head of government from declaring ‘l’etat, c’est moi’ (the state is me). Democracy is a set of institutions embedding a practice of government accountability. This accountability takes two forms: a vertical accountability between the people and the highest levels of elected government, typically elections and alternative political forces, and a horizontal accountability between an unconstrained executive and independent institutions, typically independent legislatures and courts, that can constrain an elected executive from trampling on civil liberties.

Horizontal constraints on the executive have been defining of democracy since James Madison, who wrote: “In order to lay a due foundation for that separate and distinct exercise of the different powers of government, which to a certain extent is admitted on all hands to be essential to the preservation of liberty, it is evident that each department should have a will of its own; and consequently should be so constituted that the members of each should have as little agency as possible in the appointment of the members of the others.”<sup>11</sup> Turkey is assessed a fully autocratic regime today not because elections and competition do not exist *to some degree*, but because other branches of government do not form a substantive check on the power of Hungary’s president, who asserts a high degree of control over the elections council, judiciary, police, and media.

Two important points follow from this five-pillar conceptualization of democracy which are germane to our assessment of India’s contemporary democratic decline. The first point is that the scholarly definition of democracy has rightly expanded over time. Democracy watchdogs would neither designate Athenian Greece, where just one-tenth of the population could vote in elections, nor Switzerland in 1970, when the female half of the population could not vote, as democracies. Changing goalposts for measuring democracy are not necessarily evidence of bias, but rather of an evolving understanding of what institutions are needed to translate the idea of ‘government of, by, and for the people’ into genuine practice. Over the past half-century, as authoritarian leaders have learned to adopt the window-dressing of democracy while quashing those institutions which practically instantiate it, democracy watchdogs have correctly adapted by seeking to better assess whether government institutions embody accountability as well as such institutional rights exist not just *de jure* but *de facto*.

One specific way in which scholarly conceptions of democracy have expanded is a newfound understanding of the importance of institutional norms in buttressing democracy. As Nancy Bermeo prophetically wrote in this journal in 2016, we are living in an age of democratic backsliding characterised by the decline of overt democratic breakdown. *Coup d’etats* are being replaced by promissory coups (“fram[ing] the ouster of an elected government as a defence of democratic legality); executive coups are being replaced by executive aggrandizement (“elected executives weaken checks on executive power one by one, undertaking a series of institutional changes that hamper the power of opposition forces to challenge executive preferences”); and election day vote fraud is being replaced by pre-election strategic manipulation (“denot[ing] a range of actions aimed at tilting the electoral playing field in favour of incumbents. These include hampering media access, using government funds for incumbent campaigns, keeping opposition candidates off the ballot, hampering voter registration, packing electoral commissions, changing electoral rules to favour incumbents, and harassing opponents—but all done in such a way that the elections themselves do not appear fraudulent.”)<sup>12</sup> In other words, democratic decline is assuming the form of an incremental undermining of democratic institutions wherein “troubled democracies are now more likely to erode than shatter.”<sup>13</sup>

And the clearest signs of such democratic erosion are that elected leaders question the legitimacy of all opposition and that use every available legal tool to undermine it. Drawing on a broad range of historical cases, Steve Levitsky and Daniel Ziblatt argue that the role of unwritten rules and norms of behaviour towards political opposition are they key in preventing democratic deterioration. They argue that the two most important norms are *opposition tolerance*, in which political opponents are not treated as enemies but simply as political rivals, and *forebearance*—or a limited the use of the legal methods to steamroll opposition, such as executive orders, vetoes and filibustering.<sup>14</sup> Contemporary democratic backsliders tend not

transform overnight to autocracies. Instead, democracies slowly die when opposition is no longer tolerated and when elected politicians use the full might of the law to quash rather than compromise with opposition.

India's contemporary democratic decline is a paradigmatic case of these crucial democracy-supporting norms sharply eroding. As Figure 1 indicates, the formal institutions of India's democracy (largely reflected in FH's Political Rights category and corresponding to the elections, competition, and autonomy pillars of democracy) has remained relatively stable over the past decade. However, India's civil liberties ranking has eroded year on year since 2019, dropping from 42 points in 2010 to 33 in 2023 (out of a possible 60 points). It is this nine-point drop in FH's civil liberties index that has moved India from the category of democracy (which generally have scorecards of over 70) to the terrain of a hybrid regime (which generally have scorecards between 35 and 70). And as I detail below, it is a warranted decline.

### **Figure 1 here**

A second, related point is that the same regime can become autocratic in decidedly different ways at different points in time. And different regimes can be equally undemocratic, but for different reasons. Democratic recessions need not be dramatic, as is the case with a military coup or the kind of *autogolpe* that India witnessed under Indira Gandhi's Emergency. In 2023, FH researchers gave Iraq and Mali the ranking of 'Not Free' and the exact same score of 29—but for radically different reasons. Mali ranks low on political rights (8 out of 40 possible points) because the country has not yet returned to having regular elections after military coups. Mali's interim military government indefinitely postponed a constitutional referendum which would have restored elections and party competition. But Mali ranks highly among full autocracies for civil liberties (21 out of 60 possible points) because the media is relatively independent and there are broad rights to dissent and expression. By contrast, Iraq scores relatively highly among full autocracies on political rights (16 out of 40 possible points) because the country holds regular, competitive elections and its various religious and ethnic groups do maintain representation within the political system. Yet Iraq does less well on civil liberties (13 out of 60 possible points) because of frequently documented cases of militias depriving citizens and journalists of liberties. Countries can dip below the democratic threshold by declining sharply in some domains. But they can also dip into hybrid regime territory by declining somewhat across a broad range of indicators—and this is what we see in contemporary India.

### ***India's Democratic Decline: Stable Political Rights and Declining Civil Liberties***

India's democracy was never very high-quality. The formal exercise of autonomous, competitive elections with a broad range of civil liberties—while it did translate into a mass poverty alleviation program and the world's largest affirmative action program—always had plenty of shortcomings. But democracy also had a built-in auto-correct feature which allowed incumbents to be turned out of power. That auto-correct feature is endangered today in mostly *informal* ways. FH's political rights score average (comprised primarily of the three pillars of elections, competition, and autonomy) has the same numerical average in the nine years before Modi came to power as it does for the nine years since 2014. Incumbent turnover remains electorally possible but improbable because the Modi government has substantially eroded the *de facto* protection of civil liberties and executive constraints—the fourth and fifth pillars of democracy. India's civil liberties ratings drop rightly accounts for its democratic decline.

The legal right to dissent, historically erratically protected in courts, remains legally in place while the practical possibility of vocal dissent free from overwhelming harassment has virtually disappeared. To be sure, India's media, while generally vibrant and free, was sometimes censored before Modi's BJP government came to power in 2014. But today, while the media remains legally free to dissent, the harassment of independent journalism and concentrating ownership structures has meant that journalists and individuals functionally practice a high degree of self-censorship. Checks on executive power, while formally in place, are rapidly falling away.

### *Radically Constrained Civil Liberties*

Since 2016, civil liberties have been curtailed, to some extent legally and to a significant extent practically. According to CIVICUS, an international organization tracking global civil liberties in 197 countries, India's civil liberties are now 'Repressed' on its declining five-score scale of Open/Narrowed/Obstructed/Repressed/Closed. CIVICUS' 2019 rating downgrade moved India's civic space from 'heavily contested' to a rating in which "civil society members who criticise power holders risk surveillance, harassment, intimidation, imprisonment, injury and death."<sup>15</sup> India is now in the same ratings category as neighbouring Pakistan and Bangladesh, and in a lower category than Nepal and Sri Lanka.

Two kinds of laws have been employed with significantly greater frequency to silence individuals critical of the Modi government—colonial-era sedition laws and the Unlawful Activities Prevention Act (UAPA). Individuals have been regularly booked under sedition laws for dissenting in the form of posters, social media posts, slogans, personal communications and in one case, posting celebratory messages for a Pakistani cricket win.<sup>16</sup> Sedition cases have seen a dramatic rise between 2010 and 2021, with a 28% rise in caseload and with 96% of sedition cases filed against citizens for criticising the government filed after Modi came to power in 2014.<sup>17</sup> One report estimates that 10,000 tribal activists in one district have been charged with sedition over one year for invoking their land rights.<sup>18</sup>

The UAPA was amended in 2019 to allow individuals to be designated as terrorists without having a specific link to a terrorist organisation, and without a mechanism of judicial redress to challenge this categorization. The law now specifies that the act can be used to target individuals committing any act 'likely to threaten' or 'likely to strike terror in people.' Between 2015 and 2019, there was a 72% rise in arrests under UAPA, with 98% of those arrested remaining in jail without bail.<sup>19</sup> This kind of silencing has also extended online. In 2021, India's Ministry of Home Affairs launched a cyber-crime volunteer program which serves as a plausibly deniable form of state monitoring, resulting in dozens of accounts deemed to be critical of the government being suspended.<sup>20</sup>

The frequent invocation of these strengthened laws is substantively new and has significantly chilled dissent. The state has intimidated dissent by broadly terming criticism of government policy contrary to the national interest or 'anti-national' and by employing an army of volunteers to identify problematic online dissent.<sup>21</sup> The term 'anti-national' has been popularised by BJP politicians in patterns that target individuals, causes and organizations.<sup>22</sup> Academics were first to be targeted, with university administrators and faculty investigated, disciplined, or compelled to step down owing to their perceived political views. But such tactics were quickly broadened to include any high-profile dissenters.

India's 14% Muslim population has witnessed a particularly marked decline in its civil liberties in the form of sharp rises in acts of violence, including lynching or mob killings. According to

IndiaSpend, bovine-related mob lynching deaths (involving rumors of those handling beef, typically Muslims) has substantially risen as a proportion of violence in India, with 97% of bovine-related attacks between 2010-2017 occurring after Modi came to power in 2014.<sup>23</sup> Muslims are believed to form a majority of the victims of public killings and live in a 'widespread climate of fear,' as reported by most independent international organizations reporting on such matters, including Human Rights Watch and the U.S. Commission on Religious Freedom.<sup>24</sup> Discrimination against Muslims assumed legal form in the form of the Citizenship Amendment Act, which specifically exempts Muslim refugees from a streamlined citizenship process. Observers believe this Act, together with a planned national register of citizens, will be used in tandem to disenfranchise Muslim voters (disproportionately drawn from the poor) without the paperwork to prove they are citizens. India's only Muslim-majority state of Jammu and Kashmir is experiencing a shutdown of its civil liberties that is in every major respect similar to India's Emergency—a fact reflected in FH's separate categorization of Indian Kashmir as 'Not Free.'

Constrained individual freedom to dissent is compounded by legal constraints on the freedom of assembly and the internet services required to coordinate mass assemblies. The International Center for Not-For-Profit law issued a 2021 report assessing India's freedom of assembly found: "Despite constitutional protections at the national level, the devolution of specific policing powers and law-making to the states has created a web of regulations that dilute protections for free assembly. A punitive, security-focused approach has been increasingly deployed, amidst a growing trend of demonizing and criminalizing public protests, including the vilification of assembly organizers."<sup>25</sup> Access to internet, the *de facto* means of coordinating protest, has been frequently barred by the Indian government. India not only leads the world in government-directed internet shutdowns, with 84 government-directed shutdowns in 2022, but internet restrictions are typically imposed before and during protests to impede effective public coordination, often without clear criteria for suspension.<sup>26</sup> The report finds that while *de jure* protections for speech and assembly are only marginally shrunk, while the *de facto* protections have significantly shrunk.

The Indian government has regularly used administrative harassment to target civil society organizations critical of government. In 2020, the Modi government tightened the Foreign Contribution Regulation Act (FCRA) in ways that choked off civil society independence, targeting the logistics of foreign fund transfers, limiting the nature of spending, the sharing of funds between NGOs, giving governments the right to suspend NGOs without discretion and forbidding public servants from joining organizations.<sup>27</sup> Government authorities have systematically used financial audits and tax-related raids on technical but fully legal grounds against a wide range of civil society groups, including Amnesty International, Greenpeace, Centre for Justice and Peace, Centre for Policy Research, Ford Foundation, Indian Social Action Forum, Lawyers Collective, and Oxfam.<sup>28</sup>

In the last decade, India's media has radically changed its role of reporting on government abuses due to well-documented structural changes.<sup>29</sup> Since 2014, India has fallen to 161 among 180 countries in Reporters Without Borders' World Press Freedom Index, ranking below Afghanistan, Belarus, Hong Kong, Libya, Pakistan and Turkey. This organization summarized that "Hate campaigns against media workers, including calls for murder, are commonplace on social networks and are fuelled by troll armies associated with the Hindu nationalist government."<sup>30</sup> Major media networks simply do not feel able to criticise the Modi government. One study analysing prime time television debates on *Times Now* over three months in 2020 found *not a single* episode in which a debate criticised the Modi government

in any form. A separate study of three years of RepublicTV between 2017 and 2020 found coverage to be ‘consistently biased in favour of the Modi government and its policies.’<sup>31</sup> Modi himself has limited his interactions with the media, holding not a single press conference in the last nine years.<sup>32</sup>

The practical independence of media has also been severely undermined through practices such as selective licensing, the acquisition of independent networks by Modi-affiliated businessmen, and harassment of the few remaining independent organisations. A look at the sheer numbers of news organizations would seem to indicate a thriving media, but a look at the functional ownership structure indicates otherwise. The independent Media Ownership Monitor summarizes that “a significant trend towards concentration and ultimately control of content and public opinion.”<sup>33</sup> The government must grant a licence to broadcast television for example, and this is withheld for domestic organizations who are critical of the government. The license for Quint founder Raghav Bahl (working in partnership with Bloomberg) was withheld for so long that he ended the media operation and is now being investigated for money laundering. One businessman with close ties to Modi, Mukesh Ambani, directly controls media outlets followed by at least 800 million Indians.<sup>34</sup> NDTV, the last major independent TV network, trusted by a super-majority of BJP and non-BJP voters alike, was acquired in December 2022 by Gautam Adani.<sup>35</sup> Both Ambani and Adani are businessmen with close links to Modi and “[e]xperts say [Adani’s acquisition of NDTV] marks the endgame for independent media in India, leaving the country’s biggest television news channels in the hands of billionaires who have strong ties to the Indian government.”<sup>36</sup> While there are a handful of smaller, determined sources of independent news left, they have faced tax raids and lawsuits for their reporting since 2013.

International news organizations are also targeted for criticism, with critical foreign news reports typically portrayed as a plot to hold back India’s global rise. The BBC’s India offices were raided in February, just weeks after the news organisation released a documentary critical of the Modi government.<sup>37</sup> Laws used under the Emergency were invoked to ban both the documentary as well as any clips of it within India. As the raids occurred, BJP spokesman Gaurav Bhatia called the BBC the “most corrupt organisation in the world.”<sup>38</sup> When a few of the dozen Indian students I teach organised a private screening of this documentary at Oxford University, the fear among my students was palpable. Invitees were asked to refrain from posting not just on social media, but from exchanging Whatsapp messages, since videos have documented police asking individuals to unlock their phones during routine stops.<sup>39</sup>

### *The Loss of Horizontal Accountability*

Legislative scrutiny of executive action is waning in real terms during Modi’s government. Committees of India’s primary parliamentary bodies serve a key check on the executive, closely examining and debating the merits of such bills. Committees scrutinized 71% of bills in the 2009-2014 period before Modi came to power and 25% of bills in the 2014-2019 period. Since 2019, such scrutiny has further declined to 13%, with not a single legislative bill sent to a committee during the 2020 pandemic.<sup>40</sup> Some of India’s most important laws and political decisions in recent years—the imposition of a national lockdown with 4 hours’ notice, demonetisation, farm laws—were passed without parliamentary consultation and over opposition protest.<sup>41</sup> Whistleblowers holding government to account are regularly killed for doing so, yet the Modi government introduced a raft of amendments to weaken whistleblower protection.<sup>42</sup>



The growing lack of executive accountability to parliament is exacerbated by an increasingly quiescent judiciary. The Supreme Court is *the* custodian of India's constitution and through it, of civil liberties. During the two decades before 2014, the independence of the Supreme Court was seen to grow mightily, earning it the moniker of the 'most powerful apex court in the world.'<sup>43</sup> This has notably changed, with the central government controversially transferring independent-minded Justices and minimizing norms that checked executive power.<sup>44</sup> This prompted the four most senior members of India's Supreme Court to hold an unprecedented press conference in 2018, warning of the Chief Justice's unusual assigning of cases as a possible sign of political interference and an open letter which warned that 'bonhomie between the Judiciary and the Government in any State sounds the death knell to Democracy.'<sup>45</sup> The Supreme Court's ruling on every major political issue—Ayodha temple, Aadhar, *habeas corpus* in Kashmir, electoral bonds, Prevention of Money Laundering Act—has notably gone in favor of the Modi government. This marks such a break from the previous government and the practical difference between the Supreme Court during the Emergency and today is minimal. Some even argue that today, an Emergency is simply 'undeclared'.<sup>46</sup>

### *Conclusion*

Democracy in India, as elsewhere in the world, is not today dying through a military coup or dramatic, mass coordinated arrests of opponents. Instead, autocrats have learned to talk democratically and walk autocratically, maintaining a legal façade of democracy while harassing opposition and shrinking the space for loyal dissent. While India's formal institutions of democracy are also under pressure—Modi's most prominent political rivals have recently been disqualified from running in elections<sup>47</sup>—it is the inability of the everyday citizen to read critical appraisals of government policy, to speak freely, to assemble without fear of harassment, and the absence of substantive checks on executive power that has transitioned India into a hybrid regime.

Though India's democratic slide is real, it is not irreversible. While hybrid regimes are often stable, elections remain real moments of accountability, so long as the ballots remain secret and elections fairly monitored. Even wholly autocratic regimes with thoroughly honed policies of surveillance are subject to moments of effective protest because the very structures of autocratic power also prevent such regimes from gaining an accurate understanding of everyday citizen concerns—what democracies do best. Protests against China's zero-covid strategy and Iran's morality police have underscored this. In India, the success of farmers protesting against government highlights the possibilities of mass dissent, government accusations of foreign interference, arrests of protestors and journalists, and blocking of internet access notwithstanding.

Going forward, India's surest route to democratic revival lies in the emergence of a genuine opposition party with distinct organizational roots to everyday citizens. The Indian National Congress was once such a party, but its grassroots linkages disappeared in 1969. The Aam Aadmi Party is a promising political force that has managed to move beyond its Delhi base. But both parties face a long battle to develop beyond their charismatic leaders and as ever, power must be well-organised before it can be used. Set against the BJP, whose organizational roots have been well-honed for nearly a century, this will be a tall order. But not an impossible one.

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<sup>1</sup>Freedom House 2022 Annual Report. Accessed at [https://freedomhouse.org/sites/default/files/2022-02/FIW\\_2022\\_PDF\\_Booklet\\_Digital\\_Final\\_Web.pdf](https://freedomhouse.org/sites/default/files/2022-02/FIW_2022_PDF_Booklet_Digital_Final_Web.pdf)

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<sup>2</sup> “‘Misleading, Incorrect, Misplaced’: Centre Reacts to India’s Downgrading in Think Tank Report.” *The Wire*, March 5, 2021. Accessed at: <https://thewire.in/government/freedom-house-partly-free-government-reaction>

<sup>3</sup> Akhilesh Pillalamari. “Why India’s Democracy is Not Dying.” *The Diplomat*, June 14, 2021. Accessed at: <https://thediplomat.com/2021/06/why-indias-democracy-is-not-dying/>

<sup>4</sup> Andrew Little and Anne Meng, ‘Subjective and Objective Measurement of Democratic Backsliding. Social Science Research Network Paper, January 17, 2023. Available at: <https://ssrn.com/abstract=4327307>

<sup>5</sup> Terry Lynn Karl and Philippe C. Schmitter, ‘Modes of Transition in Latin America, Southern and Eastern Europe’, *International Social Science Journal*, No. 128 (1991), p. 78.

<sup>6</sup> Adam Przeworski, *Democracy and the Market: Political and Economic Reforms in Eastern Europe and Latin America* (New York: Cambridge University Press, 1991), p. 10.

<sup>7</sup> Marc Plattner. “Globalization and Self-Government”. *Journal of Democracy* 13, no. 3 (July 2002): pp. 56–57, italics mine.

<sup>8</sup> Przeworski, Adam, Michael E. Alvarez, Jose Antonio Cheibub, and Fernando Limongi. *Democracy and development: Political institutions and well-being in the world, 1950-1990*. No. 3. Cambridge University Press, 2000. Scott Mainwaring, ed. *Party Systems in Latin America*, Cambridge University Press, 2007, Chapter 5.

<sup>9</sup> Little and Meng 2023.

<sup>10</sup> Marc Plattner, “Media and Democracy: The Long view,” *Journal of Democracy*, Volume 23, Number 4, October 2012, pp. 62-73.

<sup>11</sup> James Madison, Federalist Paper 51. Available at: <https://billofrightsinstitute.org/primary-sources/federalist-no-51>

<sup>12</sup> Nancy Bermeo, “On Democratic Backsliding”. *Journal of Democracy* 27, no. 1 (January 2016): pp. 8-13.

<sup>13</sup> Ibid, 14.

<sup>14</sup> Steve Levitsky and Dan Ziblatt. *How Democracies Die*, Crown 2018.

<sup>15</sup> CIVICUS ratings definitions. Accessed at <https://monitor.civicus.org/about/how-it-works/ratings>

<sup>16</sup> “UP Invokes Sedition Against Kashmiri Students; Families, Activists Urge for Release.” *The Wire*. October 2021. Accessed at: <https://thewire.in/rights/up-invokes-sedition-against-kashmiri-students-families-activists-urge-for-release>

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