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Asia in 2019: Escalating international tensions and authoritarian involution

**Edited by
Michelguglielmo Torri
Nicola Mocci
Filippo Boni**

viella

A large, intricate golden mandala pattern is positioned on the right side of the cover, partially overlapping the dark blue background. It features complex geometric and floral designs.

CENTRO STUDI PER I POPOLI EXTRA-EUROPEI “CESARE BONACOSSA” - UNIVERSITÀ DI PAVIA

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The Journal of the Italian think tank on Asia founded by Giorgio Borsa in 1989

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When this Asia Maior issue was finalized and the Covid-19 pandemic raged throughout the world, Kian Zaccara, Greta Maiorano and Giulio Santi, all children of Asia Maior authors (Luciano Zaccara, Diego Maiorano and Silvia Menegazzi), were born. We (the Asia Maior editors) have seen that as a manifestation of Life, reasserting itself in front of Thanatos. It is for this reason that we dedicate this issue to Kian, Greta and Giulio, with the fond hope that they will live in a better world than the one devastated by the Covid-19 pandemic.

INDIA 2019: ASSAULTING THE WORLD'S LARGEST DEMOCRACY;
BUILDING A KINGDOM OF CRUELTY AND FEAR*

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The seven months starting with the formation of the second Modi's government in May 2019 and the end of the year were characterised by the systematic and massive assault on democracy launched by the incumbent government. The highpoints of this assault were basically two. The first was the hollowing out of two key articles of the Constitution, which had guaranteed the autonomy of Jammu & Kashmir, the only Union state with a Muslim majority, followed by its dismantling as a state and its transformation into an internal colony brutally ruled through military force. The second highpoint was the attempt to modify the concept of Indian citizenship by introducing a religious criterion aimed at excluding persons of Muslim religion. Both moves appeared to be in contrast with the Indian Constitution; however, the Supreme Court studiously avoided contrasting the Modi government's policies. The most important Supreme Court's sentence in the period under review, far from being related to the possibly unconstitutional activities of the government, dealt with the Ayodhya question and de facto justified the destruction of the Babri Masjid by Hindu extremists in 1992. Eventually a reaction to the country's slide towards authoritarianism set in at the beginning of December; when a mass movement against the modification of the secular concept of citizenship spread in large parts of India and was harshly repressed in the Union states governed by Modi's party, the BJP.

Modi and his closest aides, while focussing their efforts on the assault on democracy, seemed to be disinterested in the disappointing economic situation, possibly as a consequence of their inability, during the previous term, to manage it properly. Hence, the real dimensions of the slowdown, resulting from the first Modi government's mismanagement of the economy became increasingly evident. As evident became the inability of the new finance minister to redress the situation. Ominously, by the end of the period the GDP appeared to be sliding back to the infamous «Hindu rate of growth», namely the slow growth characterising the years from 1950 to 1980.

1. Introduction: The health of India's democracy in the morrow of Narendra Modi's victory

What was the state of the world's largest democracy in the morrow of Narendra Modi's smashing victory in the 2019 general election was pointed

* The title has been borrowed from an article of Prem Shankar Jha ('This Independence Day Was a Grim Reminder of a Nation Running on Empty Promises', *The Wire*, 19 August 2019), where Jha decries «the kingdom of lies and fear» that India has become.

out with great clarity of mind by Trinamool Congress's newly elected MP Mahua Moitra on 25 June 2019. In her maiden parliamentary speech, Moitra, while «humbly accepting the resounding mandate» that the BJP had obtained, denounced the fact that there were «signs everywhere» that India was «being torn apart». She listed seven of them: a «nationalism that is searing into our national fabric», and which was both «superficial» and «xenophobic»; a «resounding disdain for human rights», which was «permeating every level of the government» and causing «a 10-fold increase in the number of hate crimes between 2014 and 2019»; «an unimaginable subjugation and controlling of mass media»; «an obsession with national security and the identification of enemies»; a situation in which religion and government had become «intertwined»; «a complete disdain for intellectuals and the arts», which included both «a suppression of all dissent» and the cut of funding «for liberal education»; and, lastly, «an erosion of independence in [India's] electoral system».

All the above seven signs – pointed out Moitra – were included in a 2017 poster, put up in the United States Holocaust Memorial Museum and listing the signs of early fascism. Her conclusion was straightforward: «There is a danger of fascism rising in India. It is incumbent upon all of us to stand up to it».¹

If Mahua Moira erred, it was on the side of caution, rather than on that of exaggeration. As detailed by several sources – including articles published in this journal – since Narendra Modi's victory at the 2014 general election, the democratic situation in India had continuously deteriorated. In the words of a Human Rights Watch report, Indian authorities had «failed to protect religious minorities, used draconian sedition and counterterrorism laws to silence peaceful dissent, and invoked foreign funding regulations and other laws to discredit and muzzle nongovernmental organizations critical of government actions or policies».² As noted by Moitra herself in her maiden speech, lynching, mainly for religious reasons, had continued unabated, without any serious effort by the Modi government to put an end to it. In fact, according to Human Rights Watch: «Instead of promptly investigating cow-protection attacks and prosecuting perpetrators, the police, in at least a third of the reported cases, have filed complaints against victims' family members and associates under laws banning cow slaughter. Counter complaints against witnesses and family members have often served to make them afraid to pursue justice. In some cases, witnesses turned hostile because of intimidation both by the authorities and the accused».³

The situation of the journalists critical of the national government and the BJP state governments was hardly more favourable. According to a

1. 'Full text of Mahua Moitra's Lok Sabha speech that landed her in plagiarism row', *The Print*, 5 July 2019.

2. Human Rights Watch, *India: Mounting Human Rights Abuses*, 14 January 2020.

3. Human Rights Watch, *Violent Cow Protection in India. Vigilante Groups Attack Minorities*, 18 February 2019.

research funded by the Thakur Family Foundation, published in December 2019 and focused on the 2014-19 period, in those years there were 198 serious attacks on journalists, including 36 in 2019 alone. In fact, journalists had been «fired upon, blinded by pellet guns, forced to drink liquor laced with urine or urinated upon, kicked, beaten and chased». They had had «petrol bombs thrown at their homes and the fuel pipes of their bikes cut». These attacks had resulted in «40 killings of journalists between 2014-19».⁴

The police's and judiciary's response to these attacks had been lukewarm at best: in a majority of cases the police had not even started an investigation; while, in most remaining cases, the investigation had gone nowhere.⁵

Of course, this stood for the journalists who had not been killed as a result of the attacks on them. But killing a journalist did not involve much risk of retribution. Significantly, chapter II of the Thakur Foundation report was entitled: 'Deaths: Near-Zero Rate of Conviction'.⁶

Lynching of members of the religious minorities, attacks on and murders of journalists, the apathy of the police or their hardly disguised complicity when dealing with these crimes were worrying by themselves. However, they simply were the end product of the government's increasingly brazen tendency to silencing dissenting voices. This could affect ordinary citizens – as the «popular Manipuri video vlogger» who was remanded to judicial custody on 17 December 2019 for posts critical of the Manipur chief minister and the BJP⁷ – as well as opposition politicians (on this more later). While jailing opposition politicians was not a practice unheard of in pre-2014 India, it had always been presented as something exceptional, justified by extraordinary circumstances. What changed after 2014 – and even more starkly following the 2019 general election – was the fact that what had hitherto been presented as an exceptional practice was now justified as the norm: as unambiguously stated by BJP National General Secretary Ram Madhav, «preventive arrest is part of political activity».⁸

Sadly, already in the morrow of the 2019 general election, India increasingly appeared as a case study fully supporting Harvard Professors Steven Levitsky and Daniel Ziblatt's thesis on how democracies may die. According to the two scholars, democracies nowadays may die «at the hands not of generals but of elected leaders – presidents or prime minis-

4. Geeta Seshu & Urvashi Sarkar, *Getting away with Murder: A Study on the Killings of and Attacks on Journalists in India, 2014-2019, and Justice Delivery in These Cases*, Thakur Foundation, December 2019.

5. *Ibid.*

6. *Ibid.*

7. 'Vlogger in Manipur jailed for posts critical of chief minister and BJP', *Scroll.in*, 22 December 2019.

8. Liz Mathew, 'Ram Madhav: «Preventive arrest part of political act... Sheikh Abdullah was in jail for decades», *The Indian Express*, 11 September 2019; Ipsita Chakravarty, 'The Daily Fix: Under the BJP, detaining opposition leaders has become politics as usual', *Scroll.in*, 12 September 2019.

ters who subvert the very process that brought them to power». As highlighted by Levitsky and Ziblatt, «Some of these leaders dismantle democracy quickly ... More often, though, democracies erode slowly, in barely visible steps».⁹

The slow erosion of democracy, «in barely visible steps» was, indeed, what had happened during Modi's first term as prime minister. But, beginning with his victory at the 2019 general election, the «barely visible steps» became highly discernible, very bold and destructively long strides.

It is on the Narendra Modi's government increasingly bold and brazen assault on democracy that most of the remainder of this article is focused. Additional space will be given for an examination of the economic evolution of the country, if not for any other motive because it is clear that the first Modi government's abject failure in promoting economic development was one of the reasons behind his second government's shift of emphasis to the edification of an authoritarian *Hindu Rashtra*.

2. Narendra Modi's new government

Before moving on to the main theme of this article, some words on the composition of Narendra Modi's second government are in order. After the landslide victory at the 2019 general election, Narendra Modi and his new 58 member government were sworn in on 30 May, while the portfolios allocation was made known the following day. The portfolio allocation reflected the overwhelming power of the BJP in relation to the sum of the other members of the National Democratic Alliance (NDA), supporting the new government, as all portfolio ministers but two went to the BJP.¹⁰ The new government's most noteworthy members, apart from the Prime Minister himself, were Amit Shah, who became home minister, and Subrahmanyam Jaishankar, who became foreign minister. The former was Narendra Modi's right hand man, who during the previous legislature had been handpicked by Modi to become president of the Bharatiya Janata Party (BJP); the latter was a career diplomat, turned politician, who had played a key role first in brokering the Indo-US nuclear agreement of 2008 and then in reaching the settlement putting an end to the 2017 Doklam standoff. Other changes worth noting were the shifting of former Defence Minister Nirmala Sithara-

9. Steven Levitsky & Daniel Ziblatt, *How Democracies Die*, New York: Broadway Books, 2019 (1st edn. 2018), p. 3.

10. The two exceptions were Ram Vilas Paswan of the Lok Janshakti Party (LJP), who was put in charge of the Ministry of Food, and Arvind Sawant, of the Shiv Sena, who was put in charge of the Ministry of Heavy Industry. However, Sawant resigned on 11 November 2019, as the result of the break-up between the BJP and the Shiv Sena following the state elections in Maharashtra. The ministry was transferred to a BJP party member.

man to the ministry of Finance, taking the place of Arun Jaitley, and that of former Home Minister Rajnath Singh to the ministry of Defence.¹¹

On the whole the new government, not differently from the previous one, was characterized by the paucity of women (only three) and representatives of the southern states (again only three). The new government also boasted the presence of a Muslim cabinet minister, Mukhtar Abbas Naqvi, a long-time member of the BJP and a Rajya Sabha member, put in charge of minority affairs.¹² However, if the presence of women, southerners and Muslims was quite limited, those of rich people – or *crorepatis*, as they are called by the Indian press – and persons with criminal cases still pending was respectively overabundant and «fair». In fact, 52 out of the 58 ministers were *crorepatis* and 22 (namely 31% of the government members) had cases still pending, some of a very serious nature.¹³ Rather ironically, pride of place among those with scores to settle with justice went to the new home minister, Amit Shah. Shah had four cases still pending against him: criminal intimidation; mischief with fire or explosive substance with intent to destroy house, etc.; promoting enmity between different groups; and imputations, assertions prejudicial to national integration.¹⁴

3. The legislative activity in its first 66 days after Modi's second government swearing in

During the first 66 days following the second Modi government swearing in, legislative activity was intense. Three main bills were passed, two of them aimed at making the Indian state more authoritarian; the remaining one, although disguised as a pro-women progressive act – and as such accepted even by some feminist organizations – was criticized as really aimed at criminalizing the Muslim community. Let us start by this last one, although it was the second of the three to be finally passed.

3.1. The «Triple Talaq» bill

The Muslim Women (Protection of Rights on Marriage) Bill 2019 (generally referred to as Triple Talaq Bill) was finally passed in the Rajya Sabha

11. Arun Jaitley, the former finance minister, and Sushma Swaraj, the former foreign minister, were not inducted in the new cabinet for health reasons. Sadly, both of them passed away a few months later, Jaitley on 24 August 2019 and Swaraj two days later.

12. Naqvi had been minister in the previous government, but, differently from before, he now had a cabinet post.

13. V. Muraleedharan from Maharashtra had an attempt to murder case still pending.

14. Karan Dhingra, 'India's New Cabinet is Old and Wealthy, and Many Ministers Stand Accused of Violence', *The Wire*, 3 June 2019.

on 30 July. The legislation outlawed the rule – included in the Indian Muslim civil code and based on Islamic law – which allowed Muslim men to divorce their wives simply by uttering the word «talaq» (from the Arabic term for «divorce» or «repudiation») three times. The passing of the Triple Talaq Bill – which was an electoral manifesto promise of the BJP – was, at least in part, the result of decades of campaigning by women’s groups against the practice. A turning point in the struggle against this regressive practice had come on 22 August 2017; on that day, as the closing of a case filed in 2016 by Shayara Bano, a Muslim woman victim to triple talaq, the Supreme Court had sentenced that triple talaq went against articles 14 and 21 of the Constitution, had suspended the validity of the norm, and had directed the Union of India to pass appropriate new legislation aimed at abolishing it.¹⁵

The first Modi government had tried to implement the Supreme Court’s directive by tabling two bills in 2017 and 2018, followed by two ordinances in 2018 and 2019, without being able to transform any of them into law before the 2019 general election. Eventually, the Muslim Women (Protection of Rights on Marriage) Bill 2019 was passed on 30 July 2019, making the practice of triple talaq «void and illegal» and punishing it «with imprisonment for a term which may extend to three years», and the imposition of a fine of unspecified amount.¹⁶

In this author’s opinion, there is no doubt that triple talaq has no place in a civilized society. This makes Prime Minister Narendra Modi’s claim that its abolition could not but be considered as a «victory of gender justice» credible.¹⁷ The new act, however, triggered strongly adverse criticisms. Some of these criticisms frankly appeared biased and groundless. However, it is a fact that the new law was neither without blemishes nor such to prevent the suspicion that it aimed less at protecting Muslim women than targeting the Muslim community.

The critics of the act pointed out that, rather than limiting itself to confirm that the Triple Talaq divorce was invalid, it included a criminal clause, namely «imprisonment for a term which may extend to three years», which had not been mandated by the Supreme Court. As argued by the Bebaak Collective, a feminist group led by Hasina Khan, imprisonment of the erring husband «could prevent him from paying post-divorce main-

15. ‘Supreme Court suspends «triple talaq» divorce law’, 22 August 2017.

16. Ministry of Law and Justice (Legislative Department), *The Muslim Women (Protection of Rights on Marriage) Act, 2019. No. 20 of 2019, The Gazette of India*, 31 July 2019 (<http://egazette.nic.in/WriteReadData/2019/209473.pdf>), chr. II.

17. ‘Triple talaq bill passed by Parliament: BJP calls it victory of gender justice, Congress says historic mistake’, *India Today*, 31 July 2019. On Shayara Bano and her struggle against triple talaq, see Omar Rashid, ‘Who is Shayara Bano, the triple talaq crusader’, *The Hindu*, 2 September 2017.

tenance and divest wives and children of financial security».¹⁸ Critics also highlighted that the government, while concerning itself with the plight of Muslim women, remained totally unconcerned about that of Indian women at large. While Muslim husbands had abandoned their wives by uttering – or sending through SMS – the triple talaq, Hindu men not only freely walked away from their wives, but did that in a much higher absolute number and a somewhat higher rate than Muslim men.¹⁹ As abandoning wives was widely practiced by the majority community and did not carry with itself any legal sanction, this opened the distinct possibility that, after the notification of the Triple Talaq Act, Muslim men would simply walk away from their wives, without pronouncing the triple talaq.²⁰

3.2. *The amendments to the Right of Information Act and Unlawful Activities (Prevention) Act*

In the case of the Triple Talaq Act, although the general context makes it more than legitimate to doubt the true purpose of the measure, one can be undecided about its real political goal. In the case of the other two important pieces of legislation enacted in the period up to 5 August 2019, no doubt is possible: both the Right of Information Act Amendment and the Unlawful Activities (Prevention) Act unambiguously aimed at promoting the authoritarian involution of Indian democracy.

The Right to Information (RTI) Act, which had become law in 2005, had been one of the most progressive pieces of legislation enacted by the United Progressive Alliance (UPA) government.²¹ It empowered every citizen to seek information regarding not only the government and its officials, but also privatised public utility companies, and NGOs that receive 95% of their infrastructure funds from the government. The requested information had to be provided within 30 days. While the act contemplated a few exceptions, in cases considered sensitive to the national security, it had powerfully contributed to make the governments of the day – both at central and state levels – accountable, as shown by the fact that «in the first 10 years of the enactment of the law, around 17,500,000 applications were filed of which one fourth were requests to the Centre».²²

18. Justin Jones, 'India: why a new law criminalising «instant divorce» has divided feminists', *The Conversation*, 3 September 2019.

19. Abusaleh Shariff & Syed Khalid, 'Abandoned women vastly outnumber victims of Triple Talaq; it's time Modi spoke up for them', *Business Standard*, 13 December 2016.

20. Anand Neelakantan, 'Triple talaq: A discrimination that will be a hindrance', *The New Indian Express*, 25 August 2019.

21. Namely the coalition government including the Congress Party and its allies, headed by Manmohan Singh, which was in power from 2004 to 2014.

22. Satish Misra, 'Amended RTI Act: What is at stake?', *Observer Research Foundation*, 29 July 2019.

Ironically enough, the RTI Act had been extensively used by the BJP, when in opposition, against the Congress-led UPA government. Once in power, however, the BJP enthusiasm for the RTI Act had suddenly evaporated. This had resulted in the decision to amend it in such a way to make the tenures, stipends and allowances of the information commissioners – previously fixed in the RTI Act – dependent upon the whims of the central government. Of course, the consequences of this change on the independence of the information commissioners are easy to understand.

The Right to Information (Amendment) Bill, 2019, was finally passed by the Rajya Sabha on 22 July. On 2 August it was followed by the final passing, again at the Rajya Sabha, of the bill amending the Unlawful Activities (Prevention) Act (UAPA). The new act, which was not motivated by any recent outbreak in domestic terrorism, expanded the powers of the National Investigation Agency (NIA) and, more importantly, gave the Centre the power to designate an individual as terrorist, imprisoning him/her and seizing his/her properties, without any need to try and convict the person so accused.²³ The rationale for designating an individual as terrorist was indicated by Home Minister Amit Shah, during the parliamentary debate, by saying that: «declaring individuals as terrorists is required as they “float different organisations once an institution is banned”».²⁴ Once again the radical limitation of democratic rights and the potentiality for abuse inherent in the act are so evident that they need not to detain us.²⁵

4. *The constitutional coup against Kashmir*

Much more important than the previously listed legislative changes were those brought about by the Modi government on 5-7 August 2019. They effectively abolished the special status conferred by the Indian Constitution to Jammu & Kashmir [hereafter J&K], the only Muslim majority state of the Indian Union; also, they cancelled J&K as a state and split it into the two union territories of J&K and the scarcely inhabited but geopolitically important Ladakh. While the former was to be endowed with a legislative assembly, the latter was to do without it. In both cases, however, the downgrading from state to union territory was bound to reduce the democratic liberties exercised locally, giving overriding powers to the central government.

23. The Wire Staff, 'Rajya Sabha Passes UAPA Amendment Bill; Amit Shah Rejects Charges of «Misuse»', *The Wire*, 2 August 2019.

24. *Ibid.*

25. However, for a discussion of this problem, see Sarim Naved, 'Between the NIA Amendment and Now UAPA, the Squeeze on Human Rights is On', *The Wire*, 24 July 2019; Siddharth Varadarajan, 'Allowing the State to Designate Someone as a «Terrorist» Without Trial is Dangerous', *The Wire*, 2 August 2019.

Two concurrent factors made the downgrading of J&K from state to territory an extremely serious challenge to Indian democracy. The first was that it was made possible by circumventing a series of constitutional norms. The second was that it was done not only without consulting the political class of the state, but against the will of its population. Let us start from the first factor.

4.1. Manipulating and hollowing out the constitution

The special status hitherto enjoyed by J&K, based on Articles 370 and 35a of the constitution, was cancelled not by abolishing those two articles, as that was not legally possible without a two third majority in both Houses, but by making them inoperative. It was a goal that was reached by making use of highly dubious constitutional means.

The process started with the passing, on 5 August 2019, of the Constitution (Application to Jammu and Kashmir) Order, 2019, by the president of India, Ram Nath Kovind. The order stated that: «All the provisions of the Constitution, as amended from time to time, shall apply in relation to the State of Jammu and Kashmir». By itself this did away with the special provisions which – through articles 370 and 35a of the Indian Constitution – had given a special regime of autonomy to J&K. The order then continued by closing the possible loopholes which could have prevented the full application of the order.²⁶

Although the considerable autonomy granted to J&K by Article 370 had been progressively whittled away in the decades after Kashmir's accession to India and reduced to almost naught, Article 370 still remained symbolically powerful, highlighting the special status of the only Muslim majority state of the Indian Union. It is not a case that the abolition of Article 370 had been continuously searched by the Hindu right and reiterated in the BJP election manifesto of 2019 as one of the objectives of the party.

On its part, Article 35a – which had been inserted in the constitution on the basis of Article 370 (see below) – empowered the state legislature to define the permanent residents of the state, and to regulate their rights and privileges. The same article imposed restrictions upon other persons, particularly in relation to employment under the state government, acquisition of immovable property in J&K, and settlement in the state.²⁷

Article 35a was clearly aimed at preventing demographic change in the state. It had been added to the constitution through the Constitution

26. A photographic reproduction of the text of the Order is available in 'Kashmir Explainer: From Article 370 to Article 3, Modi-Shah Upend the Constitution', *The Wire*, 5 August 2019.

27. The full text of the Presidential Order 1954 is available on the internet. See, e.g., http://jklaw.nic.in/constitution_jk.pdf.

(Application to Jammu and Kashmir) order, 1954, issued by the President of India on the basis of provisions included in Article 370. The Presidential Order of 1954 was explicitly cancelled by the Presidential Order of 2019.

Constitution (Application to Jammu and Kashmir) Order, 2019, became known on the same date of its issuing, namely on 5 August, when it was presented to the Rajya Sabha by Home Minister Amit Shah. Shah claimed that President Ram Nath Kovind, in issuing the Order, had exercised the power conferred upon him under Clause 1 of that same Article 370 which Kovind's presidential order was now emptying of any relevance. President Kovind's move, however, was highly dubious from a constitutional standpoint. In fact, according to Article 370, any change in its provisions by the president of India needed the concurrence of the Constituent Assembly of J&K. The Constituent Assembly, however, had been dissolved in 1956.

It is true that the Presidential Order of 2019 stated that «the expression “Constituent Assembly of the State” [...] shall read “Legislative Assembly of the state”», creating an identity between the two institutions, which would allow the Legislative Assembly to act in place of the disappeared Constitutional Assembly. This, however, was nothing different from a legal sleight of hand, as the President brought back to life, so to speak, an institution long dead and gone, by arbitrarily identifying it with a different institution. Also, in doing this, the President went against two sentences by the Supreme Court in 2017 and 2018. In them, the apex court of India had unambiguously stated that, because the Constituent Assembly of Kashmir had been dissolved, no change could be made to Article 370 anymore.²⁸

When announcing the issuing of the presidential order, Home Minister Amit Shah tabled two resolutions and a bill, all three related to J&K. The first resolution made the presidential order operative, removing the provisions under Article 370 which provided a special status to J&K. The second resolution and the bill – the Jammu and Kashmir Reorganisation Bill – aimed at abolishing the state of J&K and split its former area into two union territories.

Confronted by a disorganised and divided opposition (on this more later), the resolutions and the bill were passed, the bill on 7 August. The passing of the bill, however, rested once again on dubious constitutional grounds. In fact, according to Article 3 of the Indian Constitution, which empowered the parliament to create new states and change the «areas, boundaries or names of existing States», the related bills, before being discussed and approved by parliament, had to be «referred by the President to the Legislature of that State for expressing its views thereon». When Amit Shah moved the Jammu and Kashmir Reorganisation Bill, there had been

28. BS Web Team, 'Article 370 in J&K not temporary provision, say SC: What does that mean?', *Business Standard*, 4 April 2018. As pointed out by the Supreme Court, their decisions, «despite the headnote of Article 370», transformed it from a temporary provision into a permanent one.

no consultation with the J&K legislative assembly, for the simple reason that it had been dissolved and the State had been under President's Rule since 20 December 2018. Hence the Governor of J&K had assumed to himself the functions of the government and legislature of the State. In this situation the Jammu and Kashmir Reorganisation Bill was moved after referring it not to the elected representatives of the J&K people, but to a centrally appointed figure – the governor – who was nothing different from the long arm of the central government in the state. In doing this, the Modi government wilfully and disingenuously nullified a main purpose of Article 3 of the Constitution, namely providing the states a shield against unwarranted interference by the central government.

4.2. Acting without the concurrence of the people of Kashmir

In «reading down» the J&K-related articles of the constitution and downgrading J&K from State to Union Territory, the Modi government grossly disregarded the will of both the political representatives of the people of Kashmir and the Kashmiri people at large. What was nothing different from a constitutional coup had been prepared in the utmost secrecy, and there is reason to believe that only Modi, Amit Shah, the President and a certain number of top bureaucrats in J&K and high military officers were abreast of what was about to happen. On the eve of the constitutional coup, the Modi government had deployed tens of thousands of additional troops to the Kashmir Valley – already one of the most militarized areas in the world.²⁹ At the same time, the central government had cancelled the annual Hindu pilgrimage to the Amarnath cave shrine. While doing this, J&K Governor Satya Pal Malik, namely the long arm of the Modi government in Kashmir, stated that there was no intention to change the constitutional statute of J&K and that the deployment of additional troops and the cancellation of the Amarnath pilgrimage were related to the threat of attacks on the part of Pakistan-sponsored terrorist groups.³⁰

As soon as the constitutional coup was carried out, the central government went out of its way to nullify any possible resistance in the Kashmir Valley. The connections inside the Valley and between the Valley and the outside world were cut, both physically, by recourse to road blocks, and immaterially, by putting an end to internet connectivity and cellular, landline and cable TV services. Residents were not allowed outside their neighbour-

29. According to a later report, the number of additional troops deployed in J&K on the eve of the coup was not 20,000 or 30,000, as claimed by most newspapers at the time, but 75,000. See Neeraj Chauhan, 'Long lockdown may spur fresh Valley anger: CRPF', *Hindustan Times*, 12 December 2019.

30. Mudasir Ahmad, 'As Govt Tells Amarnath Yatis, Tourists to Leave Kashmir, Valley Struck by Fear of the Unknown', *The Wire*, 2 August 2019. See also Manjeet Singh Negi, 'Threat of major terror attack in Kashmir reason behind deploying 10,000 troops: Govt', *India Today*, 28 July 2019.

hoods without special passes given by the state administration; checkpoints manned by police and paramilitary personnel crisscrossed Srinagar and the remaining territory of the Valley; most government buildings, schools, colleges, courts were closed down and were occupied by the military personnel brought in from outside the state; people suspected to be potential opponents were rounded up, jailed and usually transferred to gaols in Uttar Pradesh. As noted by three journalists of the Indian Express, present in the Kashmir Valley soon after the military clamp down on its inhabitants, although strikes and curfews were nothing new in the Vale, «this time there's no escaping the difference».³¹

4.3. Why the constitutional coup against Kashmir was condoned by most opposition forces

In this author's opinion, what had happened at the beginning of August was not so much the downgrading of J&K from State to Union Territory as its demotion from a State endowed of particular constitutional privileges to an internal colony under military occupation. The features of this military occupation will be discussed below. Here it is important to dwell on the reaction of the opposition forces to the August constitutional coup.

Although the new Kashmir policy had come as a surprise, it is a fact that the action of the Modi government, led in parliament by Amit Shah, immediately gathered a wide consensus. It was supported not only by all the NDA parties, with the exception of the Janata Dal (United), but many opposition parties as well.³² On the top of it, the parties opposing the move appeared to be intimidated: Rahul Gandhi, the leader of the Congress, and Mamata Banerjee, the leader of the Trinamool Congress, hesitated before making a public stand against the abolition of Article 370. Moreover, the Trinamool Congress Party, while opposing the BJP resolutions and bill on J&K, rather than voting against them, abstained by walking out.³³ The Congress Party, which spearheaded the opposition to the new legislation in parliament, appeared to be crisscrossed with internal divisions, as a group of young leaders, among whom Jyotiraditya Scindia, opposed their party position claiming that «the people outside are all for this [the government's

31. Muzamil Jaleel, Bashaarat Masood & Adil Akhzer, 'Kashmir Valley has seen many lockdown but this time it is so different', *The Indian Express*, 7 August 2019.

32. The BJP's move was supported by the Bahujan Samaj Party, the Aadmi Party, the YSR Congress, the Biju Janata Dal, the Telugu Desam Party, the AIADMK and the Shiv Sena. It was opposed, together with the Congress, by the two Kashmiri parties represented in parliament – the PDP and the National Conference – plus the JN(U), the DMK, the Rashtriya Janata Dal, the Trinamool Congress, the Nationalist Congress Party and the Communist parties.

33. Shoaib Daniyal, 'As BJP powers ahead on Kashmir, the Opposition cowers, shrinks and retreats', *Scroll.in*, 6 August 2019.

decision on J&K]». ³⁴ Quite sensational was the position taken by Bhubaneswar Kalita, the Congress's chief whip in the Rajya Sabha, who, rather than issuing a whip on the Kashmir question in line with his party's official position, resigned from both the Congress and the Rajya Sabha on 5 August. ³⁵

The disarray of the Opposition was coupled by the stand taken by many non-BJP Indian commentators who, while admitting that the BJP, in dismantling the constitution-guaranteed J&K autonomy might have had «its own political reasons», justified its action as «defending the interests of the Indian state». ³⁶

No doubt, the easy success of the BJP's constitutional coup against J&K was also made possible by the fact that, as claimed by Jyotiraditya Scindia and other young Congress leaders, «the people outside» were if not all in favour, at least mostly in favour of the government's decision. ³⁷ Only this explains the pro-government position taken by parties such as the Bahujan Samaj Party, the Aadmi Party, the YSR Congress, the Biju Janata Dal, the Telugu Desam Party, and the AIADMK. They were all parties which, in taking this pro-government position on the Kashmir question, went against their own political *raison d'être*. In fact, all of them were regional parties, namely parties whose power was grounded in a single State of the Union, and which, therefore, had a clear convenience to defend the autonomy of any State against the interference of the central government. They were also parties which did not espouse a rightist Hindu ideology, and, being in the opposition, were not bound by ties of political loyalty to the BJP. In spite of all this, these parties countenanced a highly dubious constitutional process which dismantled the autonomy of a Union State by making use of a strategy which could easily be replicated against any other Union State.

The conclusion is inescapable that the regional parties which supported the BJP Kashmir policy were convinced that J&K was a case apart with respect to all other Indian states because it was the only Muslim majority state in the Indian Union. Differently put, the idea that J&K could or should be dismantled as a state was made acceptable by the spread of Islamophobia both at mass level and in the Indian political class at large. This was a process which had been made possible not only by the ruinous decline

34. Deeksha Bhardwaj, «Rebellion» in Congress over Article 370, young leaders say seniors can't sense public mood', *The Print*, 7 August 2019.

35. 'Article 370: Congress divided over abrogation of special status to Jammu and Kashmir', *India Today*, 6 August 2019. Kalita joined the BJP a few days later, on 9 August.

36. Sanjaya Baru, 'The state has its reasons', *The Indian Express*, 7 August 2019. Sanjaya Baru is a former secretary general of the Federation of Indian Chambers of Commerce and Industry and a distinguished fellow, Institute of Defence Studies & Analysis, New Delhi.

37. Deeksha Bhardwaj, «Rebellion» in Congress over Article 370, young leaders say seniors can't sense public mood'.

of secularism – actually ongoing since the 1980s³⁸ – but by the continuous whipping up of passions against Pakistan. The Central Government's interference in J&K not only had increased at least since the 1980s, but had been carried out with growing brutality, both in the early 1990s and, again, under Modi.³⁹ This brutality had been justified in the name of national security and white-washed by the bulk of India's traditional and new media. This had powerfully contributed to the mutation of the collective mentality and the acceptance of the legitimacy to identify all Kashmiri Muslims as anti-national terrorists, who could not but be legitimately repressed by the use of maximum force.

The fact that the parties which were not wedded to the Hindutva ideology had not struggled against the unjustifiably harsh repression in Kashmir, going on since the 1990s, and the spread of the noxious anti-Muslim and anti-Kashmiri ideology had greatly favoured the transformation of this ideology into «common wisdom», which, while consonant with the Hindutva ideology adhered to by the BJP, was accepted by the public at large. All this explains how, in August 2019, a set of parties which still thought of themselves as secular did not have either the will or the capacity, or both, to challenge this «common wisdom», making a stand against the BJP's noxious Kashmir policy.

4.4. *Building a kingdom of cruelty and fear: The repression in Kashmir (5 August - 31 December 2019)*

4.4.1. *Silencing the voices of J&K and only partly succeeding*

The de facto military occupation of J&K, in concomitance with the 5 August constitutional coup, was so well-planned and carried out with such an overwhelming force to paralyze any mass resistance. Mass demonstrations against the constitutional coup were not absent, but they were few and

38. The beginning of the decline of Indian secularism in the 1980s has been noted and discussed by so many authors that no satisfactory bibliography can be supplied in a footnote. As an example among many, see Diego Maiorano, *Autumn of the Matriarch. Indira Gandhi's Final Term in Office*, London: Hurst & Co., 2015, in particular pp. 138 ff. A very recent monograph on the subject is: Sumantra Bose, *Secular States, Religious Politics: India, Turkey and the Future of Secularism*, Cambridge: Cambridge University Press, 2018.

39. Two indispensable introductions to the Kashmir question are: Victoria Schofield, *Ashmir in Conflict. India, Pakistan and the Unfinished War*, London: I.B. Tauris, 2000, and A.G. Noorani, *Article 370: a constitutional history of Jammu and Kashmir*, Oxford: Oxford University Press, 2011. For a bibliography on the Kashmir question, see the one available in Marco Valerio Corvino, 'A brutal and violent year in the Kashmir Valley', *Asia Maior 2016*, pp. 369-384. Among the relevant books related to the Kashmir question, published after Corvino's article, see Chitralekha Zutshi (ed.), *Kashmir: History, Politics, Representation*, Cambridge: Cambridge University Press, 2018, and Haley Duschinski, Mona Bhan, Ather Zia & Cynthia Mahmood (eds.), *Resisting Occupation in Kashmir*, Philadelphia (Pennsylvania): University of Pennsylvania Press, 2018.

far between. They were brutally repressed, among other methods by making use of pellet guns which, aimed at the faces of the protesters, often caused the victims' partial or total blindness.⁴⁰ As time went by, mass demonstrations rapidly petered out and, soon enough, completely stopped.

The central government took advantage of it to try to describe the situation in J&K as either «normal» or rapidly approaching «normality». However, the situation was far from being normal. The government's attempt to describe it as such was made possible by two factors: the first was the authorities' repression of the work of the local journalists; the second was the pro-government line blindly followed by most Indian media, when reporting on the situation in Kashmir.

A first main hindrance not only to the work of the local journalists, but to the normal life of the Kashmiri at large was the shutdown of both the internet and the landline and mobile phone services. While the shutdown of phone services was partially relaxed in October, suspension of the internet remained firmly in place. This, by itself, was bound to make the work of the local journalist community difficult. But the situation was made much more problematic by the fact that Kashmiri journalists were routinely stopped or harassed when moving around in search of news, even if in possession of ad hoc passes. They were intimidated, threatened, asked to reveal their sources, beaten up and sometimes arrested and kept in detention without charges. Newspapers could not update their websites and social media pages, even though some were still able to maintain a limited circulation of their print editions. Advertising from the J&K government dried up, which resulted in some local newspapers being forced out of business.⁴¹

The second factor favouring the government attempt to describe the situation in J&K as normal or rapidly approaching normality was the fawning attitude of the majority of the Indian media, which either espoused the government line uncritically or enthusiastically defended it. However, a minority

40. Siddharth Varadarajan, 'Ground Report - Pellet Blindings Back as Protestors Challenge Centre's Kashmir Move', *The Wire*, 9 August 2019. According to Reuters, between 5 and 21 August 152 people reported to Srinagar's two main hospitals, with injuries from pellet shots and tear gas fire. See 'Key hospitals in Indian Kashmir treat more than 150 tear gas, pellet injuries', *Reuters*, 23 August 2019. Mass blinding as a result of the security forces' usage of pellet guns was nothing new in Kashmir. See. E.g., Marco Valerio Corvino, 'A brutal and violent year in the Kashmir Valley', *Asia Maior 2016*, pp. 369-384.

41. Aakash Hassan, 'Kashmir Dispatch 8/100 Journalists, 4 Computers, 1 Mobile Phone and Lousy Internet: Reporting Live-Ish from Lockdown', *News18*, 17 August 2019; Scroll Staff, 'In 21 days, 21 reasons to believe «Kashmir is normal»', *Scroll.in*, 26 August 2019; Mudasir Ahmad, 'Stopped, Beaten, Prevented From Working: Everyday Troubles of the J&K Journalist', *The Wire*, 18 September 2019; Kunal Majumder, 'Kashmir's news media faces existential crisis amid restrictions, arrests', *CPJ - Committee to Protect Journalists*, 24 September 2019; Avi Asher-Schapiro & Ahmed Zidan, 'India uses opaque legal process to suppress Kashmiri journalism, commentary on Twitter', *CPJ - Committee to Protect Journalists*, 24 October 2019.

of the Indian media took a more principled stand, publishing news smuggled out by Kashmiri journalists or brought back by these media's special envoys to J&K.⁴² Moreover, following a quintessential Indian habit, some groups of concerned citizens visited J&K and wrote reports based on their first-hand experience. These reports were posted on the internet and their contents summed up by the few Indian media willing to challenge the Modi government.⁴³ Also, some main international newspapers sent their envoys to J&K and published their reports.⁴⁴ It is on all these sources that the next three sections are based.

4.4.2. *The politics of cruelty in Kashmir*

Repression in Kashmir was not something new, suddenly starting on 5 August 2019. However, as above noted, this time a difference was immediately visible in its scale and depth. This was promptly highlighted by the roundup of practically all prominent Kashmiri political leaders and a great number of well-known politicians and political activists. Significantly, to be caught in the repressive net were not only those hostile to the continuation of Indian rule in Kashmir, but representatives of the so called mainstream parties. These were those political forces which had never disputed Kashmir's accession to India, and included parties that, up to a few months before, had actively collaborated with the BJP.

As a rule, political leaders and well-known politicians were either detained in hotels and guest houses turned into detention centres or put under house arrest. The fate of lesser known activists and people at large, who were caught in the repressive net cast by the Modi government, was, however, much harsher. The security forces went after all those who were considered as possible opponents or, in Indian Newspeak, «stone-pelters», arresting them on the basis of the Public Safety Act (PSA). This was a controversial state law, which allowed authorities to imprison someone for up to two years without charge or trial.

Potential «stone-pelters» were rounded up, jailed and, very often transferred to gaols in Uttar Pradesh. According to Vikrant Dubey of *The*

42. As it is clear by looking at the footnotes of this article, in particular two Indian dailies online reported on the Kashmiri question with continuity and courage: Scroll.in and The Wire. Among printed papers, The Telegraph of Calcutta stands out.

43. E.g. Jean Drèze, Kavita Krishnan, Maimoona Mollah & Vimal Bhai, *Kashmir Caged: Fact Finding Report*, 14 August 2019 [hereafter *Kashmir Caged*]; Anirudh Kala, Brinelle D'Souza, Revati Laul & Shabnam Hashmi, *#KashmirCivilDisobedience. Trauma, Resistance, Resilience. Two Months On. A citizens' report*, 12 October 2019 [hereafter quoted as *Trauma, Resistance, Resilience*]; Association of Parents of Disappeared Persons (APDP), *120 Days: 5th August to 5th December* (without date, but December 2019). Another important report, not by a group of concerned citizens but by the Kashmir Chamber of Commerce, is *Preliminary Economic Loss Assessment Report: 5th of August 2019 to 3rd of December, 2019*. URLs are not given here, as all these reports are easily accessed on the web, usually in more than one site, by entering their titles.

44. Among them Al Jazeera, The New York Times, The Washington Post.

Quint, sending «stone-pelters» to UP jails was part of the government's strategy aimed at instilling fear in the Kashmiris. As pointed out by Dubey: «That mafias have immense influence in these jails [in UP] is hidden from no one. People have been murdered and assaults are commonplace. This would mean that Kashmiris are likely to have a tough time in these jails».⁴⁵

Among those jailed there were minors. According to official data, at the beginning of October the minors arrested by the J&K police were 144, and included children as young as nine and 11. According to media reports, however, the number was possibly much higher.⁴⁶

Mass arrests continued for the whole period under review. By 18 August, according to an anonymous police official, «around 6,000 people were medically examined at a couple of places in Srinagar *after they were detained*». According to the same source, these people were «later flown out of here [the Kashmir Valley] in military aircraft».⁴⁷

Journalists were not the only category to be singled out as a privileged target by the security forces. Another such category was that of the Muslim clerics. Many of them were summoned by the security forces for «counselling» sessions on the benefits of scrapping J&K's special status, the corruption of Kashmiri politicians and the advisability not to hold large congregational prayers during the main Muslim religious festivities. Clerics were also told to coach and counsel youth against taking part in any protests and advised against «raking up» the issue of Article 370 in their sermons. They were warned that they would be considered responsible for any demonstration in concomitance with the Friday prayer and religious festivities. Finally, they were threatened with deportation (to Jodhpur, in Rajasthan) if they did not complain with the security forces' requests. In fact, according to an enquiry by *Scroll.in*, at least six Muslim clerics were detained. Also, in some mosques, Friday prayers and religious celebrations were forbidden, something that had never happened before, not even in 1990, when the whole Kashmir Valley was in the grip of a major anti-Indian insurrection.⁴⁸

Mass arrests were accompanied by nocturnal raids, during which the security forces entered houses, arrested people, sometimes beat up even

45. Vikrant Dubey, 'Why Were Yogi's Jails in UP Chosen for Kashmiri Stone Pelters?', *The Quint (India)*, 14 August 2019.

46. Scroll Staff, 'This is what Kashmir looks like after 61 days of «normalcy»', *Scroll.in*, 4 October 2019.

47. Parvaiz Bukhari, '«4,000 detained» in Kashmir since autonomy stripped', *Asia Times*, 18 August 2019 (emphasis added). The number of 4,000, instead of 6,000, given in the title is based on the figure given by an anonymous magistrate, according to whom «at least 4,000 people» had been held under the PSA. The figure of 6,000, given by the anonymous police officer, seems to me to be more trustworthy as the source was obviously closer to the ground. Both the magistrate and the police officer agreed on the fact that the detained had been flown out of the Valley.

48. Safwat Zargar, 'In Kashmir, a quiet crackdown – on mosques and clerics', *Scroll.in*, 6 September 2019.

women,⁴⁹ ransacked the houses and deliberately destroyed food. The nocturnal raids were finalized, apart from terrorising the civilian population, at arresting potential dissidents. If the person who was wanted was not found, other members of his family were arrested, including minors.⁵⁰ According to several reports, arrested people were often tortured.⁵¹ Jammu and Kashmir People's Movement leader and former JNU student leader Shehla Rashid claimed that four men, after being called into an Army camp, were tortured while a mic was being kept close to them, so that the entire area could hear them scream, and be terrorised.⁵² After Rashid's denunciation, other reports of torture emerged, given in video-recorded interviews by persons who alleged that the Indian army had subjected them to both massive physical pain and psychological pressure.⁵³ What made these denunciations credible was not only the documentary evidence supporting them, but the fact that the employment of torture against the inhabitants of J&K on the part of the security forces was nothing new and well-documented.⁵⁴

On 27 August, the central government decided to reopen the more than 190 schools that had been closed since 5 August. However, at the moment they remained empty, as parents were afraid of sending their children back to school, judging it too risky. In fact, in the previous two weeks, the security forces had arrested or beaten up many minors, including very young children.⁵⁵

The situation of siege imposed on Kashmir could not but adversely affect public health. Even before 5 August 2019, Kashmir, being a conflict-torn region, was already characterized by widespread presence of mental

49. Safwat Zargar, 'A CRPF raid in Kashmir didn't spare women – even though the force denies this', *Scroll.in*, 7 September 2019.

50. Muzaffar Raina, '«Iron fist» in rural Kashmir', *The Telegraph*, 19 August 2019.

51. E.g., Niha Masih, Joanna Slater & Shams Irfan, 'The night the soldiers came: Allegations of abuse surface in Kashmir', *The Washington Post*, 1 October 2019.

52. 'India's Kashmir doctrine: Claims of torture, night raids, mass detentions', *TRT World*, 9 August 2019. On 6 September 2019, the New Delhi police filed two cases against Shehla Rashid, one for «Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony»; the other for «wontedly giving provocation with intent to cause riot». Mohammad Haziq, 'Q&A with Kashmiri politician, Shehla Rashid, charged with sedition in India', *TRT World*, 6 September 2019.

53. Hilal Mir & Muhammad Raafi, 'India's torture methods: new claims emerge from disputed Kashmir', *TRT World*, 17 September 2019.

54. Association of Parents of Disappeared Persons (APDP) and Jammu Kashmir Coalition of Civil Society (JKCCS), *Torture: Indian State's Instrument of Control in Indian-administered Jammu & Kashmir*, February 2019. The report is available on the internet at several sites (e.g. <http://jkccs.net/torture-indian-states-instrument-of-control-jammu-kashmir>).

55. 'Kashmir, riaprono le scuole, ma gli alunni restano a casa', *AsiaNews.it*, 20 August 2019; Kaisar Andrabi, 'Ground Report: Why Most Kashmiri Children Are Keeping Off School', *The Wire*, 21 August 2019.

health problems among the local population.⁵⁶ After that date, the situation worsened: not only the ongoing blockade enhanced the levels of stress and anxiety, but also resulted in fewer people accessing mental health care. This was the end-product of two dovetailing developments: one was the difficulty for the potential patients to move unimpeded, both because of the checkpoints by security forces criss-crossing Kashmir and the difficulty in finding ambulances when needed; the other was the decision by *Médecins Sans Frontières* (MSF), which took charge of many of the mental health needs in Kashmir, to shut down mental health services in four districts, as the prevailing restrictions on movements and communications made MSF unable to reach the local staff.⁵⁷

More generally, the ongoing blockade paralysed the national health protection scheme, started in September 2018 and providing free health services to over 100 million Indian families who live below the official poverty line. Until the August coup, the scheme had worked at its best precisely in J&K. With the shutdown of internet connections, however, it became impossible for the hospitals in J&K to fill in the online forms which were necessary to have the cost of the free treatments reimbursed. After waiting for a return to normality for two or three weeks and after accumulating huge debts, the Kashmiri hospitals discontinued free treatments, putting a large number of poor people in the impossibility to access the medical services they needed.⁵⁸ The suspension of courier services between the Valley of Kashmir and the remainder of India caused a scarcity of drugs and forced those who could afford it to journey to Jammu, Chandigarh or Delhi to fetch medicines.⁵⁹

The hardship to move on the territory because of the presence of a plethora of security checkpoints and the difficulty in securing an ambulance then needed did affect not only mental patients, as noted above, but any kind of people trying to reach a hospital because in need of urgent care.⁶⁰

56. According to survey carried out in 2015 by *Médecins Sans Frontières* in the Kashmir Valley «a serious mental health situation, with highly prevalent common mental disorders and distress» had continued to increase, reaching «epidemic levels among the traumatised population of Kashmir, with 37% of adult males and 50% of females suffering from probable depression; 21% of males and 36% of females from a probable anxiety related disorder and 18% men and 22% women suffering from probable PTSD [post-traumatic stress disorder symptoms]». See *Médecins Sans Frontières, Muntazar: Kashmir Mental Health Survey Report 2015*, New Delhi: MSF, 2015.

57. Swagata Yadavar, Athar Parvaiz, 'Communications Blockade Creates New Mental Health Challenges In Kashmir', *IndiaSpend*, 14 September 2019.

58. Swagata Yadavar, Athar Parvaiz, 'In J&K Shutdown, PM's Health Scheme Grinds To Halt, Healthcare Crisis Grows', *IndiaSpend*, 6 September 2019.

59. *Ibid.*

60. Safwat Zargar, 'Kashmir ground report: A cancer patient struggles to reach hospital for chemo, others can't get home', *Scroll.in*, 10 August 2019; Fayaz Wani, 'Communication curbs in Kashmir valley affects patients', *The New Indian Express*, 25 August 2019.

The blockade heavily damaged the economy of the Kashmir Valley. This had already been staggering well before 5 August 2019 because of the difficulties caused by the sum of problems specific to Kashmir and those affecting the whole of India. To the first category belonged the «disturbed» political conditions of the Valley since the 1990s, the chronic difficulties related to the connectivity between J&K and the remainder of India, and the devastating floods that had hit the Valley in September 2014. To the second category belonged demonetisation and the sub-standard implementation of the Goods and Services Tax (GST).⁶¹ What happened following the «reading down» of article 370 literally devastated an economy that already was «at the verge of a breakdown».⁶²

The Kashmir Valley is one of the world's largest apple growing regions, and the apple industry involves some 3.5 million people, around half the population of the Valley. But, after the 5 August coup, apple production went waste, rotting on the trees, as transport links with buyers in India and abroad were cut. In this instance, however, the central government tried to remedy the situation and, as private buyers had given up attempting to get the Kashmir apples, it put the state-owned National Agricultural Marketing Federation of India (NAFED) in charge of buying apples directly from the major fruit markets in Kashmir. Procurement was to be completed by mid-December.⁶³ Things, however, went wrong because of attacks on the part of anti-India militants against apple growers prepared to sell to NAFED.⁶⁴ In October, four truck drivers from outside the Valley, who were willing to transport apples in the remainder of India, were killed and their vehicles burned, causing the flight of their colleagues. This also accelerated the moving out of the Valley of those migrant workers who were the orchards' main source of labour.⁶⁵

The still flourishing tourist sector was as badly hit as the apple growing industry. After 5 August the presence of tourists plummeted, and hotels and restaurants went empty. The handicraft sector, heavily dependent on tourism, suffered major losses.⁶⁶ But, of course, the J&K industry which suf-

61. The Kashmir Chamber of Commerce and Industry, *Preliminary Economic Loss Assessment Report*. On demonetisation and GST implementation see Michelguglielmo Torri & Diego Maiorano, 'India 2016: Reforming the economy and tightening the connection with the US', *Asia Maior 2016*, pp. 320-328; Michelguglielmo Torri, 'India 2017: Still no *achhe din* (good days) for the economy', *Asia Maior 2017*, pp. 291- 308.

62. *Ibid.*

63. Harish Damodaran, 'First time in 30 years, why NAFED faces challenge', *The Indian Express*, 11 September 2019.

64. Safwat Zargar, 'In Kashmir's apple town, fruit growers are caught between government and gunmen', *Scroll.in*, 14 September 2019.

65. Ipsita Chakravarty & Safwat Zargar, 'Shutters down: How Kashmir has kept up a slow-burning protest since Article 370 was revoked', *Scroll.in*, 29 November 2019.

66. Devjyot Ghoshal & Fayaz Bukhari, 'Apples rot in Kashmir orchards as lockdown puts economy in tailspin', *Reuters*, 19 September 2019.

ferred the most could not but be the IT sector. For software companies that needed continuous connectivity, the shutdown of the internet brought in its wake the impossibility to stay in contact with customers outside Kashmir. The companies tried to save the day by sending employees to Delhi to contact customers, but this was both expensive and hardly efficient. The Kashmiri software companies got in touch with the representatives of the central government, asking them to relax some of the internet restrictions. They pointed out that the leased lines with which they worked and which provided high speed internet through fibre connections were easy to monitor. But – as referred by a Kashmiri software entrepreneur – «after meetings with bureaucrats at all levels – from deputy district commissioner to councilman – it became clear that the Internet would not be restored anytime soon». According to the same entrepreneur, the government had promised to compensate for the Kashmiri IT industry losses, but, in his opinion, any future help would come «too late». The IT sector in Kashmir was, to all effects, «dead».⁶⁷

4.4.3. *The resistance in the Kashmir Valley*

Those who visited the Kashmir Valley after the 5 August coup noted the «intense and virtually unanimous anger»⁶⁸ of the Kashmiris and their persistent resentment for what had happened.⁶⁹ However, because of the overwhelming presence of security forces, this resentment, as already noted, could not find an outlet in mass demonstrations, contrary to what had happened in 2008, 2010 and 2016. For the Kashmiris, the only effective way to express their anger became the voluntary suspension of civil activities, the self-segregation in their homes, not sending children to school, and the closure of shops during most of the day. However, this form of civil disobedience could not last long and, by the end of November, was mainly over: cars were back on the streets, public transports were picking up passengers, students were finally back into school and government offices were up and running. The only form of civil resistance, «apart from the ubiquitous graffiti asking India to “go back”», were the shuttered shops, which, as a rule, «opened for about an hour or two in the morning so that people could buy supplies».⁷⁰ Even this form of resistance, however, was difficult to sustain and, to the extent it continued, it was not on purely voluntary bases. Some shops and shopkeepers that had stopped

67. Swagata Yadavar & Athar Parvaiz, 'We Will Not Survive This Disaster: Kashmiri Entrepreneurs As Lockdown Continues', *IndiaSpend*, 12 September 2019.

68. *Kashmir Caged*.

69. Shakir Mir, 'A "Normalcy" of Compulsion in Kashmir', *The Wire*, 29 October 2019.

70. Ipsita Chakravarty & Safwat Zargar, 'Shutters down: How Kashmir has kept up a slow-burning protest since Article 370 was revoked', *Scroll.in*, 29 November 2019.

observing the shutdown became target of arson and, in at least one case, of armed aggression. Indian authorities put the blame for this on the anti-Indian militants active in the Valley; Kashmiri merchants, on their part, usually put the blame for this on «government agencies», bent on defaming the militants, carrying out the armed struggle against the Indian state.⁷¹ The latter thesis, nonetheless, is difficult to accept, as a main goal of the central government was the attempt to present the situation in Kashmir as normal or approaching normality. From this viewpoint, it is clear the government's interest in the shops being open during their normal working hours.

This brings us to examine the role of the anti-India armed militants after 5 August. One of the justifications for the August coup was the necessity to put an end, once and for all, to armed resistance against Indian rule in the Kashmir Valley. Armed militants had been active in the Valley since the late 1980s, but, by 2019, they had been whittled down to a minuscule force of some two hundred people.⁷² As such they were totally unable to be a credible threat to the massive number of Indian military and military police deployed in J&K. The militants, nevertheless, were a nuisance that could hardly be tolerated by the Indian state.

During the period after 5 August encounters between Kashmiri militants and security forces took place, but only in a very limited number.⁷³ The bottom line is that Kashmiri militants were militarily so weak to be unable to directly confront the overwhelming repressive apparatus fielded by the Indian state. Therefore, their strategy became attacking or browbeating both those elements of the Kashmiri population who appeared ready to collaborate with the Indian state and Indian civilians present in the Valley. As already noted, militants attacked those apple producers willing to collaborate with NAFED and truck drivers who wanted to transport Kashmir's apples outside the Valley; they put under pressure shopkeepers unwilling to continue with the closure of their shops, and, last but not least, they appear to have been responsible for a series of deadly attacks on migrant workers.⁷⁴

All the above can lead to conclude that the civilian population in the Kashmir Valley was caught between Scylla and Charybdis, in other words between two equally distasteful choices. The situation, however, was more

71. *Ibid.*

72. Shakir Mir, 'The Kashmiris are Still Waiting to Speak. This Time, Their Voice Will Carry Far', *The Wire*, 5 September 2019.

73. For two examples see 'Indian forces exchange fire with armed rebels in Kashmir: Police', *Al Jazeera*, 16 October 2019; and 'Kashmir terror attacks kill two, injure seven', *Asia Times*, 27 November 2019.

74. Safwat Zargar, «Kashmir has changed»: Deadly attacks have sent migrant workers fleeing the Valley', *Scroll.in*, 1 November 2019. However, many people in the Valley pointed out that no militant group had taken responsibility for the killings and suspected the hand of Indian «agencies» in the murders.

complicated than that. The arrest of basically the whole Kashmiri political leadership – from the leaders of the All-Parties Hurriyat Conference, who had been pursuing separatism but through non-violent means, to politicians who had collaborated with the BJP up to the eve of the constitutional coup – had made all of them impotent and, more importantly, had discredited them in the eyes of most of their fellow Kashmiris. In this situation, as noted by an anonymous commentator, resident in the Valley: «The rag-tag bands of anti-India militants have suddenly become the only respected leaders, and in the new arrangement their acceptability [...] has not just become nearly absolute, but also necessary in the minds of a mass of Kashmiris». According to the same commentator, «with nothing in between the masses and the State that is seen as a marching enemy, many imagine an expanding alliance between the militants and the common people as the only axis with potential to bend the arc of history towards long-term political justice and survival».⁷⁵

4.4.4. *The climate of fear in Jammu*

The brunt of the repression in J&K was mainly on the Valley of Kashmir and its Muslim inhabitants. In Jammu – the part of the former state mainly inhabited by Hindus – things appeared to be different. A majority of the local political forces and a sizeable part of the inhabitants gave the impression to be in favour of the new government policy, even if the majority opinion was against the downgrading of J&K to Union Territory. What many expected to happen was that the new political situation would result in diverting the central funds which had been going to J&K from the Kashmir Valley to Jammu.⁷⁶ Whereas several politicians belonging to opposition parties were arrested, this did not seem to unduly worry the majority public opinion in Jammu.⁷⁷

A fact-finding team of concerned citizens who visited Jammu on 6 and 7 October 2019 discovered that, unlike the Kashmir Valley, Jammu was not under lockdown. Landlines, mobile networks, shops, restaurants and malls were functioning. Even the internet was available, although it was dreadfully slow.⁷⁸ However the team soon realized that a conspicuous part of the population was riddled with «abominably high levels of fear».⁷⁹ Freedom of expression was severely curtailed and anybody lived in dread of being arrested if he/she dared to criticize the government. Moreover, by

75. Anonymous, 'View from Kashmir: The Valley has gone into deep meditation. Don't mistake this for a coma', *Scroll.in*, 24 August 2019.

76. Vijaya Lalwani & Ipsita Chakravarty, 'Though Jammu welcomes Modi's move on J&K, Congress and Dogra leaders are under house arrest', *Scroll.in*, 20 August 2019.

77. *Ibid.*

78. *Trauma, Resistance, Resilience*, p. 30.

79. *Ibid.*, p. 47.

then, the heavy economic drawbacks caused by the government coup had become clear. As stated in the report by the fact-finding team: «After the initial euphoria, businessmen realized that their main artery – located in the symbiotic relationship with [the Valley of] Kashmir – had been cut off».⁸⁰ In other words, the collapse of the Kashmir Valley's economy was negatively impacting on that of Jammu, since the two economies were closely interconnected. As stated by an anonymous businessman: «Trade is hampered, work is not happening. Banks are not functioning». This was the consequence of the fact that: «60% of Jammu's trade is with Kashmir».⁸¹ According to another anonymous businessman, «Initially we were very happy with the abrogation because we had no idea how it was going to affect us. Then a curfew was imposed. Now there is no clarity about anything. I've had to sack most of my workers».⁸²

The prevailing climate of fear was particularly distressing in the case of students from various minorities at Jammu University. «They told us – states the report – they have resigned themselves to being second class citizens. They said they fear for their lives. They are being called terrorists on campus for being Muslim and live in the constant fear of being lynched».⁸³

5. *How to make Indian citizens stateless*

5.1. *Updating the National Register of Citizens*

While the repression in Kashmir was in full swing, another problem manifested itself at the other geographical side of India, in Assam. This problem was related to the local updating of the National Register of Citizens (NRC).

The original NRC, listing all Indian citizens, had been finalized in 1951, soon after the partition-caused massive movement of peoples from and to Pakistan. Things had rested there for some three decades, up to a major crisis in Assam. Here, at least since the late colonial period, the indigenous Assamese had been afraid to be swamped and overwhelmed by outsiders, in particular Bengalis. This fear had periodically caused political backlashes against non-Assamese residents in the state. A particularly prolonged and violent one had been the movement against illegal immigrants from Bangladesh, led by the All Assam Students' Union (AASU), which took place in the years 1979-1985. That agitation ended with the signing of an agreement in 1985 between the AASU and the central government, then headed by Rajiv Gandhi. A key part of the Assam Accord was the promise

80. *Ibid.*

81. *Ibid.*

82. *Ibid.*, p. 31.

83. *Ibid.*, p. 32.

to update the NRC in Assam, in order to document who was a legitimate Indian citizen and expel those who were not.⁸⁴

However, in the next years the Assam government, then formed by the Congress, did very little to implement the agreement, very possibly because afraid that carrying it out could reawaken communal tension. It was only in 2010 that the updating of the NRC started in two pilot blocks of the state. The exercise, however, produced violence in Barpeta district, causing four deaths and convincing the Assam government to shelve the NRC updating. In 2013, however, the Supreme Court, responding to a petition made by an Assamese NGO (Assam Public Works) in 2009, directed the central and Assam governments to implement the updating of the NRC in Assam. Eventually the process went underway in February 2015 and reached a first turning point on 31 July 2018, when a draft of the updated version of the NRC for Assam was published.⁸⁵ The draft – which left some 4 million people without Indian citizenship – was not final, as it left the possibility both to appeal against exclusion and object, by third parties, against inclusion up to 28 September 2018.⁸⁶

According to Registrar General of India Sailesh,⁸⁷ namely the high official put in charge by the Government of India of supervising the whole process, the NRC updating had been «completely transparent, fair, objective and meticulously carried out».⁸⁸ However, even admitting that Sailesh's

84. The Assam Agreement classified immigrants coming to Assam from neighbouring countries in three categories. The first was made up by those who had arrived prior to 1 January 1966, who were to be regularized as Indian citizens. The second category was made up by immigrants who came in from 1 January 1966 up to 24 March 1971, who were to be deprived of their voting rights for 10 years, but allowed to remain in Assam and to be regularized after 10 years. The third category was made up of immigrants who had arrived after 24 March 1971, who were to be detected and expelled. For an introduction to the Assam question see: Sanjib Baruah, 'Immigration, Ethnic Conflict, and Political Turmoil-Assam, 1979-1985', *Asian Survey*, 26, 11, 1986; Sandhya Goswami, 'Ethnic Conflict in Assam', *The Indian Journal of Political Science*, 62, 1, 2001; Uddipana Goswami, 'Internal Displacement, Migration, and Policy in Northeastern India', *East-West Center* (Washington), Working Paper No. 8, April 2007; Navine Murshid, 'Assam and the Foreigner Within', *Asian Survey*, 56, 3, 2016; Ahsan I. Butt, *Secession and Security. Explaining State Strategy against Separatists*, Ithaca (N.Y.): Cornell University Press, 2017, chapter 3; Rajat Sethi & Angshuman Choudhury, *Citizenship Determination Processes in Assam: The National Register of Citizens (NRC) and Beyond*, Institute of Peace and Conflict Studies, Special Report # 200, October 2018.

85. K.V. Thomas, 'The Politics of Citizenship: The National Register for Citizens (NRC) in Assam', *The Hindu Centre for Politics and Public Policy*, 6 October 2018; India Today Web Desk, 'Assam final NRC list released: 19,06,657 people excluded, 3.11 crore make it to citizenship list', *India Today*, 31 August 2019; 'Assam NRC timeline through the years', *Gulf News*, 31 August 2019.

86. 'TT Bureau, 'Everything you want to know about NRC', *The Telegraph*, 30 July 2018; Rahul Karmaker, 'Over 40 lakh left out of draft NRC in Assam', *The Hindu*, 31 July 2018.

87. Mr. Sailesh is one of those Indians who make use of one name only.

88. Rahul Karmaker, 'Over 40 lakh left out of draft NRC in Assam'.

claims were true, the problem was that the process itself was an extremely difficult one to carry out fairly and properly.

A main difficulty was related to the legal definition of citizenship. Already when India became independent there had been heated exchanges related to citizenship, mainly focussed on a central question: should citizenship be defined on the basis of the *jus soli*, namely the individual's birth on the soil of India, or the *jus sanguinis*, namely the individual's descent or the citizenship of one's parents? In Solomonic style, the Citizenship Act 1955, which eventually settled the question, acknowledged five ways to acquire Indian citizenship, including both the *jus soli* and the *jus sanguinis*.⁸⁹ However, as noted by Professor Niraja Gopal Jayal of Jawaharlal Nehru University: «From the 1980s onwards, the legal and constitutional conception of the Indian citizen started to undergo a subtle transformation, through amendments to the Citizenship Act, in response to political developments».⁹⁰ In a nutshell, this transformation gave increasing importance to the *jus sanguinis* to the detriment of the *jus soli*. As above noted, the 1985 amendment to the Citizenship Act that followed the Assam Accord created categories of eligibility for citizenship based on the year in which a person had migrated to India. The Citizenship Act was amended once again in 2004, with the provision that, «even if born on Indian soil, a person who had one parent who was an illegal migrant at the time of their birth would not be eligible for citizenship by birth».⁹¹

The 1985 and 2004 amendments to the Citizenship Act put the persons going through the NRC bureaucratic evaluation under the obligation to prove that none of their parents or their grandparents was an illegal immigrant. Ipso facto this made a series of identification documents, commonly employed by the public, irrelevant,⁹² forcing everyone to get hold of very old and indifferently preserved legal documents. This process, difficult by itself, was made even more so by the poverty and lack of literacy of the bulk of the people needing this documentation, in particular women.

The objective difficulty of the process, maybe united to «the authorities' communal malevolence and incompetence»,⁹³ goes a long way in ex-

89. The other three were registration, naturalisation; incorporation of territory. For the text of the Citizenship Act 1955, see *India: Act No. 57 of 1955, Citizenship Act, 1955, Refworld* (<https://www.refworld.org/cgi-bin/texis/vtx/rwmain>), which also incorporates the amendments up to the one entered into force on 10 December 1992. *Refworld* is operated by the United Nations High Commissioner for Refugees (UNHCR).

90. Niraja Gopal Jayal, 'Reconfiguring Citizenship in Contemporary India', *South Asia: Journal of South Asian Studies*, 42, 1, 2019, p. 34.

91. *Ibid.*, p. 35.

92. Shoaib Daniyal, 'Will NRC only target Muslims? A government clarification directly contradicts Amit Shah', *Scroll.in*, 21 December 2019.

93. Wasantha Rupasinghe, 'India labels 1.9 million Assam residents «foreigners» as prelude to their mass expulsion', *World Socialist Web Site*, 5 September 2019.

plaining a series of exclusions that, to say the least, were disconcerting. Here, it suffices to remember the exclusion of the family of India's fifth president, Fakhruddin Ali Ahmed,⁹⁴ and that of Mohammed Sanaullah, a decorated army veteran with 30-year service, who, ironically enough, when excluded from the NRC, was working as an officer with the border police, engaged in intercepting and deporting illegal immigrants.⁹⁵ Equally or more upsetting was the fact that many families were split by the publication of the NRC final list, with some members being acknowledged as Indian citizens and others being excluded. A category particularly hit appears to have been that of married Muslim women, as they were often unable to establish blood links with their paternal families through relevant documents. As explained by the deputy editor of a well-known on-line daily: «Even though some of them had had their father or grandfather's names mentioned in the 1951 NRC or in the electoral rolls before March 24, 1971 (the exclusive citizenship cut-off date for Assam), they had nothing in terms of documents to officially establish their links.»⁹⁶

As already reminded, in theory people excluded from the NRC could appeal against their own exclusion. However, every step of this process involved spending money that most persons involved did not have.⁹⁷

Although the harshness and unfairness of the methodology employed in updating the NRC were clear for all to see already when the July 2018 draft was published, nothing changed. It is true that, in the final NRC list, published on 31 August 2019, the number of those excluded from Indian citizenship was brought down to 1.9 million. However, the number still remained mind-boggling. It is worth to stress that practically all the people made stateless had resided in India since they were born or anyway for most of their life.

What to do with the almost 2 million people made stateless by the NRC updating? Most of these people were Bengalis, but this does not necessarily mean that they were Bangladeshi and, even less, that it was possible to furnish legal proof of them having emigrated from Bangladesh. Bangladesh – one of the most overcrowded states world-wide – was already dealing with the massive influx of the Rohingya, pushed away from Myanmar. It had neither the inclination nor the possibility to accept the almost two million people made stateless by India. Accordingly, although the idea of deporting the people made stateless by the NRC updating to Bangladesh was hinted at by some BJP politicians, it immediately appeared to be outside the realm of

94. Arunabh Saikia, 'Why relatives of former president Fakhruddin Ali Ahmed are not on Assam's final NRC draft', *Scroll.in*, 31 July 2018.

95. 'India court releases army veteran detained as foreigner', *BBC News*, 7 June 2019.

96. Sangeeta Barooah Pisharoty, 'Women Without Parents: An NRC Ground Report', *The Wire*, 13 September 2019.

97. *Ibid.*

concrete possibilities. The solution, accordingly, became the construction of concentration camps where to detain stateless people.⁹⁸ This practice – which had begun before the publication of the final NRC version – continued in earnest after it. Concentration camps were being built not only in Assam but in other Indian states and, «according to a written response from the Home Ministry in Parliament on July 24 [2019] ... a “Detention Center Manual” has been “circulated to all state governments on 9 January” this year».⁹⁹

5.2. *The Citizenship Amendment Bill as necessary complement to the NRC*

The updating of the NRC in Assam, although restarted by a verdict of the Supreme Court, had been eagerly carried out by the Assam coalition government in power since 2016. This was made up by the BJP – to which party, the chief minister, Sarbananda Sonowal, belonged – and the Asom Gana Parishad (AGP), namely the regional Assamese party which had been born in 1985 from the AASU. However, the political goals of the two parties were not identical: the AGP was interested in getting rid of the non Assamese, quite independently from their religion; the BJP, on its part, aimed at getting rid of the «illegal immigrants» as they were thought to be mostly Muslim. When the final NRC Assam list was published, the AGP did not conceal its unhappiness because, in its opinion, too few non-Assamese had been deprived of the Indian citizenship.¹⁰⁰ On its part, the BJP was unhappy because it gradually became clear that a conspicuous part of those made stateless by the NRC were of course Bengalis, but, unfortunately, Hindu Bengalis.¹⁰¹

Already in 1971, at the time of the genocidal repression in what was then East Pakistan, which triggered the Indo-Pakistan war and the naissance of Bangladesh in that same year, most members of the massive wave of refugees who fled to India were indeed Hindu.¹⁰² After the creation of Bang-

98. Ruhi Tewari, 'Held as «foreigners», languishing in jail, Assam's nowhere people cling to Indian identity', *The Print*, 13 April 2019; Jeffrey Gettleman & Hari Kumar, 'India Plans Big Detention Camps for Migrants. Muslims Are Afraid', *The New York Times*, 17 August 2019.

99. Saikat Datta, 'India's Modi pulls a Trump on citizenship law', *Asia Times*, 23 December 2019.

100. E.g. 'Number of exclusions appear «ridiculously small», says Asom Gana Parishad chief Atul Bora on NRC', and 'NRC: Unhappy Assam students' body to move Supreme Court over «less» number of foreigners detected', both in *The New Indian Express*, 31 August 2019.

101. E.g. 'NRC final list: BJP worried over exclusion of Hindus, inclusion of illegal Bangladeshi Muslims', *India Today*, 31 August 2019; 'Stung by final NRC outcome, BJP readies new on-ground strategy for Assam', *The Print*, 8 September, 2019.

102. Sonia Cordera, *India's Foreign Policy during Indira Gandhi's Second Government (1971-1977): The rise of a regional power*, PhD Dissertation, University of Florence, 2012; Sonia Cordera, 'India's response to the 1971 East Pakistan crisis: hidden and open reasons for intervention', *Journal of Genocide Research*, 17, 1, 2015.

ladesh, most Bangladeshi migrants to India were once again Hindus, who were leaving Bangladesh not because of economic reasons – as Bangladesh outstripped India in most rankings «for indicators of social development, such as literacy rates, gender parity and life expectancy»¹⁰³ – but because they were fleeing religious-based discrimination.¹⁰⁴

In this situation, it does not come as a complete surprise that, already on the eve of publication of the 2018 draft NRC list, the available information pointed to the fact that a large number of those excluded would be Hindu.¹⁰⁵ This was confirmed by the publication of the 2019 final list. Although no official figures were made available to the general public, the news made the round that «as many as 10 lakh Bengali Hindus, some of Nepali origin and indigenous tribes», had been excluded from the NRC final list.¹⁰⁶ In other words, to the BJP's alarm, more than half of those made stateless were Hindus.¹⁰⁷

5.3. *Complementing the NRC with the Citizen Amendment Act 2019*

That the NRC anti-immigrant net would catch a large number of Hindus had become clear well before the Assamese draft and final lists were published. This had not changed the BJP leadership's conviction that updating and implementing the NRC – not only in Assam, but nation-wide – was a «must» for national security, as repeatedly and publicly stated by Amit Shah.¹⁰⁸ However, the need to limit the NRC excluding effects to the Muslims translated into the decision to modify the Citizenship Act 1951, in such a way to provide the Hindus excluded from the NRC with the legal way to acquire or re-acquire Indian citizenship. Accordingly, the first Modi government had already tabled a Citizenship Amendment Bill (CAB) with this aim already in 2016. After a difficult process, and after being passed in

103. K. Anis Ahmed, 'Why Is India Making Its Own People Stateless?'

104. Arafatul Islam, 'Bangladeshi Hindus seeking safety in India', *Deutsche Welle*, 7 June 2016; Shoaib Daniyal, 'Why Hindu immigrants from Bangladesh are a key component of the BJP's West Bengal expansion strategy', *Scroll.in*, 10 August 2017; Rizwana Shamshad, *Bangladeshi Migrants in India: Foreigners, Refugees, or Infiltrators?*, New Delhi: Oxford University Press, 2017.

105. Zamser Ali, 'EXCLUSIVE: NRC update derails Saffron Agenda as lakhs of Hindus excluded from final draft. Higher Rate of Exclusion from NRC in Bengali Hindu dominated Districts of Assam', *Citizens For Justice And Peace (CJP)*, 8 August 2018.

106. 'Stung by final NRC outcome, BJP readies new on-ground strategy for Assam', *The Print*, 8 September 2019.

107. 'NRC list has errors, claims RSS as majority excluded are Hindus', *The Print*, 9 September 2019.

108. E.g. 'BJP Will Scrap Article 370, Introduce NRC Across the Country: Amit Shah', *The Wire*, 11 April 2019; 'Will identify and deport every illegal immigrant: Amit Shah', *India Today*, 17 July 2019; 'NRC must for national security; will be implemented: Amit Shah', *Business Line*, 1 October 2019; 'India to implement nationwide citizenship count', *Al Jazeera*, 20 November 2019.

the Lok Sabha on 9 January 2019, the CAB 2016 could not be passed in the Rajya Sabha before the parliamentary term came to its natural end, determining the expiry of the Bill.¹⁰⁹

The enacting of a new CAB became part of the BJP programme during the 2019 electoral campaign. This promise was redeemed in December 2019, when the Bill was passed in both chambers of parliament.¹¹⁰

The Citizenship Amendment Act (CAA) 2019 – which, by and large, reiterated the norms already present in the CAB 2016 – fast-tracked citizenship for Hindus, Sikhs, Jains, Buddhists, Parsis and Christians immigrating from Afghanistan, Bangladesh and Pakistan, on the ground that they were subject to religious persecution. Accordingly, persons belonging to these communities, coming from these countries would not be considered «illegal» and would be eligible for Indian citizenship within five years of residence in India. In addition, the CAA made possible the cancellation of registration of Overseas Citizens of India (OCI) cardholders who were accused of violating Indian laws.¹¹¹

What made the CAA politically worrying was that it basically reformulated the criteria on which Indian citizenship was based, introducing religion as a defining parameter. In doing so, the CAA went specifically against articles 14 and 15 of the Indian Constitution¹¹² and, more generally, against its basic structure. In the Indian Constitution, religion is never assumed as a criterion on which to allocate rights and duties.

In piloting the CAB 2019 through the two Chambers, Amit Shah justified its necessity by two non-coincidental explanations. He summed up one of the two with the following words: «Let me tell you why this bill is needed. It is needed because the Congress partitioned this country on the ground of religion... Who did it? The Congress divided the country on the basis of religion. That was done by the Congress... This is the history.»¹¹³

109. Anupama Roy, 'Why the Proposed Citizenship Amendment Runs Foul of Constitutional Provisions', *The Wire*, 8 October 2019.

110. On 10 December by the Lok Sabha and the following day by the Rajya Sabha.

111. For the contents of the CAA 2019 and a comparison with those of the CAB 2016, see PRS Legislative Research, *The Citizenship (Amendment) Bill*, 2019. Also Yamini Aiyar, 'The citizenship bill must be opposed', *Hindustan Times*, 31 October 2019. The cancellation of the citizenship of OCI cardholders could be employed as a weapon against critics of the government who lived abroad.

112. Article 14 states that: «The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India». Article 15 states in its first comma: «The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them». In the following commas it specifies that the article does not prevent the State from making any special provision for women, children, socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

113. Quoted in Rohan Venkataramakrishnan, 'The falsehood at the heart of Amit Shah's defence of the Citizenship Amendment Bill', *Scroll.in*, 9 December 2019.

The second justification was provided by Shah in the following words: «If minorities are getting persecuted in neighbouring countries, we cannot be mute spectators. We have to ensure their safety and dignity».¹¹⁴

The problem with both justifications was that both of them were disingenuous and mendacious. Although, according to some historians, the Congress's role in making partition inevitable is far from being beyond reproach,¹¹⁵ it is a fact that the Congress had never accepted either the idea that Hindus and Muslims formed two distinct nations or the notion that India was the motherland of an ethnic group, or ethnic groups, defined on the basis of religion. Therefore the India that, after independence, the Congress had consciously built under Jawaharlal Nehru's leadership was a secular country, where all citizens were equal in front of the law, and where religion had no place in allocating either citizenship or rights and duties. As a consequence, the introduction of a religious criterion in defining Indian citizenship was something new, for which the Congress had no responsibility at all.

As far as the explanation referring to persecuted minorities in neighbouring countries is concerned, the problems with it were equally conspicuous. The CAA excluded all Muslims, even those belonging to heterodox sects and subjected to persecution for religious motives, such as the Ahmadis in Pakistan and the Hazaras in Afghanistan, from the purview of the law. Moreover, from the neighbouring countries, from which religiously persecuted people were on the run, Myanmar was omitted. Of course, the problem with Myanmar was that the people pushed out of it, the Rohingya, were Muslim. As such they had never been welcome by the Modi government, who considered them a «public threat» and had gone so far to deport some of them back to Myanmar.¹¹⁶ As far as Sikhs, Jains, Buddhists, Parsis and Christians, hailing from Afghanistan, Bangladesh and Pakistan, were concerned, the Hindutva ideology espoused by the BJP considered Sikhs, Jains and Buddhists as Hindus to all effects. On the other hand, potential Parsi and Christian refugees were in such minuscule numbers to be at all effects irrelevant.¹¹⁷ In conclusion, there was no doubt that the CAA aimed at giving Hindus a legal way to escape from the NRC net, while denying the same possibility to Muslims.

114. Quoted in Shamsul Islam, 'Amit Shah's Defence of Citizenship Amendment Bill 2019 Shames Even Goebbels', *Clarionindia.net*, 10 December 2019.

115. E.g. Asim Roy, 'The High Politics of India's Partition: The Revisionist Perspective', *Modern Asian Studies*, 24, 2, 1990.

116. Suchitra Mohanty & Rupam Jain, 'India calls Rohingya refugees «threat to national security»', *Reuters*, 14 September 2017; Ashley Starr Kineth, 'India's Rohingya shame', *Al Jazeera*, 29 January 2019.

117. One can doubt that there are Parsis who live in Afghanistan, Bangladesh and Pakistan. As far as persecuted Christians are concerned, they wisely prefer to find a haven in the West rather than in India, where, unfortunately, they are only marginally safer than in the neighbouring Islamic countries.

Once all the above is taken into account, and once one bears in mind that the CAA had been conceived by the BJP leadership as complementary to the updating of the NRC in the whole of India, it is clear that, notwithstanding Amit Shah's untruths, what was steadily and energetically implemented was a strategy aimed at transforming India into a Hindu Rashtra. When the modification of the Citizenship Act 1951 was enacted, it became finally clear that Indian democracy, as it had hitherto existed, was in danger.

Differently from what had been the cases with Article 370 of the Constitution, the repression in the Kashmir Valley and the updating of the NRC in Assam, this time the government's policy triggered a massive reaction, which extended to large swathes of India. But before discussing it, an examination of the role played by the Supreme Court in the period under review is in order.

6. The Supreme Court at work

The dubious constitutionality of the Modi government's strategies concerning the «reading down» of Article 370, the repression in J&K and the CAA was so evident to trigger a spate of petitions to the Supreme Court and some to the Delhi High Court by concerned citizens, challenging the government's actions. No doubt, at least some Indian intellectuals and senior journalists expected the apex courts to make a stand in favour of democracy. Their expectations, however, were sorely disappointed. It soon became evident that, as pointed out by constitutional expert Gautam Bhatia, the policy of the apex courts, when requested to pass their judgement on the government's actions, was dodging, ducking, evading, and adjourning.¹¹⁸ Both the Supreme Court and the Delhi High Court took time and delayed the passing of any judgement, even in cases whose urgency was clear. In the rare instances in which the Supreme Court and the Delhi High Court were forced to abandon their tactics of «constitutional evasion», their sentences favoured the government. This was the case, for example, of the ruling, made on 16 September 2019 by a three-judge Supreme Court bench, headed by Chief Justice Ranjan Gogoi, on the repressive measures imposed in J&K. In its verdict, the Supreme Court, while ordering the government to «make every effort to make sure normal life is restored», set no deadline for it and turned down the request to end the current suspension of cell phone and internet services in J&K. In its verdict the Court claimed that the government had «formidable reasons» for its actions and that the restoration of normal liberties in Kashmir was subordinate to considerations of «national

118. Gautam Bhatia, 'The absentee constitutional court', *The Hindu*, 12 September 2019.

security» and «national interest».¹¹⁹ As these considerations were left to the government, the Supreme Court's ruling basically allowed the government to behave as it thought more convenient.

Chief Justice Ranjan Gogoi explained away the Supreme Court's delaying tactics as motivated by the necessity to focus the Court's energy on the final resolution the Babri Masjid case.¹²⁰ This was the case related to the ownership of the area in Ayodhya on which the Babri Masjid, a 16th century mosque, had stood for little less than half a millennium, before being destroyed on 6 December 1992 by a mob of Hindu extremists, headed by some of the main leaders of the BJP. The destruction had been motivated by the double claim that the Babri Masjid had been built on the site of a pre-existing Hindu temple honouring God Ram (or Rama), which had been destroyed to make space for the mosque, and that the destroyed Hindu temple had been built exactly on the spot where the God was born.¹²¹

The destruction of the Babri Masjid and the building in its stead of a mega temple to Ram had been the aim of a long campaign led by the Sangh Parivar, namely the cluster of rightist Hindu organisations originating from the Rashtriya Swayamsevak Sangh (RSS) and including the BJP. The campaign for the «removal» of the Babri Masjid and its final destruction on 6 December 1992 had been accompanied by massive and murderous communal riots around the country, with the Muslim community at the receiving end. The Muslims had been the victims of wholesale massacres or single murders, both often committed with revulsive cruelty. This was accompanied by extensive destruction of the Muslims' economic activities.

After the Babri Masjid 1992 «removal», however, the final aim of the movement, namely the construction of the Ram temple encompassing the area where the Babri Masjid once stood, had been prevented by the action of both the central government and the judiciary. The latter was already involved in judging a series of legal disputes, related to the ownership of both the ground on which the Babri Masjid had stood and the contiguous areas. The orders of the Allahabad High Court, dealing with the cases, had pro-

119. Wasantha Rupasinghe, 'India's top court greenlights New Delhi prolonging Kashmir state-of-siege indefinitely', *World Socialist Web Site*, 21 September 2019. More generally, on the Supreme Court's policy, see Gautam Bhatia, 'The 16th September Order and the Supreme Court of Convenience (or why separation of powers is like love)', *Indian Constitutional Law and Philosophy*, 18 Sep 2019; and 'India's judges are ignoring the government's abuses in Kashmir', *The Economist*, 5 October 2019.

120. Sruthisagar Yamunan, 'The Daily Fix: SC could indeed have found time to hear Kashmir cases – if it had been inclined to', *Scroll.in*, 1 October 2019.

121. The number of monographs, scholarly articles and newspaper analyses focussed on the Babri Masjid question is so huge to make impossible to quote them with any completeness in a footnote. The articles published in this same journal, dealing with the political evolution of India in the relevant years deal at length with the question. A good introduction to it is available in the first part of the massive Supreme Court verdict of 2 November 2019 (for whose references see below).

hibited any change in the disputed area before the pending judicial cases were settled, while the intervention of the central government had made the Court's orders effective.

Eventually, the ongoing legal disputes had been unified and, in September 2010, the Allahabad High Court, with a Solomonian decision (taken by a majority of 2 to 1 by the three judge bench in charge of the case), split the contested ground in equal parts to be given to each of the three main contestants. These were: (a) the «friend» of the God, namely the person who, as allowed by Indian law, represents a God in a judicial case and who, in this dispute, was the de facto representative of the Sangh Parivar; (b) the Nirmohi Akhara, namely a powerful and wealthy Hindu sect, owner of many temples and monasteries in North and Central India; and, finally, (3) the Uttar Pradesh Sunni Central Waqf Board, de facto representing the position of the Indian Muslims. All three parties, however, appealed against the 2010 judgement in the Supreme Court.

At long last, on 2 November 2019, a five-judge constitutional bench led by Chief Justice Ranjan Gogoi delivered their unanimous final judgment on the case. According to their verdict, the whole 2.77-acre disputed land belonged to the government. The Supreme Court directed the government to transfer its ownership to a trust, to be appointed by the government of India, in charge of building the Ram temple; at the same time the Court directed the government to allot «a suitable plot of land admeasuring 5 acres» to the UP Sunni Central Waqf Board, which «would be at liberty, on the allotment of the land, to take all necessary steps for the construction of a mosque».¹²²

Although the Supreme Court, in its verdict, highlighted that the 1992 destruction of the Babri Masjid was against the law, the verdict itself was a de facto ex-post justification of the action of the Hindu extremists who had razed the mosque to the ground.

Once that has been said, it is also necessary to point out that the 2 November verdict – which tackled with an extremely divisive question, which had been festering for decades – was not without merit. At long last, it put an end to the dispute, and, while basically accepting the claims of the Hindu right, allotted some form of compensation to the Muslims – which could offer a face-saving way-out to the representatives of the Muslim community. It comes as no surprise that, whereas Hindu politicians and members of the Hindu right welcomed the verdict with joy, most Muslim politicians and

122. The official name of the Ayodhya case, adjudicated by the Supreme Court on 9 November 2019, is: *M Siddiq (D) Thr Lrs v/s Mahant Suresh Das & Ors (2019)*. The verdict, a massive 1045 page document is available on several websites (e.g. https://www.sci.gov.in/pdf/JUD_2.pdf; https://www.thehindu.com/news/national/article29929717.ece/Binary/JUD_2.pdf). The summing up of the Court's conclusions is available in most Indian dailies. A particular good one is given by the legal service portal *LawBriefs*. See '[Case Summary] Ayodhya Verdict – M Siddiq (D) Thr Lrs v/s Mahant Suresh Das & Ors (2019)', *LawBriefs*, 10 November 2019.

basically the whole Muslim community also accepted it, although with «a feeling of resignation».¹²³

However, the verdict had a wider political meaning, which was given less by its content, than its context. More than a quarter of century after the Masjid's destruction, those responsible for it – whose names and roles were universally known – had not been brought to book. Also, as noted above, in the months preceding the Ayodhya verdict, the Supreme Court had evaded its responsibility to judge the constitutionality of the government actions related to the downgrading of the J&K state and the repression there. As far as the NRC upgrading in Assam was concerned, it has been noted how the Supreme Court had a crucial role in restarting it in 2015. Also, reversing the normal legal approach, the Court had squarely put the onus to prove their Indian citizenship on those accused of being illegal immigrants. Finally, the Court had taken upon itself the supervision of the NRC updating, without finding anything wrong with the irrational and persecutory way in which the process had been implemented.¹²⁴ With respect to the CAA, it was passed too late in the year for allowing a possible Supreme Court intervention in response to the petitions by concerned citizens before the year end (the cut-off date of this article). But, certainly, what was happening in relation to Kashmir and had happened in connection with the NRC updating in Assam was not such to encourage hopes that the Supreme Court would make a stand against the government's authoritarian policies. Significantly, criticism had started to appear in the Indian press, comparing the Supreme Court's behaviour in the period under review to its shameful acquiescence to the authoritarian emergency regime imposed by Indira Gandhi in the years 1975-77.¹²⁵

Summing up, the Supreme Court's adjudication of the Ayodhya dispute, quite independently from the evaluation that can be made of its equity and legal soundness, when considered in its political context, could not but appear the expression of a policy of appeasement vis-à-vis the executive power. Far from acting independently, the Supreme Court appeared to operate as a junior partner of the executive power, as such engaged in abetting and justifying the government's decisions.

As noted by Levitsky and Ziblatt, in their *How Democracies Die*, the controlling role of the judicial system is indispensable in maintaining a democracy vital. So much so that democratically elected autocrats, willing to transform democracy into an authoritarian regime, usually implement various strategies aimed at nullifying the judicial system's controlling role,

123. Akash Bisht, 'As Hindus rejoice, Muslim reaction mixed over Ayodhya verdict', *Al Jazeera*, 9 November 2019.

124. Mohsin Alam Bhat, 'On the NRC, Even the Supreme Court is Helpless', *The Wire*, 7 January 2019; V. Venkatesan, 'The NRC case: The Supreme Court's role', *Frontline*, 11 October 2019.

125. E.g. Sruthisagar Yamunan, 'The Daily Fix: By delaying Kashmir petitions, courts are behaving like they did during Emergency', *Scroll.in*, 26 August 2019.

bringing it in line with the executive's wishes.¹²⁶ In the case of India, however, Narendra Modi had no need to recourse to strategies such as «court-packing» or other even more unsavoury methods. The Supreme Court, in fact, at least during the period under review, showed itself to be more than willing to bend to the prevailing political wind, abdicating its watchdog role of protector of the Indian Constitution.

7. *The struggle against NRC and CAA*

7.1. *The anti NRC-CAA movement up to the assault on the Jamia Millia Islamia and Aligarh Muslim University*

Even before the CAB was finally passed by the Rajya Sabha on 11 December 2019, protests against it had been ongoing.¹²⁷ Mass demonstrations took place both in the North-Eastern states – in particular Assam and Tripura – and in many parts of North India – in particular West Bengal, Uttar Pradesh and Delhi. The motivations behind the mass demonstrations in the North-Eastern states and in the remainder of India were starkly different. In Assam they were motivated by the perception that the CAA would allow the Centre to open the floodgates to a potentially massive wave of non-Assamese Hindu immigrants, upsetting the local demographic balance. The remaining North-Eastern states, although exempted from the implementation of the CAA, feared a domino effect, which would cause people fleeing the implementation of the NRC and the CAA in Assam to move *en masse* to the small states bordering it.

In the remainder of India, the CAA, particularly when coupled with the updating of the NRC at the national level – something that had been vowed by Amit Shah and other BJP leaders in several occasions¹²⁸ – was perceived as a clear and present danger to India's constitutionally guaranteed status as a secular polity. There, the anti NRC/CAA movement was spearheaded by Muslims, particularly young, urban, middle-class members of the community, who, in the words of one of them, after having been «silent about a lot of things for the sake of peace», now realized that fighting against the NRC/CAA was «a question of our very existence in this

126. Steven Levitsky & Daniel Ziblatt, *How Democracies Die*, pp. 78-81.

127. For example, peaceful demonstrations had been ongoing at Aligarh Muslim University since 8 December. See 'At least 60 injured in police crackdown at Aligarh Muslim University', *The Hindu*, 16 December 2019

128. At the end of the year, when the anti-NRC/CAA movement was vigorously spreading, the government's official position became that of denying that there was any connection between the national updating of the NRC and the CAA. This connection, however, had been highlighted not once but several times by Amit Shah and other BJP leaders. See, e.g., Rohan Venkataramakrishnan, 'Who is linking Citizenship Act to NRC? Here are five times Amit Shah did so', *Scroll.in*, 20 December 2019.

country». ¹²⁹ However, it must be stressed that the protest was soon joined by an extended cross-section of the wider society: civil society groups, members of several professional communities (in particular scientists and film-makers) and university students. ¹³⁰ A particularly important presence, was that of women, both Muslim and non-Muslim. ¹³¹ On their part, Mahua Moitra, the Trinamool Congress's parliamentarian who has been quoted at the beginning of this article, and senior Congress leader Jairam Ramesh, neither one nor the other a Muslim, separately petitioned the Supreme Court against the CAA. ¹³²

Summing up, since its beginning the anti NRC/CAA movement was cross-communal, with Muslims being joined by «many of their fellow Indians of other faiths, or no faith at all». ¹³³

Up to 15 December, the protests, with the conspicuous exceptions of the North-eastern states and Bengal, ¹³⁴ were basically peaceful. Things changed, however, when, on that day, three events took place. The first was Narendra Modi's speech at an election rally in Jharkhand. In it the Prime Minister, in a crystal-clear reference to the Muslim community, said: «People who are setting fire (to property) can be seen on TV... They can be identified by the clothes they are wearing». ¹³⁵ This was a somewhat strange statement, given that, up to that point, violent manifestations had been widespread not only in West Bengal, where Muslim Bengalis had indeed played a key role, but even more so in the North-eastern states, where the manifestations – whose repression had already led to loss of lives – had certainly not been the work of Muslims.

As noticed by senior journalist Prem Shankar Jha, Modi's statement at the Jharkhand election rally was «probably the first time the head of

129. *Aarefa Johari*, '«It's now or never»: Why young, urban Muslims plunged into the anti-Citizenship Act protests', *Scroll.in*, 20 December 2019.

130. Ajoy Ashirwad Mahaprashasta, 'In Clamour Against CAB, the Hint of a Resolute Opposition', *The Wire*, 13 December 2019.

131. It suffices to read the newspaper articles giving an account of the demonstrations and have a look at the photos accompanying them to realize the importance of the role of women. For two articles specifically focussed on it see Neha Dixit, 'The women at the front lines of India's citizenship law protests', *Al Jazeera*, 23 December 2019, and 'Women vow to fight on against citizenship law', *Matters India*, 11 January 2020.

132. 'Mahua Moitra, Jairam Ramesh File Petitions Challenging Citizenship Act in SC', *The Wire*, 13 December 2019.

133. Mihir Swarup Sharma, '4 ways the CAA protests have already been a success', *ORF – Observer Research Foundation*, 20 December 2019.

134. Indrajit Kundu, 'Bengal anti-CAA protest: Demonstration against Citizenship law continues, roads blocked at several places', *India Today*, 15 December 2019; Munish Chandra Pandey, 'Assam CAA protest: 4 dead in police firing, 175 arrested, more than 1400 detained', *India Today*, 16 December 2019.

135. 'Those indulging in arson «can be identified by their clothes»: PM Narendra Modi on anti-CAA protest', *Livemint*, 15 December 2019.

government in a democratic country has painted a target on a single community's back». ¹³⁶ Certainly, it was the green light – or appears to have been considered as such by law and order agencies in several parts of India – to the launching of a massive repression against the Muslim community.

The same day of Modi's Jharkhand speech (15 December 2019), first in New Delhi, at the Jamia Millia Islamia, and, later in the day, at the Aligarh Muslim University – namely the two key Muslim institutions of higher learning in India, with a student body made prevalently, even if not exclusively, of Muslims – the police invaded the University precincts. In both Universities, as revealed not only by witnesses but also by videos and CCTV footage, the police made a massive use of violence, lathi-charged the students, made use of stun grenades and tear gas, smashed through libraries and dormitories, damaged the buildings and equipment, and happily beat up whomever they put their hands on, including female students. They pursued the students even inside closed toilets, forcefully opening their way, dragging the students out and beating them. While on it, the police also invaded the nearby hostels, where they made use of the same methods employed in the campuses, and, in the process, did not overlook the opportunity to vandalize bikes and other vehicles belonging to students. Many students were arrested and many of them were badly beaten while in custody. This was accompanied by the police hurling insults and abuses of a communal nature and chanting «Jai Shri Ram» and «Bharat Mata Ki Jai». ¹³⁷ Some students were still unaccounted for at the time of the closing of this article (31 December 2019). ¹³⁸

136. Prem Shankar Jha, 'Modi Must Change Course and Scrap the Citizenship Amendment Act', *The Wire*, 17 December 2019.

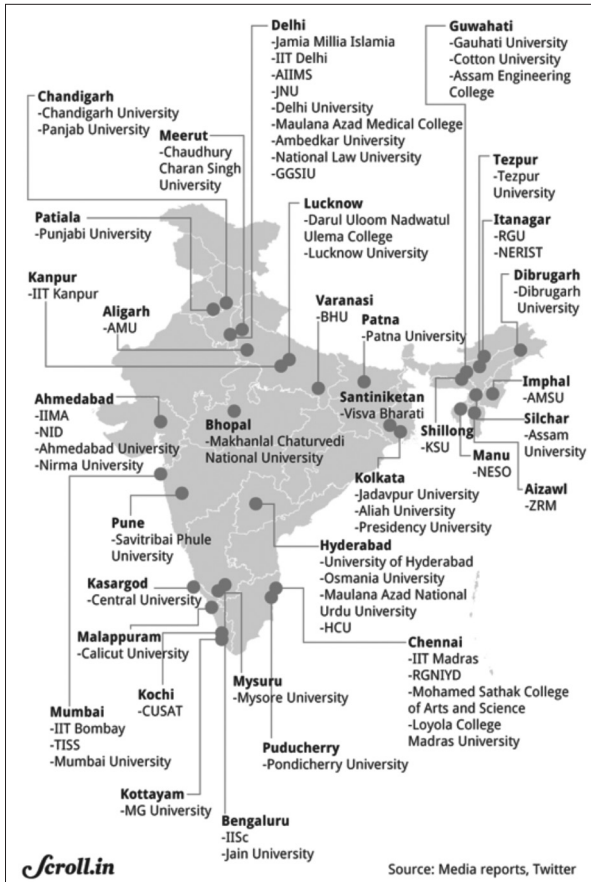
137. Apparently «Jai Shri Ram (Hail Lord Ram)» and «Bharat Mata Ki Jai (Hail Mother India)» are inoffensive enough phrases, the former, in particular, traditionally used as a greeting in many parts of rural India. However, in recent years, both phrases have become distinctive political slogans of Hindu extremists, some of them involved in the lynching of Muslims. See, e.g., Geeta Pandey, 'Jai Shri Ram: The Hindu chant that became a murder cry', *BBC News*, 10 July 2019.

138. A far from exhaustive list of the sources available on police brutality at Jamia Millia Islamia and Aligarh Muslim University is as follows: Sankalp Phartiyal, Aftab Ahmed, Devjyot Ghoshal, '«Night of horrors»: Inside the Indian university stormed by police', *Reuters*, 17 December 2019; Sruthisagar Yamunan, 'Aligarh Muslim University students allege they were tortured in police custody after Sunday protests', *Scroll.in*, 18 December 2019; Harsh Mander et al., *The Siege of Aligarh Muslim University. 15th December: How the UP police reduced a university to a battleground. A Fact Finding Report*. Made available by the *Indian Cultural Forum* on 24 December 2019 (<https://indianculturalforum.in/2019/12/24/the-siege-of-aligarh-muslim-university-a-fact-finding-report>); Samreen, '«Pakistan Chale Jao Na»: A First-Person Account of the Horror at Jamia', *The Wire*, 24 December 2019; The Wire Staff, '«More Brutal Than Even Jamia»: AMU Fact Finding Report Accuses UP Police of Violence, Islamophobia', *The Wire*, 24 December 2019; Bilal Kuchay, 'Student's hand amputated as violence grips citizenship protests', *Al Jazeera*, 25 December 2019; Nileena MS, '«They are shutting down the campus to quell the protests»: AMUSU president Salman Imtiaz', *The Caravan*, 31 December 2019.

7.2. The anti NRC-CAA movement after the assault on the Jamia Millia Islamia and Aligarh Muslim University

It is possible that, in the intentions of those who ordered or actuated the brutal repression against the two key Muslim institutions of higher learning, the massive use of force would strike terror into Muslim students – who were evidently perceived as the spearhead of the ongoing protest – and, at the same time, intimidate the whole student body nation-wide. However, if this was the goal of the attacks, the result was dramatically different: far from being stopped, student protest spread like wildfire throughout the whole country (see map 1) and brought in its wake a wider social and political mobilization.

MAP 1 - Student protests in India as on 19 December 2019



Source: Rohan Venkataramakrishnan, 'The Daily Fix: BJP is blaming Congress for CAA-NRC protests – but its own allies oppose the new law', *Scroll.in*, 19 December 2019

After 15 December and up to the end of the year (the cut-off point of this article) the anti NRC-CAA movement impetuously spread not only geographically but also socially. Massive demonstrations took place throughout India, with protesters sometimes carrying the national flag and copies of the constitution.¹³⁹ Wherever the BJP was in power at the state level or, anyway, was in control of the security apparatus – as in the Delhi Territory – the movement was met with massive force, triggering increasing violence; in the states which were not controlled by the BJP, violent confrontations between demonstrators and the police were, as a rule, avoided and demonstrations mainly peaceful.¹⁴⁰

In the BJP-controlled states there was wide recourse to Section 144 of the Criminal Code, a de facto left-over of colonial times.¹⁴¹ Its imposition made any kind of public protest unlawful, while legitimizing police repression. Also, the police made extensive use of preventive detention, another legacy of colonial rule, which allows detaining people for up to three months without any court order.¹⁴²

The repression was particularly tough in UP, the most populous Indian state, governed by the BJP and whose chief minister was Yogi Adityanath, «a notorious Hindu supremacist under criminal indictment for inciting attacks on Muslims».¹⁴³ Here, on 20 December, «six people died and dozens were injured [...] as Indian police clashed with thousands of protesters».¹⁴⁴

139. Aftab Ahmed, Devjyot Ghoshal & Saurabh Sharma, 'Six dead in deadliest day of Indian citizenship law protests', *Reuters*, 20 December 2019.

140. E.g. the Mumbai police «received a standing ovation at August Kranti Maidan during the agitation against CAA and NRC for Handling it peacefully». See Gautam S. Mengle, 'Anti-CAA protests: Social media warriors worked tirelessly behind the scenes', *The Hindu*, 20 December 2019.

141. According to Section 144, a magistrate «specially empowered by the State Government in this behalf» could «direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray». In practice, Section 144 was made use of to make illegal the public gathering of more than three or four persons. For the text of Section 144 in *The Code Of Criminal Procedure, 1973* see *Indian Kanoon* (<https://indiankanoon.org/doc/930621>). On section 144 see also Mimansa Pujari, 'Section 144 IPC – The Code of Criminal Procedure', *Legodesk*, 31 January 2020, and 'What Is Section 144', *Business Standard*, without date (<https://www.business-standard.com/about/what-is-section-144>).

142. On preventive detention see Pundrikaksh Sharma, *Preventive Detention*, National Law University, Delhi, 2015 (https://www.academia.edu/25990305/Preventive_Detention_in_India), and the bibliography there included.

143. Deepal Jayasekera, 'Indian state intensifies repression of mass protest against anti-Muslim citizenship law', *World Socialist Web Site*, 23 December 2019.

144. Aftab Ahmed, Devjyot Ghoshal & Saurabh Sharma, 'Six dead in deadliest day of Indian citizenship law protests'.

A rod of iron was made use of also in Delhi – where, being Delhi a Territory, the local police was under the direct control of the central government – and in Karnataka, where two people were killed by police fire on 19 December, in Mangaluru.¹⁴⁵ Also in Mangaluru police personnel, «in full riot gear», forced their way into the local Highlands Hospital, «purportedly in search of protesters», and, according to a hospital official, made use of teargas shells. This happened, as shown by CCTV footage, «much after announcements of curfew had been made and stone pelting across the city had subsided».¹⁴⁶

By 22 December, at least 25 people had lost their lives under police fire, most of them in UP.¹⁴⁷ According to Director General of UP Police Om Prakash Singh, speaking on 21 December, all the deaths had been «in crossfire», as firing had come from the protesters. O.P. Singh also claimed that «women and children» had been used as «shields by the protestors».¹⁴⁸

No proof supporting O.P. Singh's claims ever surfaced.¹⁴⁹ Also, funny enough, Singh claimed that, on the two days before the one in which he made his statement (21 December), the police had not opened fire anywhere.¹⁵⁰ As, according to news report, on 20 December six people had been killed in UP,¹⁵¹ O.P. Singh's statement begs the question on how deadly crossfire could happen between two sides, the police and the protesters, where one of the two sides (the police) had not fired a single shot?

Preventive detention was also widely implemented. On 19 December, well-known historian Ramachandra Guha, while being interviewed by

145. Deepal Jayasekera, «Tens of thousands defy Indian government threats and demonstrate against Hindu-supremacist laws», *World Socialist Web Site*, 20 December 2019.

146. *The Wire Newsletter*, 22 December 2019.

147. India Today Web Desk, «CAA protests deadlier than months-long Hong Kong protests: 25 killed in India, 2 deaths reported in Hong Kong», *India Today*, 22 December 2019. For a more detailed analysis, showing the number of deaths per geographical areas, see The Wire Staff, «These Are the 25 People Killed During Anti-Citizenship Amendment Act Protests», *The Wire*, 23 December 2019. 18 of the 25 deaths had occurred in UP between 19 and 23 December.

148. Manish Sahu, Avaneesh Mishra, Asad Rehman, Kaunain Sherif M, «CAA protests spread across UP, toll now 15, CM Adityanath issues appeal for peace», *The Indian Express*, 22 December 2019; «Death toll touches 16 in U.P. as protests continue», *The Hindu*, 22 December 2019.

149. On the contrary, what surfaced soon after O.P. Singh's interview was a video showing a policeman shooting with a revolver at the protesters. The Wire Staff, «Video Contradicts UP Police's Claim of Not a «Single Bullet» Fired at Anti-CAA Protesters», *The Wire*, 22 December 2019.

150. *Ibid.*

151. «Citizenship Act Protests LIVE: 7 Dead in 24 Hours in UP as Western Region Sees Violence; Protesters Surround Daryaganj Police Station to Demand Release of Detainees», *News18*, 20 December 2019.

NDTV in Bengaluru, «even before he could finish the sentence» was «pulled away bodily by a group of policemen». Interestingly the final part of Guha's sentence had been: «Look here, everyone is protesting peacefully. Have you seen any violence?»¹⁵² According to official data, in UP only, by 22 December 5,400 people were under preventive detention and more than 700 had been formally arrested.¹⁵³

A troubling aspect of the anti NRC-CAA movement and its repression was the possible presence of gangs of agents provocateurs, connected to Sangh Parivar's outfits. These gangs either deliberately turned peaceful demonstrations into violent disorders, providing the pretext for even more violent repression by the police, or tried to transform the anti-NRC/CAA demonstrations into communal riots. In one case, on 20 December, in Muzaffarnagar (western UP), one of such gangs opened fire on Muslim anti-CAA protesters, looted shops, broke into houses in the Khalapar area, smashing, looting and taking people away. According to a witness, this happened with the connivance of the police.¹⁵⁴

Reports surfaced that in different parts of UP, «police attention was concentrated on the minority [e.g. the Muslims], even in places where the community showed no signs of protesting».¹⁵⁵ As had happened at Jamia Millia Islamia and Aligarh Muslim University, women were not spared.¹⁵⁶ Unfortunately, a sizeable part of the Indian media, in particular most local media, «stuck to reporting only the police version». This happened even when «the videos of the police indiscriminately attacking the protesters made rounds».¹⁵⁷

7.3. *Who was behind the anti NRC-CAA movement?*

At the closing of this article (31 December 2019) both the anti-NRC/CAA movement and the BJP-backed repression against it were in full swing. Therefore, any final assessment of the success of either cannot be made here. However, before passing to discuss the remaining topic tackled in this article, an evaluation of the political forces fuelling the movement is in order.

152. Nehal Kidwai, 'Watch: Historian Ramachandra Guha, Mid-Interview, Detained By Police', *NDTV*, 19 December 2019.

153. Deepal Javasekera, 'Indian state intensifies repression'.

154. Scroll Staff, 'Watch: Scenes of destruction in Muzaffarnagar as mob attacks Muslim neighbourhood', *Scroll.in*, 21 December 2019.

155. Ipsita Chakravarty, 'The Daily Fix: In UP, the police is no longer behaving like the arm of a democratic government', *Scroll.in*, 25 December 2019.

156. «In both Bijnor and Lucknow [UP], women spoke of policemen barging into their homes, beating them up and vandalising property, even when the men they had come looking for were away». *Ibid.*

157. Sukanya Shantha, 'Ground Report: In Mangaluru, a Police Which «Fires, Storms Hospitals, Shouts Anti-Muslim Slurs»', *The Wire*, 26 December 2019.

According to Modi and Amit Shah, behind the protests there was the Congress.¹⁵⁸ According to the pro-BJP *Swarajya* magazine, not only the Congress but the Communists «and a few other opposition parties», in particular the Trinamool Congress, were stirring up the waters.¹⁵⁹ As the time went by, the explanations offered by pro-government sources became increasingly sinister. According to senior broadcast journalist Krishna Kumar, apart from the usual suspects – «mainly the Congress, TMC [Trinamool Congress], the left parties and AIMIM [All India Majlis-e-Ittehad-ul-Muslimeen, an Islamic party based in Telangana]» – at work in promoting the anti-NRC/CAA protest was «a clutch of few organized groups with avowedly anti-India agenda». These included not only «various leftist outfits and activist groups», but «Islamist-Jihadist organizations that carry a long record of working against nationalistic interests». Particularly threatening among the latter was, according to Krishna Kumar, the Popular Front of India (PFI), «an Islamic extremist organization known for strong links with the banned SIMI [Students' Islamic Movement of India]». Finally, in this infernal brew could not be absent the Maoists, whose involvement – according to Krishna Kumar – was shown by the arrest of Akhil Gogoi, «known for Maoist links in Assam».¹⁶⁰ This thesis was fully endorsed by «Organiser», the RSS official mouthpiece, which accused the «Jihadist-Communist alliance» of «effectively using the entire debate on Citizenship Amendment Act (CAA) and National Register for Citizenship (NRC) for spreading falsehood and instigating violence».¹⁶¹

To this author, however, the anti-NRC/CAA movement seems to have all the features of other similar movements, which have become active in various parts of the world in recent years. All these movements, from the pro-democracy one in Hong Kong to the anti-Salvini «sardines» in Italy,

158. Rohan Venkataramakrishnan, 'The Daily Fix: BJP is blaming Congress for CAA-NRC protests – but its own allies oppose the new law', *Scroll.in*, 19 December 2019

159. Venu Gopal Narayanan, 'As The Truth Behind Violent Protests Against CAA Unravels, India Won't Be Fooled Anymore', *Swarajya*, 17 December 2019.

160. Krishna Kumar, 'Anti-CAA protests: A ticking ignorance bomb and a sheer vandalism with truth', *WION – World Is One News*, 21 December 2019. Akhil Gogoi is an Indian peasant leader from Assam, who has distinguished himself as leader of anti-corruption and pro-RTI (Right to Information) movements in the state. He is the recipient of the Shanmugam Manjunath Integrity Award for his fight against corruption (2008) and the national Right to Information Award (2010), granted by the Public Cause Research Foundation to encourage the proper use of the RTI Act. In April 2010, a secret report of the Assam government alleging that Akhil Gogoi had close connections with the Maoists was leaked to the press. Gogoi challenged the Assam government to prove what stated in the report; the Assam government – unable to do it – was forced to drop the matter. Gogoi's arrest on 21 December 2019 was a «preventive measure», of which Gogoi was the victim together with scores of other intellectuals and left-wing activists all over India.

161. Prafulla Ketkar, 'Fix the Instigators, not Just Rioters', *Organiser*, 31 December 2019.

are demonstrably spontaneous and self-organized, in particular by young people making extensive use of the social media.¹⁶²

If there are few doubts that the anti-NRC/CAA movement was spontaneous and that «no clever organisers» were «pulling the strings» and «no single figurehead» was «sitting on stage and fasting»,¹⁶³ it is equally true that several political parties, *once the demonstrations were underway and becoming noticeable for their dimensions and resilience*, either joined in or offered their political support.

A demonstration as clear as any of the depth of the social and political support for the anti-NRC/CAA movement was the announcement by several state governments that they did not intend to implement either the NRC updating, or the CAA, or both. By 25 December, these states were 10 plus a Union Territory. They included states ruled by the Congress (Rajasthan, Madhya Pradesh, Chhattisgarh, Punjab and the Territory of Puducherry), other opposition parties (Kerala, West Bengal), and a Shiv Sena-Congress coalition (Maharashtra). But, interestingly, also two states ruled by parties which, although formally in the opposition, supported the BJP most of the times in the central parliament (Odisha and Andhra Pradesh), plus even a state ruled by a BJP ally (Bihar), took position against the updating of the NRC at the national level.¹⁶⁴

That the opposition to the NRC and the CAA was taking shape even among the BJP's own allies became increasingly clear before the end of the year. The AGP, after voting for the CAA in parliament, completely changed its position and went as far as to challenge the law in the Supreme Court; the Shiromani Akali Dal, the BJP's chief ally in the Punjab, called for the Muslims to be added on to the categories of refugees listed in the CAA (which, of course, would make the law completely meaningless from the standpoint of the BJP); the All-India Dravida Munnetra Kazhagam, the BJP's senior partner in Tamil Nadu, after voting for the Act in parliament, appeared internally divided on the wisdom of that choice.¹⁶⁵

Although at the closing of this article it is difficult to judge if the political support to the anti-NRC/CAA movement will solidify, there is no doubt that it was proof of the fact that the opposition to the BJP strategy aimed at

162. Indeed, social media were widely used by the anti-NRC/CAA demonstrators. See Gautam S. Mengle, 'Anti-CAA protests: Social media warriors worked tirelessly behind the scenes', *The Hindu*, 20 December 2019. It is not by chance that Indian and BJP-run state governments tried to contain the movement by shutting down internet connections for extended periods.

163. Mihir Swarup Sharma, '4 ways the CAA protests have already been a success'.

164. Prem Shankar Jha, 'Modi Must Change Course and Scrap the Citizenship Amendment Act'; 'Nine states have refused to implement NRC and CAA', *CNBC-TV18*, 25 December 2019.

165. Rohan Venkataramakrishnan, 'The Daily Fix: BJP is blaming Congress for CAA-NRC protests'.

transforming India into a Hindu Rashtra was widespread. Trying to describe the anti-NRC/CAA movement as the handiwork of shady jihadist groups – possibly supported by left extremists – was both fatuous and disingenuous.

8. *An economy in crisis*

While the political landscape was witnessing the coming into being of the most dangerous crisis since the imposition of the internal emergency regime by Indira Gandhi in 1975, black clouds had started to obscure the sky of the Indian economy even before the 2019 general election. However, how in-depth was the crisis affecting the Indian economy and how relevant had been the role played by the first Modi government in worsening it were successfully concealed to the general public. This was an objective that was obtained by the withholding or manipulation of the official data up to the 2019 general election and beyond.¹⁶⁶ In fact, the Modi government propaganda effort was so convincing that some analysts started to suspect that even a part of the members of the government believed it.¹⁶⁷ No doubt, however, not only those analysts and economists who had been denouncing the unreliability of the official data, but also Indian entrepreneurs at large were aware of the real state of the economy. Indian entrepreneurs, however, still considered Modi as the only politician capable to relaunch the Indian economy. Modi's extraordinary victory at the polls was seen by them as offering the Prime Minister a golden opportunity to launch a new phase of radical reforms, restarting economic growth. By 5 July 2019, however, with the presentation of the first budget of the new Modi government, those hopes were disappointed.

New Finance Minister Nirmala Sitharaman's presentation speech of the budget was packed with claims related to the impressive economic results achieved by the previous Modi government, and – as it is usually the case with budget presentation speeches – full of fair promises concerning the future.¹⁶⁸

166. On the state of the Indian economy in the months preceding the 2019 general election see Diego Maiorano, 'India 2019: The general election and the new Modi wave', in this same *Asia Maior* issue. On the same topic, see also Jayati Ghosh, 'While India was busy celebrating its "ease of doing business" ranking, its real economy tanked', *Quartz India*, 5 August 2019. On the manipulation of the official data by the Modi government see: Michelguglielmo Torri & Diego Maiorano, 'India 2018: Political uncertainty and economic difficulties', *Asia Maior* 2018, pp. 281-284; Diego Maiorano, 'Politicisation of Data Under the Modi Regime', *ISAS Insights*, No. 550, 18 March 2019; Pramit Bhattacharya, 'How India's statistical system was crippled', *Livemint*, 7 May 2019. On 14 March 2019, 108 economists published a joint statement calling for the restoration of institutional independence and integrity to India's statistical organisations. See '108 Economists, Social Scientists Raise Red Flags Over Interference in Data Estimation', *The Wire*, 14 March 2019, which includes the full text of the statement.

167. E.g. Rohan Venkataramakrishnan, 'The Political Fix: India finally admitted to an economic crisis, but what is it doing about it?', *Scroll.in*, 9 September 2019.

168. *Budget 2019-2020. Speech of Nirmala Sitharaman, Minister of Finance*, 5 July 2019 (<https://www.indiabudget.gov.in/doc/bspeech/bs201920.pdf>).

However, it immediately became apparent that the new budget did not include any credible major project aimed at accelerating growth, particularly agricultural growth, tackling unemployment, and promoting investment.¹⁶⁹ Not surprisingly, the disappointment of the business community was reflected in the nosedive of the Indian markets, which went down for two consecutive days, losing 800 points and registering the second-biggest fall in 11 years.¹⁷⁰

In the following months two things became increasingly clear: the first was that, in spite of further attempts at obfuscation on the part of the government,¹⁷¹ it became impossible to conceal how worrying the real state of the Indian economy was; the second was the Modi government's inability to tackle the economic slowdown.

Bad economic news started to pile up: sales in the crucially important automobile sector declined;¹⁷² so did fast-moving consumer goods (FMCG), namely products that are sold quickly and at a relatively low cost and that, as a rule, are the last to undergo a decline in case of crisis;¹⁷³ the value of the rail freight traffic dipped in comparison to the previous financial year;¹⁷⁴ capacity utilisation in all manufacturing segments appeared to be below 70% on average, even as inventories piled up;¹⁷⁵ the real estate sector was weighted down by over seven years' stock of unsold buildings;¹⁷⁶ last but not least, as a consequence of the unsatisfactory working of the GST, the government's own tax collection was well short of expectations.¹⁷⁷

169. E.g. Babu Das Augustine, 'India budget 2019-2020 scores high on clarity, lacks the big boost', *Gulf News*, 5 July 2019; Jayati Ghosh, '«Investment» was mentioned over 30 times in India's budget speech – but where will it come from?', *Quartz India*, 8 July 2019.

170. 'Sensex slumps nearly 800 points, Bajaj Finance falls 8%: 5 things to know', *Livemint*, 8 July 2019; Saikat Datta, 'India's 2020 budget paints unrealistic targets', *Asia Times*, 12 July 2019.

171. E.g. 'Too much of reforms led to slowdown: NITI Aayog CEO', *The Hindu*, 3 August 2019.

172. Varun Singh, 'Indian automobile industry under intense pressure, major companies witness sales decline in July 2019', *India Today*, 1 August 2019.

173. Pranav Mukul & Anil Sasi, 'FMCG companies red-flag gathering rural slowdown', *The Indian Express*, 15 August 2019.

174. Statista Research Department, 'Value of earnings from rail freight traffic in India from FY 2010 to FY 2019', *Statista*, 23 September 2019.

175. Jayati Ghosh, 'While India was busy celebrating its «ease of doing business» ranking, its real economy tanked', *Quartz India*, 5 August 2019.

176. Rashmi Pratap, 'Unsold houses at all-time high of 12.76 lakhs in India's top 30 cities', *Business Today*, 12 June 2019.

177. Jayati Ghosh 'While India was busy celebrating its «ease of doing business» ranking, its real economy tanked'; Shoaib Daniyal, 'In charts: The Modi government is facing a serious cash crunch – thanks to GST', *Scroll.in*, 21 August 2019; Rohan Venkataramakrishnan, 'The Political Fix: India finally admitted to an economic crisis, but what is it doing about it?'.

Finance Minister Nirmala Sitharaman, «after months of insisting everything was alright»,¹⁷⁸ finally appeared to take notice of the situation and tried to tackle the economic slowdown through a series of decisions which significantly changed the setup of the budget.¹⁷⁹ The most important of these decisions, announced by Sitharaman on 20 September, was the diminution of the top corporate tax rate from 30% to 22% plus the introduction of an effective tax rate of 17% on all manufacturing companies registering from 1 October 2019. Other decisions aimed at coping with the difficult economic situation, taken by the government during the same period, were a rollback of a tax surcharge on foreign investors, merging 10 public sector banks into four, making use of government funds to buy automobiles; and setting up a task force to identify technically and economically viable infrastructure projects to be kick-started in the 2019-20 financial year.¹⁸⁰

However, all these measures were either bound to produce positive results (if any) only in the medium or long term, or unable to achieve the desired results. An example of the former case was the consolidation of the state-owned bank sector, whose benefits, if ever achieved, would become visible only after a few years.¹⁸¹ An example of the latter case was the roll back of the top corporate tax rate. It aimed at making India a more attractive destination for foreign investments and encouraging national companies to invest more. Nevertheless, two main hurdles stood on the path to the fulfilment of those rosy hopes. The first was that, in a situation characterized by weak consumer demand, as that then prevailing in India, there was no reason to expect private companies to employ the gains accruing from tax reduction in further investment.¹⁸² The second was that, although «a welcome measure», the cut did not «not fully compensate for deeper problems afflicting India Inc: poor basic infrastructure, difficulties in enforcing contracts, uncertainties related to investment protection and taxes as well as cumbersome land and labor regulations.»¹⁸³ If, however, the future benefits of the cut of corporate tax rate were less than certain, the short-term cost

178. Rohan Venkataramakrishnan, «The Political Fix: India finally admitted to an economic crisis, but what is it doing about it?».

179. Remya Nair, «In 3 months, Nirmala Sitharaman's budget has come undone, one press conference at a time», *The Print*, 3 October 2019.

180. «Super-rich tax surcharge on FPIs rolled back, announces Nirmala Sitharaman», *Hindustan Times*, 23 August 2019; «Nirmala Sitharaman announces major Budget rollbacks, withdraws enhanced surcharge on capital gains», *Scroll.in*, 23 August 2019; «Finance ministry sets up task force to identify infrastructure projects worth ₹100 trillion», *Livemint*, 7 September 2019.

181. Andy Mukherjee, «Modi's bank mergers have come too late to avoid an economic crisis», *The Print*, 2 September, 2019.

182. Rahul Menon, «Despite the tax cut, India's corporates won't invest. Then what's the point, finance minister?», *Quartz India*, 23 September 2019.

183. Ritesh Kumar Singh, «India's corporate tax cut does not address country's deeper problems», *Nikkei Asian Review*, 8 October 2019.

was evident and high. According to official estimates, the tax cut was going to cost the Indian exchequer «1.45 trillion rupees (\$21 billion), equivalent to 0.7% of GDP, and adversely affect the government's ability to support growth through spending».¹⁸⁴

Some three weeks before the corporate tax cut, on 26 August, the Reserve Bank of India (RBI) agreed to transfer US\$ 25 billion of its own surplus capital to the government's coffers. It was a truly huge sum, amounting to about 1% of GDP.¹⁸⁵ Most analysts saw this decision as the end result of the struggle that, the previous year, had pit the Modi government against the RBI, culminating in the resignation of then RBI Governor Urjit Patel.¹⁸⁶ The crux of the struggle was the question of the central bank's autonomy and powers; hence, the decision of the RBI new governor, Shaktikanta Das, could easily be interpreted as the central bank giving in to the government's desires. This interpretation must be qualified in the light of two elements. The first is that, although the RBI did not have any legal obligation to transfer its earning to its only shareholder, namely the Indian government, this was what many other central banks do.¹⁸⁷ The second is that the initial government's request was twice as big as the sum eventually transferred. This, coupled with the fact that the RBI is one of the world's best-capitalised central banks, means that it was able to absorb the transfer without endangering its own financial stability.¹⁸⁸ Hence the problem was less the transfer than how the Modi government intended to use the funds received from the RBI. In an economy characterised by declining investments and in dire need to relaunch them, making use of the RBI-provided windfall to that end would have been a wise choice. But given the shortfall in tax revenues, due in particular to the disappointing results of the GST returns, that choice had appeared problematic since the beginning. The prospect of the opening of a further hole in the expected tax revenue, due to the September cut on corporate taxation, made any choice different from making use of the RBI-provided fund to plug that hole even more improbable.

How bad the economic situation was turning was highlighted by the fact that during the period under analysis, even official GDP estimates started to steadily decline. Eventually, on 29 November 2019, came the announcement that GDP growth had gone down from 8.2% in the April-June

184. *Ibid.*

185. Amy Kazmin, 'India central bank's payout to Modi government sparks warnings', *Financial Times*, 27 August 2019.

186. On the RBI-Narendra Modi government see Michelguglielmo Torri & Diego Maiorano, 'India 2018: Political uncertainty and economic difficulties', pp. 277-78.

187. This is the case, for example, of the central banks of the EU countries. European Central Bank, *Does the ECB make a profit?*, 16 February 2017.

188. Amy Kazmin, 'India central bank's payout to Modi government sparks warnings'.

2018 quarter to 4.5% in the July-September 2019 quarter. Even more worrying was that the July-September 2019 quarter was the fifth in a row of slower growth (see table 1).

Release date	Quarter	Actual	Forecast
31 Aug 2018	Q1 (April-June 2018)	8.2%	7.6%
30 Nov 2018	Q2 (July-September 2018)	7.1%	7.4%
28 Feb 2019	Q3 (October-December 2018)	6.6%	6.9%
31 May 2019	Q4 (January-March 2019)	5.8%	6.3%
30 Aug 2019	Q1 (April-June 2019)	5.0%	5.7%
29 Nov 2019	Q2 (July-September 2019)	4.5%	4.7%

Source: Investing.com (<https://www.investing.com/economic-calendar/indian-gdp-quarterly-434>)

The sum of the disappointing official data and the worrying news concerning several key economic sectors brought about the downward revision of the projections concerning India's expected yearly GDP rate of growth. Whereas at the beginning of 2019, the Indian government was predicting a GDP rate of growth of 7.4% and most international financial institutions and credit rating agencies were forecasting it as equal to numbers included between 6 and 7%, during the second half of 2019 all indicators turned downwards, pointing at numbers oscillating around 5%.¹⁸⁹ If one bears in mind that according to some economists the official data overestimate the GDP rate of growth of 2.5%,¹⁹⁰ the suspicion is legitimate that, under the leadership of Hindu nationalist leader and «development man» Narendra Modi, the Indian economy was heading back towards the «Hindu rate of growth», namely the slow rate of growth, averaging 3.5% per year, typical of the years from 1950 to 1980. Or, rather, as argued by the well-known intellectual and Congress politician Mani Shankar Aiyar, the Indian economy under Modi was heading towards a «Hindutva rate of growth».¹⁹¹

189. Vijayata Lalwani, 'One chart shows how dramatically India's GDP growth rate projections have fallen this year', *Scroll.in*, 16 October 2019; 'Crisil Cuts India's Growth Outlook To 5.1% From 6.3%', *NDTV*, 2 December 2019; K.S. Kumar, 'IMF paints grim picture of India's economy', *Asia Times*, 26 December 2019; Vikas Dhoot, 'Explained/Is the economy in really bad shape?', *The Hindu*, 29 December 2019.

190. 'India's GDP growth overestimated by 2.5%, says former CEA Arvind Subramanian', *Business Line*, 11 June 2019.

191. Mani Shankar Aiyar, 'From the Hindu rate of growth to the Hindutva rate of growth', *The Telegraph*, 16 June 2019.

9. Conclusion

A brilliant young Italian scholar, writing a few months after Narendra Modi's massive victory at the 2014 general election, noted how Modi's election campaign had generated tremendous expectations in the electorate, especially among the young people. On the one hand, Modi had presented himself as «the 'development man' who could put India back on the path of high growth, create millions of jobs, and ensure 'acche din [good days]' to its citizens». On the other hand, Modi's victory had raised another kind of expectation, «especially among the ranks of rightwing Hindu nationalists, who believe that a more aggressive policy aiming at 'hinduising' the Indian state will be pursued under his prime ministership». According to this scholar, «the first of these expectations – reviving India's economy and creating millions of new jobs» was very difficult to fulfil. Therefore, the «second expectation – Modi's "plan B" – is more likely to be translated into practice, especially if the first one is not».¹⁹²

That forecast resulted to be incorrect as far as Modi's first term as premier is concerned. Looking back at it, it is clear that Modi, while leaving a free hand to Hindu radicals – as shown by the spread and persistence of religious-motivated violence – privileged the attempt at fulfilling his economic programme. He pursued that objective by focussing on three main policies: «Make in India», demonetization, implementation of the GST. After much fanfare, the first policy came down to nothing; the second, demonetization, was an abject economic failure, whose cost continued to be felt by the Indian economy in the following years; the third policy was so rashly and incompetently applied that it caused a decline in tax revenues, disadvantaged the Indian producer, and forced the government to continuous changes in its application.

It is legitimate to think that by the end of his first term, Modi had become aware of the difficulty to play the role of «development man». No doubt, after the 2016 fiascos of demonetization and GST implementation, Modi gradually deemphasised his role as supreme decision-maker in the economic field. Once he successfully weathered the 2019 general election, in spite of the mess he had done with the Indian economy, he must have arrived at the conclusion that he could best apply his undoubted political talents in fields different from the technically difficult to manage economic area. It was at that point that he turned to «plan B», bringing to the foreground a political strategy aimed at transforming India into a Hindu religion-based illiberal democracy.¹⁹³ His hollowing out of two key articles of the Indian institution, the transformation of J&K into an internal col-

192. Diego Maiorano, 'Early Trends and Prospects for Modi's Prime Ministership', *The International Spectator*, 50, 2, 2015, pp. 75-76.

193. On the concept of «illiberal democracy», see Fareed Zakaria, 'The rise of illiberal democracy', *Foreign Affairs*, 76, 6, November-December 1997.

ony under military occupation, and the policy behind the NRC and CAA were all moves aimed at the fulfilment of «plan B», namely the building of the Hindu Rashtra. Accordingly Modi and his closest political associates, in particular Amit Shah, focussed their energy in building what, in the title of this article, is defined as a kingdom of cruelty and fear. This was so important a task to prevent Modi from taking care of the faltering Indian economy, whose management was left in Nirmala Sitharaman's (not so) capable hands. The building of the kingdom of cruelty and fear at the political level was accordingly accompanied by the increasingly evident undoing of the economy, which, suddenly, appeared heading back to the infamous «Hindu rate of growth».

Unfortunately for India, at the closing of 2019, *acche din*, «good days» – both in the political and economic fields – appeared all the time increasingly distant.

