

# Regression and Resilience in Today's Indian Democracy

By Rahul Mukherji

**The most recent period of democratic backsliding in India has come about through an almost classic iteration of 'death by a thousand cuts.' Critics of the Hindu nationalist party of Prime Minister Narendra Modi accuse it of eroding democracy in a relentless stream of small authoritarian steps.**

**The result has been the emergence of what can be called competitive authoritarianism, writes Rahul Mukherji. There are recent signs, however, that pro-democratic forces are bouncing back.**

INDEPENDENT INDIA has experienced two distinct authoritarian episodes. The first occurred between 1975 and 1977 when Prime Minister Indira Gandhi declared a nationwide state of emergency. The nation recovered from the emergency and democracy consolidated and even gained considerably in quality. In other words, Indian democracy showed a remarkable ability to recover and improve after a crisis.

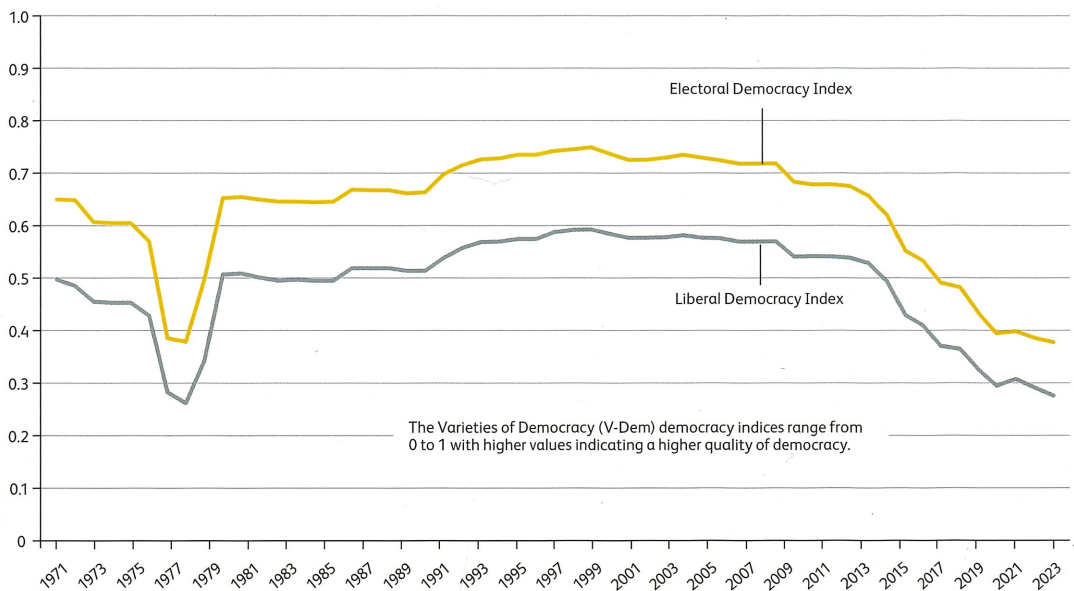
The second period of democratic backsliding began when Prime Minister Narendra Modi's right-wing Hindu nationalist Bhartiya Janata Party (BJP) came to power for the second time in 2014. It has ruled the country since then and there is no end to autocratization in sight (see Figure 1).

Unlike the 1975 episode, where political expedience rather than Hindu nationalism drove the authoritarian trend, this time one can clearly see the rise of ethno-nationalism at the root of the authoritarian propensity (Jaffrelot, 2021; Ganguly, 2023). India has moved in the competitive authoritarian direction, where the regime's competitive and authoritarian characteristics live side by side. Over time, the competitive aspects of the political system have declined and the authoritarian momentum grown rapidly (Mukherji, 2020).

India's Hindu-nationalist-authoritarian wave is a largely endogenous phenomenon. Covid-19 may have contributed to the competitive authoritarian propensity, but it clearly was not the driver. Nevertheless, Covid management demonstrated how the government used the pandemic to oppress the Muslim majority and quell dissent in favor of marginalized groups (Mukherji and Zarhani, 2023a). Nor was economic distress the main driver. Even

**FIGURE 1 THE QUALITY OF DEMOCRACY IN INDIA, 1971-2023**

Source: Coppedge et al. (2023), data from Varieties of Democracy (V-Dem) project, v-dem.net



though unemployment levels in India have risen, there is no balance-of-payments crisis, and economic growth, although not spectacular by Indian standards, is respectable by the standards of the rest of the world. What, then, are the reasons for India's democratic decline?

We have shown in a recent paper (Mukherji and Zarhani, 2023b) that there are three paths to autocratization in India's competitive authoritarian regime. Rules can either be interpreted differently or changed incrementally or radically to promote the authoritarian character of the regime. Drift occurs with ambiguous rules open to a variety of interpretations, resulting in a substantial challenge to any gains made by the political opposition. Such ambiguity can be exploited by ethno-nationalists. At other times, rules change incrementally through a layered process,

with significant veto players. Finally, rules can be displaced toward a radically different interpretation favoring ethno-nationalism when the political opposition is considered weak by the majority. Despite these backsliding mechanisms, the competitive authoritarian system has not entirely lost the propensity to bounce back. The subsequent section will describe why.

### THE COMPETITIVE AUTHORITARIAN PROPENSITY

Hindu nationalism is driving the state toward attacking public institutions and crushing dissent through processes that historical institutionalists describe as institutional "drift," "layering" and "displacement" (Mahoney and Thelen, 2010). Let us explore the mechanisms that have promoted the competitive authoritarian propensity one by one.

### LEGAL DRIFT

First, existing laws were allowed to drift toward new interpretations in a manner that enabled the ethno-nationalist ruling BJP to curb dissent within public institutions and parts of civil society that seek to uphold constitutionally guaranteed secular values and the rights of marginalized groups. This was the most significant mechanism for promoting autocratization. No rules needed to be changed here, just a radically different interpretation of existing rules that undermined constitutional safeguards. Non-communal, anti-communal and progressive non-governmental organizations (NGOs) were attacked along with public institutions such as the Parliament, the Supreme Court and the Election Commission.

For example, the Foreign Contributions Regulation Act (FCRA, 1976) was amended by the Congress Party-led United Progressive Alliance (UPA) in 2010 to restrict foreign funding of NGOs *before* the BJP assumed power. The amendment introduced a new renewal requirement every five years. It also defined the conditions under which NGOs could receive foreign funding. An instrument created by the UPA was used much more viciously by the BJP-led National Democratic Alliance (NDA) against progressive NGOs to deny them access to foreign funding. According to my calculations, 16,692 NGOs lost their licenses to access foreign funds between 2015 and 2022 under BJP rule; that figure was 3,987 between 2011 and 2014 under the United Progressive Alliance led by the Congress Party.

In addition, substantial control over media freedom was achieved without significant legal changes. The World Press Freedom Index saw India slide from 141<sup>st</sup> in 2014 to 161<sup>st</sup> out of 180 countries in 2023 (Reporters Without Borders, 2023). The Indian state has systematically deployed existing laws on defamation, sedition and threats to national security to deal more

harshly with those who take a constitutionally aligned secular position. A British Broadcasting Corporation (BBC) documentary titled, "India: The Modi Question," faced a screening ban and BBC's offices were investigated for tax evasion. Accounts on Twitter (now X) of critical media outlets such as the *Caravan* and *The Wire* were suspended. Several top journalists at these media outlets were charged with compromising national security. The critical media outlet New Delhi Television Limited (NDTV) was taken over in 2022 by Gautam Adani, whose fortunes had risen quite dramatically to make him the second richest man in the world under Prime Minister Modi's rule until a critical report by Hindenburg Research in January 2023 caused a substantial decline in the tycoon's wealth.

The BJP's brute majority in Parliament has been deployed to scuttle deliberations. The venerable bipartisan Parliamentary Standing Committees have been substantially downgraded to pass significant legislation without proper assessment. Seventy percent of bills were presented to a Standing Committee of the Parliament during the 15<sup>th</sup> session of the Parliament (2009-14). The same number dipped to 27 percent in the 16<sup>th</sup> session (2014-19), and further dipped to 13 percent in the 17<sup>th</sup> session (2019-22).

The Supreme Court also seemed quite passive about protecting citizens' rights, even though current Chief Justice Dhananjaya Yashwant Chandrachud has made some amends. The court has not ruled on public-interest litigation regarding major legislation that may violate constitutional provisions. These include legislation involving citizenship rights of Muslim immigrants from neighboring countries, and election-funding provisions supporting the infamous electoral-bonds scheme that has worked to the advantage of the BJP. No rules have changed but the once-activist court seems



Precious symbol: A muslim voter shows her inked finger outside a polling station during 2019 elections in Rajasthan, India.

to have turned significantly more passive about safeguarding constitutional provisions.

India's Election Commission seems compromised within the framework of old rules, even though opposition parties can win elections within a competitive authoritarian framework. No rules have changed but the commission is now viewed as less friendly toward the democratic opposition. There is also a move to officially downgrade the status of the chief election commissioner, which would reduce the commission's autonomy. The election commission has succumbed to the provision of electoral

bonds that individuals and companies can anonymously purchase from the State Bank of India. This provision has contributed to a competitive authoritarian framework that has earned vastly greater financial resources for the ruling party.

#### **LAYERED CHANGE AND LEGAL DISPLACEMENT**

Second, layered incremental legal changes have also helped the BJP. Crucially, the amendment to the Unlawful Activities Prevention Amendment Act (UAPA, 2019) has made it easy to define a person as a terrorist, even if that person had no

established links to a terror group. According to a report by the People's Union for Civil Liberties, there were 357 UAPA cases up to Aug. 12, 2022, 96 percent of which did not involve any incident with a criminal charge (cf. Suresh et al., 2022). Some of India's greatest human rights defenders, such as Jesuit priest and tribal rights activist Father Stan Swamy, have succumbed to this provision. Swamy was arrested in October 2020 and died in prison in July 2021 at the age of 84.

The Enforcement Directorate within the Department of Revenue (Ministry of Finance) was empowered by an amendment in the Finance Act (2019) that enabled the Prevention of Money Laundering Act (2002) to be used more indiscriminately against civil society and opposition politicians. This legislation was originally meant to regulate big business houses. These changes have been deployed against opposition leaders such as Sonia Gandhi, Rahul Gandhi and Karnataka's deputy chief minister Doddalahalli Kempegowda ("DK") Shiv Kumar. Shifting allegiance to the BJP, for example, when an opposition party joins the BJP camp, is considered a good way to get one's credentials whitewashed, and government attacks withdrawn. This provision has also been used against prominent NGOs such as the Centre for Equity Studies and Amnesty International.

The Foreign Contributions Regulation Act discussed above was further amended in 2020. A new provision was added that would allow the state to suspend and subsequently cancel FCRA for organizations even within the five-year period, among other restrictive measures. Organizations working for citizenship rights such as the Centre for Equity Studies, Care India, the Commonwealth Human Rights Initiative and others have been impacted by the legislation.

Finally, when opposition was weak, laws were displaced by radical new norms. In 2019, the gov-

ernment abrogated Article 370, which granted special status to Jammu and Kashmir, and converted the territories into two union territories, which were not even granted the federal powers of a sub-national state. The Supreme Court upheld the controversial abrogation on Dec. 11, 2023.

#### **STATE-LEVEL COALITION-BUILDING TO INCREASE DEMOCRATIC CHANCES**

Despite this backsliding, democratic institutions have not entirely lost the propensity to bounce back, especially at the state level. The sub-national states are especially crucial because the main opposition, the Congress Party, does not have a comparable national presence like the BJP. India's political culture still affords elections where opposition parties fighting against ethno-nationalism can win their way back through the ballot box. The Congress Party has several strong state-level leaders and strong regional parties govern states such as Tamil Nadu and West Bengal. Herein lies one hope for democratic revival at a time when the political opposition and non-communal civic space have been furiously attacked by the state.

If the above-mentioned propensities consolidate themselves, then we would witness a march towards authoritarianism. On the other hand, the competitive authoritarian situation can also inspire a democratic revival. The primary reason for this is that the authoritarian aspects of a competitive authoritarian regime have negatively impacted the entire democratic opposition irrespective of its ideological or policy inclinations. This can be an inspiration for the democratic opposition to come together through pragmatic compromises. For example, a coalition, the Indian National Developmental Inclusive Alliance (INDIA), comprising the Congress Party and many other regional parties in the democratic opposition has already emerged. The question

is whether this coalition of many parties will be able to make the kind of compromises that were possible within the heterogeneous opposition camps in Venezuela and Guatemala (see Jimenez, 2023; Schwartz and Isaacs, 2023). Diverse coalitions need discipline, with member parties being willing to give up seats for the larger good.

The Congress Party's victory in the state of Karnataka in May 2023 reveals that a strong leader at the state level with an ability to take on ethno-nationalism is significant for democratic resilience. Karnataka's current Chief Minister Siddaramaiah could take on ethno-nationalism. The BJP made powerful communal appeals such as invoking the popular monkey-God Hanuman to vanquish the Congress Party. It also tried to raise Hindu sentiment against the *hijab* worn by Muslim women. The Congress Party's response was a firm "no" as it confronted a powerful campaign led by Modi.

The state unit of the Congress Party, ably assisted by the party's central command, was able to articulate a plan where welfare provisions trumped the ethno-nationalist appeal of the BJP. Five guarantees were offered including special guarantees for women and the poor, in order to improve their access to transport, finance, nutrition and jobs.

The result of this approach was that the non-communal and progressive civil society, much of which was not within the Congress fold, came together under the *Eddelu Karnataka* (Wake Up Karnataka) network. The network brought together Muslims, Christians, the oppressed Dalit caste, a variety of other Hindu caste groups and farmers. The network's goal was to defeat the BJP and Wake-Up Karnataka realized that it had to forego its internal differences and support the Congress Party to achieve its goal.

The network's electoral understanding was more accurate than news predictions suggested. This was aided by one of India's leading political

scientists, the founder of the National Election Survey, Yogendra Yadav. Moreover, Wake-Up Karnataka also launched a news channel, Eedina, to balance media coverage. Armed with the best electoral analysis and an effective news and publicity medium, the network was able to persuade 49 candidates who might cut into the Congress vote to withdraw. Its volunteers worked in 103 constituencies where the slim victory margin could amount to just 1,000 to 5,000 votes.

The results were quite heartening for the Congress Party. Its candidates won in 73 out of the 103 constituencies where the network was active. The party won an absolute majority of 135 seats in the 224-seat legislature. The BJP's vote share, at 36 percent, remained constant with the past. But the Congress Party's vote share, 42.9 percent, grew by 5 percent. It appears that Muslims and the most oppressed caste, the Dalits, voted overwhelmingly for the Congress Party.

The Karnataka model was further reinforced by electoral results in four other states that went to the polls in November 2023. The Congress Party lost to the BJP in Rajasthan, Madhya Pradesh, and Chhattisgarh. The party was ridden with factional feuds in these states and wasn't able to adopt a clear secular position. In Telangana, on the other hand, where the party had a strong leader who took a secular and welfarist position, the party emerged victorious.

What are the analytical consequences of this process for other states? States such as Assam, which has a powerful Congress Party legacy, have now been overtaken by the BJP. Rajasthan, Madhya Pradesh and Chhattisgarh are also ruled by the BJP. The central Congress leadership in Delhi will have to work hard to empower strong leaders in such states. Moreover, the broad INDIA coalition will need to avoid infighting and enter the 2024 national election like a single opposition party.

### ERODING ACCOUNTABILITY AND EMERGING HOPE

India's democratic retreat to a competitive authoritarian regime is a cause for serious concern. The democratic institutions in the world's largest democracy are rapidly adding authoritarian elements through the processes of institutional drift, layering and displacement. This has serious consequences for horizontal accountability through institutions such as the Supreme Court, Parliament and the Election Commission. Moreover, civil society, which is the most important bastion for registering dissent, is also being disciplined by foreign donor requirements, terrorism rules and the Department of Revenue. Opposition politicians are being viciously attacked by these instruments as well.

This depressing development, however, has also strengthened the incentives for the democratic opposition to unite. The INDIA coalition is a move in the right direction. We also find that elections in Karnataka reveal that a powerful leader with an anti-communal and progressive agenda can draw substantial support from independent civil society to win elections.

The biggest challenge for India is whether the country's opposition will realize that such a challenging situation is also a unique opportunity for the democratic opposition to unite, as it did after the Emergency in 1977. Such moments are rare, and the need for the opposition to unite will be necessary for a democratic bounce-back. If the opposition fails to unite and work with strong leaders at the sub-national level, then the authoritarian elements of the competitive authoritarian regime may strengthen to an extent that a recovery will become all the more difficult.

**Rahul Mukherji is Professor and Head of the Department of Political Science at the South Asia Institute of Heidelberg University.**

### REFERENCES

- Coppedge, Michael et al. (2023), "V-Dem Dataset version 13 (2023)," Varieties of Democracy (V-Dem) Project, March 2023, doi.org/10.23696/vdemds23
- Ganguly, Sumit (2023), "Modi's Undeclared Emergency," *Journal of Democracy*, Vol. 34 No. 3 (2023), pp. 144-152.
- Jaffrelet, Christophe (2021), *Modi's India: Hindu Nationalism and the Rise of Ethnic Democracy* (Princeton and Oxford: Princeton University Press, 2021).
- Jimenez, Maryhen (2023), "Contesting Autocracy: Repression and Opposition Coordination in Venezuela," *Political Studies*, Vol. 71 No. 1 (2023), pp. 47-68.
- Mahoney, James and Thelken, Kathleen (2010), "A Theory of Gradual Institutional Change," in James Mahoney and Kathleen Thelen eds., *Explaining Institutional Change: Ambiguity, Agency, and Power* (Cambridge: Cambridge University Press, 2010), pp. 1-37.
- Mukherji, Rahul (2020), "Covid vs. Democracy: India's Illiberal Remedy," *Journal of Democracy*, Vol. 31 No. 4 (2020), pp. 91-105.
- Mukherji, Rahul and Zarhani, Seyed Hossein (2023a), "The Pandemic and Competitive Authoritarianism in India," in Aurel Croissant and Olli Hellmann eds., *Democracy, State-Capacity, and the Governance of COVID-19 in Asia-Oceania* (London and New York: Routledge, 2023).
- Mukherji, Rahul and Zarhani, Seyed Hossein (2023b), "India's Democracy: The Competitive Authoritarian Propensity," *Pacific Affairs* Vol. 96 No. 4 (2023), pp. 747-768.
- Reporters Without Borders (2023), *World Press Freedom Index* (2023), [rsf.org/en/index](https://rsf.org/en/index)
- Schwartz, Rachel A and Isaacs, Anita (2023), "How Guatemala Defied the Odds," *Journal of Democracy* Vol. 34 No. 4 (2023), pp. 21-35.
- Suresh, V, Madhura, SB, and Sujatha, Lekshmi (2022), *Criminalising Dissent and State Terror* (New Delhi: People's Union for Civil Liberties, 2022), [www.pucl.org/reports/uapa-criminalising-dissent-and-state-terror](https://www.pucl.org/reports/uapa-criminalising-dissent-and-state-terror)