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(Editors)

# Majoritarian State

*How Hindu Nationalism  
is Changing India*



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## DEMOCRACY AGAINST THE LAW

### REFLECTIONS ON INDIA'S ILLIBERAL DEMOCRACY

*Thomas Blom Hansen*

The shrinking space for intellectual freedom and the threat to civil liberties have been key concerns since the BJP won an absolute majority in Lok Sabha in 2014. However, since coming to power, the BJP has not passed any significant new legislation that curtails liberal freedoms. The actions by the Modi government have relied on applying the rather voluminous body of existing legislation, and police protocols, that can limit free speech, assembly, movement and funding of those deemed to be 'anti-national' or otherwise a threat to public order and safety. Some of this legislation has colonial roots but most of it came into being as elements of the extensive security state that successive Congress regimes have built since the 1960s in the name of protecting national unity and sovereignty.

The other threat to civil liberties has emerged from cultural and social vigilantism by outfits that are ideologically aligned with the BJP and the RSS. The frequency and gravity of such extra-legal action, backed up by mob violence, has increased significantly in the last few years. Violence is indeed a founda-

tional element of Hindutva—as ideology and as political action. But the routinisation of violence in Indian public life is not only the making of the BJP and its allies. Hindu nationalists have amplified and systematised a longer-standing trend towards accepting public anger, and collective violence, as legitimate means of political expression and legitimate means of exercising political power.

Here, I want to probe into some of the conditions of possibility that made possible the current political climate in India. I propose that political forces that emerged in the 1980s and 1990s, and were celebrated as deepening Indian democracy—such as the regional movements, lower caste mobilisation and also Hindu nationalism—also reflected an entrenched ‘non-liberal’ underside of Indian politics. These forces all deployed languages of deprivation and anger, and a politics of passion claiming to represent hitherto voiceless majorities. Their languages of strength and popular sovereignty were rarely based on a commitment to liberal values of the constitution but, rather, a realist belief in political power, strong partisanship and violence as a legitimate expression of anger and political will.

In what follows I will try to elucidate these points from two angles. First, I will briefly discuss the obvious discrepancy between the liberal language of rights in the constitution and the largely illiberal and often violent ways in which the ‘force of law’ is visited upon non-elite Indians by the country’s police powers. Secondly, I argue that the thriving vernacular publics across India enabled an intensified sense of intimacy and also injury that, in turn, facilitated the rise of a popular politics of passion and action that has made displays of public anger, and public violence, into some of the most effective means of political expression in the country. These sentiments and techniques of what I call ‘the law of force’ have been honed and perfected by the Hindu nationalist movement over the past decades.

Taken together, these two developments indicate that India’s democracy indeed is deepening but also turning less liberal, more antagonistic and more violent.

### *Liberal norms—for whom?*

On the face of it, India is a liberal democracy with incredibly dynamic electoral politics at all levels, a judiciary that still retains a measure of independence, and a constitution that guarantees fundamental rights and liberties as well as the rule of law. It is also a fact that the Indian constitution is a capa-

acious and farsighted document that has been able to creatively accommodate group rights<sup>1</sup> and has been appropriated by many groups in Indian society in their quest for inclusion and fuller citizenship,<sup>2</sup> giving the constitution a social and political life of its own.<sup>3</sup>

But it is equally true that the liberal norms that pervade this seventy-year-old document have neither penetrated everyday political life, nor substantively changed the social and cultural norms among the vast majority of Indians. It is by no means self-evident that the Indian constitution, as it stands, would find favour in the Lok Sabha and Rajya Sabha in 2018. There are deep reservations about several elements of the constitution among many in the BJP and the RSS as evidenced by calls from senior BJP ministers for removing the term ‘secular’ from the constitution.<sup>4</sup>

Over many decades, neither Congress nor the mainstream Left parties deployed the promise of liberties and the rule of law as major campaign planks. Many on the Left were skeptical of the value of the ‘negative rights’ guaranteeing individual and collective freedoms enshrined in the constitution. These negative rights were seen as emblems of a bourgeois ideology of liberal freedoms. Instead, both the Congress Party and the parliamentary Left promoted ‘positive rights’—to development, education, and social upliftment.<sup>5</sup> Centrist and left of center forces in India built themselves as defenders of India’s sovereignty against the ubiquitous ‘foreign hand’, as guarantors of pluralism, social reform, modernity and development. In everyday political discourse, it was progressivism (*pragmatism*), emphasising equality, reform and modernity that became the unifying rallying point, rather than the more contrived and ‘rightist’ notion of liberalism (*indianism*), understood as economic freedom and individual rights. The only exception to this general tendency was the activism in defense of civil rights during and after Indira Gandhi’s imposition of Emergency Rule that led to the imprisonment of thousands of opposition leaders and activists in 1975–76.<sup>6</sup>

Apart from a very vocal activist community, including feminists and LGBTQ groups, the only larger communities in India that today consistently appeal to the constitution and consistently advocate the rule of law and protection of human rights are the country’s recognisable minorities—Dalits, tribals, Muslims, and several groups coming out of Northeastern India. Those groups appear akin to an Indian version of what Habermas and other theorists of democracy call ‘constitutional patriotism’.<sup>7</sup> But even that is a problematic label, considering that each of these groupings emphasise and defend only particular aspects of the constitution’s provisions—such as secularism, freedom of reli-

gion, reservations, etc. Few of these socio-political formations or communities can be said to embrace the liberal and democratic spirit of the constitution in their own community practices. For whatever it is worth, a recent Pew Research poll asked people across the world about their faith in democracy and related questions. The responses from India—mainly urban and educated as is the norm for Pew polls—make for interesting if confusing reading: 75 per cent of those asked in India supported representative government (the lowest in all of the Asian countries polled); 65 per cent supported direct rule by experts (one of the highest in all the countries polled); and more Indians supported autocratic rule by a 'strong leader' (55 per cent) than in any other country polled, surpassing Russia by 7 points, and Turkey by 15 points. (55 per cent of Americans thought such arrangement to be 'very bad'.) Curiously, as many of 53 per cent of Indians also thought military rule to be a good idea.<sup>8</sup>

So how does one explain what can only be called a general diffidence about the constitution and its basic values in political discourse in India? How does one explain that a deepening democracy that has allowed previously excluded and denigrated groups a role in the electoral process, has been accompanied by a concomitant weakening of liberal norms, such as respect for rights, equality, the rule of law, and cultural difference? One key element, I will argue, lies in the disjuncture, if not discrepancy, between the promise of the constitution and the functioning of India's administrative apparatus, especially its law enforcement agencies.

It would be very difficult to argue that the various branches of the Indian government function in a way that is consistent with principles of a liberal and accountable government. A very substantial part of basic laws in India are still derived from colonial legislation and administrative principles: notably the Indian Penal Code (which I shall return to), a large part of the administrative law that governs the inner workings of the Indian state—such as transfer and promotion policies, the revenue system, the police services and much more. Colonial legislation had multiple rationales: securing the colonial state, maintaining an often tenuous public order, creating and protecting private property and reforming and codifying social practices, to mention the most prominent. Some of those legal forms had liberal elements and intentions just as prominent public figures in nineteenth- and early twentieth-century India espoused what could be called a liberal agenda.<sup>9</sup> Decades of scholarly work has documented the how the liberal political orders in the Western hemisphere were enabled by a simultaneous despotic and authoritarian rule in the colonies.<sup>10</sup> Similarly, colonial India was governed through several parallel regimes and

configurations of sovereignty. The force of colonial law was always applied in a deeply unequal manner that exposed the poor, lower caste majority of the population to the most despotic and harsh dimensions of governance and punishment.<sup>11</sup> Gradual incorporation of elite segments into representative institutions from the early twentieth century went hand in hand with violent police practices in popular neighborhoods,<sup>12</sup> with multiple formulas of indirect rule in the princely states,<sup>13</sup> and paternalistic inclusion and violent suppression of tribal groups in special zones.<sup>14</sup>

The formal construction of a unitary Indian nation state from 1950s onwards changed only little of this substantively. In practice, the Indian state continued to work through several, parallel regulatory regimes, calibrated according to class, caste and region. It also retained and expanded a very extensive regime of secrecy and classification of files and archives. By the 1970s, the Congress had all but abandoned its commitment to liberal principles in favour of a populist reform agenda that reconfigured the political landscape in India. Its main elements were rhetorical embrace of vague socialist Third World-ism, a deep commitment to state sovereignty coupled with several redistributive pro-poor policies, but also harassment of opponents, violent suppression of insurgencies and the systematic building of a large security state, with more than a dozen different paramilitary services ranging from central forces such as Central Industrial Security Force, Border Security Forces to the Armed Provincial Constabulary and many armed police forces in each state in India.<sup>15</sup> This emergent security state waged violent wars and put large populations under permanent emergency laws such as the Armed Forces Special Powers Act (AFSPA) that has granted extensive powers and immunity to the armed forces in so-called 'Disturbed Areas' in the North East since 1958 and Jammu and Kashmir since 1990.<sup>16</sup> The Unlawful Activities Prevention Act (UAPA) was passed in 1967 and was used to violently suppress Naxalite activity in West Bengal in 1971. After it was amended in 2011, UAPA is applied in the so-called 'red corridor' in central India, as well to deal with less specified 'terrorist activity'.<sup>17</sup> The long and violent suppression of Khalistani militants in Punjab was enabled by the application of 'Terrorist and Disruptive Activities (Prevention) Act (TADA), probably the most stringent and sweeping security measure ever passed in India.<sup>18</sup> The 'cleaning up' of the Punjab in the 1990s was overseen by K.P.S. Gill, a senior officer who was subsequently lionised by the Indian mainstream media.

Most political forces in the country, including the mainstream left, have tacitly supported this policy of large-scale, perpetual human rights violation

in the name of national sovereignty and fending off 'anti-national' forces within the country.<sup>19</sup> Critiques of such policies and violations by international human rights organisations or international multilateral agencies have for decades been dismissed by the Government of India as undue interference in the domestic affairs of a sovereign nation.

At a more everyday level, the Indian police and security forces have over decades developed an infamous record of systematic brutality, disappearances, systemic corruption and a chronic lack of investigative capacity<sup>20</sup> that is strangely at odds with the celebrations of India as a democracy. This everyday violence is almost exclusively visited upon poor and vulnerable populations, the social and religious minorities in particular. In these communities, the police force is seen as a major danger and a source of routine harassment, extortion and unpredictable violence. It remains one of the major paradoxes of Indian political life that despite a strong presence of left and progressive political formations and lower-caste movements over many decades, no major political formations have ever found it important to promote police reform, or effectively address the daily human rights violations by the Indian police force that disproportionately affect poor and lower-caste populations across the country. The public debate about the endangered independence of the judiciary rarely includes the state of the lower courts where most cases are settled by routs and political operators outside the courthouses, and where the quality of public prosecution is so low and biased that India has one of the lowest conviction rates in the world.<sup>21</sup>

The educated middle classes rarely face the force of law in India—except if they belong to minority communities. For most members of the middle class, the police remain abstract and distant, or appear in the form of traffic officers that can be easily bribed, or as ordinary constables that most members of the middle class treat assertively, or condescendingly, as their social inferiors. Any encounter with the police will be sought to be remedied by phone calls to relatives or friends in the bureaucracy or the police force—fellow members of the middle class—and such measures often prove rather effective. The general incompetence of the police force is widely acknowledged but normally blamed on the poorly educated and underpaid constables. Upper level officers, drawn from the middle class itself, are often lionised and admired for their capacity to navigate the gritty world of crime and corruption, as if those with education and social status can stand above a murky reality. What accounts for such systematic blindness to how the force of law is actually administered in India?

Let me provide some vignettes from marginal communities in India that point to a possible answer: 'the force of law' has been subverted by the 'law of force', that is, the extremely widespread belief across caste and class in India that the application of the law, and by extension the police force itself, is nothing but an instrument of larger configurations of social and political power that manipulate law and policing at their will.

*The force of law in practice—three ethnographic vignettes*

1.

On a sweltering monsoon evening in July 2011, an elderly man called the local police station in central Mumbai to report what seemed to be a burglary in progress. He and his wife heard men trying to break through their bedroom window. Two constables arrived ten minutes later to find the couple in their bedroom staring at an open window. The men had fled and nothing was stolen and the couple could only give a vague description of the suspects—one had a full beard, the other one a mustache. Now that an FIR existed, the sub-inspector thought it prudent to have the constables pursue the suspects in the nearby slum area. Twenty minutes later they had apprehended three boys, two with full beards and a thin young boy with a mustache. After interrogating them roughly for some hours, the constables took photos of the swollen and bruised faces of the suspects and returned to the elderly couple the next morning to ask if these boys were the intruders. The elderly people were not sure about the identity of the suspects but thanked the sub-inspector for his diligent efforts. Later in the day the boys were released and no charges were laid.

This story was related to me by the elderly couple who were relatives of a friend. The uncle and aunty were happy with the outcome of and praised the police. But what if these were not the guilty ones, I asked. Uncle was unconcerned with this finer point: 'Well, it is good that the police reach these people a lesson—surely these boys will think twice about breaking the law, no?'

Afterwards my friend shook his head in despair. 'This is what passes as policing, and justice in this country', he mumbled. For years he had been helping young people from this slum prepare for exams and tests and get jobs. He knew one of the boys who lost his job and had walked with a slight limp for months after. My friend continued, 'We talk to these boys about their rights (*haq*), justice (*maf myna*) and all that, then this happens. How will they ever believe me?'

My friend was right. Trust in the police or in due process was not easy to find in Muslim-majority areas that often have a higher density of police *chowkis* and visible policing than Hindu areas. Police arrest mainly young men, often on flimsy tips or pretexts, and the young men are normally subjected to harsh and violent interrogation before they are released, normally well before the limit of twenty-four hours. Most of this violence is never reported, never shows up in any statistics, as the police refuse to accept complaints or FIRs about violence committed by police officers. It is a regime of low-intensity terror. As a former corporator from a Muslim-majority area with older slums told me:

The police call this a 'notorious area.' Whenever anything happens, they come rushing in and arrest people, mostly charge-sheeters and notorious characters but also innocent boys. ... Crying mothers would come to my office. I had to go to the police station at least three times a week to plea with them, to ask them to let these boys go.

During the years of multiple bomb blasts in Mumbai between 2002 and 2008, it became standard procedure in the wake of bomb blasts or incidents somewhere in the city that platoons of constables, often fired up by anger and shouting anti-Muslim invective, would rush through such 'notorious' Muslim neighborhoods, forcing every Muslim male they could find to sit in long rows in the streets. I personally witnessed this on one occasion in the busy Maulana Azad Road in central Bombay. Hundreds of men were made to sit for hours in the sun, hands on heads, while being forced with batons or rifle butts to give up the names and addresses of themselves and their family members. No arrest was made, and there were no particular charges, not even specified targets. Some handful of men were taken away in police vans. After three hours the police just left, while the Muslim men would get on their feet, gingerly, quickly walking off, wary of another potential action by the police. The day after, I met an inspector I had befriended in the local police station. When I asked him why the police had rounded up these men, he shrugged and said:

Well, it is a security precaution. We are trying to find people who know something. These people have so many secrets, we know that. ... When you let them sit like that for some hours, people crack, you see. Those who hide something tend to sweat and be nervous, or they ask to talk to us. We get a lot of information this way.

2.

In the summer of 2017 the debate about the public use of *Vande Mataram*, the Indian national anthem, reached Aurangabad city politics. A young

Muslim corporator elected for AIMIM refused to stand as members of the General Body in the Municipal Corporation sang *Vande Mataram*. He was physically attacked by Shiv Sena members and in the ensuing scuffle furniture and equipment was damaged. The AIMIM corporator was suspended for disrespect for the elected body and then arrested and charged with disturbing public order and destroying public property. Hundreds of his avid followers took to the streets near the Municipal Corporation building and the police came out in strength to control the situation. The protesters gathered force as the corporator was denied bail, and the day after the local court relented and granted bail. In the months after the event, the case has moved to the higher court which was not keen to deal with the matter. The corporator told me: 'If they grant me bail they admit it is not a serious case; if they arrest me again or prosecute me, all the MIM supporters in this city will come out on the streets. ... The police don't want this situation so the case will be pending for a long time. In our many conversations, the young corporator would often cite the exact number of votes he received in his ward as a proof of his standing and legitimacy. 'The majority of the people are with me, they support me so what right do they have to charge me with any crimes? I am just speaking for what my people feel.'

One of his followers described this as a political battle where the Indian Penal Code was nothing but an instrument used to violate a more basic right: 'They [Shiv Sena and the police] used some law to charge him but nowhere in the Constitution does it say that you must stand and sing *Vande Mataram*. This is his right (*haq*). ... Muslims know that in Arabic *haq* actually means truth.' At the same time, the Indian Penal Code also provided a measure against which the success of a political agitation could be measured when another young supporter asserted 'We were so many that they had to put a 141 [IPC 141—unlawful assembly] on us!' This was said with some measure of trepidation, as all the activists were aware of the Aurangabad police's well-known propensity to use deadly force against assemblies of Muslims.

A few months later the higher court took on the case. I asked the corporator if he was worried about the outcome: 'Not at all' he said in his signature, *filmi* bravado style:

How can I lose this case? We have learned one thing from Shiv Sena, you see. If you respect the people's feelings and use their strength, you can never lose. If the court goes against me, it goes against all Muslims and we have already shown our 'nuisance value' [in English] here in the city. This is what Thackeray always said, 'nuisance value.... So even if they win in court, they will lose.'

3.

Some weeks later, I was invited for a rally called by Muslim organisations to commemorate the twenty-fifth anniversary of the demolition of the Babri Masjid on 6 December 1992. The organisers had announced that they would congregate on the public space in front of the Divisional Commissioner's office but the police forced the meeting onto the side of a busy street making it impossible for the crowd to stand in front of the stage. Heavily armed police in full riot gear almost outnumbered the crowd at the rally. Speeches and slogans proceeded, defiantly, against these heavy odds.

The contrast with the happenings on 19 February, *Shivaji Jayanti*—the official holiday where the birth of Shivaji, the seventeenth-century founder of the Maratha Empire, is celebrated—could not be greater. On that day, bands of boys were roaming the city on their two-wheeleders with saffron flags fluttering from the vehicles along with loud music, chattering. The boys seemed to take particular pleasure roaming through Muslim neighborhoods, always in large groups, though nobody entered the Muslim heart of the old city. There were many smaller gatherings and celebrations, disrupting traffic on major streets, taunting those who did not join in. This assertion of political muscle was protected, escorted and supported by the police. Sitting in a traffic jam caused by the celebrations, I asked a policeman what the fuss was all about. 'Oh, it is a celebration for Hindus' he told me. I must have looked somewhat sceptical so he added with a big smile 'Hindu *dharma*'.

What do these vignettes tell us?

Firstly, for those who are marginal and vulnerable, the police and legal procedure are experienced as a constant possibility of random and overwhelming violence. Across India, slum areas, and areas with high concentrations of Muslims, SCs and STs, experience regular police raids during which young men are arrested and beaten. These young men can either confess to be implicated in crimes they never committed, or be subjected to severe physical punishment, often both.

Secondly, and most importantly in this context, the only possible antidote and protection from the police, and from the force of the law that may be unleashed by one's adversaries, is some form of political power and the potential of mobilising sufficient numbers to disrupt public order. The second vignette shows that while charging an opponent with a criminal offense is a common political weapon, the force of law can be countered, possibly neutralised, by the force of numbers and the potential for disruption of public order. The proof of such a force lies in forcing the police to 'give us a 141' as the

young activist stated. As we will see below, the various sections of the IPC have certainly entered political vernaculars across the country. Such incidents of public disorder can in turn reflect negatively on the local police force and possibly result in transfer of officers.

Finally, it seems that interpreting an evanescent 'public' or 'people'—whether as a physical crowd or an imputed mass sentiment—is a very important factor in how laws are enforced and public goods are distributed. A retired city commissioner put it succinctly to me:

As a government servant, your best ally is always the public. If you do your job, show your face and make sure that people see that you are doing your job, you are safe. The chances of being transferred are much lower. No politician wants to go against the people... If you have the support of the public, all the politicians want to be your friend, they want to be seen with you, as if it is they, and not you, who are doing the work...it is quite simple.

Yet, this public is elusive, multiple and often fickle. And, as we saw, not all publics are equal.

#### *The law of force and segmented publics*

Majoritarianism commonly refers to the idea that pre-existing ethnic, racial or religious majorities have a natural right to dominate a certain political entity. But in reflecting on how this sentiment became acceptable to so many Indians, it may be worth probing a bit deeper into how the very idea of a majority became the ultimate arbiter of political right, might and legitimacy.

Postcolonial India inherited a rich repertoire of political actions and rituals from the nationalist movement. At the heart of this new political vernacular was the notion that the people are always right and that every effective political action must stage this 'people' or a community in significant numbers to make a point. Crowds—angry, mobilised, determined or disciplined—became an evermore powerful currency of political transaction in India. The bigger the crowd, the stronger the argument. In an important article, Dipesh Chakrabarty argued that in the first decades of the new Indian nation state, senior bureaucrats, against all their instincts, had to appear from time to time in front of angry crowds in order to apologise for the non-delivery of some government service.<sup>22</sup> As Indian democracy matured and multiple opposition forces arose this political vernacular of numbers, and the performance of public anger, became more complex.

From the 1990s onwards, the idea of mobilising, or representing, majorities—in states, in elected bodies, as caste coalitions, as religious communi-

ties—became an evermore powerful idea. It gradually began to challenge the older ideal of political parties attracting votes across different communities and minorities in order to consolidate a legitimate political majority. The notion of majority itself—*bahumat*—began to acquire a stronger affective and moral force. In Sanskrit, *bahumata* literally means ‘esteemed by many’ and it seems that by the 1990s this aspect of *bahumat*/majority as something that in and of itself has a moral force began to acquire an ever more effective and visceral reality on the ground. The moral force of a majority—whether defined as a pre-given cultural entity or understood as an electoral proof of the superior force and truth represented by a political formation—emerged in no small measure from regional politics across India.

The linguistic movements of the 1940s and 50s had mobilised powerful sentiments on the assumption of an inherent superiority, and naturalness, of a polity based on the linguistic affinities of a majority as well as the strength of emotional bonds this indexed and made possible. It is no coincidence that prior to the rise of Hindutva most of the morally charged rhetoric of sacrifice, of ‘treason’, of emotional outrage and attachment, often accompanied by physical attacks on newspapers and public figures, emerged in states where strong linguistic and regional politics had emerged since the 1950s.

Powerful language ideologies drove the movements for the purification and re-invention of modern vernaculars in the latter half of the twentieth century in much of India. These ideologies promised to overcome traditional social and caste-defined diglossia, and to overcome the sense of inferiority *vis-à-vis* English that was reproduced on a daily basis in the vernacular press and in institutions of government, science, the national press and higher learning.<sup>23</sup> Most importantly, the language movements enabled flourishing vernacular publics to be experienced as culturally intimate in historically unprecedented ways. The vernacular was now that which could be shared and mobilised with many strangers as a medium of intimacy and solidarity *vis-à-vis* outsiders, as in the case of the regional movements in Andhra Pradesh, Maharashtra and Tamil Nadu. It could also be the medium of less restrained and more nakedly majoritarian sentiments, a ‘split public’ divided between a more formal English-speaking public and a more intimate vernacular sphere.<sup>24</sup>

The vernacular language itself, its grammar, the joy of speaking it, the sharing of references and the sense of community it enabled, became a medium of condensed emotions and a thick sense of community.<sup>25</sup> For Maharashtra, Clare Talwalker posits that the sharing of both modern and classical Marathi among middle-class Hindus generated a certain ‘kin-fetishism’—an imagined

world of familial intimacy and commensality where everyone becomes uncle, sister, brother, etc. This world thrives, she argues, on its supposed contrast to what is perceived to be a more alienating world of stranger sociality in metropolitan areas or in national spaces.<sup>26</sup> This ‘kin fetishism’ has distinct limits and vulnerabilities insofar as it is founded on a preexisting if unstated premise of social and ritual compacity among upper-caste Hindus.<sup>27</sup>

Some of the most inventive and irreverent writers in Marathi in the past decades are Dalit writers and public intellectuals such as Baburao Bagul, Nandedo Dhasal, Arun Kamble, and Urmila Pawar who both are, and are not, included in the intimacy of modern Marathi. For these figures, some of whom are now included in the Marathi literary canon, mastery of the vernacular was both a platform for critique and a claim for recognition. This happened not through cultural intimacy but through the creation of a parallel Dalit public sphere, marked by festivals, institutions and symbols that are neither generally known, nor recognised by many caste Hindus in the state.<sup>28</sup> Like many other segmented publics, the Dalit public sphere is perfectly knowable but not generally known. It is technically public in a linguistic sense but not a general public in any wider social sense. This became very clear after militant Hindus in early January 2018 attacked the annual celebration of the valour of the Mahar soldiers in the defeat of the Peshwa empire in 1818 at Bhima Koregaon. The attacks led to widespread protest by Dalits across the state and made a key element in the annual calendar of events in the Dalit public sphere visible to a much larger audience. What holds such publics together is rather a shared experience of stigmatisation, a shared moral universe, and a claim for recognition as full citizens and humans that cannot be fully captured through a conventional idea of a public sphere as a network of institutions, texts, and linguistic performances. The Dalit public sphere, like other emerging lower caste ‘counter publics’, asserts the democratic and constitutional rights of the community against the cultural and social hegemony of upper-caste Hindus.<sup>29</sup>

These intensified, segmented and vernacular publics are crucial in understanding the steady deployment of ‘routine’ public violence, such as the destruction of public property—buses, police vans, offices, schools—by protesters of many kinds, acts that are often recorded in police records as acts of ‘public vandalism’ rather than political events or riots, and mostly classified merely as disturbance of public order.

As I indicated above, for the Indian police, the actual prosecution of crime is at best a secondary objective, always subordinated to the maintenance of a



semblance of public order which is given inordinate attention in the Indian Penal Code (IPC), that was promulgated in 1860 and since has grown very substantially. Chapter 8 of the IPC is entitled 'Offences against Public Tranquility' and it has slowly grown over the decades to consist of as many as eighteen sections ranging from the milder 'unlawful assembly' (141) to 'rioting with a deadly weapon' (148) all the way to sections 153A (promoting enmity between different groups) and 153B (assertions prejudicial to national integration); the latter carrying more severe punishments, especially if they involve 'places of worship or religious ceremonies'. Most of these sections reference groups and communities as those being 'incited' or 'offended' or harboring 'feelings of ill will' while the legal term 'person' is only invoked in the sections referring to those who stand to 'benefit' from riots (sections 154–156) or those being 'hired' to commit public violence (sections 157–159).

If we look at the official crime statistics since 1960 (and we can be sure these numbers are very under reported) the aggregated number of public offenses against public order (all the eighteen sections of the IPC) stood at less than 30,000 across India in the 1960s, climb to above 90,000 in 1980, and above 95,000/year in the early 1990s. After a dip during the early 2000s to under 60,000 per year, the number has been rising since 2012 reaching 73,000 in 2016.<sup>30</sup>

In the last decade, the Crime Bureau has started detailing the specific category of riot—as caste (2,500 in 2016), communal (1,200 in 2016), student, or political (1,800 in 2016). The rest of these disturbances—well over 60,000—fall in the category of 'other riots,' defined as 'Civil Unrest, Community dispute, Attack on Police, dispute over Water supply.'<sup>31</sup>

What are we to make of this? Firstly it is clear that staging a riot or a protest of some sort, either against a public institution or another community/hostile neighbours is a very widespread phenomenon indeed. We actually have no idea what these tens of thousands of incidents registered are about and how they get classified as 'other riots.' We know that police personnel have a vested interest in putting as many incidents as possible in this category as they are seen as less serious than the specified caste or communal incidents. We also know that getting a case registered as a public disturbance is a relatively light and palatable offense, low-risk and yet high-profile. It is a way of showing anger, and demonstrating that a group or community is willing to publicly perform this anger and make a point that makes news of some sort.

Secondly, it is obvious that the very provisions of the Indian Penal Code in some ways structure the forms that political and social protest and expression

will take. The IPC defines the perceived injury of religious sentiments of a group/community as a criminal offense (295A) and it bans the incitement of enmity among groups and communities (153A and B). Since such collective offense is banned, it becomes imperative that the effect of the offense is demonstrated, not as individual sentiments but as a mirror of the spirit of the law itself—as a collective sentiment that threatens public order. As a result, being booked under one of the IPC 140s or 150s becomes in itself a form of proof of a collective sentiment and anger, and indeed a part of a political vernacular, a measure of success—something has happened (*Kudh to bua hai*).

Protesters describe such events as the inevitable effect of pent up anger and outrage, as if the scale of physical destruction is an index of the depth and intensity of their rage. Protesters often blame the offenders for provoking such anger—such as when vigilante groups in Karnataka or Maharashtra routinely blame 'immoral youth' for the anger that wells up in themselves, vigilantes, the urge to protect Hindu values that is provoked in them and leads them to beat up and molest middle-class youth.<sup>32</sup> The protesters or vigilantes want the government and various publics to take note but the audience is rarely a general public. The main audience for many protests is more often than not a more segmented caste or community public that is directly affected by certain policies or events.

Such language of outrage and hurt pride has today become the predominant modality justification of public violence in India.<sup>33</sup> However, there is little doubt that Hindu nationalism has played an exceptionally important role in this process. The Shiv Sena was a particularly radical heir to this politics of popular emotion of the linguistic movements. The Shiv Sena developed fury (*rage* in Marathi) and anger (*gussa* in Hindi) into a public virtue, a increasingly legitimate style of politics whose forceful directness (*seedha marpel*) against authorities and perceived enemies of the ordinary Marathi speaker indexed its authenticity and association with a rougher plebeian world.<sup>34</sup> This sentiment was directly relayed by the name of Shiv Sena's newspaper *Saamna* (confrontation) which has been pivotal in making a coarser style of colloquial Marathi acceptable and legitimate, if often dismissed as poor taste among the traditional upper-caste and middle-class communities.

Hindu communal politics has historically been framed as militant self-defense against perceived Muslim aggression. However, since the 1980s Hinduva discourse increasingly adopted a style of forceful anger that foregrounded hurt sentiments—such as the presumed historical humiliation of Hindus by the very existence of the Babri Masjid on the birth place of Lord

Ram—or the theme of a Hindu pride (*Hindu gaurav*), presumably resurgent after centuries of humiliation, that was so prominent during the 2002 anti-Muslim pogrom in Gujarat.<sup>35</sup> The success of the BJP has been based on its capacity to instigate anti-minority violence and then reap the electoral benefits of the emotional wave of aggression and fear that communal riots tend to generate.<sup>36</sup> It is also clear, as Amrita Basu has demonstrated, that there is a direct correlation between the incidence of communal riots and attacks and the growth and importance of Hindu nationalist organisations in different parts of India.<sup>37</sup>

In these public actions, even excessive and cruel violence is purified and made just and moral by the imputed injury to a community or a collective emotion that provoked it in the first place. Violence is purely reactive, spontaneous and therefore inherently just. It is '*natural nyaya*' as a Shiv Sena activist in Mumbai put it to me many years ago, something that is inherent in a brave and self-respecting man: 'if someone slaps me, my hands come out and I slap him. It is natural *nyaya* (justice)'. In this light, the contemporary *gaurav-shaks* (self-proclaimed cow protectors) and the lynching of mostly Muslim men suspected of transporting beef in 2016–17 appear as less of an aberration than they are extensions of an existing grammar of action whereby righteous anger—especially that of the putative majority community—is already justified and legitimate.

Violence, I propose, has become a 'general equivalent' in India's multiple publics, akin to Marx's notion of money as the general measure of value of otherwise disparate objects (commodities, capital, debt, etc.). Acts of public violence generate wildly disparate experiences and interpretations of violence—avenging, retributive, sacrificial, or victimising, etc. Often, the experiences of violence are entirely incommensurate with one another, as in the reckoning after major communal riots and other crowd violence. At other times, violence is invisible and incomprehensible to an adjacent public and social world, as in routinised atrocities against Dalits, or the systematic violence visited upon Muslims by police forces across India.

Yet, these experiences and real events are invariably presented, and performed, as public violence—that is extralegal, excessive and exceptional—in order to become visible and intelligible across deeply segmented and antagonistic public worlds. While the thick social context and experience of violence may be impossible to translate, the figures of victims, outraged crowds, or the self-sacrificing activist, or the brutal police action against a crowd, are general equivalents that have the potential to transcend otherwise deeply segregated social and cultural worlds.

Violence is conventionally seen as the limit, if not negation, of political life and civil political discourse. However, violence has become a completely routinised and integral part of the political life in India's many diverse publics. Public violence, or the threat thereof, demands attention and it generates reaction. Violence has become deeply intertwined with the more formal, mediated and institutional aspects of India's modern publics such as newspapers, news channels and social media. As Francis Cody has shown in compelling detail, newspaper reporting and op-eds in the Tamil press always factor in the possibility of violent reprisals in the wake of controversial statements.<sup>38</sup> Similarly, *Saamina* and other right wing newspapers are open about their reporting bias (or 'truth', as its reporters insist), and they routinely taunt their readers to take 'direct action' against their enemies, including offices of newspapers critical of the movement. The street and the editorial office are not categorically different in contemporary India, one civil and objective, the other partisan and rogue, but rather parts of the same vernacular publics where the public performance of anger and fury is every bit as legitimate as a sarcastic op-ed. This indicates that violence is no longer politics by other means but the heart of political life itself. This, I submit, is a deeper and longer-term process that must be factored into our understanding of how Indian democracy works.

#### *Public violence as popular sovereignty*

In a dialectical loop of history, the seemingly spontaneous anger and violence of 'frenzied' mobs that colonial officers feared and loathed as deep 'oriental irrationality'<sup>39</sup> are now back, carefully staged as a deep emotional truth, and instrumentalised as the most legitimate expression of popular anger and political will. Today, the mightiest socio-political force in India today is neither the state nor the law but deeply embedded vernacular ideas of popular sovereignty. Notions of the right to rule by the people (*swaminin rajya*, or *lokshahi*) have taken deep hold. But unlike the specificity of precisely delineated case and religious communities that play such a large role in everyday life, 'the people' or the majority that are invoked in public performances remains a more open category and never entirely pre-given. It needs to be continuously filled and performed in order to remain potent.

One of the crucial enabling conditions making public violence so common to invocations of popular sovereignty is the application of the force of law in the face of such exertions of 'the law of force'. Violent crowd action—destroy-

ing public property, beating up and attacking opponents—is to this day rarely prosecuted with much vigour.

Colonial policing suspended the principle of individual culpability in the context of crowd violence. This practice was continued by the police in independent India. Countless reports and inquiries since the 1960s have depicted crowd violence as a mere symptom of social or communal tension, and rarely as concrete action perpetrated by identifiable actors. The state of Maharashtra still retains a legal provision, 'The Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug offenders and Dangerous Persons Act' promulgated in 1981 (by a Congress government) and amended in 2009, that allows the police to detain 'notorious characters' when the police feel that communal or other tension is building up in an area.<sup>40</sup> After riots, police and public figures have conventionally attributed these riots to the 'handiwork of criminal elements'—though these always remain unnamed, and unidentified.<sup>41</sup> If we look at the National Crime Statistics how many individuals were charged under IPC 153A and 153B—that is the incitement of enmity between groups—between 2014 and 2016 fluctuate between 400 and 600/year under each, and these are often overlapping charges. Probing a bit deeper in these numbers, one finds, interestingly, only thirteen cases led to conviction in 2016.<sup>42</sup>

Another interesting pattern emerges when one looks at the conviction rate for 'rioting' and other offenses against public order. The police claim a 16 per cent conviction rate in such cases in 2016, which in any case is low, but when one looks at the numbers of people arrested and charged (around 300,000/year in about 30,000 cases/year) one sees an exceptionally high 'pending' rate. The number cases that are pending each year is around 95 per cent—mostly cases carried over from previous years.<sup>43</sup> What does this tell us? Purely on the basis of the official and undoubtedly somewhat 'cooked' figures: that at the very highest, a few per cent of those charged with disturbing public order are ever convicted. Most of those charged (more than 2 million individuals reported in 2014)—and we cannot assume their guilt—are on bail for years, even decades.<sup>44</sup>

This means that in practice, the only punishment for disturbing public order takes place not after the events but as they unfold. But here too, the application of force is calibrated according to which communities and classes are in the street. Until about a decade ago, the Indian police used mainly extremely forceful *lathi*-charges or live ammunition as a means of crowd control. The multiple injuries and deaths caused by these blunt methods have rarely been questioned

mainly because such violence has been disproportionately targeting the poorer minority communities. Let me give a few examples.

The active complicity of the Bombay police force in targeting Muslims while protecting Shiv Sena activists during the riots in 1992–93 was assiduously documented by the Srikrishna Commission.<sup>45</sup> The pattern has repeated itself many times since then. In July 2012, Raj Thackeray and his MNS movement staged a march through Mumbai to protest a demonstration by Muslims at the city's Azad Maidan. That day, I witnessed fully armed police blocking all main thoroughfares leading into the dense Muslim areas in central Mumbai. In the name of maintaining public order, the police faced the Muslim *mohalla* while protecting the 60,000 militant and belligerent Hindus marching through the city behind them.

After the brutal killing of a Dalit family in Khairlanji in Maharashtra in 2007, Dalits protested across the state. The police came down heavily on these protesters, detaining and beating up thousands of activists. The police also launched what became known as 'combing operations' in Dalit neighbourhoods, arresting and detaining hundreds of young men charged with 'disturbing public order'. After the state-wide protests following the attacks on Dalit celebrations at Bhima Koregaon on 1 January 2018, the same techniques were deployed on an even more intensive scale, now aided by video footage and targeting individual protesters. Police would search Dalit slum areas, destroy two-wheeled, kick down doors and beat up any able bodied male they could find.<sup>46</sup> At the time of writing, hundreds of young men are still languishing in jail in Maharashtra, most of them draconically charged under IPC section 307 with the intent to murder police officers, a charge that can carry severe sentences.

This rather extraordinary imposition of the force of law upon minority communities has scarcely been reported in the mainstream press. The Dalit movement in the state successfully managed to impose a state-wide *bandh* on 3–4 January 2018—a feat that no other political force has been able to achieve since the Shiv Sena's *bandhs* of the 1990s. These actions produced very little sympathy or attention among general caste Hindus. 'These people have no right to disturb the peace like that', my Shiv Sena-supporting middle class neighbour told me, while in the same breath assuring me that Shiv Sena's vigilante-style politics had provided 'justice for Hindus'. The dividing line seems, in other words, no longer to be whether public violence is legal or not but, rather, a question of who has the right to violently dominate public space claim to be 'the people'.

Such tacit legitimacy of violence is arguably the most pervasive effect of politics in India having been increasingly organised as assertions of popular

sovereignty, along lines of the friend/enemy distinction that Carl Schmitt defined as the essence of all political life.<sup>47</sup> At the same time, this deepening friend/enemy distinction also makes such violent street politics a site of deep and enduring jouissance and excitement. As I have alluded to in previous work,<sup>48</sup> ordinary politics in India is often fueled by outrage and scandal—the corruption, the transgression, the bending of power, the cynicism—all these things outrage voters, and motivate them to vote differently. But the shamelessness and routine violence of electoral politics is also a distorted mirror of people's selves, a source of 'perverse' entertainment and, at times, furtive enjoyment. Such surreptitious endorsement and excitement during times of riots—the feeling that murderous mobs are exacting a form of magical justice beyond procedure and law; the middle class voters' fascination with the eros of naked power and the audacity of political operatives—these are all richly and disturbingly documented by ethnographers of violence.<sup>49</sup>

*Is India's democratic revolution denigrating democracy?*

The deepening of India's democracy in the 1980s and 90s seemed to suggest that formal equality in the sphere of political representation would lead to a questioning of hierarchies of caste and community and an assertion of lower-caste identities and communities.<sup>50</sup> Lower-caste communities were politically empowered and they managed to mobilise educational and economic opportunities through reservations and new economic networks. Key elements of liberal democracy—individual and equal rights to vote, to access public goods, to claim reservations, the (nominal) rule of law, etc.—were all crucial conditions of possibility that enabled the mobilisation of lower-caste communities. But the result was not a questioning of caste practices within, or among, these communities. Instead, a new 'substantialisation' of caste communities took shape along with a renewed emphasis on myths of origin, ritual life, marriage prestations and kin-alliances that have all acquired new importance in a quest for consolidating the social respectability of politically mobilised OBC communities.<sup>51</sup> Democracy in a caste society is essentially organised as collective mobility, as a fight to level the political playing field and claiming recognition and visibility that often reifies the caste communities that are mobilised and strengthens the illiberal and patriarchal practices within these communities, now justified in the name of honour, collective strength and respectability. The BJP's victory in 2014 owes a lot to the party's systematic recruitment of aspirational leaders from lower-caste communities who saw the BJP as a pos-

sible vehicle for further inclusion, mobility and respectability of their communities. This suggests that the deepening of democracy in India has produced ever-stronger assertion of the legitimate power of majorities, popular power and popular sovereignty, but without any concomitant percolation of liberal-democratic values, and without any stronger assertion of the rule of law as a value in and of itself. Electoral politics and mobilisation are at the heart of popular worlds across India, often performed as ludic rituals of war in a polarised atmosphere where hurt sentiments, outrage and public violence have more legitimacy than a few decades ago. In these milieus, it is neither the embrace of liberal rights, nor the defense of entitlements and access to public goods and government services that seem to be strongest driver of political mobilisation. It is, rather, 'the law of force', i.e. the idea that political power and popular mobilisation provides an umbrella that protects against the force of law and promises its supporters a certain room for manoeuvre and a measure of impunity. Hertzin lies perhaps the answer to why there seems to be no contradiction between a strong support for democracy—understood as the will of the people—as a form of government, and support for authoritarian styles of governance ruling in the name of this people.

34. For an analysis of this sense of anger in a comparative perspective, see see Nishra, Pankaj, *Age of Anger: A History of the Present*, Delhi: Penguin Books, 2018. For an Indian vignette, see chapter 4 of Poonam, Singdha, *Dreamers: How Young Indians are Changing the World*, London: Hurst, 2018.
35. Centre for the Study of Developing Societies (CSDS), *State of Democracy in South Asia*, New Delhi: Oxford University Press, 2008, p. 236.
36. Heller, Patrick and Leela Fernandes, 'Hegemonic aspirations: New middle-class politics and India's democracy in comparative perspective', *Critical Asian Studies*, 38, 4 (2006), pp. 495–522.
37. Palshkar, Suhas, 'Politics of India's middle class', in Imtiaz Ahmad and Helmut Reifeld (eds.), *Middle Class Values in India and Western Europe*, New York: Routledge, 2018, p. 178.
38. See the section of S. Poonam's book titled 'Angry young men': Poonam, S., *Dreamers: How Young Indians are Changing the World*, London: Hurst, 2018, p. 118.
39. See the portrait of Chatterjee, Al., 'The ordinary life of Hindu supremacy: In conversation with a Bajrang Dal activist', *Economic and Political Weekly*, 53, 4 (27 Jan. 2018), <https://www.epw.in/engage/article/ordinary-life-hindu-supremacy>.
40. Pandu, M., 'Angry Hanuman: This viral image that won Modi's praise symbolises today's aggressive, macho India', *Scroll.in*, 26 May 2018, <https://scroll.in/article/879108/angry-hanuman-this-viral-image-that-won-modis-praise-symbolises-todays-aggressive-macho-india-and-bhownick>. N., 'Militant Hinduism and the reincarnation of Hanuman', *The Wire*, 4 Apr. 2018, <https://thewire.in/communalism/noidas-driving-militant-hinduism-and-the-resurrection-of-hanuman>.
41. Kápur, A., 'Devy to crusader: the changing iconography of Kan', in G. Pandey (ed.), *Hindus and others: The question of identity in India today*, New Delhi: Viking, 1993, pp. 74–109.
42. We draw on elaborations by Giorgio Agamben and Michel Foucault: Agamben, Giorgio, *Homo Sacer: Sovereign Power and Bare Life*, Daniel Heller-Roazen (trans.), Stanford: Stanford University Press, 1998; Agamben, Giorgio, *State of Exception*, Kevin Attell (trans.), Chicago: University of Chicago Press, 2005; Foucault, Michel, *Security, Territory, Population: Lectures at the Collège de France, 1977–1978*, Graham Burchell (trans.), New York: Palgrave Macmillan, 2009; also, Schuilenburg, Marc, *The Secularization of Society: Crime, Risk, and Social Order*, George Hall (trans.), New York: New York University Press, 2015.
43. Chatterji et al., *Conflicted Democracies*, op. cit., p. 25.
44. Chatterjee, Partha, *The Politics of the Governed: Reflections on Popular Politics in Most of the World*, New York: Columbia University Press, 2004.
45. See Jaffetor, C., A. Kohli and K. Murali (eds), *Business and Politics in India*, New York: Oxford University Press 2019.
46. For example, 'Village Defense Committees have been constituted in Jammu as civilian "self-defense" militias... VDC members are predominantly men, of Hindu and Sikh descent, and some "trustworthy" Muslims, who are recruited by Hindu nationalist groups, making militarization a necessary to securing the rights of local non-Muslim minorities, obscuring the relations of the Indian state to militarized Hindu national-

- ism; Chatterji, Angana P., 'Witnessing as feminist intervention in India-administered Kashmir', in Ania Loomba and Ritty Lukose (eds), *Feminisms in South Asia: Contemporary Interventions*, Durham: Duke University Press, 2012, p. 236.
  47. See Chatterji et al., *Conflicted Democracies*, op. cit.; Hansen, Thomas Blom, *The Saffron Wave: Democracy and Hindu Nationalism in Modern India*, Princeton: Princeton University Press, 1999; Hansen, Thomas Blom, *Wages of Violence: Naming and Identity in Postcolonial Bombay*, Princeton: Princeton University Press, 2001; Jaffetor Christophe, *Religion, Caste and Politics in India*, New York: Columbia University Press, 2011.
1. DEMOCRACY AGAINST THE LAW: REFLECTIONS ON INDIA'S ILLIBERAL DEMOCRACY
1. Bajpai, Roehana, *Debating Difference, Group Rights and Democracy in India*, Delhi: Oxford University Press, 2011.
  2. Jajal, Niraja Gopal, *Citizenship and Its Discontents: An Indian History*, Cambridge and London: Harvard University Press, and New Delhi: Orient Blackswan, 2013.
  3. De, Rohit, *A People's Constitution. The Everyday Life of Law in the Indian Republic*, Princeton: Princeton University Press, 2018.
  4. See statements by Union Minister Anant Kumar Hegde at a meeting in December 2017 organised by Brahman Yuva Parishad. 'I feel happy because he (the person) knows about his blood, but I don't know what to call those who claim themselves secular' (Press Trust of India, 26 Dec. 2017, 'Union minister Hegde hints at removing "secular" from Constitution', *The Economic Times*, <https://economictimes.indiatimes.com/article/show/62241135.cms>).
  5. I owe this point to Niraja Gopal Jajal who provided incisive comments on an earlier draft of this paper.
  6. This was the first time in the history of independent India that the government turned its full force against members of the upper middle class and the political elite. After Indira Gandhi's return to power in 1980, civil rights concerns receded from center stage to a more marginal if vocal activist community. Both of India's most prominent civil rights organisations were founded during these years—the People's Union for Civil Liberties (founded in 1976 by J.P. Narayan, among other people), and the People's Union for Democratic rights (founded in 1977).
  7. Habermas, Jürgen, *A Berlin Republic. Writings on Germany*, Lincoln: University of Nebraska Press, 1997; Mueller, Jan-Werner, *Constitutional Patriotism*, Princeton (NJ): Princeton University Press, 2007.
  8. Wike, Richard et al., 16 Oct. 2017, 'Democracy widely supported, little backing for rule by strong leader or military', Pew Research Centre, <http://www.pewglobal.org/2017/10/16/democracy-widely-supported-little-backing-for-rule-by-strong-leader-or-military/>.
  9. Bayly, C.J., *Recovering Liberties. Indian Thought in the Age of Liberalism and Empire*, Cambridge: Cambridge University Press, 2011.
  10. See, Manntena, Karuna, *Abhis of Empire: Henry Maine and the Ends of Liberal*

- Imperialism*, Princeton: Princeton University Press, 2010; Mehra, Uday Singh, *Liberalism and Empire: A Study in Nineteenth Century Liberal British Thought*, Chicago: University of Chicago Press, 1999; Pits, Jennifer, *A Turn to Empire: The Rise of Liberal Imperialism in Britain and France*, Princeton: Princeton University Press, 2005.
11. Singha, Radhika, *A Despotism of Law: Crime and Justice in Early Colonial India*, Delhi: Oxford University Press, 1998.
  12. Chandavarkar, R., *Imperial Power and Popular Politics: Class, Resistance and the State in India, 1850–1950*, Cambridge: Cambridge University Press, 1998.
  13. Beverley, Eric, *Hyderabad, British India and the World: Muslim Networks and Minor Sovereignty, c. 1850–1950*, Cambridge: Cambridge University Press, 2015.
  14. Barniah, Sanjib, *Dirtable Disorder: Understanding the Politics of Northeast India*, Delhi: Oxford University Press, 2007.
  15. Many of these central forces were formed in the 1960s. The biggest are: the Central Reserve Police Force (formed in 1939), with a strength of 313,000; the Border Security Force (formed in 1965), strength 257,000; the Assam Rifles (1835), strength 63,000; Central Industrial Security Force (1965), strength 144,000; Indo-Tibetan Border Police (1962), strength 89,000; National Security Guard (1985), strength 7,500; Sashastra Sena Bal (Bhutan Border and Election service) (1963), strength 76,000. In addition, each state has military police but numbers are not publicly available. The expansion of security forces has steadily increased since the 1960s, regardless of which party dominated the Union government.
  16. [https://en.wikipedia.org/wiki/Armed\\_Forces\\_\(Special\\_Powers\)\\_Act](https://en.wikipedia.org/wiki/Armed_Forces_(Special_Powers)_Act). See also the report by the committee headed by Justice Jeevan Reddy, *Report of the Committee to Review the Armed Forces Special Powers Act, 1958*. Government of India, Ministry of Home Affairs, New Delhi 2005.
  17. [https://en.wikipedia.org/wiki/Unlawful\\_Activities\\_\(Prevention\)\\_Act](https://en.wikipedia.org/wiki/Unlawful_Activities_(Prevention)_Act). See also, [http://www.satp.org/satporgwp/countries/india/document/actandordinances/the\\_unlawful\\_activities\\_act1967.htm](http://www.satp.org/satporgwp/countries/india/document/actandordinances/the_unlawful_activities_act1967.htm). For a critical assessment see <https://thewire.in/113353/uapa-anti-terrorism-laws/>
  18. TADA was widely criticised after its draconian application through mass arrests after the bomb blasts in Bombay in March 1993. It lapsed in 1995. It was replaced by Prevention of Terrorist Activities Act (POTA) in 2002, but this act was also deemed unconstitutional and was repealed in 2004.
  19. The support for a strong state came from many quarters, including Communist Party of India (CPI) and Shiv Sena. Both parties also supported the Emergency in 1975–76 (see Lockwood, David, *The Communist Party of India and the Indian Emergency*, Delhi: SAGE India, 2016). For an account that comes close to a defence of the Emergency by one of India's prominent historians, see Chandra, Bipan, *In the Name of Democracy, JP Movement and Emergency*, Delhi: Penguin Random House, 2017.
  20. It was the excesses during Emergency rule that triggered the first systematic enquiry into policing practices in the country. The National Police Commission (1977–81) produced eight substantial volumes with many recommendations for reform. Twenty years later the Ribeiro Report (1999) echoed many of these recommendations and so did the Padmanabhiah Report (2000), the Malimath Report (2003) and the Soli Sorabjee Report (2005). In 2006, the supreme court intervened directly and ordered a number of police reforms to be undertaken. Six years later, the Court again ordered both the Union government and the state governments to implement a series of reforms. Very little has changed for more than 40 years. There is extensive press reporting on the excesses of the police throughout the country, see for instance reporting on the now routinised practice of extra-legal encounter killings that was pioneered by the Bombay Police. 'Mumbai Police Detection Unit', [Wikipedia](https://en.wikipedia.org/wiki/Mumbai_Police_Detection_Unit), [https://en.wikipedia.org/wiki/Mumbai\\_Police\\_Detection\\_Unit](https://en.wikipedia.org/wiki/Mumbai_Police_Detection_Unit); Varma, Subodh, '1,654 shot dead in encounters between 2004–2014', *The Times of India*, 3 Nov. 2016, <https://timesofindia.indiatimes.com/india/1654-shot-dead-in-encounters-between-2004-2014/article-show/55216190.cms>. This policy has been embraced since 2017 by the BJP government in Uttar Pradesh, resulting in more than 1,000 deaths in less than two years. Shalabh, 'Over 900 encounters in Yogi Adityanath regime, 31 goons gunned down', *Times of India*, 10 Jan. 2018, <https://timesofindia.indiatimes.com/city/bucknow/over-900-encounters-in-yogi-adityanath-regime-31-goons-gunned-down/article-show/62444444.cms>. There are also multiple reports on the extensive use of custodial torture, see for instance: Manubarwala, Aditya, 'Revisiting India's obligations against custodial torture', LSE Human Rights, 19 May 2017, <http://blogs.lse.ac.uk/human-rights/2017/05/19/revisiting-indias-obligations-against-custodial-torture/>; Human Rights Watch, *Bound by Brotherhood*, <https://www.hrw.org/report/2016/12/19/bound-brotherhood/indias-failure-end-killings-police-custody>.
  21. Jigesh, Am, 'Why does CBI have a conviction rate of just 3%?', *The Hindu Business Line*, 31 Oct. 2017, <http://www.withindubusinessline.com/news/national/why-does-cbi-have-a-conviction-rate-of-just-3/article69935407.cce>
  22. Chakrabarty, Dipesh, 'In the Name of Politics: Democracy and the Power of the Multitude in India', *Public Culture*, 19, 2007, pp. 35–57.
  23. Naregal, Veena, *Languages, Political Elites and the Public Sphere: Western India under Colonialism*, London: Anthem Press, 2001; Mitchell, Lisa, *Language, Emotion and Politics in South India: The Making of a Mother Tongue*, Bloomington: Indiana University Press, 2009; Manreha, Rama, S., 'Vernacular Publics and Political Modernity: Language and Progress in Colonial South India', *Modern Asian Studies*, 47, 5 (2013), pp. 1678–1705.
  24. Ragagopal, Arvind, *Politics after Television: Hindu Nationalism and the Reshaping of the Public in India*, Cambridge: Cambridge University Press, 2001; Ghassam Fachandi, *Pogrom in Gujarat: Hindu nationalism and anti-Muslim violence in India*, Princeton: Princeton University Press, 2012; Hansen, Thomas Blom, 'Recuperating Masculinity: Hindu nationalism, Violence and the Exorcising of the Muslim Other', *Critique of Anthropology*, 16(2), 1996, pp. 137–72.
  25. Bate, Bernard, *Tamil Oratory and the Dravidian Aesthetics: Democratic Practice in South India*, New York: Columbia University Press, 2009.
  26. Talwalker, Clare, 'Kindred Public: the modernity of kin fetishism on western India', *Postcolonial Studies*, 12, 1 (2009), pp. 69–88.
  27. *Ibid.*, p. 86.
  28. The large crowds attending Ambedkar's death anniversary at the Chhatyabhoomii located

in the upscale neighborhood of Dadar in Mumbai, has for decades provoked much anger and resentment among local caste Hindus.

29. Warner, Michael, *Publics and Counter Publics*, New York: Zone Books, 2005; Pandian, M.S.S., 'One Step Outside Modernity: Caste, Identity Politics and Public Sphere', *Economic and Political Weekly*, 37, 18 (2002), pp. 1735–41.

30. See *Crime in India, Statistics*, National Crime Records Bureau, Ministry of Home Affairs, Government of India, <http://ncrib.gov.in>, 2016. Space does not permit a deeper analysis here of regional distribution of such public order disturbances but it seems clear that the now easily accessible crime statistics should provide an interesting, if far from reliable, source for social scientists interested in public protests in India. For an analysis of the possible correlation between riots and other public disturbances, and the rate and scale of public service delivery, see Justino, Patricia, *Civil Unrest and Government Transfers in India*, IDS Evidence Reports (108), Sussex: IDS, 2015. However, the problem in Justino's analysis is that she does not account for the differentiation of different kinds of 'unrest' and their possible differential causes. In her analysis the variable is public service delivery alone, again a category that she only applies in a highly aggregated manner that cannot account for, or possibly explain, regional differences.

31. Other ways of measuring this could be the incidences of police shooting or *lathi* charge, for instance. Here the Crime Bureau tells us, almost unbelievably, that in 2016 there were 184 instances of firing wherein 92 civilians were killed and 352 injured. In the same incidents we are told that as many as 727 policemen were injured. There were 2,184 cases of *lathi* charge where 35 civilians died, and 759 were injured. Again one is surprised to read that the police claims as many as 4,713 injured policemen in the same incidents (Crime Statistics, 2016, op. cit., Table 16B.1).

32. Cook, Ian M., 'Immoral Times: Vigilantism in a South Indian City', 2019 (in this volume).
33. Blom, Amelie and Nicholas Jaoul, 'Introduction: The Moral and Affective Dimension of Collective Action in South Asia', *SIVA/IdJ, South Asia Interdisciplinary Journal*, 2 (2008), <https://samaj.revues.org/1912>.

34. Eckert, Julia, *The Charisma of Direct Action: Power, Politics and the Shin Sena*, Delhi: Oxford University Press, 2003; Hansen, Thomas Blom, *Wages of Violence: Naming and Identity in postcolonial Bombay*, Princeton: Princeton University Press, 2001; Sen, Aruney, *Shin Sena Women: Violence and Communalism in a Bombay Slum*, Bloomington: Indiana University Press, 2007; Bedi, Tarini, *The Dashing Ladies of Shin Sena. Political Matrimony in Urban India*, Albany (NY): State University of New York Press, 2016.

35. The theme of hurt collective emotions has now become the predominant motif in Hindu nationalist mobilisation, all structured closely by IPC 295A: the movement claims that scholars (such as Wendy Doniger), filmmakers, films, books or even the presence of beef and non-vegetarian food offend 'Hindu feelings'; or that journalists or critics of the Modi government, disregard the true feelings of Hindus, a claim that can only be 'proved' by displays of passion and the willingness and felt 'need' to perpetrate violence.

36. Wilkinson, Steven, *Votes and Violence: Electoral Competition and Ethnic Riots in India*, Cambridge: Cambridge University Press, 2006.

37. Basu, Amrita, *Violent Conjectures in Democratic India*, Cambridge: Cambridge University Press, 2015.

38. Cody, Francis, 'Populist Publics, Print Capitalism and Crowd Violence beyond Liberal Frameworks', *Comparative Studies of South Asia, Africa and the Middle East*, 35, 1 (2015), pp. 50–65.

39. Pandey, Gyanendra, *The Construction of Communalism in Colonial North India*, Delhi: Oxford University Press, 1990.

40. 'The Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-Offenders and Dangerous Persons Act, 1981', PK5, <http://www.lawsonindia.org/pdf/maharashtra/1981/1981MH455.pdf>.

41. Most police actions before and after riots have conventionally targeted individual 'charge sheets' or what in police parlance is known as 'notorious characters'. Thanks to the dogged work of activists such as Teesta Setalvad and others, the judicial aftermath of the pogrom in Gujarat in 2002 was the first high-profile instance of individuals being named, prosecuted and convicted of crimes committed in the context of crowd violence. However, in most cases, suspects were acquitted, or cases dismissed on the grounds of insufficient evidence. For an overview of the judicial aftermath of the Gujarat pogrom, see *When Justice becomes the Victim. The Quest for Justice after the 2002 violence in Gujarat*, Stanford Law School, 2014, <http://humanrightsclinic.law.stanford.edu/wp-content/uploads/2016/05/When-Justice-Becomes-the-Victim-secure.pdf>

42. *Crime in India 2016*, op. cit., Statistics, [http://ncrib.gov.in/Table\\_18A.1](http://ncrib.gov.in/Table_18A.1)

43. *Ibid.*

44. The categories and tables rendered by the National Bureau of Crime Statistics changes and varies from year to year making robust multi-year comparisons very difficult. In the 2014 figures, we are told that 308,544 persons were arrested in connection with rioting. Of those 90 per cent were charged (284,733). Only 64,922 (Table 12.3) got out on bail which means that most others were released while a few would have been kept in custody. We are also told that the total number of persons charged in a pending trial is 2,575,243 in 2014. Out of those as many as 1,462,757 (both figures are from Table 12.4) are on bail while the status of the remaining one million individuals is unclear.

45. *The Stribshna Commission report into the Bombay Riots in 1992–93*, Mumbai, <http://www.sabrang.com/srikrish/vol1.htm>, 1998.

46. Local residents showed the extensive footage of these raids, filmed on smart phones from street corners and roof tops during the time the operation was unfolding.

47. Schmitt, Carl, *The Concept of the Political*, Chicago: University of Chicago Press, 1920/2007.

48. Hansen, Thomas Blom, *The Saffron Wave: Democracy and Hindu Nationalism in Modern India*, Princeton: Princeton University Press, 1999.

49. See Ghassan-Fachandi, 2012 for a particularly fine and disturbing study of the eros and disgust of collective violence.

50. Jafferloe, Christophe, *India's Silent Revolution: The Rise of the Lower Castes in North India*, London: Hurst & Co./New York: Columbia University Press, 2003; Weiss, Jeffrey, *Democracy against Development. Lower Caste Politics and Political Modernity in India*, Chicago: University of Chicago Press, 2013.