UNIVERSITY OF CALIFORNIA
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FEAR IS A PLACE IN TIME: ON MEMORY, SURVIVAL AND DEMOCRATIC VIOLENCE IN INDIA

A dissertation submitted in partial satisfaction
of the requirements for the degree of

DOCTOR OF PHILOSOPHY

in

ANTHROPOLOGY

by

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June 2025

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2025

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Abstract

Fear is a Place in Time: On Memory, Survival and Democratic Violence in India

Shruti Gokhale

In modern democracies, authoritarianism does not arrive with tanks, it arrives with paperwork, hearings, and silence. This dissertation explores how fear is weaponized by the contemporary Indian State as a structure of governance. I argue that fear is not fleeting, but a place in time. It settles into bodies and relationships, shaping how people speak, think, remember, and survive. Fear is not just felt but also lived. In India today, fear is also legislated.

As dissent is increasingly criminalized through legal process rather than overt repression, fear becomes both the method and the medium of control. Through a close analysis of the procedural and affective landscape surrounding the repeated arrests of my brother, an activist and now a Member of Parliament, this work explores not only the State's repression but also the silent violence of the judicial system.

This dissertation is an autoethnographic account written from within the space of fear, not as its observer but as its inhabitant. I argue that while hate may be the most visible component of authoritarian regimes, it is actually fear that forms their foundation. I use personal writing, participant observations, informal conversations, interviews, legal proceedings, and legal/bureaucratic documentation, apart from interviews and secondary source material like historical accounts, news archives, and memoirs, to reveal how authoritarianism unfolds under the guise of democracy.

Structured around the physiological fear responses – freezing, fleeing, fighting, and fawning – the dissertation also maps these onto state institutions: the police, federal agencies, courts, and the executive. This research contributes to conversations in cultural anthropology, critical legal studies, and South Asian politics by bridging the gap between the affective and the academic. I argue that law and emotion, body and bureaucracy, survival and scholarship, are not binaries but entangled forces shaping realities.

This dissertation is both a personal act of survival and a theoretical intervention. It offers a framework for understanding democratic backsliding as an intimate, long-form violence, rather than a single rupture.

To,

Kolkata – The City of Joy

For meeting me like an old friend when home became fraught with risk

For your torrential *Kaalbaishakhi* rains that quietened the storm in my heart

For your tea that warmed the cold left behind by fear and anger

For your small lanes and bustling streets that assured me I wasn't alone

For letting me know there is still kindness and beauty in the world

Acknowledgements

Completing a PhD dissertation is never easy, and my experience was no exception. From 2019 to 2025, it felt like an endless series of calamities. Through the loss of loved ones and pets, a global pandemic, and what often felt like the end of life as we knew it, right up to political persecution of a kind that exceeded even my worst nightmares, I somehow arrived at the end of this journey. They say it takes a village to raise a child; for me, this dissertation is that child. And it did take a village.

None of this would have been possible without the unwavering support and guidance of my advisor, Dr. Megan Moodie. Not only was she the best academic mentor I could have hoped for, but she also encouraged me to think in new ways and nurtured my creativity, giving me space to experiment freely. Her ability to navigate difficulty with grace, without compromising on intellectual rigor, inspired me deeply, especially during moments when giving up seemed like the easier path.

I am deeply grateful to Dr. Mark Anderson for his kind and careful critique. As someone who tends to internalize feedback, his gentle yet insightful comments helped guide me without making me doubt myself. His dissertation-writing workshop was instrumental in helping me complete this project, and as they say, a good dissertation is a finished dissertation. I sincerely thank Dr. Madhavi Murty for taking the time to read my work and for offering her regional expertise, generous insight, and warmth throughout the process.

My gratitude also goes to Dr. Mayanthi Fernando, whose unique insights during my Qualifying Exam committee reshaped my thinking and elevated my writing. Her early support during my first year at UCSC, through a time marked by upheaval and uncertainty, helped me find my footing and begin to thrive.

UCSC's Anthropology Department has long stood at the edges of the discipline, not as a margin, but as a vantage point. It is here that I learned that storytelling is theory, that emotion is data, and that the ethnographic is always political. The department taught me that academic work can be rigorous and revolutionary, embodied and insurgent, making it possible for a project like mine to not only exist but to be taken seriously. This work lives in that tradition: one that refuses the separation of affect and analysis, body and law, personal and political. In writing through fear, memory, and legal persecution, I draw from a lineage that treats knowledge as a practice of freedom and scholarship as a form of care.

My academic journey began well before UCSC, and I owe profound thanks to the teachers who laid the foundation of intellectual curiosity and resilience in my life – Dr. Swati Banerjee and Dr. Sunil Santha. I also thank Prof. Sudhakar Solomonraj for inculcating discipline in my life at a point when I did not even realize its importance. He taught me to question everything that seemed obvious, to form my own thoughts rather than letting others tell me what I should think, and, most importantly, to "take charge of my life before someone else did." I owe much of who I am, both as a person and scholar, to him.

Dr. Aditya showed me immense kindness at a time when I had none for myself. He probably never realized the magnitude of what he offered, but it gave me hope when I had none. That hope set me on the path toward social work, and ultimately, to this dissertation.

Some people I thank here are not connected to this dissertation directly, but they were vital to bringing me to this point. Foremost among them is Guru Ramesh Purav, teaching me dance for over a decade, starting from when I was merely six, he taught me the ways in which rhythm and grace are not just aspects of dance but are ways of being, and how beauty cannot exist without discipline. Though he is no longer with us, his teachings live in my body. The love for performance that he nurtured in me led to the project that brought me to UCSC, the one on nomadic hereditary performers in India, and issues of legitimacy and visibility. The fact that the project changed later was a matter of fate (and State).

The fear of having the full might of the State directed at your family can be shattering. It would have broken us too, if not for the compassion and steadfast support of Hon. Chief Minister of West Bengal, Mamata Banerjee, and Hon. MP Abhishek Banerjee. They exemplify leadership rooted in care, empathy, and quiet strength. They stood by my family when almost no one else did, and their help was extended without spectacle or demand, and I will never forget it.

To Hon. MP. Derek O'Brien – I truly lack the words to express what his presence has meant to me. He is almost singularly responsible for me not losing faith in the kindness of people. He is the example of the difference a single person can make; his

empathy alone outshines the darkness of those who govern through persecution. The world is a better, warmer, more promising place with him, a place worth fighting for.

While I cannot thank everyone individually here, I also extend my heartfelt gratitude to the All India Trinamool Congress, and Derek O'Brien and Associates for never letting us feel like we were on our own.

I specifically owe my immense gratitude and a special thank you to Shane Mark Baptiste. He was often my first call in times of crisis, and also when I had no idea whom else to call. He never made me feel like a burden, even when I surely was.

The actual time in court is not even a mere fraction of the entire process; navigating that process and coming out (close to) unscathed at the other end is not a privilege afforded to most people. For my family, this near impossibility was made survivable by Srisatya Mohanty. I am grateful for the incredible patience and also the honesty with which he explained the smallest intricacies of an unimaginably complicated situation, and for fighting against all odds for us.

Maria Rufang Lu, Rikki Brown, Cosima Reichenbach, and Camille Louis are examples of the difference true, warm, and supportive friendships can make in life, the definitions of "chosen family." They are the only people who could force me to use the done-to-death cliché of "home away from home" because that is precisely what all of them have been for me. It is because of them that I will always remember Santa Cruz and California fondly, and it will be among the best chapters of my life. Inditian Latifa, Hakam Nugroho, and Katie Nuss were the best friends and flatmates a person could wish for – turning domestic life into a sitcom I never wanted to end.

Thank you, mama — Suniel Patil, and dad — Suhas Gokhale, for being a pillar of support in a time of great crisis.

Mr. Jadhav has been the first person outside of my family to truly believe in me. He celebrated every single win in my life like it was his own, and supported me through every failure without ever asking for thanks. But today, I extend my gratitude to him with all my heart.

The beginning of my PhD journey was marked by a devastating loss — the death of my grandmother, who passed away while I was on a flight to the US. I wish with all my heart that my grandmother, Hemangini Patil, and my grandfather, Dattatreya Patil, would be here to see this day in my life. But wherever they are, I know *ajji* and *ajoba* are watching, and I know that they are proud of me. They believed that education was the only inheritance people like us truly had, and they were right. They are my inspirations for life, with the way they lived, struggled, fought, and still continued to be the funniest, happiest, most content people I have ever met. I hope I grow to be even half the people they were.

Finally, I come to the two people who are the center of my world—my mother and my brother.

It would be an understatement to say that my mother, Neela Gokhale, is the strongest woman I have ever met. I doubt I would be able to survive through the situations that she has witnessed in life, and she spent her life ensuring that my life turns out better. I was not always the easiest daughter to deal with; I still am not, but as much as it frustrates her, I also know that she sees her stubborn, headstrong, defiant self in me. I

inherit it all from her. She gave me the freedom to live a life that looked nothing like her idea of it, and supported me even when she didn't understand. Her enthusiasm, her child-like excitement, and her zest for life continue to amaze me every single day, often making me question which one of us is the daughter and which one is the mother.

This dissertation is an ode to my brother, Saket Gokhale. He faced the full force of the State's injustice and stood his ground. That strength was no surprise to me; I've known it my whole life. I have grown up seeing his courage and his audacity. He has been my best friend, my guardian, my guide, my counselor, my sounding board, my source of strength. Even if the world goes against me, I know there is one person who will always be in my corner. The world may know him as Hon. MP, but to me, he is still the most annoying, loving, impossible, and brilliant person in my life. He is my heart. This work would not exist without him.

Before Hate, There Was Fear

"Be strong." I am trying, I really am.

"This, too, shall pass." Will I be around when it does?

"Tomorrow is a new day." What if it is worse than this one?

"We could never do this." I hope you never have to.

"You need to fight harder." Silence is the most brutal battle.

"You should be proud." I'd rather be safe.

"You should…You must…You HAVE TO"

Will things ever be normal? Fear is normal.

Support, appreciation, accusations, solidarity, judgment, empathy, sympathy, pity

Words…meaningless noise

Silence.

Loud, enveloping, welcoming silence

Startling Silence.

Startling at the sudden chirping of birds, frowning at random acts of kindness,

Struggling with gaps in memory, trying to get rid of nightmares.

A loop.

I remember being obsessed with the Bermuda Triangle when I was a kid.

(whatever happened to that place?)

Intense fear. I didn't understand it then.

I get it now.

Writing this dissertation was the journey I needed to undertake for that understanding. It was the understanding that fear did not just speak about power, but could also hold resistance, silence, and intellectual depth together. What follows is not an answer to questions, but a journey through fear, law, and memory. In this dissertation, I use personal and familial experiences and understandings of fear and fear responses as a discursive base to examine how political persecution affects people facing aggression, prompting certain behaviors and setting into motion a chain of events with national consequences. Using the pattern of systemic political persecution and incarceration of political opposition in India in the run-up to the 2024 general election, and specifically drawing on my brother's repeated arrests and imprisonment in multiple cases, I argue that the State weaponizes legal mechanisms to invoke specific fear responses among dissidents, which works towards silencing all opposition. This legal weaponization departs from the process of censorship and enforced muzzling in that the stifling is triggered by a feeling of fear created within a person's mind. Fear, then, becomes not only an external imposition but an internal condition. You begin to monitor yourself, hesitate before speaking, start to edit your texts, pause before opening your front door. The state doesn't have to touch you for the threat to feel real. The possibility is enough.

Mbembe (2003) argues that sovereignty, under modern authoritarian regimes, is increasingly expressed through the power to decide who must live and who must die, in what he refers to as necropolitics. It is not only about incarceration, but about slow

violence in the form of legal harassment, social erasure, economic strangulation, and the destruction of futures. In India, the fear that the State can take everything from you without accountability – your career, your home, your safety, your parent, partner, or sibling – does not always culminate in literal death, but it enacts forms of living death. It is about who is left to endure and who is made invisible under the guise of procedure and "lawful" governance. This combination of surveillance and disposability is what makes authoritarianism not just a political regime but a psychological condition. It gets under your skin, into your bones, your relationships, your dreams.

Anthropologically, fear is not an emotion triggered in isolation, but a social and political construct that shapes power relations. Emotions like fear are shaped by institutions, ideologies, and histories, rather than being universal experiences (Ahmed 2004; Lutz 1998). This fear, shaped by external institutions, then seeps into the everyday, becoming entangled with the ordinary in contexts of State violence, where survival becomes an act of resistance (Das 2007). In this framework, fear is not just a feeling but a systemically enforced structuring of silences and compliance.

As recent neurobiological and epigenetic research shows, fear can have lasting impacts on brain function and memory pathways, particularly in the amygdala and hippocampus (LeDoux 1998). Beyond the neurological, studies suggest trauma may alter gene expression, with effects that span generations (Yehuda et al. 2005, 2018). While this terrain remains contested, especially in terms of causality and sociopolitical framing (Lock 2015), it is increasingly clear that the body carries

trauma in enduring, biologically legible ways. These embodied experiences of fear and survival cannot be fully understood through law or politics alone, but demand an anthropological engagement with the affective and material legacies of violence.

My corporeal experience of fear showed me exactly how the emotion affected not just my immediate behavior, but also reframed my responses to related and even unrelated stimuli in the long term. The fear remained with me and my family, consistently reactivated by sounds, smells, food, and routine. After experiencing intense fear, a person's mind continues the process of aggression and silencing, becoming a more potent weapon than any external form of censorship. The prisons may be empty, but you are incarcerated by your mind. Inducing fear and lasting trauma that turns the victim's own mind into an aggressor is a form of torture that does not leave marks; just neurological and emotional imprints that color every future life experience of the victim or survivor. The fear is not collateral damage, but the designed outcome. It is the realization that the State does not merely act in a manner that triggers fear but, in fact, relies on it, engineers it, and sustains it, that underpins the central argument of this dissertation.

To understand the true intentions and extent of State control and the playbook of authoritarianism, it is essential to understand the corporeal fear it triggers because fear is not something that is lodged in the mind but is experienced within the body. The corporeal and emotional are, then, not distinct but intimately entangled modes of experiencing life. As Veena Das (2007) notes, violence "attaches itself with its tentacles into everyday life and folds itself into the recesses of the ordinary" (1).

Through this form of attaching itself, violence then shapes how we inhabit the world (Ahmed 2004).

In my case, fear did not arrive alone as an individual, discrete, identifiable emotion, but instead, came in the form of nausea, sleeplessness, hypervigilance, sweating, irritability, trembling hands, and a fatigue that just would not go away. It altered the way I ate, slept, walked, or even answered the phone. Fear, then, changed not just how I felt, but how I existed – the emotional *was* the corporeal. If fear is an emotional response to State persecution, then the body is the site of the political archive. In this dissertation, I attend to fear not only as an emotion but as a corporeal state of being – silently branding memory, family, and life itself. The prison is not only physical – it lives in every pause before opening the door, in every startle at a loud sound, in every gap in memory, and in the tremor in my mother's voice. Examining the emotional as the corporeal enables me to honor that tremor as a way of knowing, recognizing the body as the site of political inscription.

In the chapters that follow, I explore how this silent violence seeps into memory, relationships, and even into the very ideas of life and survival. It is a personal window into politics, and an attempt at healing – a way of making sense of the experiences of my family and trying to understand, with the benefit of hindsight, what exactly happened and what continues to happen. Philosopher Søren Kierkegaard notes in a journal entry that while life must be lived forward, we seek to understand it by looking backwards. It brings to mind Walter Benjamin's (1968, 257) angel of history, propelled to the future and facing the past, looking back at the piling wreckage. While

it is a critique of the ideology of progress, the imagery offers a metaphor for how memory operates in the wake of trauma, looking back at the wreckage, wanting to mend what has been broken. This dissertation is a look at that wreckage, refusing the amnesia demanded by authoritarian regimes. Autoethnography, then, was not a method of choice, but the only way in which this story could be told effectively. This dissertation is both my account as a witness and my effort to analyze and explore the spread of fear through a family, a society, and a nation.

"You must forget and move on." But I remember.

Living as Method: The Weight of Positionality

This dissertation was not originally the project I set out to write when I returned to India. My research was focused on a nomadic performer community, studying movement, performances, and legal entanglements. Just as I prepared to begin my fieldwork, my family got entangled with the law – my brother, a spokesperson then for the second largest opposition party in India, was arrested. Then arrested again. And then again. And once more. As my family was pushed deeper and deeper into the labyrinth of legal processes and fear, my project changed because the realities of my life changed. The questions I once asked others – about persecution, visibility, fear, and performance – became questions that I asked myself.

When my brother was first arrested, we felt anger and indignation. However, that arrest and the subsequent bail were followed by another arrest right as he exited court. That experience made us wary, alerting us that something bigger was at play. When these two arrests were followed by the third and the fourth, we experienced the fear

that permeated our very being. As my brother spent over five months in jail following the fourth arrest, we experienced the psychological incarceration of terror; even as he got bail, we continued to be in the penitentiary of trauma.

If fear lodges itself in the bodies and minds of the people experiencing it, that is where it should be studied – in corporeal experiences, in textures of everyday life, in the shifts of personal relationships and equations, and the quest for normalcy. To that end, for this study, I use autoethnography as a primary methodological approach to put personal experience in conversation with the theoretical and academic frameworks of political persecution, allowing a rare access to the fertile ground of conversation between the emotional and the intellectual.

Autoethnography, however, is messy. It invites internal debates – doubting my judgment, my analysis of the situation, dealing with contradictions within my own memories, writing from a place of pain, and then omitting from the place of fear. Despite these struggles and internal debates, autoethnography does not aspire to rise above the mess, but to write from within it. Its strength lies in the refusal to flatten experiences into clean narratives, insisting that positionality, emotion, and embodiment are not contaminations of knowledge, but its necessary conditions. Autoethnographic writing creates a space for acknowledging the non-linear logics of emotions and the contradictions of behavior; it acknowledges that memory is deceptive, understanding is not linear, and a lot of life is just happenstance.

For writing this research, I rely on what Moodie (2022) refers to as "research-creation" – a methodology that blurs the boundaries between the artistic

and the academic, where making, doing, and feeling are all processes of knowledge production, challenging dominant ideas of what counts as valid knowledge. Drawing on Civil (2019), Kondo (2018), Loveless (2019) and Odell (2019), and a longer lineage of feminist theory, Moodie argues that this form of research-creation has roots in feminist, Black, Indigenous, and postcolonial scholarship, where marginalized voices have long used personal experience as a lens through which to understand broader cultural and political structures. This method is not only about personal narrative but also about challenging and expanding traditional ethnographic boundaries. In keeping with those traditions, this project is a testament to what happens when research-creation is not only about knowledge production but about survival, witnessing, and refusing to forget.

This merger of the literary and scholarly work is not unprecedented, especially in feminist ethnographic traditions. Sociologist Laurel Richardson is among the scholars who have bridged the gap between literary and ethnographic writing over the years, creating a rich body of work that emphasizes its fertile possibilities (2004, 2007, 2013, 2019). Similarly, using an evocative voice to challenge conventions of ethnographic realism, Moodie (2025) employs surreal metaphors that disrupt narrative expectations and argues that difficult discussions require not only new expressive forms but also new modes of listening and renewed scholarly commitments, a sensibility I strive to emulate in my own writing.

As a part of that commitment, in bringing the theory and internal struggle together, I seek to create a space that holds affect, reflection, and storytelling as a part of

intellectual work, intentionally blurring the lines between affective and academic work. In Michel Foucault's conception of "subjugated knowledge," he speaks not only of the knowledge that is repressed in institutions and archives, but also of the "disqualified," fugitive knowledge that exists outside the institutions of knowledge production, making a case for the merger of these two types of knowledges (1980, 81-83). Kamala Visweswaran (1994) similarly makes a case for reading the ethnography in fiction and the fiction in ethnography, blurring the lines between archives, biographies, literature, and postcolonial theory. Critiquing the need to vocalize, she advocates for a feminist ethnography of silences, resistance, and refusal. Pertinently, she emphasizes the impact of the presence of the researcher on the subjects of study, challenging the notion of objectivity and unbiasedness in observation.

Autoethnography blurs, even decimates, the line between the researcher and the researched. That does not come without its concerns and ethical complexities. In anthropological traditions, objectivity has long been questioned, with scholars like Donna Haraway (1988) arguing that knowledge is always situated. As such, the goal is not to achieve an impossible neutrality, but to acknowledge and critically examine one's positionality. However, autoethnography, as a deeply personal method, often faces critiques about being solipsistic or self-indulgent. Critics may question whether autoethnographers can see beyond their own experiences to provide insights relevant to broader cultural, political, or social structures. In this dissertation, I do not see autoethnography as merely a solipsistic exercise, but as a method that allows me to

access deeper layers of lived experience, both personal and collective, and how these intersect with larger narratives of power, fear, and legal violence.

While this autoethnography privileges my perspective, I am conscious of the limitations it imposes, the foremost being the limits of my positionality. While the incarceration of political leaders is a common occurrence across India, especially in Narendra Modi's second term as Prime Minister, the ways in which this incarceration is experienced by each leader and their families cannot be uniform; we do not experience trauma in the same way, and each person's experience of trauma cannot be encapsulated within one narrative. People, their minds, and their emotions are complex. The response to trauma and fear is anchored on a person's past, access to resources, social connections, and even their personalities, among other things.

The ethics of autoethnography derive from its foundations of care and transparency. In weaving my family's story with that of India's political landscape, I do not stake claim to a unitary "truth" but seek to add my narrative to the other narratives framed across spaces and time – in courts, in police stations, in documents, in news reports, and in people's living rooms. My family's experiences contribute to a larger tapestry of interconnected stories. By writing about these experiences, I draw attention not only to my family's trauma but also to the broader systemic issue of political persecution in India. In making sense of my family's experiences and integrating them in this narrative, I have taken care not to extrapolate personal experiences of fear, but only the fact that fear is experienced and that it has long-term consequences

that dictate people's responses. My argument here is that these personal responses of persecuted people, in turn, dictate the fate of a nation.

It would be reductive, however, to assume that I draw authority only from an experience of trauma. My experience is separate from my expertise. I have, in the past, worked with people embroiled in legal systems as a social worker and witnessed their struggles with legal processes. My academic training, previous work, and personal background together allow me to blend my personal journey with theoretical insights to examine how the personal is always political, and how the psychological costs of legal processes come in the form of real, lived experiences rather than being abstract concepts. Since these are deeply emotional and psychological costs, they need to be engaged with emotionally, rather than just intellectually. This narrative blends the realities of the law with the realities of life, which are often not the same. The use of creative forms is not a departure from academic rigor, but a way of deepening it, examining under layers of silence and memory, looking below the rocks.

I draw on personal writing, participant observations, informal conversations, formal legal proceedings, apart from interviews and secondary source material like historical accounts, news archives, and memoirs, layering observations and memory with political critique. These different sources allow me to put personal memories in conversation with external perspectives and institutional narratives, to shine light on the larger events in the nation. I bring legal theory and the profoundly human experience of fear together, attending to the internal struggle to ascribe meaning to a

traumatic event. It is, therefore, not just a critique of the legal system but also an examination of how it shapes the emotional, psychological, and neurological lives and futures of people. At its core, it is a study of state power and legal processes. What happens when legal processes are weaponized by the State to become political punishments? In the twenty-first century, how clearly demarcated are the lines between democracies and autocracies? Is torture only consistent with the wounds that show up in a medical examination? This study of power is based on the analytical grounding of legal studies, anthropological accounts of law and politics, and neurological theories of fear. I use these theories to make sense of my personal and familial experience of being embroiled in the legal system.

As the experiences and incidents that form the base of this dissertation were recorded in real-time as opposed to being drawn from memory, the ethnographic vignettes convey the sense of urgency and disbalanced feeling of not knowing. When recording these incidents, I did not have the benefit of knowing how things would eventually turn out. To convey that sense of urgency and the ungroundedness of the "not knowing," I use the ethnographic present in my vignettes as a writing tool. The ethnographic present helps me evoke the feelings of fear and panic in writing. This is not merely a stylistic choice, but a methodological and epistemological commitment to mirror the true nature of trauma, fear, and the circularity of politics. The use of the ethnographic present is a tool for trauma representation. As American novelist and Vietnam War veteran Tim O'Brien (1990), who wrote extensively on memory and

trauma, put it: “What stories can do, I guess, is make things present” (172) [...] “This is true: stories can save us” (213).

Where Fields Fail: Thinking Fear Across Disciplines

Visceral experiences and embodied learning do not respect the neat boundaries of academic fields. Fear does not confine itself to the emotional register or even to the body; it embeds itself in memory, alters relationships, and affects political realities. This dissertation draws on a wide range of literature across fields – anthropology, sociology, political science, legal studies, psychology, neurobiology, media studies, and literary narratives. It takes inspiration from trauma studies to understand the effects that fear has on a person’s decisions and actions, and also the long-term effects of that fear, legal anthropology to examine how laws function as weapons of intimidation and violence at the hands of the State, political science to explore how authoritarianism raises its fangs gently, sinking them into the core of democracy, and feminist theory to foreground the body as a site of struggle, memory, and resistance. In doing this, I think with scholars whose work has refused to follow the neat boundaries of academic disciplines, like Harsha Walia (2021), who connects the work of activists, legal studies academics, historians, journalists, and also poets and migrants for her book *Border and Rule*.

However, this dissertation is itself grounded in anthropological thought. The method of autoethnography is rooted in anthropology’s commitment to lived experience. In embracing partial truths and resisting abstractions, my work contributes to long anthropological traditions by using deeply situated knowledge to interrogate how

state power operates not only through legal mechanisms but also through the violence of slow, corrosive fear. I do not depart from anthropology, but seek to push its boundaries from within. Though I draw inspiration from interdisciplinary sources, I use anthropological thought and traditions to guide me on *how* to draw that inspiration, bringing those fields to anthropology. The boundaries of anthropology are, then, not limits but thresholds from where I can engage with these other disciplines.

In moving between these disciplines, I trace how fear circulates across epistemic, political, and bodily terrains. It is here, at the convergence of affect, legality, and power, that fear must be unpacked, not just as an emotion, but as a state-sponsored strategy with long-term effects – trauma. Fear and trauma are distinct but related concepts, sharing an uneasy continuity. Fear is usually a survival-based reaction tied to a specific threat, and generally subsides when the threat is removed. Trauma is what stays. It results from an overwhelming situation that can leave lasting psychological and emotional scars. In other words, fear is a physiological and often temporary response to danger, and trauma is the afterlife of that fear, etched into memory and behavior.

This dissertation is both about the immediate experience of fear triggered by the threat of the State and the lasting trauma left by that experience. While political opposition leaders experience the fear of incarceration, and often also experience imprisonment, the fear instilled into the political actors as well as their families through this process does not end with the release of the person from jail. They

continue living in a psychological penitentiary. As LeDoux (1998) explains, "not only is fear conditioning quick, it is also very long-lasting. In fact, there is little forgetting when it comes to conditioned fear. The passing of time is not enough to get rid of it" (145). Legal processes continue, election results are declared, and governments change. But what does not disappear is the constant feeling of dread, warning you that something will go wrong. Like a bee, softly but persistently buzzing at your ear until that buzzing is all you can seem to think about.

Focusing specifically on the corporeal experiences of fear evoked by the State through legal mobilization, I argue that these processes are initiated precisely to evoke specific fear responses. By keeping a person (and their families) caught up in the drawn-out processes of law enforcement, subjected to unceasing terror and uncertainty, the State ensures that all opposition is sufficiently scared and muzzled, if not completely silenced. There is the *fear* of the physical prisons and the *trauma* of the psychological prison.

Fearscapes: State Terror and Collective Memory

Digital Arrests. If there is one phenomenon that is a perfect embodiment of the affective architecture of fear surrounding India's federal law enforcement in the 2020s, it is the terrifying rise of 'digital arrests.' The State does not make these arrests; however, they rely entirely on the credibility of the State as a source of unaccountability and persecution. These are scams, but they work because they emulate a reality of oppression and State violence enacted through legal mechanisms.

It is a regular day until the phone rings. It is from a delivery agency – who doesn't order things online these days? "We have a parcel addressed to you, but it has been held at customs clearance. It contains some illegal substances. We will now transfer your call to [insert law enforcement agency name: ED, CBI, Narcotics, or just police]." The call is transferred to an "officer" who tells the victim that their identity and documents have been used to facilitate the transport of illegal substances. There is an inquiry into money laundering – their bank accounts will be frozen, and they will be arrested soon.

The victim is, obviously, terrified. Confused, pleading, and making their case. The officer then "takes pity" and moves the conversation to a video call. On the call, the officer, in full uniform, is sitting in a space that looks and sounds like a police station. They offer the victim a lifeline – "we will investigate this and try to exonarate your name. But, in the meanwhile, you will be placed under a digital arrest with immediate effect. You cannot disconnect the phonecall, you cannot contact anyone else, you need to be visible to us at all times." Through this "digital arrest," the victim is watched as they eat, sleep, cry. If they receive a text from someone through this time, the "police" force them to share the screen with them so that they can monitor the conversation and make sure the victim is not "warning their accomplice."

This is the standard script that begins the story of fear and trauma that haunt a person over and beyond suffering a significant financial loss. The terror is not just of imprisonment but of the loneliness and the powerlessness. The victim is watched, within their homes, a space that was meant to be safe, the modern-day affliction of a

big city's loneliness fuelling and prolonging their imprisonment. No one is coming to save them. The victims lose money and are then abruptly discarded from this "digital arrest," realizing it was a scam. 82-year-old retired Indian Army colonel Dalip Singh and his 74-year-old wife were put under "digital arrest" by people claiming to be from the Enforcement Directorate, accusing them of being involved in a Rs. 5038 cr ($590 million) scam. The digital arrest lasted for a staggering period of 10 days, defrauding them of all of their life's savings (*Hindustan Times* 2025). In another case, 82-year-old Diogjeron Santan Nazareth and his 79-year-old wife Flaviana died by suicide after being victims of a digital arrest scam because they had to take out loans and borrow money to fulfill the demands of the scammers, and now had no way of paying back those loans (*NDTV* 2025). These are not just stories of financial loss but of fear and trauma. The victims are punished twice – once by the scam, and then by the terror that makes even the confines of their home unsafe.

My argument here is that this newly emerged scam is an indication of the deep-rooted fear culture that has taken root in Indian society. This scam doesn't emerge in a vacuum—it flourishes in a climate where people already believe that the state operates without transparency, mercy, or due process. The 'digital arrest' is a dark farce that succeeds precisely because it feels real. The scam is effective because the victims genuinely *believe* that the State is capable of executing such oppressive forms of punishment. The fear is credible because it is culturally familiar – the scam may be new, but the terrain it inhabits is not. Digital arrests are, then, not just scams but a monetization of the terror that the State has already created, as Prime Minister Modi

said of the COVID pandemic: "*Aapda mein avsar*" (opportunity in disaster). My description is not only about the collective knowledge of the extent to which the State's actions enable persecution, but also about how deeply the State has penetrated into the intimate, the psychological, and the domestic (Das 2007).

Digital arrests are a scam, but they are also symptoms of something real. The scammers have been using names of agencies other than the generalized "police." Law enforcement agencies, apart from the police, like the Enforcement Directorate, which people had not even heard of for decades, have now become a part of public awareness and imagination. As a taxi driver once told me, "ED case *mein bail nahin milti*" (You don't get bail in ED cases). That single sentence, mentioned in passing, captured the internalization of the terror of the legal system in contemporary India – a knowledge that the State does not have to prove guilt, just declare it. Drawing on James Scott's (1990) idea of hidden transcripts, this sentence communicates the culture of fear, becomes a part of what I call the "vernacular of fear" – phrases, references, and a collective knowledge that gives shape to how fear is experienced, explained, and reproduced. These casual remarks carry immense ethnographic weight – verbalizing not just the capabilities of the State but also an understanding of what the State will get away with. They are social weather reports – observations of the skies of the nation overcast with clouds of law enforcement agencies, with rains that drip through people's roofs. They are warnings that do not need to be elaborated on. This shared language is central to how fear is lived and communicated in authoritarian regimes, a parallel archive.

Authoritarian regimes across the world have deployed these cultures of fear to control the population, rally support, and shape cultural norms and behaviors (Altheide 2017; Robin 2004). Taussig (1992) illustrates how regimes sustain themselves not just through violence but through the ritualization of fear – a spectacle that normalizes terror. Ahmed (2004) thinks of fear as a construct that creates boundaries that define the "other" as a threat while shaping collective imaginaries. Thinking further with this idea of the State's creation of a fear of the "Other," I argue that while the fear of the other can help rally support for an authoritarian State, there is also an implicit inculcation of the fear of being designated as the Other. People are categorically made aware that the space between us and them is a slippery slope. The more potent form of fear is the internal fear of being wrongly implicated and unable to prove your innocence.

The Core Doctrine of Democracy

Through the dissertation, I often use the terms autocracy and authoritarianism seemingly interchangeably. Although closely related, the two terms do not mean the same thing. Authoritarianism implies coercive limits on political pluralism, suppression of civil liberties, and a crackdown on dissent, whereas autocracy refers to a system in which a single person holds complete control over the State apparatus. It would be fair to say that all autocracies are authoritarian; however, not all authoritarian regimes are autocracies. For instance, military juntas are forms of authoritarian regimes where the power is held by a particular group instead of an individual. In the context of India, since the election of Prime

Minister Modi in 2014, the country has consistently moved towards being not just an authoritarian regime but, specifically, an autocracy where the Prime Minister, as opposed to being the first among equals in a Cabinet holds the absolute power, where all decisions are either made by him or in his name.

The argument that India has witnessed a democratic backsliding over the past decade, starting in 2014, has been reaffirmed by the democracy indices put together by various agencies over the years. I refer to the regime in India over this decade (2014-2024) by analyzing it against the highly controversial ideas of German legal and political theorist Carl Schmitt (2007) and the core doctrine in his theory of sovereignty developed in 1922. Schmitt's work heped justify the dismantling of democracy in the name of stability and helped legitimize authoritarianism, especially in Nazi Germany. His work continues to be cited by theorists critical of democratic practices. I argue that analyzing the current state of affairs in light of his work can serve as a warning about the worrying rise of authoritarianism. While Schmitt's work has rightly been criticized for providing a conceptual framework for legitimizing fascism, it is a useful analytical tool for understanding how the curtailment of democratic norms is framed as an essential response to a crisis. I do not invoke this argument to legitimize it, but to examine how these authoritarian logics are repurposed within contemporary democracies to normalize the overstepping of State power.

Schmitt argues that legal norms are not built to handle extreme situations. Therefore, the sovereign ruler needs to be able to step outside the legal framework

to ensure the restoration of order. In times of an emergency, the sovereign must be able to override legal and democratic procedures "in the interest of the state"; the sovereign is the one who decides on the exception. Favoring a "strong" and "decisive" leader, Schmitt argues that the parliamentary democracy is too slow and ineffective during a crisis. All of Schmitt's arguments pertain to situations of crisis where the very existence of the State seems to be under threat. The postulation makes sense when seen in the light of his idea that politics is ultimately about identifying the enemy; political identity is formed not only by defining shared values but by recognizing the people who do not share those values.

An adapted and tailored version of these ideas can be found in the political realities of India. Modi is seen as a "strong" and "decisive" leader and framed in stark opposition to his predecessor, Dr. Manmohan Singh, an eminent economist who headed two successive coalition governments and led by conducting negotiations and consultations across party lines – a process that Modi-loyalists argue was too slow and ineffective. The Modi regime has also laid down categorical distinctions between the "friend" and the "enemy" of the State over the decade – Muslims, other minorities, "urban Naxals" or academics, "liberals," independent journalists, and even opposition politicians are all "the enemies." The Indian State, however, departs from Schmitt's propositions when it comes to the manner of crackdown on these "enemies." The sovereign no longer feels the need to suspend itself outside of a legal framework, but instead, it reworks the legal

framework to act as a tool of punishment, mirroring what Dyzenhaus (2006) calls "legality in a time of emergency," where legality becomes a mere performance, detached from justice.

In this context, time and age, the difference between a democracy and an authoritarian regime does not lend itself to straightforward explanations. In reality, things like power are rarely as clear-cut as they appear in theory. As Avery Gordon (2008) argues,

> the power relations that characterize any historically embedded society are never as transparently clear as the names we give to them imply. Power can be invisible, it can be fantastic, it can be dull and routine. It can be obvious, it can reach you by the baton of the police, it can speak the language of your thoughts and desires. It can feel like remote control, it can exhilarate like liberation, it can travel through time, and it can drown you in the present. It is dense and superficial, it can cause bodily injury, and it can harm you without seeming ever to touch you. It is systematic and it is particularistic and it is often both at the same time. It causes dreams to live and dreams to die (3)

The practice of establishing an authoritarian regime in the guise of a democracy is a trend across the world – autocratic leaders are winning popular mandates. The more interesting part, however, begins after they take power because all these leaders seem to be following a similar pattern, a step-wise playbook – curtailing political opposition not by a blatant crackdown but by first discrediting them as corrupt, bringing in executive control on the judiciary, creating "Others" within the country's populace, demonstrating aggressive masculinity through the military while

simultaneously pitting the nation against the rest of the world creating a deep sense of victimization and valor simultaneously.

Though numerous authoritarian regimes orchestrate widespread, violent crackdowns, authoritarians that operate under the guise of democracy use non-violent methods of meting out violence, inflicting injuries that do not leave marks, and they do this by creating a deep fear culture. As Aldous Huxley wrote in his letter to George Orwell in 1948, "Within the next generation I believe that the world's rulers will discover [...] that the lust for power can be just as completely satisfied by suggesting people into loving their servitude as by flogging and kicking them into obedience" (in Smith 1969).

Architecture of Authoritarianism

The architecture of authoritarianism is designed meticulously, deliberately, and methodically. It is constructed on the terrain of silence. The scaffolding of the authoritarian structure consists of subservient institutions – law enforcement that arrest without question and investigate without charge, a complicit judiciary that operates more as an extension of the executive rather than as a check on it, and a compliant media that acts as a megaphone for the State. These pillars have been structurally reinforced for decades, with each new regime testing their load-bearing capacity. And the scaffolding has not disappointed them. The pillars hold up the facade of legality and State-granted legitimacy that form the walls of the fortress. These walls appear strong, but on closer inspection, you can see the cracks in them.

Above this structure is an ornate dome – polished, embellished, standing tall. This is the dome of hate. Each regime embellishes it with differently colored stones. In contemporary India, it is made of anti-Muslim rhetoric, anti-academic sentiment, disdain for dissent, the glorification of military masculinity, and the vilification of "urban Naxals," "anti-nationals," and "foreign-funded" activists. The dome provides a roof for the unification of support for the regime, while also redirecting attention from the deeply Machiavellian functioning of the State apparatus. The splendor of the dome makes it visible – the visible enemy that needs to be fought, and the world is struggling to break down these domes in different nations. However, this dome is only the spectacle, the crown of the authoritarian structure, its justification. For its visibility, it is actually held up by something far more invisible and insidious – the everyday fear.

The foundation of the artifice of an authoritarian regime itself is built on fear, which holds it up, sustains it. However, the vulnerability of authoritarianism lies in the very thing that sustains, because fear is affective, that is, it spreads, but it also dissipates. It can be resisted, it can be interrupted. And when people begin to defeat the fear, both the artifice and the dome come crashing down.

To dismantle authoritarianism, then, we cannot only aim toward the dome of hate at the top – we have to chip away at the foundations, and the way to defeat that fear is through the careful cultivation and nurturing of hope. Hope is a radical political act of resistance, imagination, and sustenance of the ordinary. The stories we tell, the solidarities we nurture, the futures we imagine, and the practice of care in everyday

lives become weapons against the towering and seemingly insurmountable power of the State.

The four chapters that follow deal with the four recognized fear responses: freeze, flight, fight, and fawn, which, though not always chronologically occurring, typically follow this sequence. A sudden and overwhelming threat causes an individual to freeze. If the danger is not resolved on its own, the person may resort to flight (or escape) or fight (if an escape is not possible). Fight typically follows flight if the person assesses that confrontation is the best response to the threat. The fawn response is when the person tries to appease the threat-inducer or please them to stop the aggression. Fawning can happen at any point, alongside or after freeze, fight, or flight, especially in cases where there is prolonged trauma. The response to threats is also influenced by factors such as the nature of the threat and the person's social conditioning. Each of the four chapters also deals with a particular agency or branch of law enforcement – the state police, federal law enforcement agencies, courts, and the federal executive, respectively. My focus on institutions derives from the argument that these institutions are not neutral bureaucracies. While exercising power and enacting services, these institutions are also shaped by the moral judgments of the people running them, who decide which people deserve protection or punishment (Fassin 2015).

Chapter 1 discusses the freezing response in the context of the functioning of the police that state governments administer. Using my brother's first three arrests as a foundation, I discuss how the fear-conditioned emotional memory shaped by

recurrent news of police brutalities and killings colored our contemporary experience of the repeated arrests, overwhelming us to the point where we froze, completely unable to form rational thought or make decisions.

Chapter 2 moves to the fleeing response, discussed in the context of the notorious Prevention of Money Laundering Act (PMLA) and the Enforcement Directorate (ED) – a federal law enforcement agency and the only agency empowered to operationalize the PMLA's sweeping powers. Starting with an ED raid on my mother's house and my brother's fourth arrest, I discuss the draconian provisions of the PMLA that turn the law into a seemingly unbeatable Goliath and trigger the fleeing response, that is, a desperate attempt to avoid the situation at hand. I argue that the incessant persecution and heightened surveillance also intensify the desire or the perceived necessity to escape.

Chapter 3 starts with the realization that there is no fleeing from the situation, and the only viable option is to fight back. The fight response arises when there is a clear chance for success, or in the cases of political persecution, with the knowledge of one's innocence. However, just like the fear, the fight is not limited to the dissident alone, but extends beyond them, entangling their families in legal, emotional, and social battles that they never chose. Furthermore, it is not a fight against a single entity – it is a simultaneous battle in the courts, in the media, and in the sphere of public opinion. These are all spaces where different realities of the same situation are being constructed simultaneously, causing a dissonance between your truth and the truth of courts, the truth of the media, and the truth in people's minds. This

dissonance is worsened by the coexistence of the knowledge of innocence with the feelings of helplessness, shame, and alienation that come with the culture of avoidance of legal entanglements. The chronic dissonance combined with the trauma and lack of social support can cause long-term emotional and psychological issues like PTSD, anxiety, and what Berlant (2007) calls "slow death" – the physical and psychological attrition caused by systemic conditions.

With the magnitude of the stakes and the enormity of the fight, not everyone feels capable of surviving the consequences of these simultaneous onslaughts. Chapter 4 discusses the idea of fawning, where political leaders decide to switch their allegiance to the ruling party in order to put an end to the aggression against them. The chapter deals with the ideas of obedience, dissent, and disobedience in the context of the campaign and results of the Indian general election 2024. In this discussion, I argue for a more complex understanding of people and their motivations, beyond binary ideas of resisting and giving up.

As the dissertation progresses, I start zooming out my focus of discussion. I begin with deeply personal narratives in the first two chapters, and while I continue interspersing a personal narrative, I take a more social lens in Chapter 3 and a national lens in Chapter 4. The intention is to emphasize that though my dissertation was based on a personal experience, this is not the story of a single individual or family but a systemic pattern across India that had an undeniable bearing on the consequences of the largest democratic exercise in history – the Indian elections of 2024. In the conclusion, I bring the personal, social, and national together in a

discursive whole, and argue for the development of hope to counter the fear. As Mahatma Gandhi very perceptively observed, “The enemy is fear. We think it is hate; but it is fear.”

Fear is the terrain between discipline and disobedience, and has changed over the years as the expanse of discipline solidified and the acceptance of disobedience lost further ground. Fear can, then, not be located in a particular time or instance; there is no clear before and after. To really understand State terror, it is essential to acknowledge what brought us here. Every chapter in the dissertation is preceded by an interlude providing the political and historical background to make full sense of the contents of the chapter. These interludes are the terrain on which the authoritarian regimes operate.

The Bermuda Triangle is often a metaphor for the endless loop, but it also consists of fragments that refuse to disappear – memories, stories, voices that persist. Warped, changed, and muffled, but still present. And in those fragments, in that presence, are traces of hope.

Between Hinduism and Hindutva

Hindutva is a term signifying Hindu religious supremacy that was popularized by Vinayak Damodar Savarkar in the 1923 pamphlet – Hindutva: Who is a Hindu? It highlighted the real or imagined threats to Hindus first under medieval Islamic rulers and then through the British colonial experience. The pamphlet and the ideological concept, then and now, emphasize Hindu superiority and aim to project India as a Hindu nation, arguing that the country's guiding principles should, therefore, be based on Hindu ideologies.

Savarkar distinguishes between Hinduism and Hindutva, specifying that Hindutva does not concern religion or rituals: "A Hindu means a person who regards this land of Bharatvarsha, from the Indus to the seas, as his Father-Land as well as his Holy-Land that is the cradle land of his religion." The definition is rooted in his belief that people who profess a religion that did not originate in India would feel a sense of belonging and loyalty to the land of their religion and not to India.

Two years later, in 1925, K.B. Hegdewar founded the Rashtriya Swayamsevak Sangh (RSS), an organization focused on inculcating discipline and cultural values in Hindu youth, based on the ideas of Savarkar. The RSS chief after Hegdewar, M.S. Golwalkar, further emphasized the claim that India is fundamentally a Hindu nation, and that the minorities living in the country must accept the supremacy of Hindutva.

While the ideology slowly grew and claimed increasing space in national politics, specifically in the form of the Ram *janmabhoomi* movement (discussed below), it was propelled into the peak of power and governance with the election of Narendra Modi, a former RSS *pracharak* (lit. propagandist; used for full-time RSS volunteers). (see Anderson and Longkumer 2020; Basu 2020; Bhatt 2001; Jaffrelot 1996, 2007, 2021; Longkumer 2021; Narayan 2021; Sharma 2015 for a comprehensive development of the Hindutva ideology across the country).

Between Masjid and Mandir: The Story of Ayodhya

The dispute over the Babri *masjid* dates back centuries. The Babri *masjid* was a 16th-century mosque in Ayodhya, Uttar Pradesh (UP). The dispute first garnered attention in the 19th century with the claims that a temple marking the birthplace of Lord Ram, a Hindu deity, was demolished by the Mughal emperor Babur to construct the mosque. This claim has been debated extensively over the years, both historically and archaeologically. Following long clashes, in 1859, the British put up a fence around the mosque to separate the Hindu and Muslim worshippers – Muslims would pray inside, and Hindus would pray in the courtyard. This uneasy arrangement continued for almost a century.

In 1949, less than two years after the independence of India from the British rule and the partition of the country along religious lines, the conflict became a part of national discourse again when an idol of Ram *lalla* (infant Ram) "appeared" in the central dome of the mosque, leading to communal tensions. Still recovering from the wounds

of the partition, and to avoid fuelling any simmering religious resentment, the government locked the mosque, restricting entry for both Hindus and Muslims, and declared it a disputed property. This status quo and the legal battle continued for almost four more decades.

In 1986, the government under then-Prime Minister Rajiv Gandhi ordered the unlocking of the mosque, allowing Hindu worshippers access to the interiors of the mosque where the idols of Ram *lalla* had been placed. Though this move followed the order passed by a lower court, political analysts and scholars argue that the government did not do enough to challenge the order, instead trying to enact a political balance after the controversial reversal of the Shah Bano verdict that was widely seen as a move to appease conservative Muslims. The unlocking of the mosque gates marks a turning point in the Ram *janmabhoomi* (birthplace) movement. After the gates were unlocked, the Vishwa Hindu Parishad (VHP) ramped up its demand for the construction of a temple for Lord Ram at that site.

Less than five years after the gate was unlocked, in 1990, a senior leader of the Bhartiya Janata Party (BJP), L.K. Advani, led a nationwide *rath yatra* (chariot procession) to mobilize public support for the cause of the Ram temple. He initiated the *yatra* on 25th September in Gujarat, and headed toward Ayodhya in the open chariot. It was an extremely politically charged time in Indian history, with intensely simmering communal tension. When the procession reached the state of Bihar on 23rd October, the then-Chief Minister Lalu Prasad Yadav arrested Advani to prevent

any communal violence. Despite the *yatra* itself coming to a halt, numerous *kar sevaks* (religious volunteers) continued onward to Ayodhya.

On 30th October, these *kar sevaks* tried to storm the Babri *masjid*. The UP police, under the orders of then-Chief Minister Mulayam Singh Yadav, opened fire on the crowds, killing several *kar sevaks*. In 1991, Yadav's Samajwadi Party lost the election, and the BJP came to power in the state. A year later, on 6th December, 1992, a large mob of *kar sevaks* illegally demolished the Babri masjid. Senior BJP leaders were present at the site when the demolition took place. This event triggered massive riots across India at a scale that had not been seen since the violent and bloody partition of the country in 1947, resulting in the deaths of around 2000 people.

The demolition of the Babri *masjid* started a decades-long legal battle. In 2010, the Allahabad High Court delivered a verdict that the disputed land of the Babri *masjid* would be divided into three equal parts, with each part going to an involved party – the Waqf board (responsible for the maintenance of Islamic properties in India), Ram *Lalla* (infant Ram, represented by a Vishwa Hindu Parishad functionary), and the Nirmohi Akhada (a Hindu religious sect that claimed to be the rightful manager of the Ram *janmabhoomi*). Both the Hindu and the Muslim sides were unhappy with the verdict and filed appeals against it. Subsequently, the verdict was stayed (in other words, put on hold) by the Supreme Court in 2011.

In 2018, a three-judge bench of the Supreme Court delivered a verdict focusing only on the land deed aspects and title issues of the dispute, maintaining that since offering

namaz in a mosque is not an essential practice in Islam[1], the State government's action of taking over the land of the Babri *masjid* was not unconstitutional. That verdict was also appealed. Finally, in 2019, a five-judge bench headed by the then-Chief Justice of India Ranjan Gogoi delivered a unanimous verdict in the matter. The bench recognized that the demolition of the mosque was an illegal act; however, they proceeded to award the land to the Hindu groups to be used to build a Ram temple, and directed the state to provide the Muslim groups with land elsewhere for the construction of a mosque. The Muslim litigants did not appeal against the verdict. The verdict was delivered on 9th November 2019, 8 days before Gogoi's retirement on 17th November. Four months later, on 19th March 2020, Gogoi took oath as a Member of Parliament nominated to the House by the State[2], raising concerns about judicial independence and post-retirement appointments (see Jaffrelot 2007; Mehta 2015; Patnaik and Mudiam 2014 for a discussion of the Ayodhya issue).

Between Innocence and Guilt: The Morbi Bridge Collapse and the First Arrest

On the evening of October 30, 2022, the suspension bridge at Morbi in the state of Gujarat was crowded with tourists when it collapsed, killing at least 141 people and injuring many others. The approximately 230-meter-long (750 ft) pedestrian bridge,

[1] According to a 1994 judgment of Dr. M. Ismail Faruqui v. Union of India (AIR 1995 SC 605 A)

[2] When the nomination of Gogoi was criticized widely as a *quid pro quo* for delivering judgments favorable to the Union government, arguing for the need of restrictions on or a "cooling-off period" for post-retirement appointments of judges, Gogoi insisted that the Supreme Court take *suo moto* cognizance of the issue and initiate contempt of court proceedings against those levelling this criticism against him as it cast aspersions on the integrity of the Court (Mandhani 2020).

also known locally as the *Jhulto Pul* or swinging bridge, was originally constructed in the 19th century on the Machchhu River. It was reopened to the public just four days before the tragedy, after being closed for over six months for renovation.

After the bridge collapse, numerous allegations started surfacing. The contract for the renovations for the bridge was awarded to the Oreva Group, a company known for manufacturing clocks and electrical products, but with no prior experience in bridge maintenance or infrastructure projects, bypassing transparency and competitive bidding in the award process. No fitness approval or safety certificate was obtained before opening the bridge, and key structural elements of the bridge were either not replaced or poorly repaired. The Gujarat High Court took cognizance of the matter and criticized the state and municipal authorities for negligence. (The tragedy was extensively covered by the news media. See Langa 2022; Pandey 2022a; Shih, Masih and Irfan 2022; Thomas and Peter 2022; Tyagi 2022).

Prime Minister Modi visited the injured in the local hospital. Numerous national and international publications covered news of how the hospitals were painting walls and gearing up for the visit of the PM instead of tending to the injured. Among these news articles, a person also shared a clipping of a purported local newspaper that disclosed the cost of the renovations undertaken for the PM's visit. My brother, a national spokesperson of the All India Trinamool Congress (the second largest opposition party in the country), was among the few hundred people who had shared that tweet. Later, without commenting on any other allegations of beautification works in the hospital, the administration claimed that the details provided in one specific tweet

were false. No one else, except my brother, who shared the tweet, was arrested, including the person who posted the original tweet (Pandey 2022b; Pathak and Dhar 2022).

Chapter 1

Freezing: The Stillness of Submission

Photographs – memories cutting across time

Frozen. **Captured.**

A moment that goes on and on and on, endlessly

Photographs are evidence, surveillance, testimonies

No one clicks pictures of memories they do not want to remember

But those images exist

They are silent screams – capturing what words might not

Not in the world. But in the minds.

Minds are a Different World

Of photos – unwanted, undesired, clawing for space and existence

Stacks of silences gathered over time

December 06, 2022. Photograph – not clicked, but seared into my memory

Just after 2 in the morning. I can faintly hear my mother yelling, and I also feel aware that I am still sleeping. What dream is this? My mother rushes into the room where I am asleep, yelling, "They arrested him. They arrested him. Get up. They arrested him." It makes no sense to me. Who is arrested? Where? And what am I to do about that? I sit up and notice that my hands are already shaking. Am I awake yet? I have

this feeling that you get when you know you are dreaming, but you are too curious to see what happens and do not want to wake up. Or sometimes, when you just seem unable to wake up. I am surely imagining this; my mind is nestled somewhere between sleep and consciousness. The image of my mother, framed by the faint outlines of the doorway, is a mental photograph burned into my memory – grainy and overexposed.

Mum says my brother is on the phone and being arrested. I haven't even completely understood what she is saying yet when she thrusts the phone into my palms, which feel lava-like – molten, formless, burning. The feeling of the cold phone in my palms is startling, jerking me to consciousness. "He is on the phone," I already begin convincing myself. "He would not be on the phone if something was really wrong. Mum is panicking unnecessarily." I am also starting to get a little irritated now. How am I going to fall back asleep?

The panic is not unfounded.

"Listen to me carefully. Are you properly awake?" my brother asks me. Now I am – awake and feeling the complete reality and pressure of the last 2 minutes altogether. "The Gujarat police are here to arrest me and they are taking me to Ahmedabad." Snatches of the conversation I had with him last night rush back. "Gujarat?" I ask, confused. He was supposed to be in a different state, not Gujarat. "Yes, Gujarat," he snaps back, slightly impatient now.

He was detained for about three hours by the airport authorities in Jaipur, Rajasthan, after he landed from Delhi at around 11 pm, and police officials from Ahmedabad in

Gujarat had just arrived to take him into custody. It makes no sense. The only other people who knew he was going to be there were my mother and I. Are they listening to us? Following us? But, by now, I have started stacking up my fears, and this fear has to wait for another time. “It is about a Morbi tweet that I shared,” my brother said. My mother thrusts the notepad I keep by my bed into my hands. By now, my hands are shaking to the point where writing, or even holding onto a pen, seems like a herculean task. My brother gives me a list of the sections under which he is being arrested, including “criminal conspiracy” and “fraud.” What he says after that manages to fill me with complete and unceasing dread, freezing my mind mid-thought. The police are taking him to Gujarat by road, an overnight journey estimated to take about 12 hours.

The night and the darkness suddenly feel heavy, unlike a comforting blanket shielding you from the light and carrying you to sleep; it is an endless gray ocean, dimming the light while swallowing you whole, ensuring you are never found. Not obfuscating, but erasing – your voice, your breath. Everything is eerily silent, as it often is at that time of the night, but somehow feels incredibly noisy. It is hard to believe that the world does not pause when we sleep.

I do not remember if we slept that night or over numerous nights over the next several months. There were instances where I seemed to lose time, leading me to think I had dozed off. The line between sleep and consciousness blurred to an extent where dreams were lucid and wakefulness was surreal, when I could not convince myself that I was not always dreaming. The lack of consciousness was my mind switching to

the evolutionary autopilot. My mind worked more slowly, even in situations where I tried to will it into action. It took me time to process any new information. My movements slowed down, and other sudden movements startled me to unreasonable extents. What followed was not a singular event, but the onset of a prolonged state of paralysis — emotional, psychological, and political.

The deep dive into my experiences and the emotions of the time of my brother's arrest is vital to my argument that the weaponization of laws for political means is focused mainly on the process rather than the outcome, the goal is to instill deep fear in the minds of dissidents, not to achieve any legal victory. This intense and visceral experience of fear leads an individual to react in certain, almost predictable, ways. In this chapter, I examine the fear response of freezing because fear, as I came to realize, does not just paralyze the body. It freezes time, taking mental snapshots in high contrast. Preserving the worst moments of your life in vivid colors.

Instances of extreme fear often lead to the cessation of movement, that is, freezing (Marks 1987). This cessation of movement is rooted in biological reactions wherein the nervous system is activated by a fear stimulus, producing cardiovascular and other visceral responses. Stress hormones (corticosterone) are released into the blood (van de Kar et al 1991), and pain reactions are suppressed (Bolles and Fanselow 1980). Since the reaction of freezing implies muscle contractions that require metabolic energy, the blood pressure is raised (LeDoux 1998, 44). Furthermore, reflexes like the blinking of the eyes and startle responses are heightened significantly (Brown, Kalish,

and Farber 1951; Davis 1992). Freezing is an innate defense response that can be activated by both natural and learned triggers (LeDoux 1998, 141).

In this case, our trigger was the history of Gujarat. It is important here to distinguish between Gujarat as a place and Gujarat as an idea. In my argument, the state operates not as a location but as a symbolic space that signifies violence, fear, and the roots of the contemporary Indian State. The manner in which the state ceased to be a place on the map, instead becoming an idea larger than the state itself, is fundamental to my argument about how systemic violence operates. I begin the chapter with a brief background of Gujarat, specifically under the leadership of Narendra Modi, who was the state's Chief Minister from 2001 until he was elected as the Prime Minister of India in 2014. It is a state that is identified almost interchangeably with Mr. Modi. After being the longest-serving CM of the state, he made the state what it is today, and the state, in turn, made him. I discuss this history to explain how political bias has seeped into the very fiber of the administration of the state, especially the police.

It is pertinent to note here that the subject of "law and order" constitutionally falls under the administration of state governments. This demarcation of responsibilities is where the politics of jurisdictions enter. While the law and legal processes are meant to apply across the nation in a uniform manner (with the exception of a few specific state laws), that uniformity exists only on the books. In practice, the legal systems of different states function completely differently from each other. What I map here is the emotional geography of Gujarat as not just a physical place, but a symbolic, psychological, and political space. With what the state stands for in political

imaginations and collective memories, fear is not incidental but engineered, rooted in violence and state complicity.

In light of my family's close experience with the Gujarat police, I move from the historical to the systemic, exploring how, in a state like Gujarat, where a single political party has made a deep imprint for decades, the administration and bureaucracy essentially follow political leaders instead of following service rules. In doing that, I examine the mechanisms that lie at the heart of the symbolic fear of Gujarat, rooted in the collusion between the police and political power. The threat, then, is not abstract but institutionalized.

It is, however, not a case that the rules prohibit this partisan conduct, or even make it particularly difficult. The rules and procedures that have remained unchanged since before independence provide the police with substantial discretionary powers over arrests and investigations. Over these decades, the police have also exploited loopholes, honing their techniques for mental and psychological brutality that do not leave marks and hence cannot be proved. They have also perfected methods of buying time and extending the incarceration of individuals, assisted in no small measure by the State that goes as far as providing them with the powers of "preventative" detention. The police are, then, a network of individuals operating within a flawed and malleable structure, turning violence into a banal and procedural occurrence. The functioning of law and order in Gujarat can be a case study in these methods weaponized by the police to expand their powers, to bypass other institutions of law enforcement, and instill fear.

I finally delve into the ways in which relief is a carceral strategy – it breaks people down, stretching time, emotions, and legality in a way that makes justice seem accidental. The descriptions and the analysis of the visceral experience of fear and freezing form the foundational bedrock for the discussion of law, jurisdictions, and police authority in this chapter. The law is not abstract here, but embodied and weaponized. To this end, I blend personal narrative with procedural explanations, interspersing ethnographic descriptions and vignettes with theoretical analysis throughout the chapter. I examine fear as a stack of mental images – the demolition of the Babri *masjid*, the Gujarat riots of 2002, the Gujarat police, "encounters," and Prime Minister Modi.

Frozen Frame: Gujarat Through the Lens of Memory

My brother had never lived in Gujarat – he had never even visited the state. And yet, his first time in the state would be in police custody, under arrest, against his will. The fact that this case, and the subsequent 3 cases registered against my brother within the next month, were all in Gujarat felt particularly alarming because of what the state meant in political realities, and more importantly, in our minds. To understand why the name 'Gujarat' alone could paralyze us, one must understand what the state has come to represent — politically, ideologically, and psychologically. The process of fear conditioning turns meaningless stimuli into warning signs. Fear itself is an evolutionary mechanism that stores information about potentially harmful stimuli. Appearance of these stimuli, otherwise inconsequential, signals potentially dangerous situations based on previous knowledge of similar situations (LeDoux 1998, 141).

The jurisdiction of Gujarat, with its history and centrality to Modi's political foray, was significant and terrifying to us. In over a decade of controlling the state, he had modelled the state into a saffron citadel – his stronghold, an impenetrable fortress, and a crucible for the Bharatiya Janata Party's (BJP) brand of Hindutva (militant Hindu nationalist) politics. The citadel was fortified not with walls but with ideology, police, bureaucracy, and fear, where the pogrom of 2002 modeled Mr. Modi into a Hindu hero, bringing him to the political center stage.

Ahmedabad, the BJP's urban bastion in Gujarat, harbors a long history of recurring Hindu-Muslim violence – often referred to as "communal riots" in India, a terms that masks the asymmetry of violence and state complicity – with at least four significant incidents of violence documented since late 1969, and a solid Hindu nationalist movement. The establishment of this unwavering sense of Hindu nationalism was coordinated systematically in the state through a group of organizations collectively referred to as the *Sangh Parivar*. At the core of the *parivar,* or family, is the Rashtriya Swayamsevak Sangh (RSS), which focuses on the promotion of Hindutva. The organization runs thousands of schools, programs, and training camps for children, aiming to instill Hindu nationalist values and morals from an early age. The Vishwa Hindu Parishad (VHP) is the social wing of the "family," focusing on the revival of symbols of Hindu might, often focusing on reclaiming the spaces of mosques that they claim were built on sites of ancient Hindu temples.

The BJP, formed in the 1980s, is the political wing of the "family," representing these organizations and Hindu nationalist interests electorally and working on leveraging

the activities of the other two arms for political power and gains (see Kabir 2020, 3; Simpson 2006, 334). The formation of the party in the early 1980s coincided with a wave of communal violence across the nation (Guha 2007, 563). In Gujarat, the BJP emerged as a ruling party mainly facilitated by the VHP's Ram Janmabhoomi movement, where a procession by a Hindu nationalist stalwart, originating in Gujarat, culminated in the demolition of a mosque – the Babri *masjid* – in Uttar Pradesh on 6th December 1992. The illegal demolition was followed by massive violence across several states, including Gujarat (Subramanian 2007, 44). The coincidence of the dates did not escape my mind – my brother was arrested and headed to Gujarat exactly 30 years to the day after the event that propelled the BJP to the national political scene; history echoed in traumatic memories. For us, Gujarat was not just a state; it was a warning of impunity. A place where Modi's power was mythologized. It was a photograph that we did not click, but saw over and over again – reproduced in stories of trauma, slowly developing in our memories and refusing to fade, and now my brother had entered its frame.

Collective Memory of Gujarat

The BJP has won every state election in Gujarat since 1998 and has steadily held on to power there. The rule, since 1998, however, has not always been smooth sailing. After a sweeping victory in 1998, the sitting Chief Minister, Patel, was facing pressure due to widespread allegations of corruption and, more immediately, due to the poor handling of the relief post-earthquake in the region of Kutch. It was becoming increasingly clear that the BJP would lose the upcoming state elections

scheduled for March 2003. In a surprise move to retain the state, the BJP brought in Narendra Modi, who had never even contested, let alone won an election in his life, to replace Patel as the chief minister of Gujarat in August 2001 (Spodek 2010, 361-362; Sud 2012, 34-35).

Less than six months after Narendra Modi was sworn in as the Chief Minister of Gujarat for the first time, the train Sabarmati Express from Ayodhya, carrying *kar sevaks* – right-wing Hindu activists – came to a halt outside Godhra. The activists were returning as the VHP sought to begin construction of a temple after illegally demolishing the Babri *masjid*. On the morning of 27th February 2002, two carriages of the train caught fire, resulting in 59 *kar sevaks* being burnt to death (Sud 2012, 35). Before any investigation was conducted into the cause of the fire, the Gujarat government and the media declared that a Muslim mob had started the fire, and VHP took the bodies of the dead out in a procession through Ahmedabad, stoking emotions of extreme anger and triggering unimaginable violence against Muslims in the state. The image of the train engulfed in flames, followed by faces contorted by rage, was the first in the stack of pictures of fear and violence that would come to define Gujarat in the national imagination, because what followed were vivid sketches of violence that would seem unimaginable to any sane mind.

The details of the 2002 violence have been the subject of innumerable reports and books (Brass 2003; CCT 2002a; CCT 2002b; Chenoy et al. 2002; IIJ 2003; Raza and Hashmi 2002; Sud 2012). To provide an overview, organized mobs of about 2000-3000 or more people took to the streets armed with swords, *trishuls* (tridents),

axes, iron rods, and gasoline and guided by lists of Muslim-owned shops prepared by the VHP as well as voter lists pointing out Muslim households. There were mass human bonfires, and other bodies were buried indiscriminately in mass graves. Muslim women, in particular, were subjected to unspeakable sexual violence, rapes, and murders, and there is also a reported case of mobs cutting open pregnant women's bellies and killing the fetuses.

There is clear evidence that the violence was premeditated and carefully planned and that the Gujarat government "was somewhere between supine and complicit in the bloodshed" (Simpson 2006, 333). The brutality of the violence was captured and remembered, like a campaign poster. It is also telling that the financial compensation offered to the victims differed across victims, with Rs. 200,000 announced for each Hindu victim and Rs. 100,000 for each Muslim victim. The decision was reversed after the announcement was challenged, and every victim was entitled to Rs. 100,000 (Jaffrelot 2015, 827). Due to the planned nature of the attacks, the state response, and evidence of state complicity, the violence is often referred to as the Gujarat carnage, pogrom, or genocide (Brass 2003, 386).

The state's complicity in the violence extended right from the office of the Chief Minister. Justifying violence towards Muslims, Mr. Modi stated Newton's third law: every action has an equal and opposite reaction (Spodek 2010, 350). He and other BJP leaders estimated that the violence had been effective in consolidating the political support of the majority population, and hence a numerically more relevant electoral group of Hindus in the face of the purported need for solidarity against the

common enemy (Spodek 2010, 359). In the hopes that Hindus were pleased by the state-sanctioned retaliation against the Muslims, the BJP government prematurely dissolved the legislative assembly on July 19, 2002, calling for early elections instead of waiting for 2003, hoping to capitalize on the immediate post-violence emotions (Bunsha 2006, 179-180). By September 2002, the BJP launched its campaign in full force, with Modi holding rallies across the state, presenting the election as a referendum on the state's role through the riots (Simpson 2006, 342). Modi undertook a Gujarat *gaurav yatra* (a procession for the pride of Gujarat) against what he claimed was a demonization of the state and its people in the national media. Elections were finally scheduled for December 12, 2002.

The election result reflected not only a mass support for Modi's version of violent politics and the narrative of "Gujarati pride," but also the potent role of fear and the hate built on this fear, which made violent politics seem inevitable. It was the only time the BJP got more than 50 percent of the votes, resulting in an overwhelming victory for them (Jaffrelot 2015, 820). They gained most in areas most affected by the violence (Prakash 2003, 1604-1605; Spodek 2010, 366). Modi was sworn in again as the chief minister of Gujarat, this time with an electorally won mandate.

After 2002, Gujarat was turned into a "Hindutva laboratory" – a place of innovation, repetition, performance – becoming a model for the BJP to follow in the rest of the nation (Breman 2002, 1486-1487; Bunsha 2006, 18; Shah 2002, 1391; Simpson 2004, 344; Spodek 2010; Sud 2008, 2012), or, specifically, into Modi's laboratory. Fear, in this laboratory, is not incidental but engineered, rooted in violence, state complicity,

and conditioning. It has been shaped by Modi himself as a much-touted model for the *Hindu Rashtra* (a nation built on ideas of Hindu supremacy), reinforced by Modi's victory post-2002 violence and in every election since. Mr. Modi also used the promise of implementing the "Gujarat model" extensively during his first campaign for the Prime Ministership in 2014. By the time my brother was arrested in 2022, the model had been perfected further, evolving into a playbook for the police and administration.

The Gujarat Model

Through the night, we waited as my brother, accused of speaking against Mr. Modi, moved closer to the BJP's fortress, their space of experimentation, and the crucible of Modi's dystopian ideas and vision. It had been less than 2 hours since we got that call, and the sudden jerk from regular deep sleep to life-altering news had overwhelmed my conscious mind and rendered it numb. But my subconscious was filled with fear – I feared Gujarat, and particularly, I feared the Gujarat police and everything they were capable of doing.

The creation of the Hindutva laboratory, a crucible of Modi's political experimentation, would not be possible without a complicit police and administration. The connivance displayed through the carnage was deeply embedded into the police and administrative structures of Gujarat (Subramanian 2007, 32). This process had already begun under Chief Minister Patel before Mr. Modi took over. Advisory committees and government boards were reshuffled and filled with individuals sympathetic to the cause of Hindutva and affiliated with the *sangh parivar*. In turn,

the heads of these committees were given enormous powers in the appointments and transfers of government officials (Sud 2012, 171). By 2002, the takeover of government systems by the *sangh parivar* was completed to the point where "its complicity in the violence [was] unsurprising [...] 2002 was not just a case of government ineffectiveness or of looking the other way; it was also a case of active participation" (Sud 2012, 175). It was this active participation and state complicity that differentiated the Gujarat pogrom from other incidents of communal violence that occurred before across the nation.

Through the communal violence in Gujarat, the police did little to stop the attacks and, in fact, often joined in with the mobs, guiding them to Muslim households (Bunsha 2006, 8; Spodek 2010, 352). When a Muslim religious shrine was razed, the attackers wrote graffiti on its walls: "*Yeh andar ki baat hai, Police humare saath hai"* (This is the inside story: the police are with us) (Sud 2012, 176). This was not the dystopia of collapse, but of collusion and precision. The Gujarat police were no longer just enforcers of the law but authors of fear.

When Indian National Congress's former Member of Parliament, Ehsan Jafri, was ambushed by a mob in his home in the Gulbarga Society neighborhood, he was on the phone for six hours calling the police for help without anyone arriving. At 3.30 pm, "the mob stripped the seventy-two-year-old ex-MP, paraded him naked, cut off his hands and feet and threw him into a fire" (Bunsha 2006, 9). It becomes pertinent to note at that point that Mr. Jafri had campaigned against Mr. Modi during the elections in Rajkot (Bunsha 2006, 38; Chenoy et al. 2002; Engineer 2003, 20). Later, the

commissioner of police, P.C. Pande, simply claimed that the police were "outnumbered" (CCT 2002b, 83). The police, in fact, justified their biased role in the carnage with Pande also saying "the police are not insulated from the general social milieu. When there is a change in the perception of society, the police are part of it and there is bound to be some contagion effect" (Sud 2012, 175).

There were, of course, officials who tried to discharge their duties to the best of their abilities. Those instances are, particularly, proof of how it was possible to quell the violence or, at least, to minimize it if the police had done what was required of them by law. However, officers who maintained their neutrality or refused to be a part of the violence were subsequently humiliated, transferred, and harassed. For instance, in cases where the police were responsive and acted immediately to quell the violence, such as in Kutch and Bharuch, senior police officials were promptly removed from their posts (Buch 2002, 15; Engineer 2003, 20; Spodek 2010, 356-357).

Even after the violence quelled, the harassment continued, with the administration, and specifically the police, doing its best to scuttle the process of justice for the aggrieved. The police concealed evidence and botched the testimonies of witnesses. They closed 2120 of the 4552 registered cases as "true but undetected," meaning that the crime had occurred, but the police lacked sufficient evidence to prosecute (Bunsha 2006, 151).

Numerous public prosecutors were members of the VHP and were not interested in fighting the state's cases; in 2006, the district government prosecutor of Ahmedabad was Chetan Shah, who was acquitted in a 1986 communal violence case where eight

people were burnt alive. Magistrates also insisted that all witnesses be present for all hearings, where they had to travel miles under threat. In some cases, the victims became the accused: the police charged them with inciting the mobs or even being a part of the mobs (see Bunsha 2006, 147-179, for discussions of numerous individual cases). Their photographs only existed in witness testimonies and state-suppressed FIRs, silenced and shuttered. Under the law and order situation in Gujarat, the boundaries between victims and accused, innocent and guilty, have thus been highly mutating and transforming based on the political inclinations of the individual in question.

In August 2004, the Supreme Court of India observed that the law enforcement machinery had failed to investigate cases effectively and instructed all the cases closed as "true but undetected" to be reviewed. One of these cases was that of then-19-year-old and pregnant Bilkis Bano, who was gang-raped, and 14 of her family members, including a two-month-old infant, were butchered in front of her eyes. Six policemen and two doctors were later arrested for falsifying proof, failing to conduct a proper investigation, and conspiring with the accused (Bunsha 2006, 14-15). The complicity of the law enforcement and justice system with the administration was also evident in the fact that her case, along with some other Gujarat riot cases, had to be transferred out of the state to the Bombay High Court according to the Supreme Court's order in Nafisa Ali v. State of Gujarat on March 12, 2008. Even the Supreme Court, therefore, was not of the opinion that fair trials and just sentences were possible in Gujarat.

Bilkis received justice from the Bombay High Court 15 years later, in 2017, when the court upheld life sentences for 11 men convicted of rape and murder (Kabir 2020, 6). Five years later, in August 2022, the Gujarat government granted remission to all 11 convicts on the grounds of "good behavior." This early release was supported by the Modi government at the Centre. On January 08, 2024, the Supreme Court of India quashed the order of remission, ordering all convicts to surrender again and observing that the Gujarat government had acted "in tandem" with the prisoners. The failure of governance "has now penetrated into the very bones of the Gujarat administration" (Buch 2002, 11-12). The police do not just turn a blind eye to the State's violence anymore, but often act as its enforcers, indulging in violence for the State.

The chief of Gujarat Intelligence Bureau during the violence, R.B. Shreekumar, testified that "police encounters" have been carried out in Gujarat "as a matter of policy" (quoted in Bidwai 2009). A police "encounter" is a euphemism in India and Pakistan for an extra-judicial killing by a police official, purportedly in self-defense. Extra-judicial killings by the police are thus institutionalized, formal, and prevalent enough for them to have a specific term. In fact, the extrajudicial killings of accused individuals have also been glorified in popular culture, with the police officers known to be involved in several such killings being referred to as "encounter specialists." A 2004 film, *Ab Tak Chappan* (transl: 56 so far), was based on the life and work of a police official involved in 56 encounter killings.

Rather than provoking outrage, these killings are often welcomed with applause. In the aftermath of the encounter killing of three individuals in Gujarat – Sohrabuddin

Sheikh, his wife Kauser Bi, and Tulsiram Prajapati, then Chief Minister, Mr. Modi, raised a question in a public rally of his supporters in the state: "What should have been done to a man from whom a large number of AK-47 rifles were recovered, who was on the search list of police from four states, who attacked the police, who had relations with Pakistan and wanted to enter Gujarat?" As a way of answering, his supporters raised chants of "Kill him! Kill him!" (see Dasgupta 2009; Jagannathan and Rai 2014 for a discussion of the case).

The National Crimes Research Bureau (NCRB) reports attributes all custodial deaths to reasons like "illness/natural deaths, suicides, accidents, escapes from custody, fights, accidents and journey for investigation and treatment" (Lokaneeta 2020, 38). Whenever any suspect, accused, or government opponent is transported by the police, especially across state lines, supporters of the ruling party "joke" on social media about how their car could "turn over" on the way. These comments referenced numerous highly publicized cases where the police jeep "overturned" and the suspect made an alleged bid to escape before being shot down by the police in an "encounter." The thought of my brother in a police jeep, traveling all night across state lines, toward Gujarat, triggered the worst thoughts. All those comments and "jokes" came back to me.

It would not be entirely true to claim that in the moment (or through the night) of my brother's arrest, we were actively thinking of the violence or cases from Gujarat. But that background was a part of our "emotional memory." LeDoux (1998) describes the experience of a French physician named Edouard Claparede in 1911. Claparede was

examining a patient who had lost the ability to create new memories because of brain damage. Every time she met Claparede, he had to reintroduce himself. One day, as Claparede entered her room and reintroduced himself, he concealed a tack in his palm when he shook her hand. The next time he entered her room and reintroduced himself, she refused to shake hands with him. When asked about it, she could not recollect the reason why she was reluctant to shake hands with him, but still refused to do so. This is indicative of an individual's fear-conditioned "emotional memory" (180). This memory is not dependent on conscious awareness. The amygdala outputs in the brain "provide the basic ingredients that, when mixed together in working memory with short-term sensory representations and the long-term memories activated by these sensory representations, create an emotional experience" (LeDoux 1998, 270). Even when our minds were completely occupied with the thought of my brother's arrest, we could physically feel a very real, very paralyzing fear of the state, and specifically, of its police.

The police had taken away my brother's phone and switched it off. So, through the seemingly endless night, we could not contact him or know where he was. My mother and I were thinking of the same things, paralyzed by the same fears, but neither of us said anything aloud out of fear that saying something out loud would make it happen, and if we did not say it, we could wish it away from possibility. Through some unspoken contract, we did not even take my brother's name, as if we would just wake up and none of this would have ever happened.

Framed by Law: Custody and the Illusion of Closure

As we would later learn, when we feared the worst and my brother was nearing Ahmedabad, the police were surprisingly cordial to him. "We also do not like doing all this," they said. "But what can we do? We have orders from above." The higher-ups directed them, mere pawns in this larger game that they had no control over. The very nature of their job requires the police to intrude into the highly private sections of people's lives, standing "within homes, in kitchens, in vegetable gardens, in courtyards; [standing] between brothers, fathers and sons, mothers and sons, between friends, among colleagues" (Bayley 1969, 123). Owing in no small measure to the standard procedures they are required to follow, the police often become the face of State violence and power.

The case of the Gujarat police and their *apparent* attempt at empathy seeks to deflect blame while indulging in structural violence. It hints at Das and Poole's (2004) argument that the State is often most visible not in grand displays of power, but in intimate, everyday interactions. In these interactions, the police become the face of State power. The discord between affect and authority, personal politeness and structural violence, is central to how power operates in the margins of the State. It is in the "margins of the state" – where State power is enacted through arbitrary, irregular, even violent means – and their messy, lived realities where authority is both felt most viscerally and also least assured at the same time.

While the actions of the police in such intimate situations may appear contradictory and arbitrary, these actions are dependent on the legal frameworks that give them

legitimacy. The Criminal Procedure Code (Cr.P.C.) outlines the official rules governing arrests, detentions, and custodial procedures. The purpose of this codification is to function as a safeguard against the oppressive and abusive use of the laws; however, in practice, the rules leave significant discretionary power in the hands of individual officers.

The rules of arrest are specified in the Criminal Procedure Code (Cr.P.C.). After arresting an individual, the police are required to take them for a medical examination and then produce them before a magistrate to seek custody within 24 hours of the arrest, excluding the time necessary for the journey from the place of arrest to the magistrate's court. These procedures are essential because, according to Sections 41, 41A, and 41B of the Cr.P.C., the police in India do not need to secure an arrest warrant before taking a person into custody, and therefore, the arrest has to be approved by a magistrate within 24 hours. Ahmed (2020) argues that the terms of arrest without a warrant are firmly defined and do not leave room for abuse of power (176-179). Before executing an arrest, an officer has to be satisfactorily assured that the complaint is genuine and that an arrest is required to prevent the further commission of the offense or the tampering of evidence. However, the rules leave the determination of "reasonable suspicion" solely to the official executing the arrest (Section 54). This "reasonable suspicion" has not been spelled out in the procedures and is left to the specific circumstances of individual cases.

Despite the wording of the rules leaving such significant powers of discretion in the hands of the police, Lokaneeta (2020) explains how the police name these procedures

as one of the primary reasons to turn to third-degree torture. Third-degree interrogations refer to a coercive and often violent means of questioning employed by the police to elicit information from a suspect. Before producing the accused in front of the magistrate for custody, the police tend to use whatever means necessary to obtain information, working with the assumption that the magistrate would possibly not grant further police remand (39-40). The police, consequently, have been accused of using torture techniques and third-degree interrogations, not only in exceptional circumstances but also in routine cases (ibid., 1-24). "Police remand" is often considered to implicitly mean torture (Ramakrishnan 2013, 63).

This routinized violence is not just the result of aberrant officials, but a system of oppression that is structurally embedded in the workings of the State. The torture in police remand also comes in various forms beyond being just physical; it is psychological, emotional, and even familial where a person is coerced using the pain, anguish, and helplessness of their families. While the rules and procedures might give the illusion of fairness and neutrality on paper, they often mask deeply violent practices. According to John Galtung (1969), harm is inflicted through institutions that deny people access to justice, dignity, and the right to due process. Legal processes are, thus, stringent in their demands and lax in their implementation, hyper visible and deeply obscure, all at the same time, producing a sense of helplessness among people who are forced to navigate these processes, and suspending them in time and space.

Instances of police brutality are further bolstered by the fact that, according to Section 197 of the Cr.P.C., a public servant cannot be prosecuted without the sanction of appropriate authorities for actions undertaken while discharging their official duties. Though this section is meant to protect them from motivated backlash while doing their jobs, it has often been used to protect officials accused of even the most severe misdeeds (National Police Commission Report 1981, 6-7).

While protections like Section 197 insulate the police from accountability, the procedural code attempts to incorporate safeguards, at least on paper, to protect the accused from custodial violence. The police are required to take the arrested individual for a medical examination to ensure that they were not subjected to violence. Additionally, to further mitigate the possibility of police torture and coerced confessions, the statements recorded by the police are not admissible as evidence in courts. Interrogations, then, can only be used to glean information that could lead to the discovery of evidence in a case. Baxi (1982) has observed, however, that this move "to protect the dignity of the accused" leads to a situation of the "loss of dignity for the police profession, *real or apperceived* [sic]" (135; emphasis added). The police have often requested that statements given to the police be acceptable as evidence in courts (Lokaneeta 2020, 41). These requests, however, have not been taken into account, considering the nature and reality of police custody.

Custody, Courts, Counsel

On reaching Ahmedabad, according to procedures, the police took my brother straight for a medical examination and then produced him in front of a magistrate seeking

custody. On the way there, the police asked him if anyone would be present at the court to represent him. He obviously had no idea, considering he was not allowed to contact or inform anyone after that one phone call to us. So the police told him they would call a lawyer who could stand in for him temporarily. The lawyer contacted by the police was already waiting at the court when they arrived. The lawyer told my brother that this court appearance was a mere formality and that he would have to make a separate application for bail. There were no arguments; just a quick hearing remanding my brother into two days of police custody.

It was a while later when we learned how the police operated. After arresting a person, they tell them they will ask a lawyer to appear for them initially. The person instantly feels indebted to both the police. While the police obviously benefit from that trust during their interrogations, there are other benefits involved in this process. The police often have an agreement with the lawyer that they call. All the police officers would have a share in whatever payment was made to the lawyer. Meanwhile, the arrested individual, who was pretty much forced to hire this particular lawyer, can see the lawyer coming to the police station every day and being friendly with the police officials. Even if the initial trust and faith in the police erodes eventually, the person in custody instantly fears antagonizing the lawyer, the man who is friends with the people investigating their case. The case continues, and so does the lawyer, the fees, and the cuts.

This arrangement between the police and lawyers exemplifies what anthropologists refer to as “carceral economies” – systems through which agents of the State derive

material benefits through their authority and control over criminalized populations. While prisons in India are not privately controlled, as opposed to the systems in the US, it is still useful to examine these systems of economies as a part of the broader literature critiquing the prison-industrial complex in the US. Ruth Wilson Gilmore (2007) argues that incarceration is not only a form of discipline and punishment, but also a part of a broader system where vulnerability and helplessness become a site of economic exploitation. The arrested individual here is, then, not just a subject of the law but also a resource around whom the carceral economies of fear and exchange are organized.

Prolonged custody is, therefore, in the interest of the police. The provisions of arrest without a warrant, namely, the "reasonable" suspicion of guilt and the possibility of tampering with evidence, coupled with the limited time allowed in police custody, stem from the understanding that the arrest of a suspect is the climax of a thorough investigation. In reality, however, an arrest is often not the climax of the investigation but the prologue (Bayley 1969, 169). This status of investigation at the time of arrest, the inadmissibility of statements in court, the need to secure prosecutable evidence, and other factors like understanding with lawyers are some of the numerous factors why the police look to prolong remand.

Since the investigation only begins with an arrest, the police follow different tactics to prolong the custody of an individual to assist with the investigation. According to the Uttar Pradesh Police Commission, police officials also refused bail to the accused in bailable offenses unless a bribe was given, especially in cases where the accused was

unaware they were entitled to bail (Bayley 1969, 290). One more of those tactics is to not appear for court dates and have the prosecution seek an adjournment.

December 08, 2022, was the day my brother's police custody ended. There was now a court hearing to decide whether the detention would be extended. Non-extension of police remand, however, contrary to popular opinion, does not mean a person is released. A release can be secured when a person applies for bail. In the absence of a bail application and hearing, at the end of police custody, the person is sent to judicial custody, that is, to jail. In other words, there are two forms of detention – in the police station, where a person is subjected to direct investigation, questioning, and interrogation, and in jail, where an individual awaits bail. The transition from the former to the latter does not signify release, but merely a change in who controls the detention.

December 08, 2022, was also the day of the state election results in Gujarat. There were police and BJP supporters everywhere. The election results were declared, and, as expected, the BJP won with a thumping majority in the state; BJP supporters celebrated. There were crowds, people dancing on the streets covered in *gulaal* (colored powder), playing drums, and dancing. We spent all morning waiting, but our case did not come up for hearing. The visuals of dancing, music, and fireworks were all over the news media, loud and raising our already high heart rate. We waited for the court to resume after lunch. On television screens, Gujarat was a splash of color — *gulaal*, dancing, victory. These were the photographs the country saw on that day.

But in the courtroom, and in the photograph of our family's memory, the day was starkly different: grey and blurred.

Post lunch, the police informed the magistrate that due to the increased crowds on the streets and the need for heightened police presence, the investigating officer (IO) was on election result *bandobast* duty and would be unable to come to court to record his statement for opposing bail. *Bandobust* duties are police deployments for public events expected to draw large crowds that could need to be controlled, for instance, during festivals, sporting events, or political events like mega rallies and election results. The prosecution asked the court to adjourn the matter to another day. The thought of another day there and my brother spending another night in police custody froze us. Our lawyer insisted on waiting, and owing to the lawyer's seniority, the magistrate relented and asked the police to get the IO to turn in his statement on an affidavit if he could not come to court. Then we waited again. Finally, at around 16.45, the police arrived with the IO's affidavit, and based on the ensuing arguments, the court granted bail.

It was starting to get darker. There was a flight out of Gujarat to Delhi in two hours. However, my brother first needed to collect his belongings, which were confiscated by the police when they arrested him. The worst was behind him. They arrested him, kept him in custody for a night, and he got bail. It was done. There was a feeling of relief, though there was an unease in that relief. We chalked it up to the experiences of the last two days. The police reinforced the marginal assurance that we felt. In a matter of a few hours, the atmosphere in the police station had gone from being

persecutory to cordial. “We were just following orders,” they said to my brother, almost respectfully. “Please do not harbor any negative feelings toward us,” they requested. “You must know, these things happen in politics.” They requested that he wait for the IO. “*Ek chai humare saath pee ke jaiye* (have a cup of tea with me before you leave),” he sent a message. The request did not leave room for a response, though, because they said that my brother’s belongings were in the safe and only the IO could access that particular safe, so he would have to wait. This forced waiting at the police station started re-triggering panic and fear.

The shift in the police’s stance from hostility to hospitality did not dissipate the fear or undo the trauma but simply reconfigured power in a form that was more civil but equally controlling. The wait itself was a form of bureaucratic violence and a tool of dominance. Anthropologist Ghassan Hage (2009) describes waiting as a form of “passive violence,” that is, a domination enacted not through overt violence but through the suspension of a person’s time, agency, and mobility. As Das (2007) suggests, the State operates not only through aggression but through affective relationships, rendering the violence personable. Waiting becomes a technique of control.

After some time, the IO came back to the police station, returned my brother’s belongings, and made some small talk for a while until my brother insisted on leaving to ensure he did not miss his flight. On the way to the airport (which was about 30 minutes from the police station), a police car stopped them and said they were arresting my brother again. The wait at the police station had created enough of a

delay for the other police team to arrive from another district. He had his belongings, he had his bail, and he had a flight. But it was a still-developing picture, revealing its shapes excruciatingly gradually. He had waited too long.

Discretion in the Age of Policing

The second arrest was for the same tweet, but this time, it was under Section 125 of the Representation of People Act, 1951. It applies to the promotion of enmity or hatred "on the grounds of religion, race, caste, community or language" in connection with an election. A post shared online, critiquing the Prime Minister, was construed as "promoting hatred." We later learned that the complaint was not filed by the Election Commission of Gujarat but was registered *suo moto* by the Morbi police. *Suo moto* is Latin for "on its own motion" and applies to actions taken by an authority without being directed or requested by another party. In this case, there was no complainant. It was the police who had taken the initiative to register a case and execute the arrest using their discretion. The absence of a complainant sharpened the power imbalance – the complainant was faceless, yet the consequences were deeply personal.

Police and their discretionary powers have been studied extensively by criminal justice scholars (see Reiss 1974). These discretionary powers of the police stem from the understanding that not all laws can be applied uniformly and that the police are competent to choose which laws they deem fit to enforce over others. Furthermore, considering the infinite dynamics of everyday life, not all situations are explicitly addressed in the laws, and for that reason, a certain level of discretionary powers is

provided to the police. These discretionary powers are necessary for the police and bureaucracy to have the flexibility to function efficiently (Delattre 2011, 49). In my brother's case, the police's *suo moto* action was not driven by public outcry or legal obligation, but was entirely discretionary, revealing how easily the machinery of discretionary powers can be mobilized against political dissent.

The police also exercise their judgment in determining when and against whom certain laws are to be applied and the intensity and seriousness of the sections under which a person is to be charged. In doing so, they distinguish between citizens who deserve protection and others whom they need to be protected from (Waddington 1999). Like a photographer choosing the frame and the focus, through their discretionary powers, the police frame dissent as danger. Police discretion, thus, sustains a significant form of corruption and politicization where the police apply existing laws improperly. Discretion is not limited to actions; even deciding not to act is an exercise of police discretion. However, Bayley (1969) argues that this discretionary power, in fact, has the power to set the police apart from the government (19). While laws are formulated and passed by the executive and legislature, the police make choices in enforcing those laws. Resultantly, when the police make decisions to apply certain laws over others, to file cases or not, to take *suo moto* actions, they become the essential force in determining the difference between "law in the books" and "law in practice."

Recognizing this power of the police, whenever a new government takes power, there is a massive reshuffling and transfer within the police force. They can use their power

to target politicians who are not favorable to them; they can also disperse rallies or deny gathering permissions for these politicians. The political bias among police is reflected not only in the actions but also in the *inactions* of the force. They could be tardy in granting protection and security to politicians they consider unfavorable (Bayley 1969, 17), as seen in the brutal and heinous violence inflicted on Ehsan Jafri in 2002. As a result, the police in states are considered representative not only of the executive but also of the political party in power. While there are rules in place to protect police officials from politically motivated actions like arbitrary transfers and also empower them to refuse to follow illegal or unethical orders, the practical realities are different (Jauregui 2013, 664). The State can punish independent-minded officials by subjecting them to suspensions and frequent transfers from one location to another to compel conformity and submission to the executive (Raghavan 2003, 130-131).

The politicization of the police, especially since the early 1970s, has transformed the nature of policing in India. Pertinently, David Bayley, who spent significant time observing the work of the Indian police and wrote a book that was mainly sympathetic toward the working conditions of the police and their struggle against politicization (1969), returned to study the police again a decade later to find that policing was inherently transformed in the country. The declaration of national Emergency by Prime Minister Indira Gandhi and the aftermath was a period of tremendous pressure on the Indian police when, Bayley (1983) observed, “they [became] deeply involved in partisan politics: they are preoccupied with it, penetrated

by it, and now participate individually and collectively in it" (484; see also Subramanian 2007). Discussing the same period of the Emergency, anthropologist Emma Tarlo (2003) argues that legal and bureaucratic systems produce an atmosphere wherein the exceptional becomes mundane, where violence becomes embedded in everyday, routine administration.

This deepening politicization was not merely a matter of politicians exerting control over the police; over time, the relationship became reciprocal, as the police also began leveraging political connections to obtain favorable postings or advancement of ranks. The political control over the police creates a culture of soliciting favors. The police are required to align with political parties for better postings, and political interference in police work becomes the basis for solicitation of further political involvement. The more politicians trespassed into the domain of police and policing, the more the police sought further political influence (Bayley 1983, 487-488; see also Subramanian 2007, 68).

Submission to the executive authority is also facilitated by the poor living conditions of the police and the meagreness of their wages. They are also required to draw on these meager wages during investigations. For instance, as a police officer mentioned, when an arrested individual is in their custody, they are often required to pay out of their pockets for their meals. While calling the police a "despised minority," Baxi (1982) also acknowledges that the police have been burdened with issues like political pressure, denial of the right to unionize, inadequate wages, and difficult working conditions (86).

Apart from dealing with the struggles of everyday life and navigating complex relationships with the political forces, the police often consider courts to be unsympathetic, “going to endless lengths to discover evidence of impropriety” (Bayley 1969, 178). Officers argue that courts often demand an impossible standard of evidence, forcing them to use “improper methods” if they are ever to secure any convictions and protect society from criminals. Furthermore, lower conviction rates reflect poorly on the police, leading to even lower levels of cooperation from people (ibid., 144). However, courts have laid down basic standards of propriety in light of evidence of malpractice and brutality.

Courts have long been critical of police misconduct, often issuing harsh remarks. A.N. Mullah, former judge of the Allahabad High Court, on 15th March, 1963, observed, “...there is not a single lawless group in the whole of the country whose record of crime comes anywhere near the record of that organized unit which is known as the Indian police[1].” The Supreme Court, however, expunged some of his remarks at the plea of the Uttar Pradesh police, observing, “To characterize the whole police force of the state as a lawless group is bad enough; to say that its record of crime is the highest in the state is worse and coming as it does from a judge of the high court is sure to bring the whole administration of law and order into disrepute" (quoted in Bayley 1969, 142).

Years later, though, in 1996, the Supreme Court, in the case of D.K. Basu v. State of West Bengal, observed that

[1] State of Uttar Pradesh v. Mohammed Naim (AIR 1964 SC 703)

> worst violations of human rights take place during the course of an investigation when the police with a view to secure evidence or confession often resorts to third degree methods including torture and adopts techniques of screening arrest by either not recording the arrest or describing the deprivation of liberty merely as a prolonged interrogation [...] The increasing incidence of torture and death in custody has assumed such alarming proportions that it is affecting the credibility of the Rule of Law and the administration of criminal justice system. The community rightly feels perturbed. Society's cry for justice becomes louder (quoted in Seri and Lokaneeta 2018, 73).

Despite increasing critique and court strictures, the police often attribute their violence to a commitment to "justice." The use of violence to the extreme extent of resulting in deaths and "encounter killings" is also justified by the police as an effort to fight crime and ensure a "punishment" for criminals, bypassing the courts that seem determined to find evidence of wrongdoing in police actions (see Belur 2010; Eckert 2005; Lokaneeta 2020). Jauregui (2016), in fact, also argues that violence is an "inescapable part" of the police's moral duty of instating public order "in the face of imminent (and immanent) evil" (98).

The heady combination of political power and influence, a feeling of being unfairly treated by the judiciary, and the sway of their own political inclinations leads the police to utilize their discretionary powers to the utmost limit.

Relief as a Carceral Strategy

After the second arrest, we went through the cycle of questioning, court appearances, pleas, replies, rejoinders, and arguments all over again and got bail. Now, my brother

was out on bail in two different cases based on a single social media post in Gujarat, a state where he had never lived. On getting bail, we could not wait to get out of there and put the state behind us, once and for all. However, among the bail conditions set by the court, one required him to mark his "attendance" in front of the police in Ahmedabad between the 1st and 4th of every month. This bail condition is another way of keeping the individual tied up in the net of the case. As you plan your life around those dates, travel to the place where your personal liberty was wrested away from you every month, the impending trip almost clouds other aspects of your life. Relief, here, is a carceral strategy – breaking people down, stretching time, emotions, and legality in a way that makes justice seem incidental.

After getting bail, my brother returned to Delhi, where he lived. We were all geared up for the new year. There is something about the change in the calendar; while it is just another change of date and while, philosophically, time is just yet another artificial construct, there is a hopefulness attached to a new year – the promise of new beginnings, the chance to start over. My brother emailed the investigating officer in his case, stating that he would visit Ahmedabad on the 2nd to mark his attendance. Ironically, his move to comply with his bail conditions was met not with trust, but with force.

On the evening of 29th December, about 30-40 policemen arrived where my brother was staying and surrounded the building. They pushed open the door, forcibly entering the room, took away his phone, and told him that they were arresting him. My brother ordered some fruits and was eating them when they barged into the room.

The plate of chopped-up fruits lay open on his bed until we cleared them a month later. The room that was calm until a few minutes ago was suddenly filled with violent activity, and then fell silent again. But there was a difference between the two silences, because after the noise, something remained, like the fruits – festering, rotting, and smelling.

It turns out that this time as well, it was the Gujarat police who arrested him. The same police station, the same team. It made no sense for them to come to Delhi to arrest my brother because he had already informed them that he was going to their police station within the next four days. Why come all the way to Delhi to arrest him, then? It was for the performance of the arrest and for the newsmaking capability of large police teams escorting a person out of their home. At around 21.00 on 29th December 2022, my brother headed to Ahmedabad. With the police. In custody. Again.

As we spoke to lawyers and as they worked on drafting pleas, making arguments, and securing bail for the third time, this time, getting bail was not all that was on our minds. After the third arrest within a month, we were also worried about additional cases and rearrests – another aspect of the carceral strategy of relief, and the reason behind staggering these arrests. A person is never at ease even after getting a favorable order from the court; the fear is never over. It is always ongoing. Relief merely shifts a person into the custody of dread.

While we restarted the fight for getting bail for the third time, we learned about PASA – the Gujarat Prevention of Anti-Social Activities Act, 1985. It is a form of

"preventive detention," which, even according to the Gujarat HC, is being rampantly misused. Our lawyer thought that even if my brother got bail, the Gujarat police could put him back in custody under PASA since this was the third offense registered against him in Gujarat, and it gave them grounds to argue that he could indulge in more "anti-social" activities in the state. It was particularly ironic. Three cases were filed against a person who had never set foot in the state, and those three cases could be used as a basis to detain him further without the filing of a case. The lawyers I spoke to, who were not from Gujarat, were shocked at the extent to which the entire law and order machinery was being mutilated in the state. Nothing worked. Or, more precisely, everything worked only in their favor.

In India, preventive arrests are executed to prevent a person from committing cognizable offenses in the future. It is not meant as a punitive action after committing a crime, but to prevent an individual from acting against the state. "Past actions" of the individual are used as a benchmark to ascertain the likelihood of them committing an act injurious to the community at large (Ahmed 2020). A preventive arrest can also, like regular arrests, be executed without a warrant and is a preemptive deprivation of a person's fundamental right to life and liberty. This deprivation is based solely on suspicion in the official's mind, without a trial or judicial intervention. There is no specific definition of what "preventive detention" entails; in A. K. Gopalan vs. the State of Madras, the Supreme Court of India held that "there is no authoritative definition of the term 'preventive detention' [....] It is not a punitive

but a precautionary measure[2].” Furthermore, the Supreme Court has also noted that “it is not open to the High Court [...] to go into the question whether, in fact, the police officer was justified in concluding that the necessity contemplated by this section really existed. The discretion is vested solely in the police officer, and that discretion cannot be questioned[3].” It is, therefore, solely up to the arresting officer’s discretion to decide if the alleged offense cannot be prevented without executing an arrest.

Under PASA, once detained, an individual can be kept under “preventive” detention for a period of one year, devoid of any examination of grounds and without following due process of law. With laws to facilitate preventive arrests, the police are also spared from trying to come up with new cases to keep a person imprisoned. In summary, PASA and other preventive detention laws operate outside traditional due process, and judicial review of the discretion that guides the invocation of these laws is limited by precedent.

While my brother was arrested once more after this third arrest, and while he had to spend a period of over four more months in jail, he did not have to face preventive arrests. However, even when the doors of the jail opened and he walked out, the incarceration stayed with him and with all of us. As it turned out, the punishment was not almost five months of imprisonment; it was chronic fear.

[2] A.K. Gopalan v. State of Madras (AIR 1950 SC 27)
[3] State of Uttar Pradesh v. Mohammad Naim (AIR 1964 SC 703)

There is a separation between law-making and law enforcement. The role of the police is strictly limited to implementing or enforcing laws made and passed by the Parliament. On the one hand, the police are entrusted with implementing the law, but on the other hand, they also, in some ways, determine what the law is by exercising their discretion. Police's discretionary powers mean they have the sole decision "to protect or not to protect, to save or not to save," making them, in many respects, more important than the law (Bayley 1969, 14). Legality is, then, both a mask and a mechanism for State-approved violence. Most people cannot see the State and the police as separate entities; the police stand for the State, possessing a near monopoly on the exercise of State-approved force. For the State to become violent and oppressive, for the process of the suppression of all opposition to be complete, the institutions need to be subservient. It is through the intensely localized and subservient police that the State asserts itself, "alternatively shaping and protecting, taking life and letting some die" (Seri and Lokaneeta 2018, 57).

In other words, the State can be violent precisely because the police are violent. The violence of the State, as we witnessed, was enacted through the police. This political control would, however, not be enough for the BJP to fashion the kind of violent democracy that they intend to create. Which brings me to my second point – police violence is not sustainable unless it has society's willingness and popular support. The boundaries of police violence are, then, situated "at the point of connection between police discretion, police ability to justify their actions, and state and society's

willingness to accept such justifications" (Bonner et al. 2018, 3). If the State and the people do not view certain police actions as excessive, the police will not be held accountable for those actions. The country's government represents the people's will, and the police stand for the government's will. Instances of police brutality and killings also often enjoy the support of the public at large (as seen in the case of the Gujarat pogrom). Drawing on Bourdieu, Chan (1996) explains that police culture and abuses (habitus) reflect in part what society will tolerate (the "field" of policing) (110). In a democracy, oppression may well be the will of the people. Consequently, Bonner et al. (2018) argue that it is essential to rethink democratic concepts "in a manner that forefronts policing" (3). The manner of policing holds considerable consequences for the quality of democracy.

The systemic abuse of police authority is widely considered indicative of weak democratic institutions. There has been an uptick in research that examines the stalling, and even reversal, of democracy and democratization processes as there continues to be a downturn in the quality of democracy and the rise of authoritarian regimes across the world (Cooley 2015; Diamond 2015; Fukuyama 2015; Puddington 2015; see also Bonner et al. 2018). Puddington (2015) observes how States "resort to violent police tactics, sham trials, and severe sentences as they seek to annihilate political opposition" (5). However, emerging scholarly work has demonstrated that the problems of police brutality and repression are not only present in authoritarian regimes. Van Holdt (2013) argues that the instances of police brutality and violence are not indicative of democratic *failure* but of the emergence of a new kind of *violent*

democracy, where "democracy may configure power relations in such a way that violent practices are integral to them" (590).

The State, and also its violence, are shaped by emotions and moral judgments. Dupuis Déri (2018) explains the concept of "political profiling," through which the freedom of speech of particular individuals is curtailed and limited based on their political ideas and inclinations, raising questions over the actions of the police that expose the boundaries of citizens' rights. Political profiling is an extension of profiling based on stereotypes where certain people are closely "monitored, inspected, arrested and judicialized, even when there is no criminal behavior involved" (82-84). These instances of profiling contradict the idea of fundamental rights and equality before the law, using an individual's political opinions or membership in a political group as the basis for subjecting them to different standards of legal treatment. Political profiling leads to the police using arrests, both preemptively and responsively, to silence certain political voices and perspectives. This police repression is based on the *perspectives* of political actors, not their tactics (ibid).

Political profiling has been put into sharp focus since the Modi government came to power in 2014, with the political opposition claiming that they are being disproportionately targeted. Amnesty International has also written about how the "crackdown on opposition reach[ed] a crisis point ahead of national elections" with the indiscriminate arrests of opposition leaders from former ministers, to sitting Chief Ministers of two different states. The government contradicts these claims by asking them to "cooperate" with the investigation and insisting they have nothing to fear if

they have done nothing wrong. What this argument neglects, however, is the manner in which this long-drawn and harrowing process of "investigation" itself is the punishment. Innocence, in these cases, offers no solace. In fact, the feeling of being unfairly targeted, stemming from innocence, leads to further frustration, anger, and fear. If innocence cannot protect you, then what can? The fear is further compounded by the recurring nature of these threats, the repeated arrests, and the ongoing nature of this terror. It is a staged spectacle of raids, arrests, and detentions, where arrests are less about law enforcement and more about making fear visible through performances for cameras, headlines, and WhatsApp forwards.

The case in Gujarat is not an aberration, but a window into a democracy where fear is not the failure of the system but its very purpose. This fear is not just inflicted on a person or a family, but it is staged and repeated, weaponized through imagery. Abolitionists like Mariame Kaba and Angela Davis have shown how policing functions less as a neutral enforcement mechanism and more as a system of social control. In India, too, as our experiences in Gujarat reveal, the police use discretion, spectacle, and repetition to suppress dissent. The fear triggered by the police embeds itself into everyday life in the form of trauma – foods, places, and routines become psychological triggers.

As LeDoux (1998) explains, "an animal in the wild does not have the opportunity for trial-and-error learning" (140). Consequently, our minds have been programmed in a way where, if you survive one encounter with a predator, that experience is stored in your subconscious mind to help you survive in future situations. An animal

encountering a predator and narrowly escaping will probably avoid that place again, or even if it dares to go there, will move cautiously. That is "conditioned fear learning" (ibid). This fear learning, however, also created numerous other associations and triggers, or "contextual fear conditioning." It means that our minds are not just conditioned to the immediate stimulus directly associated with the trauma which, in this case, would be police officials, but also other stimuli that "just happen to have been there," for instance, certain places like airports, certain cities, certain foods like plum cakes. The recurring threats and arrests created a deeper feeling of terror, in a way that the threat always seemed to be looming, and there was no possibility of feeling peace.

In Maharashtra, where I grew up, almost every family has a story about an entity called *chakwa*. Usually not considered a particularly malevolent force, *chakwa* is known to hit travelers who are undertaking a journey at night. When a *chakwa* hits, the traveler keeps going around in circles, unable to reach their destination, while the *chakwa* enjoys the confusion of the lost traveler. Usually, the power of the *chakwa* is lifted at dawn, and the travelers find their destination, but some families tell stories of travelers driving off cliffs or into rivers in moments of desperation. *Chakwa* had crossed state boundaries and caught us in Ahmedabad. The ordeal was over, and it was also ongoing. Freedom itself became a mechanism for subjugation; relief was always incomplete, a mere reconfiguration of subjugation and detention. In such instances of State oppression, fear is not the failure of democracy but its method – layered, like stacks of photographs. Some staged, some choreographed, some

unexpected, some that left the subject out of the frame; each one frozen in a time of terror.

A History of the Prevention of Money Laundering Act (PMLA)

In its original form, the PMLA in 2002 defined money laundering as any process connected with the proceeds of crime and projecting it as untainted property.[1] In 2013, the section was further clarified, where "proceeds of crime and projecting" was substituted by "proceeds of crime, including its concealment, possession, acquisition or use and projecting or claiming." Effectively, this meant that any of the processes of concealment, possession, acquisition, and use, *along with* the projection of "tainted money" as untainted, would qualify as the offense of money laundering. Even in this form, the section was considered extremely wide-ranging by the Supreme Court in the Nikesh Tarachand Shah judgment of 2018[2]. According to Justice Nariman, who authored the judgment, "the kind of persons responsible for money laundering is extremely wide. Words such as 'whosoever', 'directly or indirectly', and 'attempts to indulge' would show that all persons who are even remotely involved in this offence are sought to be roped in."

[1] Section 3 as in the original PMLA of 2002 states: "Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money-laundering."
[2] Nikesh Tarachand Shah v. Union of India (2018) 11 SCC 1

In 2019, however, without bringing in an amendment to the Act, the government added an "explanation" to the section, replacing the word "and" with "or." The explanation states:

> "For the removal of doubts, it is hereby clarified that,—
>
> (*i*) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely —
>
> (a) concealment;
>
> (b) possession; *or*
>
> (c) acquisition; *or*
>
> (d) use; *or*
>
> (e) projecting as untainted property; *or*
>
> (f) claiming as untainted property, in any manner whatsoever [emphasis added]"

This "explanation" (effectively, amendment) removed the requirement of the projection of tainted money as untainted. That is, a money laundering charge can now be invoked without the actual "laundering process," that is, turning "black money" into "white." These transformations in the PMLA's legal structure may appear to be technical, but they must be read for their cultural and political work. The 2019 "explanation" did not merely expand enforcement powers but fundamentally altered how guilt is distributed, how innocence is proved, and how proximity to crime is conceptualized. The redefinition of money laundering severs the act from any requirement of laundering at all, essentially transforming it into a crime of association

in which mere possession, or even indirect benefit, becomes criminal, even in the absence of intent or knowledge.

As clarified in the Statement of Objects and Reasons of the Act, PMLA was passed to crack down on money laundering that was connected to heinous offenses like drug trafficking and terrorism. With this explanation, however, the Act started being applied to petty offenses like theft and cheating. Also, by making the mere possession of proceeds of crime liable to prosecution, the explanation gave broad powers to the ED to scrutinize individuals entirely unrelated to the predicate offense and, possibly, even unaware of the commission of an offense, just by being in possession of a portion of the proceeds of crime. For instance, when certain companies are under investigation, the ED has been known to summon and question celebrities and actors who appeared in advertisements as brand ambassadors because they were paid for their appearance from alleged proceeds of crime (see Rajput 2023; The Hindu 2023). This "explanation," thus, also removed the need to prove any criminal intent.

Additionally, another "explanation" was added to the definition of the term "proceeds of crime": "For the removal of doubts, it is hereby clarified that "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence." As explained above, a case of money laundering essentially requires a "predicate offence," that is, a criminal act that generated black money. However, this explanation expands the scope of the act beyond the predicate offense that forms its very foundation to "any criminal activity."

Predicate Offense

The ED does not have the power to initiate an independent investigation, that is, to register a First Information Report (FIR). An investigation into PMLA cannot be initiated without a registered police or CBI case, which is called a "predicate offence." On the basis of an FIR, the ED can then file its equivalent Enforcement Case Information Report (ECIR). While the accused has a right to receive a copy of the FIR, that right does not extend to the ECIR. Non-disclosure of the ECIR leaves the accused unable to know the charges against which they are meant to defend themselves. This not only violates due process but also removes the individual from the epistemological space of the law – they are no longer legal subjects engaging with the law, but targets navigating its shadows.

The investigations are simultaneously conducted into the same alleged offense, but the PMLA distinguishes them as separate offenses. Section 8(5) of the 2002 Act further specifies, "Whereon conclusion of a trial for any scheduled offence, the person concerned is acquitted, the attachment of the property or retention of the seized property or record under sub-section (3) and net income, if any, shall cease to have effect." That section was amended in 2013, and the words "trial for any scheduled offence" were changed to "trial of an offence under this Act." After this amendment, even when a person is acquitted of the predicate offense, their property is not released unless they are acquitted in the PMLA. The seizure of assets hinges on them being classified as "proceeds of crime" generated by the predicate offense.

Without a predicate offense after the acquittal, it is unfathomable how they can continue to be seized under PMLA.

Sections 50 and 63 (Summons and Questioning)

Section 50 of PMLA gives the ED the power to summon individuals, "requiring" them to attend and produce any documents asked of them. Every individual summoned by the ED is "obligated" to attend and provide truthful and accurate information. These proceedings have also been deemed judicial proceedings under the Act, setting them apart from police inquiries in a very fundamental manner: statements given to the police can only be used for investigation and are themselves not admissible as evidence in courts unless they are provided in front of a magistrate[3]. Even then, a magistrate only records a statement[4] after satisfying themselves that it is voluntary, not coerced, and ensuring that the individual issuing the statement understands its potential consequences. Statements given to the ED, however, are under oath.

When the police issue a summons to an individual, it is either issued under Section 41A if the person is suspected of having committed an offense, that is, if the person is an accused, or it is issued under Section 160 if the person is believed to possess some information about an alleged crime that can help with the investigation, that is, if the person is considered to be a witness. When issuing a summons, the ED, however, does not specify if a person is being summoned as an accused or merely as a witness to a crime because both summonses are issued under the same Section 50. This

[3] Under Sections 25 and 26 of the Indian Evidence Act (IEA)
[4] Under Section 164 of the Criminal Procedure Code (Cr.P.C.)

ambiguity of the individual's status in the investigation, coupled with the fact that an accused is not required to be given a copy of the ECIR, means that they do not have a concrete way of knowing in what capacity the ED is questioning them and, hence, the potential consequences of those statements.

In the statement specifying the grounds of the arrest of numerous PMLA cases, the arrest is justified by invoking these provisions, where the arrested individual is blamed for not "cooperating with the investigation" or for giving "incorrect or evasive responses." In fact, the Supreme Court has also, on several occasions, had to specify that a person cannot be accused of being "non-cooperative" only because they are not providing the ED with a confession. On 4th October 2023, the bench of Justice A.S. Bopanna and Justice Sanjay Kumar ruled that "mere non-cooperation of a witness in response to the summons issued under Section 50 of the Act of 2002 would not be enough to render him/her liable to be arrested under Section 19" (Sarda 2023). Similarly, on 8th August 2024, the SC bench of Justice BR Gavai and Justice Sandeep Mehta reiterated that "cooperation" with the investigation does not mean the accused is required to confess (*Live Law* 2024).

Thus, these provisions are the very definition of coercive – an individual is compelled to give a self-incriminating statement not to be arrested for being "non-cooperative." And then, that self-incriminating statement is used as the basis for naming them as an accused person and arresting them. There have also been instances where, since a person does not know the complaint against them, the ED has used a statement from

an individual charged with one PMLA case to charge and arrest them under another PMLA case[5].

The idea and the processes of coercion have been discussed extensively in literature across philosophy, psychology, law, and political science. Coercion implies an attack on free will. In the landmark decision on coercion, the Supreme Court of the United States of America has also observed[6] that even in the absence of any "physical" torture, the isolation of police custody and detention enables psychological coercion. This observation of the Supreme Court of the US was also quoted by the Supreme Court of India, which ruled[7] that testimony can be coerced not just through physical torture but also through exerting psychological pressures during custodial interrogations.

However, with the ED being deemed a separate investigation agency from the police, the protections afforded to an individual against coercion by the police do not apply to a person under ED investigation. So, the legal question before the Supreme Court in the Vijay Madanlal case about the constitutionality of Sections 50 and 63 of the PMLA eventually boiled down to whether the ED can be considered a police-like law enforcement agency that has the power to extract coerced testimonies. In the trial, one of the most respected senior counsels, parliamentarian and former union minister Mr. Kapil Sibal, argued that the ED could be considered the same as the police because they hold coercive powers of crime detection and investigation. According to

[5] Prem Prakash v Union of India through the Directorate of Enforcement (2022) 9 SCC 639
[6] Miranda v. Arizona 384 U.S. 436 (1966)
[7] In Nandini Satpathy v. P.L. Dani (1978) 2 SCC 424

precedent[8], when an official is vested with the powers of investigation, he can be called a police officer.

The powers of investigation vested in the ED and the nature of their custodial interrogations are similar, if not more draconian, than those of the police. Statements given to the police are deemed inadmissible as evidence to protect the rights of an accused individual and to ensure that confessions are not coerced. However, the arrests and custody realities of the ED are much like those of the police, in fact, in some cases being more opaque and lending a greater possibility of coercion. Despite not being the "police," for instance, the ED is allowed to hold arrested individuals in "police custody.[9]" This custody is the space that facilitates coercion.

To examine the similarities and differences between police custody and ED custody, it is essential to elaborate on what both of these custodial investigations entail. Police custody is characterized by uninterrupted and unlimited access to the detainee, complete control over the space and all other aspects of the detainee's surroundings, and power over allowing or disallowing any information from reaching the detainee. All of the listed characteristics also apply to a detainee in the custody of the ED. These observations are also justified by the fact that judicial interventions into the issue of police torture have always focused on monitoring the spaces of detention (see also Chaudhary and Kale, 2024, for further discussion on the topic). The custodial interrogations of the ED, in fact, are shrouded in even more mystery as they are not

[8] Tofan Singh v. State of Tamil Nadu (2021) 4 SCC 1, Raja Ram Jaiswal v. State of Bihar (AIR 1964 SC 828)

[9] Under Section 167(2) of the Criminal Procedure Code (Cr.P.C.)

subject to oversight, and a detainee has no idea of their rights while in ED custody since the ED manual of rules and procedures cannot be accessed by the general public.

One of the crucial ways the ED holds higher powers than the police during custodial interrogations is through Section 63, which overturns the right of the accused to remain silent, as granted by the Constitution. Article 20(3) of the Indian Constitution emphasizes that no person accused of any offense shall be compelled to be a witness against himself. This Section also protects individuals from being coerced or tortured into a confession. Even in police procedures, Section 24 of the Indian Evidence Act (IEA) states that,

> A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat or promise having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

In other words, any statement or confession given under the promise of a lenient charge or the threat of arrest can be inadmissible under this Section. The importance of autonomy was also reinforced by the Supreme Court's[10] observation that the decision of a person to make a statement should not be interfered with, especially when the individual faces the possibility of criminal charges.

[10] In Selvi v. State of Karnataka (2010) 7 SCC 263

Furthermore, “the temptations and rationales underlying coercive tactics by the police apply equally to the ED” (Chaudhary and Kale 2024, 99). As discussed in the previous chapter, torture and coercion in police custody are justified through the argument of “securing justice” by obtaining the requisite evidence through such interrogations (Bayley 1969). As Lokaneeta (2020) explained, custodial interrogations and torture are also justified based on the “limited time” that the police have with the accused in custody. Since statements given to them are inadmissible as evidence, the police's focus through these custodial interrogations is to gain evidence and effect recoveries that could be admissible in court. For statements to be admissible, they need to be recorded in front of a magistrate who is believed to be an independent party, not invested in the outcome of the investigation.

These arguments of the need to secure “justice,’ and procure evidence in a limited time also equally apply to ED custody. The Supreme Court has also highlighted[11] the need to amend the law and provide protection to the detainees of police-like agencies, especially in light of the fact that there have been known instances of torture and deaths in the custody of these “non-police” authorities as well. Furthermore, statements given in front of the ED are under oath and hold evidentiary value, which is in stark contrast with police procedures since the ED, as an investigating agency, is deeply concerned with the outcome of a case. They actually have a more significant motive than the police to secure confessions since they do not have as great a need as the police to back custodial confessions with independent evidence or recoveries.

[11] DK Basu v. State of West Bengal (1997) 1 SCC 416

Consequently, the ED is no different from the police when it comes to the motivation, opportunity, and power to extract coerced testimonies. If anything, it holds higher power and a lack of accountability than the police in many instances.

Despite apparent similarities with police custodial interrogations and the scope for extracting coerced testimonies, in the Vijay Madanlal Choudhary judgment, the Supreme Court upheld the constitutionality of Sections 50 and 63 mainly on the argument that the safeguards contained within Article 20(3) of the Constitution and Section 24 of the IEA only applied to investigations conducted by the police and not inquiries undertaken by ED officials. Furthermore, the Court observed that the protection against testimonial compulsion only applied to an "accused" person. Since the ED is not required to specify whether an individual is being summoned as an accused or a witness, this protection will not be applicable. The Court further stated that if the ED arrests an individual, only then, protections under Article 20(3) and Sections 24 "may apply."

Section 24 (Burden of Proof)

Section 24 of the PMLA inverts the burden of proof – "when a person is accused of having committed the offence under section 3, the burden of proving that the proceeds of crime are untainted property shall be on the accused." In other words, arrested individuals are considered guilty until they can prove themselves innocent. The amendment of 2012 explained this further:

> In any proceeding relating to proceeds of crime under this Act,— (*a*) in the case of a person charged with the offence of money-laundering under section 3, the Authority or Court *shall*, unless the contrary is proved, presume that

> such proceeds of crime are involved in money-laundering; and (*b*) in the case of any other person the Authority or Court, *may* presume that such proceeds of crime are involved in money-laundering. (emphasis added)

This differentiation between "shall" and "may" creates a bifurcated legal world: the first, where a person accused under PMLA is automatically guilty unless they can prove innocence; the second, a shadowy zone where even people loosely connected to the accused or the alleged proceeds may be arbitrarily presumed guilty. Notably, there is no clear legal threshold for when the discretionary presumption in (b) applies, leaving the interpretation open-ended and potentially expansive.

In the Vijay Madanlal case, the petitioners argued that the reversal of the burden of proof violates Article 14 of the Constitution (guaranteeing equality before the law and equal protection of the law) and Article 21 of the Constitution (guaranteeing the right to life and personal liberty). They argued that the presumption of innocence has been a fundamental human right upheld by the Supreme Court[12]. The Court, however, ruled that as long as an accused is granted the right to prove that he has not violated any provisions of the PMLA, the inversion of the burden of proof cannot be regarded as unconstitutional. After charges have been filed against an individual, therefore, under this Section of the Act, the prosecution is not required to prove any of the allegations they are leveling, and the burden of disproving the claims lies solely on the accused.

In summary, when a person is charged with PMLA, the Court must consider them guilty until they can prove otherwise. Additionally, the burden to prove their

[12] Noor Aga v. State of Punjab and Anr (2008) 16 SCC 417

innocence begins at the bail stage, a long way before a trial is even initiated, on account of Section 45.

Section 45 (Bail)

Section 45 deals with the provisions of bail under PMLA, which has been the subject of much scrutiny, debate, critique, discussion, and judicial review. In its original form of 2002, the section specifies what is known as the "twin conditions," that is,

> "No person accused of an offence punishable for a term of imprisonment of more than three years under Part A of the Schedule shall be released on bail or on his own bond unless (i) the Public Prosecutor has been given an opportunity to oppose the application for such a release; and (ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail."

In other words, when the prosecution opposes bail, the Court can only grant it when the accused proves their innocence at the bail stage itself and assures the Court that they will not commit "any" offense while out on bail.

In the case of Nikesh Tarachand Shah[13], which became a landmark with regard to the question of the constitutionality of the Section, the accused was charged under numerous sections[14] of the Indian Penal Code read with Section 13 of the Prevention of Corruption Act. The investigation of these charges was being carried out by another central agency – the Central Bureau of Investigation (CBI). The petitioner was granted bail under these charges on 10th December 2015. However, since an ED

[13] Nikesh Tarachand Shah v. Union of India (2017) 11 SCC 1
[14] Sections 120B, 409, 420, 471 and 477A

investigation was also initiated and he was arrested under PMLA, and owing to the requirement of the twin conditions, he was denied bail on 27th November 2015.

Challenging the constitutionality of the twin conditions for bail, petitioners argued that the Section was "manifestly arbitrary, discriminatory and violative of the petitioner's fundamental rights under Article 14 read with Article 21 of the Indian Constitution." Another critical issue raised by the petitioners was that being required to prove innocence at the stage of bail forces the defendant to disclose the details of the argument that they will be relying on in case of a trial, giving the prosecution a massive upper hand in the proceedings.

The Supreme Court bench of Justice Nariman and Justice Khanna ruled in favor of the petitioners and struck down the section as unconstitutional. In the judgment authored by Justice Nariman, he cited the Magna Carta, clause 39, which, translated from Latin, reads "No free man shall be seized or imprisoned or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land." He went ahead to expound on the comprehensive history of the evolution of the understanding of pre-trial imprisonment and the right to bail.

The judgment also cited the Eighth Amendment to the US Constitution, which specifies that "excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." The Supreme Court of India has also read the Eighth Amendment of the US Constitution into the interpretation of Article 21 of

the Indian Constitution[15] (guaranteeing the right to life and liberty). They observed that "Article 21 is the Ark of the Covenant so far as the Fundamental Rights chapter of the Constitution is concerned. It deals with nothing less sacrosanct than the rights of life and personal liberty of the citizens of India and other persons. It is the only article in the Fundamental Rights chapter (along with Article 20) that cannot be suspended even in an emergency (See Article 359(1) of the Constitution)." The judgment also relied on the precedent of the Supreme Court which ruled[16] that "the object of bail is to secure attendance of the accused at the trial." Furthermore, they emphasized that "bail is not to be withheld as a punishment."

The Court also took up the issue of applying the Section to offenses included under Part A of the Schedule. When the law was passed, Part A of the Schedule only included cases regarding waging war against the Government of India and offenses under the Narcotics and Psychotropic Substances Act. Justice Nariman observed that "Even the most heinous offences under the Indian Penal Code [including murder, extortion, kidnapping, forgery and counterfeiting] were contained only in Part B, so that if bail were asked for such offences, the twin conditions imposed by Section 45(1) would not apply." An amendment in 2009 added several offenses to Part I of the Schedule, increasing the scope of the application of the twin conditions for bail.

In light of the above issues, the Supreme Court struck down Section 45 of the PMLA as arbitrary and unconstitutional. It was, however, altered and reintroduced in 2018.

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[15] In Rajesh Kumar v. State through Government of NCT of Delhi (2011) 13 SCC 706
[16] In Gurbaksh Singh Sibbia v. State of Punjab (1980) 2 SCC 565

When the Act was challenged in the Supreme Court in the Vijay Madanlal case, the revival of Section 45 was particularly discussed. Mr. Sibal argued that once the Supreme Court struck down the provision, it could not be revived by an amendment. A provision or statute held to be unconstitutional must be considered "stillborn and void[17]". It cannot be brought back to life without reenacting it as a new provision and passing it after a debate in the Parliament. Furthermore, he argued that even after the amendment, the fundamental issue remained: twin conditions for bail are manifestly arbitrary and against basic criminal law jurisdiction of the presumption of innocence[18]. This right to be presumed innocent until proven guilty has been recognized under the International Covenant on Civil and Political Rights, as well as by the Supreme Court[19]. It also goes against the precedent that the Supreme Court has set on numerous occasions: bail is the rule, and jail is the exception[20]

Despite the arguments, the Supreme Court upheld the validity of Section 45. The judgment held that, though the Supreme Court struck down the provision, it was not "obliterated" from the statute book. It was within the power of the State to amend the parts that were held to violate Articles 14 and 21 of the Constitution and revive the

[17] State of Manipur and Ors. v. Surajkumar Okram and Ors. 2022 SCC OnLine SC 130

[18] Recognized under the International Covenant on Civil and Political Rights (see also Babu v. State of Kerala 2010 9 SCC 189 and Arnab Manoranjan Goswami v. State of Maharashtra and Ors. 2021 2 SCC 427)

[19] In Babu v. State of Kerala 2010 9 SCC 189 (paras 27 and 28)

[20] State of Rajasthan, Jaipur v. Balchand alia Baliay, 1977, 4 SCC 308; Sanjay Chandra v. Central Bureau of Investigation 2012 1 SCC 40; State of Kerala v. Raneef 2011 1 SCC 784

Section. The Court also believed that the twin conditions, though stringent, do not "impose absolute restraint on garnet of bail."

The journey of Section 45 of the PMLA through legislative and judicial channels has, thus, been the focus of high debates. While the section was struck down by the Supreme Court for being unreasonably onerous, it was reintroduced in 2018 with slight amendments but retaining its stringent and arbitrary essence. In cases where the prosecution opposes the grant of bail, the judge can *only* grant bail if the "twin conditions" are fulfilled: (1) The accused can prove their innocence even before the commencement of a trial and (2) If the accused can convince the court that they will not commit any offense while on bail. These twin conditions turn the process of securing bail into an arduous undertaking, prolonging incarceration.

Chapter 2

Fleeing: The Lines of Legality

I remember being very upset when movie and play tickets moved to phones

Just like the rest of our lives

I prefer physical tickets, collected at counters from a bored-looking person

Their boredom enhancing my own excitement

And after the performance, I took the stubs home

Where they lay – forgotten – **in my box of treasures**

Fading, fraying at the edges

But I didn't need the print for the details – they were all imprinted in my memory

The stubs just jogged that memory. And provided evidence that the day was real.

My excitement on the day was real

But you can't take a box of stubs when you leave in a hurry

Some memories are too heavy for a suitcase

Screenshots just don't do all that, do they?

How long does it take 11 people to "search" a 510 sq. ft. house? Turns out, the answer is 7 hours.

We wake up on Monday, 16th January 2023, pretending to hope. My brother has been sent into judicial custody; that is, he has had to spend the weekend in a central jail among both alleged and convicted criminals while we try to escape the mental imagery accompanying that thought, but it refuses to leave us alone every time we lay down on a bed, every time we have a meal, every time we have a hot shower. Nonetheless, it is a new week, and with a new week comes the illusion of a new beginning and possibilities. Hope, however false it might seem to us, is all that stops us from completely crumbling. And then, a little before 10 am, the doorbell sounds – 11 people are standing at our door, two women and nine men; four of them (three men and one woman) are uniformed and carrying rifles. “We are from the Enforcement Directorate,” they say, “We have a warrant to search your house.”

The situation when they first entered our house would be comical if it weren’t so terrifying. Our 10x20 ft living room is too small to accommodate everyone. At least half of them have to remain standing. Eventually, they decide to take turns sitting. It has always been a small house – when my mother bought it in 1998 with her meager savings and some additional help from her mother, it was small. It was small during the pandemic when my brother and I returned home to be with our mother. But I only really feel its smallness on the day it is raided.

They ask us to put our phones on the table in the living room. “You can’t call anyone,” they say, “That is the rule.” While I am generally aware of police procedures and rules, the rules of the ED are shrouded in mystery. We can only take their word for it and put our phones on the table. We are not allowed to call a lawyer

and inform them either. One of the women follows us to the single bedroom of our house and asks my mother to open her wardrobe. My mother has always struggled with getting rid of physical documents – the result of a deep distrust for technology that she cannot quite understand yet. She retains every bit of paper that comes to us as a "document," even the ones from when my brother and I were in school, "just in case" she ever needs them. The woman officer of the ED starts going through all those documents. Two folders in, she realizes that would take too long, so she focuses on financial documents -- the property papers of the house they have raided, which my mum bought back in 1996 when I was six and my brother was nine; mutual funds that my mother had invested in when we were in school and which had matured years (and, in some cases, decades) back.

While the "search" continues, the officials ask us for our statements. We have no idea in what capacity we are being questioned, and we have no idea if we can refuse to answer their questions. We are asked about our assets, how much money we have, and how much property our family has. My mother has to answer demeaning questions like, "If you are not working anymore, who gives you money? How do you manage your expenses?" The senior officer asks me when the last time I met my brother was. How many times a year does he visit my mother?

The day unfolds in a strange rhythm—both a hurried daze and an excruciating crawl. At 5 pm, they are still in our house. After 7 hours of probing and seemingly directionless questions, my mother is sure they will arrest us. Especially so, considering that the questioning had stopped almost an hour back. Now, all 11 people

are standing (and still taking turns to sit) in our living room, chatting amongst themselves and fiddling with their phones. When we ask them if the raid is done and when they would be leaving, they simply say, “We are waiting for further instructions.”

Finally, at a little after 5 pm, they begin winding up. They draft an oath affirming the truthfulness of our statements and ask us to sign. At the end of it, there are no seizures from the house. There was nothing to seize. We ask them if there was another case against my brother, and they vaguely respond that they filed a case about ten days back, right around the time of my brother’s first bail hearing. The timing made sense. If he had gotten bail that day, they would have immediately arrested him in this case. Before leaving, they give us a copy of the *panchnama*. A *panchnama* is a report signed by “neutral” witnesses who observe legal actions like searches and seizures taken by law enforcement (like the police or, in this case, the ED). The ED had brought the neutral witnesses with them.

When the officials first entered our house, I was too shocked to feel any fear. Instead, I felt discomfort and embarrassment – the house was in a mess. My mother is among the people who obsessively clean every corner of the house when they expect someone, as if the person visiting is going to get on all fours and peep under the sofa to check if there’s dust. Her home is a reflection of her – her discipline, her sense of organization, her need for order. But since my brother’s arrest, we had not been focused on cleaning up. There are times when you just let go in the privacy of your home. Leave those dishes in the sink, leave those scraps of paper lying on the floor

where they fell, do not make your bed the first thing in the morning, pile laundry on that extra chair, and stuff your things behind the closed doors of the wardrobe so they are out of sight. You'll clean up later. But then 11 people walk into your home, and you can feel their eyes going over that mess. "Sorry for the mess. It is not usually like this," I would have said in a normal situation. But there was nothing ordinary about the four rifles in my living room. I instinctively tried to straighten out a few things, but was curtly told that I was not allowed to touch anything.

I am among people who hold onto memories for years – those faded, musty jeans that I wanted to fit into again someday, that flower from a now-estranged best friend, movie ticket stubs from first dates in college, some good memories of bad relationships, the short story that got me the best comments from my favorite teacher, the old wallet chewed up by my dog who died; relics of bittersweet memories that I sometimes don't even glance at for decades. But I am happy with the assurance that they are around whenever I wish to look at them. My home is a storage space for my memories. And everything was laid out to be scrutinized by 11 random people. It felt oddly exposing. Privacy is not secrecy. Wanting to hide things is not always because they are criminal. They are just mine.

After the officials leave, I immediately call my brother's lawyer. After going through the events of the raid and the details of the statement we gave to the ED, he tells me it is best if we leave the city and go somewhere else. If we are elsewhere, the ED will have to issue a summons if they wish to question us again. While we are obligated to appear for questioning if called, we will at least be prepared and not be caught

off-guard like we were with the raid. I argue that we haven't done anything wrong. He agrees but tells me that we can only prove our innocence when a case goes to court. Until then, the authorities can do what they want. When it comes to the Enforcement Directorate, the process is the punishment.

What began as an unannounced invasion of our 510 sq. ft. house soon unraveled into a journey through the legal labyrinth that enables such acts. To understand how a civilian home can become a battlefield without warning, one must examine the law that makes such surveillance and intimidation not just possible, but legal. This chapter primarily deals with the Enforcement Directorate (ED), a federal agency that focuses on financial crimes in the country, and specifically, with the provisions of the Prevention of Money Laundering Act (PMLA), 2002, exploring how the law manufactures not guilt but fear that compels flight, not just from place but also from the illusion of safety. Our story was not unique, but a part of a larger growing pattern across the country.

Opposition leaders in India have alleged that the ED has turned into a puppet controlled by the ruling government to target the opposition under the draconian provisions of the PMLA, leading to political persecution under the guise of money laundering investigations. What makes this issue particularly pertinent is the fact that this is not an extra-legal form of persecution where the State is overexerting its power and control, but a form of persecution that has been written into the laws. The legal language grants extraordinary powers to the State without sufficient safeguards, turning due process into a mechanism of repression.

According to an investigation by the Indian Express published on September 20, 2022, there has been a fourfold increase in cases against politicians since Mr. Modi came to power in 2014. About 95% of these cases are against opposition leaders (Tiwary 2022). On March 05, 2023, nine opposition leaders (including four chief ministers, and two former chief ministers) wrote to PM Modi against the "blatant misuse of central agencies against members of the opposition [that] appears to suggest that we have transitioned from being a democracy to an autocracy" (Press Trust of India 2023). Subsequently, on March 24, 2023, fourteen opposition parties moved the Supreme Court against the government's alleged misuse of the ED. To understand the merits of these allegations, it is essential to delve into specific provisions of the PMLA.

In the first part of this chapter, I focus on the provisions of the PMLA, starting with what actually constitutes money laundering. After that, I discuss specific sections of the Act that deal with summons and questions, powers of arrest, burden of proof, and twin conditions for bail. In the landmark Vijay Madalal Choudhary and ors. V. Union of India and ors., that challenged the constitutional validity of various sections of the PMLA, the bench of Justice A.M. Khanwilkar, Justice Dinesh Maheshwari, and Justice C.T. Ravikumar in the Supreme Court of India upheld the validity of all these sections. The judgment is currently under review, and the debate of the Act's constitutionality and its use for the persecution of political opposition is therefore far from being resolved. Abysmal rates of conviction in PMLA cases have not led to amendments in the law or a serious rethinking of its provisions. This, I argue, is

because the objective of the PMLA is not to secure convictions but to sustain prolonged legal entanglements, where incarceration, surveillance, and social humiliation function as the real punishments.

In the second section, I examine the surveillance and monitoring systems that are mobilized against the political dissidents and their families. The surveillance, in these cases, is not subtle or hidden because the purpose of the surveillance in question is not information-gathering but the installation of fear. The authorities and the State make it a point to ensure that you know you are being watched. Through this entire process, the instilling of fear into the minds and hearts of the individual and their families is ongoing. In this chapter, I look at the desire to flee that is rooted in the minds of families when they are subjected to this harassment. In 90 minutes, I left not just the house where I had spent more than a decade, but also the city where I was born and raised and where I had spent all my life. That night, I left with a suitcase, and the State left with my sense of home. The ticket stubs stayed behind.

Black Money, Laundering, and PMLA

The story begins with money laundering. Money laundering means projecting illegally acquired wealth as money originating through legal channels. That is where the term "laundering" comes from: the "cleaning" of money in a way that "black money" or illegal gains are presented as "white money" or legally acquired wealth. While it is generally understood in regular parlance globally today, the term "black money" has been especially commonly used in India and the rest of South Asia, with

widespread utilization of cash transactions and the large unorganized sector of the economy[1].

Money laundering is commonly the result of criminal activities like corruption, drug trafficking, arms trafficking, and human trafficking. The “laundering” or “cleaning” process then obscures the illegal origins of this wealth and blurs the money trail, pushing the money into the economy as legally earned. With the progress in international banking and transactions, this crime is also not confined to domestic limits, becoming a transnational issue. Owing to the scale of money laundering, the seriousness of the crimes that generate black money, and its transnational repercussions, there have been numerous international conventions to tackle the issue. India has been a member of the Financial Action Task Force (FATF) and the Asia/Pacific Group on Money Laundering.

In India, the first legislation to deal with money laundering, the Prevention of Money Laundering Act (PMLA), was brought in 2002. Since then, it has been amended thrice – in 2005, 2009, and 2012. In 2019, the government added an ‘explanation’ to Section 3 of the PMLA via a Finance Act, effectively transforming it into a de facto amendment without Parliamentary debate. This Act, particularly its expanded scope, has become particularly notorious over the last few years owing to its massive mobilization against opposition politicians in the country. According to an investigation by the Indian Express published on September 20, 2022, there has been

[1] According to the Periodic Labor Force Survey (PLFS) of India, in the year 2017-18, the unorganized sector accounted for 85.5% of the total employment in the country.

a fourfold increase in cases against politicians since Mr. Modi came to power in 2014. About 95% of these cases are against opposition leaders (Tiwary 2022).

PMLA and ED, previously never a part of popular public discourse, have now become omnipresent to the point of being the subject of jokes. Whenever an individual posts a critique of the government online, people comment on the posts, presumably joking and asking the person to be careful of the ED. These jokes are not restricted to social media. On August 03, 2023, during a session of the Parliament, when Union Minister Meenakshi Lekhi was being interrupted by opposition leaders, she retorted at them with a smirk, saying, "*Shaant raho. Tumhare ghar ED na aa jaaye* [keep quiet, or the ED might arrive at your home" (India Today 2023). To evaluate allegations that the PMLA is arbitrary and draconian, it is necessary to examine the specific provisions most frequently criticized and misused.

While it is a lengthy and comprehensive Act, I highlight specific sections of the Act that are mainly debated and misused – the registration of offenses, issuance of summons and questioning, powers of arrest, the inversion of the burden of proof, and the twin conditions for bail. The reason for discussing these specific sections lies in the playbook of persecution – summons, questioning, arrest, bail denial – that the ED has perfected over the last few years, where offenses are arbitrarily registered against opposition leaders, following which they are harassed with constant summons and questioning. The arrest of the leaders follows this questioning. Under the PMLA, bail becomes particularly challenging as the arrested individual is required to prove their innocence at the bail stage, leading to prolonged incarceration.

The nightmare of the raid had its origin in my brother's third arrest that took place 18 days before the raid.

It is 29th December 2022. The air feels stale, heavy with repetition, like we're reliving the same nightmare on loop. My brother is being taken to Ahmedabad again, escorted by Gujarat police, again. It's no longer shocking, just surreal, as if we're trapped in a poorly scripted play where every line has been said before, and still, somehow, the stakes keep rising. This time, the charge is so absurd it borders on farce: a case of "cheating" over Rs. 500 (less than $6), which was a contribution to a crowdfunding campaign made nearly four years ago. A complaint that wouldn't hold up in a school debate is now the basis of a police convoy. I want to laugh at the ridiculousness of it all, but my body won't let me. My hands are shaking. My breath is shallow. This isn't satire. This is a strategy.

The complainant claimed that his wife contributed Rs. 500 to the crowdfunding campaign that my brother ran in 2019, and now, after reading about his previous arrest(s), she realized that he was a "fraud" and felt "cheated." I cannot understand what these flimsy arrests are achieving, apart from the disruption of regular life. But this time, my brother is sure that something larger is at play. The performance of 30-40 policemen coming to arrest him in Delhi is different from the previous two arrests that were executed quietly, in the stillness of the night. This is not going to end here. "It is not a matter of Rs. 500," he tells me. "It is about money. They will send the ED. Tell the lawyer."

By this point, I cannot distinguish between fear grounded in facts and paranoia anymore. I am sure my brother is overthinking. The ED investigates money laundering, scams, drug financing, and terrorism; there just cannot be any connection for the ED here. But, as time proves, he understands politics way better than I can. The case of Rs. 500 was just to fulfill the ED's need for a predicate offence.

The Enforcement Directorate, a federal agency, has been granted the exclusive power to investigate and prosecute offenses under the PMLA. However, registering an offense under PMLA requires a "predicate offence." A predicate offense is a crime that forms the basis of another crime, which, in this case, is money laundering. In other words, the predicate offense is the original criminal act that generates "proceeds of crime," and the projection of those proceeds of crime as "untainted" is the offense of money laundering. The ED does not hold the power to initiate PMLA proceedings in the absence of a predicate offense.

In its original form, for an offense of money laundering to be framed, there needed to be (1) a predicate offense, (2) the generation of black money, and (3) a projection of the black money as untainted. However, as the law evolved, especially with the 2019 amendment, the boundaries between these elements began to blur, opening the door for arbitrary investigations. This is exactly what happened in my brother's case. While we initially thought that the charge of "cheating" for a small amount of money was a minor issue, it quickly escalated into something much larger when the ED got involved. Through the "explanation," inserted surreptitiously without the approval of the Parliament in 2019, the State removed two of the three requirements: it extended

the scope of the investigation beyond the predicate offense and removed the requirement of the projection of black money as untainted. The explanation also removed any need to prove criminal intent.

In essence, using the complaint of Rs. 500, the ED could launch a PMLA investigation against my brother, extending the scope of the investigation beyond the amount in the complaint to the entirety of his assets. The complaint of Rs. 500 was enough to allege that everything he owned was "tainted."

For a money laundering charge to be applicable under PMLA, the accused must be shown to have generated, concealed, possessed, or laundered "proceeds of crime." Logically, this presumes some investigation into a predicate offense, that is, the crime that produces the money in question. However, in current practice, the Enforcement Directorate often registers an Enforcement Case Information Report (ECIR) within days, or even hours of a First Information Report (FIR), thereby collapsing the distinction between the predicate crime and the laundering offense. This duplication does not simply reflect legal overreach but constructs a system of redundant criminality, where the same alleged act is punished in multiple overlapping ways, one of which (money laundering) is deliberately more punitive and opaque.

While my brother was arrested in the police case on 29th December, within 10 days of that arrest, the ED had already registered a case under PMLA against him. In situations like these, two investigations are conducted simultaneously, one by the police and the other by the ED. Anthropologist Akhil Gupta (2012) discusses how the Indian state frequently operates through a logic of arbitrary bureaucratic violence,

masked by the rationality of legal and procedural forms. The PMLA exemplifies this arbitrary violence: it uses legal and procedural language to create a legal loop that muddles the possibility of exoneration. When acquittal in the scheduled offense does not guarantee release from charges under the PMLA, we witness the production of a "temporal legal loop," where the legal subject is suspended in a state of judicial entrapment, and relief does not translate to release.

A First Information Report (FIR) is a formal document that records the initial details of a cognizable offense registered by the police and is the first step in an investigation. An Enforcement Case Information Report (ECIR) is the ED equivalent of an FIR filed by the police. The Supreme Court[2] has laid down a procedure that requires the FIR to be uploaded to the police website within 24 hours of its registration[3]. In the case of the ECIR, however, in the Vijay Madanlal judgment, the Supreme Court held that the ECIR is an "internal document" and does not have to be provided to the accused person. The withholding of the ECIR copy is particularly concerning since the ED can arrest an individual based on the ECIR. The Supreme Court, however, maintained that since an arrested individual is required to be provided with the "grounds of arrest," it does not infringe on the accused individual's rights.

[2] In the case of Youth Bar Association of India vs. Union of India and Others (2016) 9 SCC 473

[3] This rule does not apply to certain sensitive offences, like sexual offences, Protection of Children from Sexual Offences Act (POCSO) cases, and cases related to terrorism.

In Vijay Madanlal Choudhary v. Union of India, the Supreme Court upheld the ED's refusal to provide the ECIR to the accused, asserting that disclosure could jeopardize investigations. The absurdity of this observation mirrors a game of chess where you are not allowed to see your opponent's moves. The non-disclosure of the charges introduces a profound epistemic asymmetry: the State knows what it is investigating, but the accused does not. Legal anthropologists like Annelise Riles (2006) and Tania Murray Li (2007) have emphasized how bureaucracies don't merely regulate but produce forms of unknowability, withholding access to the very categories that determine one's legal standing. Here, opacity is not a flaw in the system; it is the mechanism of control itself. Consequently, the accused are denied the fundamental right to know the charges against them, while simultaneously being subjected to arrest, incarceration, and asset seizure.

The PMLA thus weaponizes not only the law but the structure of legal knowledge – what can be known, by whom, and with what consequences. This orchestration of secrecy, double prosecution, and indefinite delay renders the accused neither fully guilty nor fully exonerated. As anthropologist Lisa Wedeen (1999) argued in the context of authoritarian Syria, such systems are not designed to deliver justice or clarity but to induce compliance through uncertainty. In India, the ED's procedures under the PMLA create a culture of anticipatory fear, not of what one has done, but of what might suddenly be claimed. And so, we learned to live like everything we owned could one day testify against us.

Farce of "Investigations"

My brother was issued a "summons" asking him to be present for questioning by the ED. The only hindrance was that he was in jail. And so it began, the farce of the "investigation." ED officials visited the jail for over three days to question him. There was a point where I felt a tinge of jealousy – jealousy of the very people interrogating him – because they got to see him, hear his voice, ask him questions, while I had nothing but the silence of unanswered calls and cold court filings. Throughout the period of this questioning, my brother did not have the option to refuse to attend the summons or answer questions; he had no free will. So, he was forced to attend the summons under duress and without a lawyer present. Even after that, on day 4, the ED went to jail to arrest him for being "unresponsive and evasive" in his answers. It felt like a game of smoke and mirrors. One minute, my brother was told to respond and clarify, and the next, he was punished for doing exactly that. It was as if the entire process was less about truth and more about seeing how far they could stretch the thread of his sanity. The absurdity of the situation heightened further when he was removed from detention, taken to court, just to be placed in detention again, from the police to the jail, and then to the ED.

It is initially incomprehensible what the ED hopes to achieve from these arrests – if a person has been "evasive" in their answers through the questioning, what motivation would they have to answer the ED's questions on being arrested? In fact, before being arrested, a person might at least try to "cooperate" to avoid the arrest. However, the situation stops being so absurd when you understand the true intentions. The temporal

legal loop at play; that arrest saddled my brother with the task of securing bail in two connected, essentially identical but separate cases. Furthermore, the requirement of the twin conditions for bail in PMLA prolonged the process to the extent that he had to spend five months in jail before he was granted bail in both cases.

Section 50 of the PMLA grants the Enforcement Directorate the power to summon individuals, force them to appear, and compel them to produce any documents or information it deems necessary. Unlike police investigations, these proceedings are classified as judicial in nature. While statements given to the police are primarily tools of investigation and require further judicial scrutiny to become admissible evidence, statements to the ED are given under oath and themselves treated as direct evidence, admissible in court. These statements are extracted without the right to remain silent, and individuals who refuse to sign, answer, or cooperate fully may be punished under Section 63 of the same Act.

What results is not a robust investigative mechanism but a legal trap disguised as due process. The person summoned does not know whether they are being called as a witness or an accused. The ED does not clarify, and it does not have to. As both roles are included under Section 50, the summoned person exists in a legal limbo. This ambiguity is not incidental; it is performative. It instills a permanent anxiety about one's status in the eyes of the law. As the anthropologist Veena Das (2007) has argued, such states of legal indeterminacy become woven into the everyday, extending state violence beyond the spectacular and into the mundane. One is not just punished by the State; one begins to live inside its punishments.

The compulsion to speak under oath, with no clarity on the legal consequences, makes silence itself a liability. To remain silent is to invite criminality; to speak truthfully may still criminalize the speaker. As Michel-Rolph Trouillot (1995) notes, power is often exercised not only through what is said but through the terms under which speech is made possible. Here, the conditions of testimony are structured to extract confessions, not clarity. One is made to testify in the dark, without knowledge of the ECIR (unlike an FIR), without clarity on whether they are accused or a witness, and with the looming threat of punishment for non-compliance. The ED thus becomes an institution that does not investigate so much as it orchestrates confessions within a framework of uncertainty.

Furthermore, unlike police interrogation procedures, where coercion must be scrutinized and where a magistrate must verify the voluntariness of a statement, the ED enjoys a separate status as a financial investigative body. The question before the Supreme Court in the Vijay Madanlal Choudhary case, that is, whether the ED can be considered a police-like law enforcement agency with coercive powers, misses the larger point. The ED is not just an agency of the State; it is a technique of the State. It embodies what Lisa Wedeen (1999) has termed the performative nature of authoritarian rule, where the rule of law is maintained not by consistent application, but by the uncertainty of its reach.

To surmise the effects of these sections, Section 50 of the PMLA requires any person summoned by the ED to appear in front of them, and Section 63 requires them to provide the ED with honest and comprehensive answers to their questions. Since the

ED is not technically the police, the protections that apply to people in police custody, including the right against self-incrimination, do not apply to individuals in ED custody. The questioned individuals are then either arrested based on an incriminatory statement or evidence, or for being “non-cooperative” if they do not tender a confession. This is a legal culture where what appears voluntary is functionally mandatory. Legal anthropologist Lawrence Rosen (2006) once wrote that in many legal systems, the question is not "What happened?" but "What does the system need to believe to sustain its authority?" In the ED’s practices, the system requires confession, not just as evidence, but as a ritual reaffirmation of its power to make people speak. Arrest under PMLA, therefore, is virtually unavoidable. Together, these provisions generate a system in which the line between cooperation and compulsion is deliberately blurred, and where legal process is not merely a pathway to justice but a tool of domination, administered under the veneer of legality.

The Supreme Court, in the Vijay Madanlal Choudhary judgment, upheld the constitutionality of Sections 50 and 63 on the narrow technicality that these provisions applied to ED officials and not the police. In doing so, it accepted a legal fiction that has become central to the architecture of contemporary Indian law: that police-like power can be wielded without police-like responsibility. The Court reasoned that protections against testimonial compulsion apply only after formal arrest and only to those who are explicitly named as “accused.” However, since ED summons under Section 50 makes no such distinction between witness and accused, these protections remain dormant until it is too late.

This liminal status of "not yet accused, but always already suspect" is what Veena Das (2007) might call the zone of vulnerability produced by the state. Here, the law's delays, silences, and obfuscations are not flaws but techniques through which control is exercised. In this sense, "cooperation" is not merely an administrative term. It is a social demand masquerading as legal duty, a tool of compliance under the threat of incarceration. The anthropologist Didier Fassin (2017) describes this phenomenon as the enactment of punishment before judgment, describing a regime where the ordeal of arrest, interrogation, and incarceration operates independently of legal guilt. Under the PMLA, arrest itself becomes the mechanism of punishment. Legal process does not follow a verdict; it becomes the verdict. In that world, what is taken from you is not just liberty but the very belief that clarity is ever possible, leaving behind only the fragments of what once seemed solid – forgotten receipts, tickets, and tokens of a life now erased by uncertainty.

The Burden of Jail and Bail

"*ED cases mein bail nahin milti*," (You don't get bail in ED cases), an off-hand statement by a taxi driver, communicated the collective knowledge of what PMLA had become. What began as a complaint of Rs. 500 turned into an incarceration of almost five months. "Sir, you can't give him bail," the ED's lawyer told the judge in court. With the amendments to the Act, the State had pretty much ensured it – "ED *cases mein bail nahin milti*."

Section 24 of the Prevention of Money Laundering Act (PMLA) executes a dramatic inversion of the criminal justice principle of "innocent until proven guilty." Under

this provision, the burden of proof is placed squarely on the accused, reversing the usual standard of the prosecution bearing the onus of proving guilt. In Vijay Madanlal Choudhary, the petitioners argued that such an inversion violates Article 14 (equality before the law) and Article 21 (right to life and personal liberty) of the Constitution. They emphasized that presumption of innocence is a fundamental human right, a principle upheld repeatedly by the Supreme Court as central to criminal jurisprudence. The Court, however, held that so long as the accused is "given a chance" to disprove the charge, the burden shift is constitutional. In other words, merely being granted a procedural opportunity to resist accusation, however asymmetrical or inaccessible that opportunity might be, was enough for the Court to uphold the provision.

This reasoning erodes the very architecture of due process. The accused is no longer someone presumed to be innocent and protected until proven otherwise; they are a potential criminal who must perform innocence from the moment charges are framed. Anthropologically, the inversion of the burden of proof transforms the law into an accusatory ritual rather than a deliberative trial. The accused enters into a system that is structurally tilted toward belief in their guilt, where even the bail hearing becomes a mini-trial of innocence. As scholars like Anupama Rao (2009) have shown, such laws displace the normative foundations of justice by inserting "exceptionalism" into the everyday functioning of law.

The presumption of guilt under PMLA marks a sharp break from the safeguards of the Indian Evidence Act and criminal procedure, where the burden to establish guilt

lies with the state. Under PMLA, the prosecution is not required to substantiate the "taint" of property, but the accused must prove its "untainted" nature. To be charged under PMLA is to be socially and legally tainted in advance.

If Section 24 of the Prevention of Money Laundering Act (PMLA) presumes guilt, then Section 45 institutionalizes the consequences of that presumption by radically limiting access to bail. This section has been at the center of constitutional challenges and legal controversy due to its so-called "twin conditions"—a two-step test that must be satisfied before bail can be granted. Bail becomes an uphill struggle because this section imposes further constraints on the burden of proof: the court must be convinced that the accused is not guilty and also that they are unlikely to commit an offense while out on bail. This means the accused must essentially prove their case before trial, during the bail hearing itself. In practice, this means people wait months in overcrowded jails, cut off from families and dignity, punished not for what they have done, but for what the state insists they might have. Incarceration becomes the default, and release becomes the exception, or as the Court puts it, "jail is the rule, bail is the exception."

The fact that the accused must prove their innocence at the bail stage itself, long before a formal trial begins, not only violates the principle of presumption of innocence but also collapses the distinction between bail hearings and full-fledged trials, effectively turning bail into a pretrial adjudication. In constitutional theory, bail is a mechanism to secure the presence of the accused during trial, not a mode of preemptive punishment. However, under PMLA, bail becomes so conditional and

inaccessible that the period before trial serves as a form of punishment in itself. Furthermore, petitioners rightly argued that meeting the twin conditions often forces the accused to reveal their defense strategy at the bail stage, giving the prosecution an undue tactical advantage. The idea that the accused must "prove" innocence, not even at trial but at bail, is antithetical to modern criminal jurisprudence and violates India's obligations under international human rights law, including the International Covenant on Civil and Political Rights (ICCPR). In short, jail is not a consequence of conviction, but a condition of being accused under PMLA. And so, even before conviction, what begins to gather dust are the lives on hold – withered houseplants, unopened mail, an iron left plugged in – mute reminders that freedom was taken not by verdict, but by accusation.

The Watchers: Surveillance, Suspicion, and Escape Routes

Opposition leaders in India have alleged on multiple occasions that they are subjected to intensive surveillance. On 31st October 2023, a chilling digital notification landed on the phones of at least ten opposition leaders across political parties in India. The message, issued by Apple, warned that “state-sponsored attackers may be targeting your iPhone,” further cautioning that “if your device is compromised...they may be able to remotely access your sensitive data, communications, or even the camera and microphone” (Fareed 2023). The sterile language of cybersecurity alerts concealed a far more intimate violence – the awareness that one’s life was no longer private, that the state had entered one’s home, one’s phone, one’s pocket.

The emergence of surveillance societies has been subject of deep concern across disciplines like journalism (Burnham 1983; Packer 1964), law (Fried 1968; Gavison 1980; Marx and Muschert 2007; Miller 1971), political science (Haggerty and Ericson 2006; Westin 1967), sociology (Wheeler 1969), philosophy (Schoenman 1984), and the emergent field of surveillance studies (Lyon 2006; Monahan 2006; Zureik et al. 2010). In recent years, especially after 9/11, surveillance infrastructure across the world has expanded at an unprecedented pace, justified by the need to preempt faceless enemies. Surveillance now operates not only as a tool of protection but as a technology of fear, capable of reshaping individual behavior, democratic institutions, and even the very idea of freedom.

One of the most significant transformations in this era is the rise of data as power, leading to a frenzied bid by governments and corporations alike to further collect information about individuals and groups (Lyon 2003, 151-152). This expansion of surveillance has been accompanied by an increasing willingness to be subjected to surveillance on the part of citizens, despite anxieties, believing it to be essential for the vague "national security" (Haggerty 2012, 242). This acceptance paves the way for the normalization of surveillance, even when it violates privacy and chills dissent. The stated goal of protection from the enemy also justifies keeping the process of surveillance itself shrouded in secrecy.

Importantly, the culture of surveillance is not just technological, but social. The secrecy surrounding surveillance tactics creates a feeling of being watched at all times, whether or not one actually is. This feeling is further reinforced by a narrative

that positions every citizen as a potential threat or informant. This culture of suspicion is exacerbated by the idea that "members of the general public could be the 'ears and eyes' of security and policing services" (Lyon 2003, 4), undermining trust and social solidarity (ibid, 142). The society becomes a part of the surveillance infrastructure, monitoring individuals through "gossip, community watch, and social stigmas" (Cohen 1985). This dynamic creates a feedback loop: surveillance fuels suspicion, and suspicion demands more surveillance (Lyon 2003, 10).

A dominant theme in contemporary surveillance studies is the automated, algorithmic nature of surveillance today, where people are not watched face-to-face but monitored en masse through impersonal, data-driven systems (Ball, Lyon, and Haggerty 2012). In this case, surveillance society implies the situation where "precise details of our personal lives are collected, stored, retrieved and processed every day within huge computer databases belonging to big corporations and government departments" (Lyon 1994, 3-4). An important characteristic of this kind of automated surveillance is its invisibility; its precise nature and penetration, as well as the protocols for singling out any individual, are unknown to the vast majority of people (Ball, Lyon, and Haggerty 2012). The facelessness and namelessness of the "someone" further creates a feeling of deep fear. No one individual is specifically watched. At the same time, everyone is watched, and no one knows by whom.

With the ubiquity of surveillance infrastructure, people often internalize surveillance and regulate themselves (Browne 2012). Foucault (1975) argued that we are bearers of our own surveillance; we have become agents of our own monitoring. This subtle

form of control is, however, more potent than the act of surveillance itself. Once a deep fear is instilled in the mind of the individual being surveilled, an escape from this fear becomes almost impossible because the surveillance is embodied. While surveillance requires the existence of external enemies to justify its existence, it also creates demons in the mind of the surveilled subject that become almost impossible to escape.

Yet, much of the literature sidelines what we experienced firsthand – the enduring power of visible, personal, embodied surveillance. The fear of surveillance can be as powerful as the surveillance itself (Anderson 1983; Solove 2004), forcing compliance through its mere possibility. Surveillance doesn't need to result in arrest or prosecution to have power. It is effective because it compels self-regulation, silences dissent, and rewires behavior—even in the absence of a watcher. It promotes self-censorship to an extent where people are fearful of expressing themselves freely (Fuchs 2015). Foucault (1975) described this perfectly: modern surveillance creates "docile bodies" that internalize the gaze of power. We become both subjects and agents of our own monitoring. This psychological transformation is perhaps surveillance's most insidious feature—once the fear of being watched is internalized, surveillance becomes self-sustaining. The fear becomes embodied.

This was exactly our experience. After weeks of overt surveillance – people tailing my mother in marked cars, anonymous phone calls demanding answers, strangers loitering conspicuously outside our building – she became consumed by the need to outmaneuver an invisible enemy, even after moving cities. Every car seemed

suspicious, every face potentially hostile. We were trying to escape surveillance, yet the surveillance had already taken residence in our minds.

While some aspects of the surveillance on my brother and our family definitely took place without our knowledge, much of the surveillance was visible by design. This kind of overt surveillance works toward invoking fear in the person who realizes all their activities are being closely monitored, in a form of psychological warfare. In our family's case, the surveillance was not simply unseen or intangible. It was designed to be noticed. It was not just about watching, it was about being seen to be watching.

When my mother was in Ahmedabad, before the raid on our home, she was subjected to a form of overt surveillance that was anything but subtle. Every time she got out of the hotel or the police station, someone would follow her, making it a point to follow her in a recognizable vehicle as opposed to a nondescript one. Far from the covert tailing often associated with intelligence operations, this was theatrical surveillance – deliberately visible and designed to induce fear. She would receive calls from unknown numbers where a gruff voice would aggressively ask her who she was and her relation to my brother. It was not information they sought, but submission. This kind of surveillance does not merely observe; it creates a climate of paranoia, transforming ordinary gestures like walking on the street or making a phone call into acts fraught with potential meaning. My mother often describes this period as one in which she felt hunted. Surveillance was not just a tool of observation, but a method of domination.

By the time the raid took place, my mother's fear had become ritualized into behavioral instincts. She did not want to go directly to the airport when we left home. "Someone is watching the house," she whispered, paranoid. "There are informers in the building." She refused to go straight to the airport. So we stopped at a mini-mall on the highway, an oddly theatrical pitstop in the middle of an unfolding crisis. The mall had a movie hall, a restaurant, and a kiosk-like coffee stall. My mother asked me to buy two movie tickets.

For about 20 seconds, I just looked at her, sure that I had heard wrong. She explained, "If someone is following us, we should have a reason to be here." It was her form of self-learned counter-surveillance. "If someone really is following us," I replied, "they already know the ED raided our house. Buying movie tickets is the most unnatural thing we could do right now." Instead, I got us two cups of coffee, and we waited. And waited. Every passing car became an object of scrutiny for my mother. "This car has passed twice," she said, gesturing at a plain, white car. "Why is this cab standing here for so long?" This wasn't just fear; it was a paranoid mode of perception, where nothing could be trusted and everything was a sign of something sinister.

We were waiting at the mini-mall because we did not want to go to the airport too early. Airports come under the jurisdiction of the central government – a space where the reach of the state is physically, visually, and institutionally heightened – and a local lawyer had told us that the check-in database is centralized. So we delayed checking in to avoid alerting anyone. However, we also did not want to spend too much time outside the airport to avoid attracting attention. It boiled down to choosing

between two equally terrifying options. There was no correct answer, only a desperate attempt to stay just outside the perimeter of suspicion. We were hyper-conscious about everything we did – were we standing naturally? Were we talking too little? Was our silence conspicuous? The more "natural" we tried to behave, the more "unnatural" we felt. The more we tried to act normal, the more we became hyper-aware of the impossibility of normality under our conditions. It was a surreal kind of theater where the script was unknown, but the stakes were existential.

Anthropologist Lisa Wedeen calls this state of hyper-consciousness under authoritarian regimes a performance of normalcy that paradoxically undermines the very thing it tries to preserve (2008). We were trying to act natural, but the act of performing "naturalness" under duress made everything feel artificial. Surveillance reshapes behavior not just by watching, but by creating a mental architecture in which every move is calculated, every moment a performance for an invisible audience. What surveillance does, at its core, is colonize the inner life. It is not just a state technique; it is an emotional regime. It curates paranoia, imposes caution, and weaponizes uncertainty. In our case, it worked. Not because we were silenced, but because we began to police our own behavior in anticipation of being policed. We were imprisoned by the panopticon (Foucault 1975).

There is a strange duality in fleeing. On the one hand, it demands the clarity and precision of planning – routes, documents, and stories. On the other hand, it is driven by panic. In our case, we packed within 90 minutes but without frenzy. Not because we were not afraid, but because fear had already become routine. My mother, who

had become hyper-alert in the days after the ED raid, moved with an attitude of paranoid counter-surveillance, avoiding CCTV angles, shielding her phone, and double-checking cab numbers. Every step we took toward the airport was wrapped in a cloak of anxiety, and yet also felt like a small act of resistance. Leaving home is never clean. There is no cinematic goodbye. Just quiet decisions made in semi-darkness. What to pack, what to leave, what cannot be replaced, and what to carry in your body instead.

Resisting Surveillance and Embodying Escape

The effect of the surveillance and the fear instilled in our minds continued even as we escaped. On the one hand, we were fleeing, and on the other hand, we were also "locked in." LeDoux (1998) explains how fear hijacks the brain – cortisol floods the system, making it difficult to concentrate or act with clarity. So, while we made every possible effort to escape both the covert and overt surveillance, it was all we could think of whenever we were in a public place. This explains why even mundane acts like buying coffee or boarding a flight were fraught with suspicion and dread. This dread came in waves, through an unexpected knock on the door, a regular car that happened to cross us twice, a call from an unknown number, or someone casually asking us, "So, where do you live?"

Fleeing does not free you. You carry the chase with you. In a new city, far away from the one I had grown up in, I scanned faces for signs of recognition, whispered in public places. I shut off when a new person seemed too friendly. The idea of safety had become abstract. There was no moment when I felt "out" of surveillance. James

C. Scott (1990) describes infrapolitics as the everyday, often invisible acts through which the oppressed resist domination, not through confrontation, but through concealment, delay, and withdrawal. Our escape embodied this. We did not confront the State but evaded it, ducked under its gaze. Infrapolitics, in our case, took the form of silence, absence, and departure.

Consequently, the feeling of being watched, preyed upon, continued in our minds even when the surveillance itself stopped being visible. The physical surveillance had ceased, at least to our knowledge, but the psychological surveillance continued, looping endlessly in our minds, seeping into our routines, our conversations, and our silences. Surveillance, in this sense, lives in the body and the mind, long after the watcher disappears. The State did not need to jail us anymore because they had already managed to sever our ties to our community, family, and our own rational mind. Lauren Berlant (2007) refers to "slow death" as the ongoing wearing out of the body under oppressive conditions, where survival is taxing, mundane, and accumulative. Our escape became a new condition of slow death, indicative of not freedom but of the constant anticipation of harm.

We debated whether fleeing would make things worse. Whether it would be read as an admission of guilt. But guilt had already been presumed. In the logic of the PMLA, not answering a question "properly" was a crime. Silence was disobedience. Evasion was evidence. We realized we had already been criminalized. Survival, in this context, is deeply political. It is choosing to live, to speak, and to witness when the

system is built to silence. It is bearing the cost of exile in the hope that the story can still be told.

Escape, then, is not always defeat but also a form of refusal. Escape was a refusal to be humiliated on their terms. Escape is not just about going to another state or country, but about breaking the systemic walls that seek to trap you in, about demolishing the script that you have been forced into. Escape can come in the form of breaking your routine and fleeing your city, or also in the mundanity of following your routine and walking down your street without turning back or flinching. Under authoritarian fear, even the mundane becomes subversive. Every time I pack a bag now, I remember that day, not because of what we fled, but because of how we learned to flee.

PMLA Playbook of Political Persecution

Through the arrests, raids, surveillance, and prolonged incarceration, the State seeks to construct an atmosphere of deep-rooted terror to erode the will and courage of political dissenters. If they refuse to be broken by threats to their own safety, they are pressured and worn down by the weight of the pressure imposed on them by their family, friends, and community. The PMLA is, then, not just a tool of legal persecution but of psychological debilitation. The PMLA Playbook of Political Persecution has been standardized and perfected over multiple arrests of opposition leaders to the extent that it is predictable now.

Step 1: A police or CBI case with vague financial allegations is filed.

Step 2: The ED issues a summons. Whether or not the individual responds, arrest is imminent; non-response is criminalized, but so is perceived evasiveness during compliance.

Step 3: After arrest, the twin conditions of bail reverse the presumption of innocence. The accused must "prove" their innocence without a trial. The outcome is preordained: prolonged incarceration, psychological breakdown, and reputational ruin.

After an accused is arrested, the infamous "twin conditions" of Section 45 kick in. The accused must prove there are reasonable grounds to believe in their innocence, long before a trial even commences. Furthermore, they also have to assure the court that they will not be involved in a similar crime while out on bail. The legal fiction of "innocent until proven guilty" is set aside, and the burden of proof is reversed. The machinery of fear, however, continues turning while the accused is in jail. The officials continue to instill fear, this time in the person's families. The former home minister of the state of Maharashtra, Anil Deshmukh, who the ED also arrested, has spoken about how his 6-year-old granddaughter was also not spared during the "investigations" and was questioned for 30 minutes (Ujagare 2023). The PMLA Playbook applies equally to all, making no exceptions, not even for a child.

This Playbook has been endorsed by the judiciary – the Supreme Court of India held the provisions of the PMLA to be constitutional in the Vijay Madanlal judgment. In choosing not to delve into this now-routine persecution under the PMLA in the Vijay Madanlal judgment, the Supreme Court followed the long judicial tradition in India of

treating economic offenses as "a class apart." The Supreme Court has also previously expounded on how economic offenses are sometimes worse than murder[4]. The Court also observed[5], "tainted money breeds discontent in any society and, in turn, leads to more crime and civil unrest. Thus, the onus on the Government and the people to identify and seize such money is heavy. If there are any proactive steps towards such a cause, we cannot but facilitate the good steps." This classification of treating economic offences as especially detrimental to society resonates with the people who regard corruption as the greatest malaise afflicting the nation. The simmering anger toward rising corruption erupted in the India Against Corruption movement right before the election of 2014. It was this movement that Modi continued to capitalize on, terming his persecution of the opposition as a battle against endemic and systemic corruption. This move mirrors Lachapelle's (2019) idea of the "legitimation strategy of repression," where an autocratic State builds support for itself by targeting a particular group seen as being "dangerous." The PMLA Playbook, then, not only works in silencing the opposition but also in attempting to build support for the State.

The mere suspicion of financial wrongdoing, then, justifies an extraordinary and unequal crackdown. The term "economic offence," however, is very vague, especially after the insertion of the explanation in 2019 that expanded the scope of money laundering. The complaint amount in my brother's case that triggered the PMLA prosecution is Rs.500 (a little over $5), emphasizing my argument that absolutely anyone can be accused of money laundering. If you handle money, you can launder it.

[4] State of Gujarat v Jitamalji Porwal (1994) 4 SCC 524
[5] In Vijay Madanlal Choudhary v. Union of India and ors.

The focus of the ED on using PMLA as a tool of persecution is evident in their conviction statistics. According to the statistics presented by the Union Minister of State for Finance, Pankaj Choudhary, in Parliament on 27th July 2022, the ED conducted 112 raids between 2004 and 2014, as opposed to the 3010 raids conducted after Mr. Modi came to power between 2014 and 2022. According to an investigation by the Indian Express published on September 20, 2022, there has been a fourfold increase in cases against politicians since Mr. Modi came to power in 2014. About 95% of these cases are against opposition leaders (Tiwary 2022). Special Judge M.G. Deshpande, presiding over the Special Court trying PMLA offenses in Mumbai, while granting bail to a PMLA accused on 23rd December 2023, observed that even without being convicted of the crime, the accused had spent more than half the period of sentence (3 years and 6 months) in jail. The judge further observed, "Even if statistics of disposal of cases available on the official website of ED is considered as it is, in the last 21 years, out of 1,142 cases, hardly 25 cases could be disposed of, indicating that the per year ratio is 1 case per year in all over India**.**[6]**.**"

Similarly, on August 07, 2024, the Supreme Court bench of Justices Surya Kant, Dipankar Datta, and Ujjal Bhuyan highlighted the low conviction rate of the ED, observing that for about 5000 PMLA cases filed, there have been only 40 convictions in 10 years (Jain 2024). These statistics reinforce the argument that the ED and the PMLA have become puppets in the hands of the State, focused on using them for the persecution of political dissidents and opposition. The goal of the ED is, then, not to

[6] Rana Raj Kapoor v. Directorate of Enforcement (2020) 6 SCC 191

seek justice through prosecution but to silence through persecution. Additionally, under the guise of PMLA investigations, the State probes, examines, and surveils every single aspect of an individual's life.

This surveillance is not just a tool to gather information, but to exert control. There is vast scholarship discussing both the purpose and the effects of surveillance, how it curtails freedom, and how it leads to self-censorship. However, in the case of PMLA, self-censorship is not an effect of surveillance, but its purpose; not a byproduct, but the end goal. Once a person internalizes surveillance and regulates their speech, their thoughts, and their movement, the State no longer needs to exert control. Control has been absorbed into the self. Through this intensive and intimate surveillance, the authoritarian state collapses physical, emotional, and psychological spaces.

Gray (1982) suggests that the flight response is triggered as a fear response when the individual recognizes the danger and estimates that they lack the ability to fight the threat. In such situations, the person's instinct is to look for an avenue to escape or hide (Blanchard and Blanchard 1989, 576). Our own escape, then, was not just a logistical and legal necessity, but also a psychological one. In Gray's framework, it was an admission that we felt incapable of fighting the system. This kind of intense fear can lead to a "chronic" flight response, leading to social anxiety and PTSD (Barlow 2002; Buss 2009; Foa and Kozak 1986).

LeDoux (1998), however, has a different way of framing flight as a fear response. In his work, he refers to the movement from freeze mode to flight mode as a switch from autopilot to willful control. The first arrests, especially in the state of Gujarat,

had caught us off guard. It was an unexpected and overwhelming fear that triggered the freeze response: we did not know the right questions to ask, so seeking answers seemed impossible. After the ED raid, the situation was clarified greatly as a pattern had already emerged with respect to the agency. The script had become clear; the PMLA Playbook was common knowledge.

Novelist Milan Kundera wrote, "The greatest escape is the escape from the self." When the fleeing response is triggered by the state of extreme fear, an individual attempts to escape the aggressor or the source of the fear; however, when the mind is riddled with intense paranoia, it itself turns into the aggressor, continuing the process of instilling deep fear and panic. In such situations, when the mind itself turns into the torturer, flight becomes impossible, not because the State is chasing you but because you are chasing yourself. The State no longer needs to pursue you because you carry the prison within you. In this situation, then, the only real option left is to fight. Not because you hold high hopes of getting justice, but because the refusal to submit is the only remaining form of dignity. And so you gather what the fear could not erase – a passport, a scribbled note, a creased photograph – not as mementos, but as weapons of remembrance, proof that you were never just what they tried to reduce you to

Chapter 3

Fighting: The Suspension of Self

Double Jeopardy – meaning a person is punished twice for the same offence

Every supposed offence "against the State" suffers double jeopardy

There are two trials – in the Courts, and on Prime Time

Two detentions – Jail and the Prison of Hope

Two aggressors – the State outside and the state within

And a ceaseless battle.

Battles are often called storms. Apt.

But they are just as often old, creaking, rusty seesaws – Up and Down

Up and Down, Up and Down

The momentary euphoria when you go up; the sinking of your heart as you come down;

Up and Down

A jail is a completely different world – that would be a cliche if it weren't absolutely true. When you visit someone in jail, you do not do it for a conversation; you do it to be able to look at them – see how their face and body are gradually changing: hair growing, cheeks receding, clothes fading, appearance slowly turning gaunt. And then you go back home, shake your head, trying to remove that image and replace it with the face you knew before someone tried to take the happiness away from it, the eyes you knew before someone tried to take the hope away from them. To be fair, it is not possible to really see their eyes closely because they are standing about 5 feet away, beyond two layers of mesh grills.

All the inmates who have people visiting them are lined up beyond this layer of mesh, and on this end of it are the people visiting them. Everyone is yelling over each other to be heard on the other side, a cacophony of words, assurances, and warnings, which all eventually stop meaning anything, and you focus on seeing. When you cannot touch the person standing across you or hear them, you focus on seeing, imprinting the memory of their face deep in the recesses of your mind until you can see them again. The meeting is brief – about 10 minutes – and feels fleeting after a wait of about two hours. After the 10 minutes, the guards escort the prisoners back inside into a place where no rules of our world apply, rules about time, space, day, and night.

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You sleep on the floor, maybe on a single blanket. In the morning, a guard arrives at about 6 a.m., kicking you awake to make sure no one has died during the night. There are two bathrooms for about 70 people to use. There is no breakfast, save for a cup of

watery tea; lunch is a rock-hard roti that has to be submerged in water for a bit to be edible and some form of potato dunked in cooking water with spices sprinkled on top, almost like an afterthought. You still line up for whatever you are getting, and about four people share the food from one vessel. Drinking water comes from the taps in the bathrooms. Then, you are locked in until 3 pm, when you get about an hour in the yard, most of which time is spent lining up for your dinner, which you will save to eat later because the next meal will not come before 9 a.m. tomorrow. At the end of the day, you try to convince your eyes and your mind to ignore the bright, white lights, try to tell them that it is night, that the day has ended, because the lights are never turned off here. You lie down on the hard floor with about 8-12 people sharing a single small space, and try to cushion the hardness of life in jail with a flimsy blanket. The books that are sent inside must be censored, and the people censoring the books cannot spell "censor," so sending books in English becomes a problem. The jail staff also specifies that religious books are the only books they will allow. So, in the absence of anything else to do, you listen to stories. There is no dearth of those, like that of the boy who has been in jail for 4 months because he stole a packet of milk worth Rs. 35 (less than 50 cents). Another young boy has been in jail for about a year because he cannot afford the bail of Rs. 1000 (less than $12). That is what jail does – it turns you into yet another nameless, faceless, identity-less inmate. Just like every other inmate next to you. You might have had completely different lives and life trajectories that brought you here. But once you are here, none of those differences matter anymore – jail is a great equalizer.

The main struggle here, however, is to ensure you are not getting comfortable with the space, not trying to make it your own, and not trying to personalize the space that you are occupying. Because getting comfortable is the biggest enemy of hope. You are getting out. It is just a matter of a few days. You don't need to be comfortable here. You just need to survive this.

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This is the punishment faced by an undertrial – an individual who has not been found guilty of a crime. This snapshot of the daily life of a person in jail is a representation of the criminality that is being managed by the State, where the reality of the individual's life is subsumed by the different narratives across spaces – courts, media, society – that seek to hold them guilty. This chapter explores the "fight" response, not just as a legal defense but as a layered struggle along different registers – with the law enforcement agencies, courts, the media, the public, and one's own self. At the center of this struggle is the idea of the "reality." The court is the site of simulation, the media a tool of public punishment, and the carceral system itself is a site of dehumanization, each producing its own kind of fear.

In courts, the "reality" of criminality is constructed through files and documents where authoritarian power operates through form-filling, waiting, and silence. In the first section of this chapter, I use French philosopher Jean Baudrillard's (1981) theory of simulacra and simulation to argue that, in trying to construct an account of the truth, the court file creates a representation that completely replaces the reality outside the court, becoming a hyperreality. The truth in a courtroom is a bureaucratic

product – the "facts" that make it into the court file after a contentious collaboration, then, are the only facts that matter. This bureaucratic truth severs the legal truth from actual events, turning the proceedings into a fight against the erasure and distortion of one's lived realities. However, the quest to prove your innocence does not begin in legal courts but in the court of public opinion.

When cases are registered against political dissenters and opposition leaders, immediately after the arrest of an individual under PMLA, a trial is initiated: not in the court of law, but in the court of public opinion. Anonymous Enforcement Directorate (ED) "sources" begin leaking select bits and pieces of (mis)information to the media, which the media runs diligently without running any sort of a cross-check. The ensuing media trial with unverified bits of information coming from a single source (the ED) is meant to achieve one goal: to completely destroy the credibility of the arrested individual before they can manage to secure bail and present their side of the story. The second section of the chapter deals with media trials and the simultaneous constructions of multiple narratives – an individual's own truth, the truth of the courts, and the truth of the media. Arguing that the construction of narratives in media trials is founded on creating public spectacles, I examine how, contrary to Foucault's (1975) analysis of the shift away from public punishments, even today, the State continues to recognize the importance and functionality of public punishments, causing it to rely on these media trials to serve as a deterrence to political dissenters. Tracing the evolution of public judgment, I examine how it culminates in the spectacle of media trials and the weaponization of shame.

The disconnect between narratives constructed by the courts, media, or society and the lived experiences of the people involved creates not just a philosophical or sociological problem but a profoundly human one, with psychological, emotional, and neurological costs that echo long after the legal process is over. The last part of the chapter focuses on the fear response of fighting. This fight, however, is not just external resistance but the psychological struggle against despair, erasure, and fatigue, while fulfilling the condition of suppressing these emotions to maintain a rational, balanced exterior. The fight is, then, not just legal or public resistance, but also a neuropsychological condition – a duality of internal struggle and external stoicism. Emotional suppression is both a coping mechanism and a site of harm in the legal process.

The difference in life's realities and the stories woven in the courts, both legal and the court of public opinion, creates a dissonance that profoundly affects an individual involved in the legal system psychologically and emotionally, and may result in long-lasting psychological and neurological changes and trigger chronic issues like depression, dissociation, and PTSD. The dissonance worsens when the mundanity of the court proceedings is faced simultaneously with a dramatic and larger-than-life media trial.

Throughout this entire experience, while an individual hopes for favorable court orders, delays in court hearings coupled with sensationalist media trials and social consequences lead to an ebb and flow of emotions. The mundanity of this hyperreality, necessitated by and created through files, is contrasted by the feeling of

exceptionalism and momentousness that an individual feels in court, where every hearing can make or break your life – there is a constant internal tussle between the feelings of hope and despair. A creaky seesaw of rusty emotions – up and down.

Court Files: The Assemblage of Half Truths

The road to court begins in cramped rooms where power resides in absences – absences of comfort, of relief, and of stamp papers. Courts require piles of carefully worded documents, and many of these documents need to be notarized. A notarized document is one that has been verified by a designated notary and can be used in court. The notary, on their part, is meant to verify the signatory's identity on the document, ensuring that the document was signed in front of the notary and also attesting to the mental capacity of the signatory.

I enter the cramped office of a notary in the blistering heat of 2 pm on a May afternoon. The office's interior is divided into two sections – one is the personal cabin of the notary, and the second is a waiting area outside for people visiting. The waiting area, which is a space of about 10x10 feet, also includes a table for the notary's assistant and a huge printer copier, leaving a space of 2x4 feet for two small plastic chairs. A middle-aged, slightly balding, frail-looking man wearing a faded but neatly ironed beige shirt and grey trousers sits in one of the chairs; I remain standing. He informs me that the notary is busy and assures me that he will be free to meet with me soon. He is unusually kind and clearly trying to be very reassuring. I am restless because the documents need to be notarized immediately, and if this notary is not

available, I will have to find another. The thought of walking around in the heat to find another notary makes my stomach twist tighter.

There is a slight smell of *samosas* in the waiting room, and my stomach rumbles. I remember I haven't eaten anything since last night. I've been here about 10 minutes, but still feel incredibly hot. I glance up at the air conditioner on the wall to see what temperature it is set at and realize that it is turned off. I figure it might be because there was no one waiting until I arrived. I look at the other man waiting there as he wipes his forehead with a crisp, white handkerchief. I wonder if I should ask someone to turn on the air conditioner or do it myself. As I am thinking, I glance up again at the unit and see a red tape on it: the air conditioning unit's air ducts have been taped shut so that no one can turn it on.

My watch buzzes – another high heart rate alert. I make a mental note to turn them off; there are way too many of those coming these days, and every time my watch or phone vibrates, I scramble to check it, thinking it is the lawyer. I feel the restlessness turning into something closer to panic, wondering what the notary has been doing for so long and if I should start looking up other notaries in the area, try to salvage this collapsing day. Just then, a young girl walks out of the notary's cabin with empty, disposable containers with some leftover greasy corners of a *samosa* and dregs of some fragrant tamarind *chutney*. She looks at me and turns on the ceiling fan, the sudden loud whirr of the old, rickety fan startling me unreasonably. Through the now-open door of the cabin, the notary looks at me. He is an old, gentle-looking man with a thick white mustache and gray hair. His shirt has some crumbs of the *samosa,*

but apart from that, he is neatly dressed. He points to me and asks, "*Aapka kya hai, beta?"* (What is your work, child?). I tell him I am here to get some documents notarized. He nods and gestures for me to wait.

Meanwhile, the young girl who turned out to be his assistant (and his granddaughter) is speaking to the man waiting with me. "*Aaj aapka nahin ho payega. Stamp paper nahin hai* (your work can't be completed today. We are out of stamp papers)," she tells him. The man gets up, flustered, saying it is essential for him to submit the documents today. The girl nods, calls a number, and waits. A few moments later, she tells him that the person they procured the stamp papers from is not answering his phone. The man is visibly panicking by now, "I really need the documents today," he repeats. After a few minutes of the girl saying she can't help him today, and the man insisting that he needs the documents, the girl asks him to come back in a couple of hours and check. The man relents and leaves. It's a polite way of asking someone to disappear. Even though I am not a part of this conversation and know nothing about it, I know that the girl only asked him to return after two hours so that he would leave now. I also know that the man will not return in a couple of hours, but he will now go out and look for another notary. And somehow, in that small, quiet defeat, I feel a sudden solidarity with this stranger: we are just two people trying to make the system work for us.

These tedious but immensely essential certifying processes are just a part of everything that goes behind what is eventually witnessed in court; long before you get a chance to speak, you are already tired. Once the legal process is initiated, winning a

battle in court is not the most immediate concern, but the things you need to get through before you get your proverbial "day in court" make the process the punishment. By the time you go before a judge, the documents have already started speaking for you, telling your story, but not in a language that you speak.

File as a Simulacrum

The primacy of the "file" has grown to an extent where a life without files, "a life *off the record*" (Vismann 2008, 1; emphasis in original), has become inconceivable. This move from the oral legal culture to the written law has been the subject of research by numerous legal historians. Written legal procedures and the existence of the "file" are the result of an ideology that believes the written word ensures accountability (Hull 2012; Raman 2012). In courts, writing also serves a practical function – since trials can often span years or even decades, a file acts as a bridge, facilitating the passing of "facts" and allowing a judge to pass a judgment on matters where the testimonies were recorded by another judge (Suresh 2019, 175). The existence of the file also contains the evidence of a complete history, with "comments, annotations, and marginal notes contain[ing] the traces of past struggles over political decisions and other such matters" (Vismann 2008, 8-9).

The idea of a "file" holds a central place in the law and legal processes, producing its own world of "facts" (Dery 1998; Tarlo 2003). Vissman (2008) argues that files create three factors on which the law is based – truth, state, and subject – by bringing into existence "the notions of truth, the concepts of state, and the constructions of the subject" (xii). In his ethnographic study of the trial of terror cases in Delhi and the

creation of a court file, Suresh (2019) demonstrates explicitly how files and documents are the instruments for producing the "truth" in a court (175). In doing so, he highlights the gap in Bruno Latour's (2010) ethnography of France's Conseil d'Etat, where Latour tracks the file's movement in the court and the processes through which facts are reflected in the court's documents but does not engage with the processes through which these "facts" themselves are "constituted by the file" (Suresh 2019, 177); Latour focuses on a court of appeals where the file has already come into existence, as opposed to the lower court where the "file" came into existence. Focusing on the movement of the file while overlooking its creation risks portraying the file as a passive container of evidence. Court files are, in reality, active producers of the "truth." However, as decisions are made and histories constructed on the basis of what is in the file, if something does not make it to the file, it does not exist. In arriving at a decision, the judge can only consider the "facts" that have managed to make their way into the court file of the case.

The court file includes submissions from both prosecution and defense, along with their respective objections and counter-arguments. The court file is, therefore, "a product of contentious collaboration between the prosecutors, the judges, defense lawyers, and at times the accused persons themselves" (Suresh 2019, 187). While the accused may offer testimony or file written statements, their contributions to the file are mediated by lawyers, translations, jargon, and procedures, compressed into the bureaucratic form of the file. This process of the construction of the file is "contentious" considering the fact that the contents of the file are shaped through

extensive and often adversarial negotiation, and it is "collaborative" because all parties involved contribute to the building of this file, pushing for the inclusion of an increasing number of documents to the record. Which "facts" make it into the court and files and which ones do not is, thus, critical.

However, not everything that happens in court makes it into the court file in the same manner. For instance, Suresh (2019) describes how, in the trial for a terror case in Delhi, the single witness, on whose testimony the accused was arrested for planting a bomb, could not identify the accused in court. The police officer, at one point, tried prompting the witness and was asked to leave the court. However, while the court file noted that the witness could not identify the accused, it did not mention that the police officer tried to prompt the witness (24).

Similarly, unlike in the trials we see in film and television depictions, recording a witness statement is often not in a question-and-answer form. When the witness is asked a question, the witness responds, and then the lawyer or judge dictates the witness's answer to the court stenographer. Furthermore, this process of questioning is often not recorded as a question and answer but in the form of a narrative (Suresh 2019, 187). This process sometimes also involves translation from one language to another, leading to multiple interpretations and nuances either being added or missed in the translation process, raising questions about the "facts" that do make it into the court file. Basu (2015) recorded what she calls the "dizzying linguistic intricacies" (68) in her work at the Kolkata Family Court. In the cases she observed, the judge often listened to people answering questions in Bengali or Hindi. She then translated

and summarized their responses in his own words, even in cases of cultural practices and events that escape easy translations into English. These summarized translations formed a part of the court file (ibid. 68-73; see also Berti 2010 for a discussion on translations in courts in Himachal Pradesh, India, and Ng 2009 for an account of bilingualism in Hong Kong courts).

There are also certain witnesses whose statements must be on the record for a formal rather than substantive reason; that is, their testimonies are not a matter of contention. As an illustrative example, Suresh (2019) indicates the testimony of a medical examiner in a terror attack case. In this case, an auto-rickshaw driver was injured in a blast. The fact that the driver was injured was not debated; hence, the medical examiner's testimony was a mere formality (187–188). Suresh describes how these "pro forma witnesses" often do not say anything more than their names in court, with the substance of their testimony prewritten and dictated by the lawyer or the judge (187). These testimonies are typically based on previously submitted written reports or records and submitted in court as a procedural necessity. These testimonies, however, are still incomplete until the judge and the witnesses sign and certify them.

The "facts" of a case are, thus, not merely produced by being a part of the court file but also by being subjected to various certificatory processes – signatures, notarization, stamps, identification, and seals (Hull 2012: 162-209). In the absence of certification, the record in question cannot be considered a part of the "facts" contained in the file. For instance, if a witness does not sign their testimony, the judge cannot rely on it when making a decision (Suresh 2019, 198). Suresh (2019) and Basu

(2015) discuss cases that are different in nature (criminal and civil) and in two different courts on two opposite sides of the country (Delhi and Kolkata). However, the processes of creating facts through court files, the recording of evidence, and the certification procedures are standard across all cases in the courts of India.

The court's entire procedure indicates two things: first, the court file is not a transparent record of what happens in the court. It selectively omits, translates, and reframes what occurs. Second, the "truth" of the court file does not derive from empirical authenticity, but from bureaucratic rituals of certification – signatures, seals, stamps.

Jean Baudrillard's (1981) idea of simulation and simulacra is particularly useful in thinking of the break in reality experienced by individuals embroiled in the legal system. In his conception, simulacra are representations or copies of things. These representations, however, have taken on a reality of their own and no longer refer to any original or "real" object. Instead, they are self-referential, existing within their own creations of meaning and symbolism, detached from any external reality or origin. Similarly, in the case of legal processes, as seen above, the court file creates the "truth." What is not in the court file does not exist. For instance, in my brother's case, the key motivation of political persecution was never a part of the arguments in court, and the case was argued purely on its merits (or the lack thereof).

Through the creation of the file, the court creates an assemblage of fragmented, often incompatible, versions of the truth, stitched together in a form that appears coherent but holds no resemblance to lived realities. Once produced, the court file is

self-referential, detached from the real world, since the judge can only arrive at a conclusion based on the information in the file. The file is, thus, detached from any external reality and origin; "the simulacrum is never that which conceals the truth—it is the truth which conceals that there is none. The simulacrum is true" (Baudrillard 1981). Examining the processes of the creation of the court file in light of the four stages of simulacra, I argue that the court file is a simulacrum.

There are four stages of the simulacra. The first stage is a faithful, clear, and accurate representation of a "profound reality" (Baudrillard 1981, 6). The second stage is a perversion of the profound reality, which is obfuscated by distortions. The reality, however, is not entirely masked and continues to exist under the contortions, and the existence of this reality is evident. The third stage, or what Baudrillard calls the "order of sorcery" (Baudrillard 1981, 6), is where the simulacrum claims to be an accurate copy, but it is a copy with no original. So, the distinction between the real and the copy is erased. So, while the simulacrum claims to represent something, the thing it represents does not actually exist. The fourth stage consists of pure simulacrum: a representation that has no relation to any reality and does not claim or pretend to be a copy of an existing original. The simulacrum becomes the truth in its own right, creating its own reality.

Legal processes are initiated once the petitioner (either the prosecution or the defense) files their case. This filing is meant to depict, to the best of their knowledge, the faithful, clear, and accurate representation of a "profound reality" that they aim to establish and prove in court. In the second stage of the legal process, the opposing

side gets to file their rejoinders, calling into question the "reality" as described in the petitioner's case. Through the statements and counter-statements, arguments and counter-arguments, reality keeps getting contorted and obfuscated. Nevertheless, the differing accounts of the truth are still based on the foundation of specific facts that are not called into dispute by either side. The reality, then, still exists under the distortions.

Once the court file is created after the arguments and counter-arguments, though it claims to be a representation of the events that took place in reality, it is a copy with no original. The version of reality created in the court files is arrived at after significant debate and contention and does not represent a singular, profound reality. Rather, it is the outcome of legal strategy, jargon, distortions, bureaucratic necessities, and evidentiary linguistics. Elements that cannot be easily translated, like political motivations or emotional trauma, are excluded, and other elements, like non-availability of some documents, are amplified to suit narratives, in a move that Baudrillard calls the loss of referent. The symbol has replaced the original entity, becoming more authoritative than the original.

At the final stage in the legal process, the judge is left with the court file, which has become its own truth and reality. This reality, constructed through documents, certifications, testimonials, and legal language, replaces the original to the extent that the judge can only rule based on what is in the file. While judges may be aware of political factors at play, alternative realities surrounding the case, or even facts that did not make it into the file, they are procedurally constrained to rule only on the

basis of what the file presents. This erasure is not accidental; it is a structural feature of legal simulation, where the creation of the legal reality becomes a political act of depoliticization. What is not in the file does not exist, and no reality exists beyond the file.

"Source"d Truth: The Assault of Sensational Narratives

My mother is having a conversation with a childhood friend of hers. It has been about three months since my brother was sent to jail, when we thought it would not take more than three days to get bail; she needs someone to talk to, and the choice of people she can trust is slim. My mother's friend and her husband are lawyers, and my mother will turn to absolutely everyone who can provide even a sliver of hope. The television is blaring in the background, with the participants in the "debate" yelling at each other to an extent where it is hard to understand what they are trying to say. Once I realize the discussion is not turning up any new advice, nothing that we are not already doing, I turn my attention to the television, wondering if the people in the debate will end up assaulting each other on national television; it definitely wouldn't be a first. My attention is brought back to the conversation by my mother's friend's son asking her why my brother is in jail. "What has he done? Why did they put him in jail like this?" he asks. "There is no smoke without fire" was a recurring, unsaid implication in many conversations with people through that time. Before either of us can say anything, my mother's friend responds, "Because he wanted to be a hero." The derision behind the words could not be masked by the high-pitched attempt at sounding humorous. The debate participants continued yelling over each other on the

screen, full of outrage and empty of meaning, but not loud enough to silence the screaming in my mind.

There were numerous other instances through that period when people did not hesitate to make their thoughts known to us in no uncertain terms. Everyone skirted around direct questions about the situation, instead asking, "How's everything going?" even when my brother's news was blaring on the televisions in their homes. We'd become spectacles, personally experiencing the rubbernecking toward the wreck in our lives – strangers watching, commenting, speculating; our fear was a social media trend. In no small measure, news media and social media facilitated and enabled this voyeurism.

Viewer Society

Jeremy Bentham (1827), a late 18th-early 19th century British jurist and philosopher, believed that trials need to be conducted in full public view to guarantee accountability; he argued that making the proceedings of the courts public and exposing them to public inspection is the surest guarantee of justice. Public trials can ensure that there is no judicial bias or misconduct. In fact, Bentham believed that these public hearings would also help show that defendants were treated fairly and were accorded their due rights. This increased accountability and transparency would lead to a fairer society. However, with changing times and especially with the advent of mass media, Bentham's radical views and his advocacy of public trials have been subjected to much scrutiny and critique. The foremost critique of public trials is that they go against the fundamental legal maxim of the presumption of innocence. When

a trial is conducted in full public view, it can lead to public shaming and create a prejudiced environment for an individual even if they are acquitted of the crime (see Hart 1961; Macaulay 1843; Postema 1986; Waldron 1999 for a critique of public trials).

While Michel Foucault (1975) does not focus on public trials, his analysis of the evolution of punishments from public spectacle to internalized discipline can be relevant in the context of public trials. He argues that highly visible punishments, like flogging and public executions, were not merely about justice but also about establishing the dominance of the state. Over time, these public displays of power and punishment were replaced by more institutionalized settings of inculcating discipline, like prisons, hospitals, and schools, where increased surveillance and normalized control substituted the theatrical violence of punishments. The shift away from visible torture, according to Foucault, signaled a penal system that was focused on instilling authority over the mind of the individual, making it a more effective form of control. Public trials, similarly, were replaced by more institutionalized, administrative, and bureaucratic exercises of legal power that are exerted behind the closed doors of the court, signaling a shift from sovereign power to disciplinary power where individuals are no longer (visibly) tortured. Public trials, however, made a return with the advent of mass media.

Foucault uses Bentham's idea of the panopticon, where the few see the many, applying it to modern surveillance and arguing that the panopticon creates a culture of discipline where the people being surveilled begin a form of self-censorship and

self-control even when they are not being observed. Thomas Mathiesen (1997), however, argues that we live in a "viewer society," which is not just a panopticon but also a synopticon – where the many watch the few, establishing the continuing importance and relevance of public spectacles that, according to Foucault, had already been rendered obsolete and replaced. Mathiesen argues that the creation of disciplined individuals who exercise self-control is achieved by the synopticon, not the panopticon. Where Foucault saw spectacle giving way to bureaucratic discipline, Mathiesen sees spectacle returning — not from the state above, but from the public below.

Media trials can be a very effective example of synopticon – many watching the few. This viewer society creates a new form of power dynamic where individuals are subjected to discipline and control not just by the authorities (the few) but also by the public at large (the many). Media trials transform into a public spectacle where everyone forms an opinion about the truth, becoming active participants in the adjudication process. The masses' judgment of guilt or innocence is then pronounced through social media comments, posts, and even through the viewership ratings of the news media. These judgments can become as important as (or, in some cases, more important than) the verdicts in courts, having a profound impact on an individual's life and future. As the famous adage goes, "The internet never forgets." Even after being exonerated of all crimes, individuals continue to suffer the consequences of the judgments passed in the court of public opinion.

The Faceless Enemy

The power of media trials is what makes them an essential weapon in the State's arsenal. The media plays an essential role in shaping public perception. In courts, the prosecution is limited by legal procedures regarding what information can be proven and, hence, produced as evidence and what information cannot. Furthermore, whatever information is tabled by the prosecution can be thoroughly questioned and countered by the defense. These systems and checks do not exist in media trials. The media can make claims and level allegations without being subject to the requirement of providing evidence to back their allegations. Taking advantage of the free rein that media trials enjoy, unnamed prosecution "sources" leak unfounded information to the media, which the media then runs as news. These bits of information, often untrue and always without context, are used to create a narrative that triggers mass judgment.

If courtroom trials are based on court files built out of contentious collaboration, media trials are based on a convenient collaboration between investigating authorities and the media. Rajagopal (2009) argues that there is a "new symbiosis between the police and the media" where stories scripted by the police are run by the media as "news," providing a "win-win proposition for both" (20). Unlike the investigating agencies, which could freely plant news through unnamed sources, the accused are often constrained. Most importantly, if the accused or their family do speak out, the news is not attributed to "unnamed sources" that cannot face legal penalties. Speaking out, then, risks the violation of sub-judice norms. Furthermore, any statement given is

open to being distorted and pulled apart. With the rarity of libel suits in India, media houses being backed by large conglomerates, political patronage for the media, and lax regulatory enforcement, the media is further emboldened to peddle insinuations as news.

The role played by the media in shaping public opinion through bits of information selectively presented in a particular manner is called the framing effect. The framing effect deals with the idea that the way information is packaged and presented to viewers shapes their opinions and ideas of right and wrong in a media trial. Framing is less about "what" information is presented and more about "how" the particular information is presented. The idea was first introduced by Erving Goffman (1974), who argues that "frames," or the structures that give meaning to an event, configure our understanding of the world and control how we interpret social situations. Through these frames, individuals hone in on specific aspects of a situation, which influences their interpretation of the event.

This concept of the framing effect was further developed by Shanto Iyengar (1990) in the context of political communication. He argues that the media does not just tell people what to think about, but also how to think about it. By deliberately framing information in a certain manner, emphasizing certain aspects and omitting others, the media shapes public attribution of responsibility, moral judgment, and political behavior. The media's framing of a political issue as a "crisis" can compel a sense of urgency in the viewers as opposed to situations where the same issue is framed as a "routine problem." For instance, excesses by the police can be framed either as

“brutality” or as “misconduct,” evoking differing responses regarding the urgency and importance of the situation from the viewers. The use of statistics may also facilitate this differential framing. Consider a situation where the number of violent crimes in a region goes up from 2 to 4, against a city average of 8. Even though there is an increase in violent crimes, it is still less than the city's average. However, the increase can also be framed as a “100% rise” in violent crimes, triggering a different reaction from the viewers.

This framing of narratives can be observed in the coverage of cases involving political opposition leaders. It is a routine procedure, for instance, that judicial custody of the accused is ordered for a period of 14 days. At the end of that period, the accused is produced again in front of a magistrate, who extends the custody by another 14 days. This procedure has been put into place in order to prevent cases of custodial torture and harassment and to increase accountability. The extension of custody at the end of the 14-day period is automatically granted without argument and continues until the incarcerated individual applies for and obtains bail. Bail proceedings are separate from these custody proceedings. However, in political cases, the media runs the news of every custodial extension as a “huge setback” or “another setback” for the accused individual, forcing an interpretation that the individual is repeatedly not getting relief from courts, compelling viewers to assume that there must be some substance to the allegations leveled against them.

By tailoring the language, visuals, and information of an event closely, the media thus creates a narrative that can drastically change the way people understand and

consequently respond to those events. This media trial carries on in full view based on "leaked" information from the State and prosecution, while the proceedings in the court limp along for months away from the eyes and attention of people. "Leaked information" is particularly effective because it gives the appearance of truthfulness. In political processes, these leaks introduce suspicion without scrutiny – you cannot discredit the source if you do not know the source. The primary purpose of the State at this time is not about seeking a conviction but about setting a narrative in the minds of the people that would hamper the image and, consequently, the mass public support for the work of leaders in the political opposition.

According to Jürgen Habermas (1974), the public sphere facilitates rational debate that empowers citizens and holds institutions accountable. Media trials, however, displace rationality with sensationalism. Presenting partial information, dramatic snippets, and aggressive allegations, the news media "manufactures consent" (to use the term of Herman and Chomsky 1988), rather than soliciting it. This attribution of culpability built by a compliant media gestures to what Didier Fassin (2018) calls the moral economy of punishment, where public judgment is shaped not only by facts and evidence, but by emotional responses and political narratives.

While the courtroom turns the exceptional into the mundane, the media turns the mundane into the sensational. To amplify the seeming magnitude of the issue, the news media indulges in what Websdale and Alvarez (1998) call "forensic reporting," which is telling more and more about less and less. The curious case in point is the seemingly important issue of how many mangoes the Chief Minister of Delhi, Arvind

Kejriwal, ate in jail. For over two weeks in April 2024, right before the voting for the election commenced, prime time news focused on whether the Delhi CM ate mangoes, whether that was a ploy to spike his blood sugar so he could get bail, and also if he had gained weight in jail. All the allegations were levelled by "sources" in jail. As Jean Baudrillard (1981) observed, "We live in a world where there is more and more information, and less and less meaning."

Unlike these entertaining reports, court proceedings are boring, tedious, and feel like nails on a chalkboard. The dramatic flair in arguments, the gasp-inducing surprises, the theatrical performances by lawyers, the quest of the judge to get to the truth of the matter at all costs, and the ultimate delivery of overnight justice only exist either in media depictions of courts or in trials conducted by the media at prime time. In the real world, with political cases, these two trials – the sanitized courtroom trial and the dramatized media trial – both happen simultaneously. While the former is restricted due to its space, access, and intricacies of legal language, the latter is framed in a way that can be comprehensible and, often, even entertaining for the masses watching the news.

The battle, then, is of narratives and hinges on who can paint a more convincing picture, both inside and outside of court. Within the court, the truth is the narrative that emerges through "certificatory correctness of humble sheets of paper" (Suresh 2019, 200); juridical truth, therefore, is not about finding "what really happened" but about what you can prove (ibid). Through the long, tedious, and painstaking process of putting together the court file through agreement and contention, the two sides

involved in the court battle recreate a version of the outside world and its realities, in the process, producing a narrative of the world (ibid., 25). Scholarship on socio-legal practices has a long history of emphasizing the importance of narratives in legal proceedings and decision-making (Ewick and Silbey 1998; Mertz 2007, 79–82; Scheffer 2010, 1; Twining 2006, 286–292).

Similar to a court file, the media narrative in these cases is a simulacrum that eventually replaces reality completely, with the people at large passively absorbing the images, frames, and bits of information provided to them by the media. In this case, there is no contention or negotiation in the creation of the narrative. The narrative is created solely by the frames that the media decides to construct for the event. As the phrase popularized by Lee Atwater, the highly controversial American political consultant and strategist, goes: "Perception is reality." In political communication, how people perceive and interpret a situation is as important, if not more important, than the reality of that situation.

Order in the Court: On the Illegality of Emotion

It is 3 pm, and we have not yet received an order from the court. My mother quietly clutches her aching back; this waiting, sitting on uncomfortable benches, and the peaks of anxiety are taking a massive toll on her. But she needs to be here because she is the signatory on the surety that my brother needs for bail; the person who stands as surety must be a property owner[1]. This nightmare is going to end today after almost 5

[1] Bail surety is an individual who takes responsibility for an individual out on bail, guaranteeing the court that the accused will appear for the case when summoned by the court. The requirement of property ownership ensures that the surety has a

months of physical, mental, and emotional twisting and wrenching: my brother has finally gotten bail in the last two cases, and will be leaving jail once we get the bail order from the court. But the order needs to come before 5 pm for us to be able to go and submit the papers at the jail to get my brother out tonight. There is hope and the fear of hope lest it be followed by disappointment. This is the final step.

A little before 4 pm, the judge says he cannot process the bail order today. The judge who is meant to be handling the matter is on long leave, and the current judge is just temporarily handling some of his cases. He says we need to return after the judge who is in charge of my brother's case returns from his leave. This is more than my mother can take, and she bursts out crying in court. The lawyer quickly escorts her out of the court, fearing that the judge will charge her with "contempt of court" for the sudden and unwelcome display of emotion. Once my mother leaves, the court reverts to its regular atmosphere of sanitized decorum. Order is restored. The court labels uncontrolled emotion as contempt – a telling word. Her anguish, too loud, becomes a threat to legal authority.

Her crying was a rupture in a system that demands emotional sanitization. In a court, affect must be subdued, even when the stakes are life-altering. Legal anthropologists have argued that this enforced detachment is a form of systemic power that controls how grief or fear can be expressed in public spaces (see Riles 2006).

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tangible asset that the court can claim if the defendant fails to appear before the court for hearings.

Dissonance and Suppression

Irrespective of how serious or trivial the charges may be, the legal system imbues the processes with an ordinariness and mundanity that is in stark contrast to the personal crisis experienced by the people who find themselves in court. When an individual's case is converted into a court file, their life is reduced to legal language through technicalities and evidence that fail to capture the nuances of their life, actions, and emotions. While aspects and parts of a person's life surrounding a particular day or incident are intensively debated and examined in the course of a court case, these aspects are in isolation – parts taken away from the whole of life. This difference between life's realities and the court's realities creates a dissonance – a split between what is experienced and what is documented – that not just shapes the nature and contours of the case but also affects the involved individuals on an internal level. In these situations, people embroiled in the legal system are forced to live two lives and inhabit two realities: legal and personal.

There is a constant internal struggle between the knowledge of being innocent and the legal battle that hinges on proving the individual guilty, leading to a struggle with the sense of self. This duality causes deep internal conflict. Individuals often find themselves caught between the knowledge of their own innocence and the weight of legal narratives designed to presume guilt, creating a rupture in their sense of self. In what Veena Das (2007) refers to as "the descent of the State into the everyday," such ruptures make the bureaucratic violence intimate, mundane, devastating. The cognitive tension created by the dissonance may result in long-lasting psychological

and neurological changes and trigger chronic issues like depression, dissociation, and PTSD.

Tanya Luhrmann's ethnographic work (1989) demonstrates how people's emotional and mental states are configured by institutions and bureaucracies. In legal settings, people are required to perform rationality and emotional control even while experiencing internal distress and terror. Luhrmann refers to this regulation of emotion as "interpretive drift," that is, a shift in a person's interpretations of their own experiences over time to align with a new frame of reference and institutional norms. Over time, this drift reshapes people's emotional realities, aligning their internal responses to institutional expectations, often at the cost of authenticity and mental health. In the legal system, the interpretive drift manifests as a break between the inner trauma and the outer performance of control. Witnessing court proceedings was always a surreal experience – heightened emotions, anticipation, and mustering the courage to hope, only to unravel completely on not getting a favorable outcome. I was crumbling, but the court proceeded to the next case, and the next, and the next. How was the world functioning so normally? Continuing in its own bureaucratic rhythm, the hum of the machines of "justice" is almost audible, echoing in my blank mind. This is the dissonance: an internal catastrophe coexisting with an external calm.

As Allan Young (1995) notes, trauma is not simply a neurobiological injury—it is culturally produced, classified, and legitimized through institutional logics. The psychological dissonance is also what the literature on trauma refers to as fractured subjectivity (Boyne 1995) – where a person's sense of self and relationship to the

world are increasingly disrupted. Veena Das (2007) similarly argues that this disruption is not a singular event but a slow invasion of the everyday where the trauma bleeds into the mundane. In discussing his concept of structural violence, Johan Galtung (1969) questions the need for verifiable bodily harm to qualify as violence, arguing instead for the inclusion of the violence done to mind or psyche.

The mundanity of the legal proceedings took a deep emotional toll on us, making it impossible to regulate emotions or their expressions after a point in time, and leading to situations like the one above, where my mother began weeping in court against her best judgment. This "mundane violence" is similar to the slow violence described by Rob Nixon (2011) in his discussion of environmental degradation. Slow violence is the violence that occurs so gradually that it is not always visible, growing incrementally across time – a violence that is not seen as violence at all. The mental assaults of the legal proceedings broke us down, one hearing after another, in an invisible violence that seemed impossible to articulate, rupturing our delicate tether to reality.

This rupture is worsened by the court's demand for "decorum," which translates to suppression of all emotional expression. Emotions are a culmination of the "wisdom of the ages" (Lazarus 1991, 820), coding the solutions to recurrent problems into an individual's instincts. In other words, the fact that certain situations evoke specific emotions is an evolutionary survival mechanism; our brains do not have to learn triggers of fear and trauma through trial and error because they are coded in our systems – we do not need to suffer a burn for fire to trigger fear in our minds. Our

well-being, therefore, is "inextricably linked to our emotions" (Gross 2002, 281). However, while emotions are an evolutionary mechanism for survival and are unavoidable, the expression of those emotions is often regulated. Emotion regulation is the process by which "individuals influence which emotions they have, when they have them, and how they experience and express these emotions" (Gross 1998, 275).

One extensively researched form of emotion regulation is expressive suppression, which means the effort to minimize or decrease the expression of emotional behavior (Gross 2002). As research indicates, however, though expressive suppression decreases observable behavior, it, in fact, increases the body's physiological responses to the emotion (Goldin et al. 2008). Consequently, when it comes to positive emotions (which, in the case of court proceedings, would translate to favorable rulings or developments), expressive suppression leaves individuals with a lessened sense of positivity.

On the contrary, when it comes to negative emotions (like adverse orders or prolonged delays), expressive suppression leads to a heightened feeling of negativity because not only is the body's physiological response to the emotion increased by suppression, but they also have to deal with harrowing feelings of inauthenticity. So, while the situation that triggers the emotion of fear and anxiety continues to pose the same amount of threat, the suppression of the expression of this fear increases the internal experience of the emotion of terror. In the longer term, expressive suppressors have "lower levels of self-esteem, are less satisfied with life, and have more depressive symptoms" (Gross and John 2003). In anthropological terms,

emotional suppression can be understood as a form of performance demanded by legal norms. The court is the stage where people are required to enact composure and credibility. There is, then, the pressure to not just prove innocence but also to perform it – a form of affective, emotional labor (Hochschild 1983) of managing feelings to fit socially acceptable standards.

Research on expressive suppression by Richards and Gross (1999, 2000, 2006) also concludes that repeated emotional suppression significantly impairs memory as much as deliberate distraction. Anthropological and ethnographic work on trauma has long examined memory after traumatic experiences (Arnold-de Simine 2018; Ball 2021; Caruth 1995). In situations where emotional suppression is a requirement, trauma seeps into the body and results in dissociation and gaps in memory, looking for ways of expression (Connerton 2011; Seeley 2018).

This means that for people involved in legal proceedings, as for us, it becomes difficult to remember details of the time that was ironically the most significant and momentous, furthering the dissonance we were already grappling with. Even after the threat has passed, it becomes hard to reconcile with the blanks in memory associated with the period, rendering the momentous as mundane in the world of the law, as well as in our own minds. There is, consequently, a break in reality where we are forced to question which one of the situations actually exists: the tumultuous one they are experiencing internally or the mundane one taking place in front of our eyes. This tension between the internal and external realities often results in what Laurent Berlant (2011) calls the promise of justice, which obscures the violence of its pursuit.

The law offers a promise of justice, but, in turn, demands emotional sanitization, detachment, and silence. The erosion of self through this process is subtle and almost invisible, but deeply violent – a psychological incarceration.

Strategic Hope, Systemic Despair

The brain, pushed into emotional dissonance, attempts to find ways to explain dissonance, leading to a further heightened state of fear. The gap between internal devastation and external normalcy lends to fear that feeds itself, becoming insurmountable. With a fundamental rupturing of the sense of self, the mind seeks to make sense of the despair, to explain it, even if that explanation is based on fabricating new disasters. Prasad (1950) studied the massive earthquake in Assam, India, in 1934. In the study, he described how the majority of people who were affected by the earthquake predicted even bigger disasters in the near future.

Based on this study, Festinger (1957) concludes that, as opposed to being "anxiety-provoking," these rumors and beliefs were "anxiety justifying." The earthquake had already left people scared and anxious, and the prediction of future disasters gave them something concrete to be scared of, providing people with the "information that fit the way they already felt" (vii). He argued that when an individual is experiencing dissonance (or emotional inconsistencies), they will be psychologically motivated to reduce the dissonance and achieve consonance (or emotional consistency) (ibid., 3). Despair, thus, leads to further despair, and fear triggers anxiety about other possible or improbable (or even impossible) scenarios

that cause more fear. It threatens a person's ability to even gauge what is a real threat and what is a threat created by their minds as a justification for their deep-seated fear. Rumination, that is, the deliberate focus on feelings and their consequences, increases negative emotions (Bushman 2002; Morrow and Nolen-Hoeksema 1990; Ray, Wilhelm, and Gross 2008). After the months it took us to get to the Supreme Court, my brother's first Supreme Court hearing lasted 57 seconds. With the unimaginably high stakes of the matter and the fleeting character of the hearing itself, I spent hours analyzing and dissecting everything that happened in those 57 seconds. What exactly did the lawyers say? What did the judge remark? What did the judge's tone indicate? What more should the lawyer have said? Why did the judge not say anything more? What did his facial expressions indicate? Did anything in the way he was sitting give away what he was thinking? The questions were endless, and the answers were, obviously, not forthcoming. Every nod, every trace of a (real or imagined) smile, every moment of the hand took on a sinister implication.

When an individual ruminates on negative emotions, there is an increased activation of the amygdala to negative words and scenarios (Ray et al. 2005; Siegle et al. 2002). In other words, when an individual contemplates negative emotions, they tend to hyper-focus on other external negative scenarios. In any given situation, the person tends to focus on the most negative aspects rather than rationally analyzing both the promising and the damaging parts. This rumination not only leads to a depressive state in response to the problem, but it also causes longer-term psychological issues like chronic depression and a higher incidence of depressive episodes (Just and Alloy

1997; Nolen-Hoeksema, McBride, and Larson 1997; Nolen-Hoeksema 2000; Spasojevic and Alloy 2001).

One way to manage this scaffolding of fear, in my experience, was to focus on the more practical and relatively solvable parts of the problem. The legal system that creates the dissonance also provides coping strategies; your struggle and survival are both shaped by the logics of the institution. One such coping strategy is attentional deployment, where an individual redirects their attention, especially when it is not possible to change the situation. In these situations, a person may divert their attention to a non-emotional aspect of the situation or move attention away from the situation altogether. I moved my attention to reading every bit of information I could about court procedures and the intricacies of the law. My tasks were clear – regulating my despair, managing my mother's emotions, and presenting a face of control to people. I was politely terrified, strategically angry. I did not let my trauma erupt, but let it settle within, making it indistinguishable from my very being, even to myself, mimicking the legal system's compartmentalization of practicality and emotion.

Complete emotional detachment without holding out hope was, however, impossible. My brother had a heart condition and had suffered a myocardial infarction (commonly known as a heart attack) barely a year before he was jailed, and was still on heavy medications. Sending medicines to an inmate in jail is an elaborate process – the family first has to submit the medicines of the inmate with a copy of their prescriptions and details, to the jail. Those medicines first go to the jail's hospital, where they are checked by the doctors and cross-checked with the prescriptions. Only

then are those medicines given to the person inside. However, when we submitted his medicines in jail, we never sent more than two weeks of medicines at a time because we needed to believe that it would not take longer than that to get bail.

In this situation of crisis, any glimmer of hope caused further dissonance, making the eventual disappointment feel even more devastating. For instance, through the initial days of court hearings in the lower courts, every hearing felt like it would be the last day of the ordeal, which did not happen. Over these months of back and forth, and the silent, prolonged, invisible violence, I heard a lawyer casually telling his assistant to not worry about small payments – "*Yeh case toh lamba chalega*" (This case with continue for a long time), he joked, shattering the fragments of flimsy hope that I was holding out, my terror amplified by his matter-of-factness.

The alternations and sometimes the simultaneous experience of hope and despair create an emotional conflict or incompatibility, producing an incoordination in emotional behavior. This conflict "between two perceptual processes, which cannot coexist, cannot even alternate without producing gross disturbances of behavior" also itself becomes a source of fear. This incoordination between contradictory emotional demands does not just paralyze behavior. It corrodes the ability to function, to act, even to hope without fear (Hebb 1946, 268-269). The fear is heightened not only by the internal conflict created by hope and despair but also by the simultaneous experience of shame with the knowledge of innocence – the shame was not ours, but we were compelled to carry it.

Spoiled Identity: Shame and Legal Violence

The parallel trial that an individual is subjected to in the media has a profound effect on their psychological and emotional state. When the person is bombarded with accusations of guilt not just in the courts, jails, police stations, and through the legal apparatus, but also in the media and society at large, it becomes difficult not to internalize those accusations and stigmas. Once an individual is labeled as guilty in a trial by media, they often see themselves through the lens of those who stigmatize them (Goffman 1963). Goffman argues that public discrediting results in a "spoiled identity" that a person internalizes. The public punishments of Foucault's (1975) arguments have not disappeared but have simply morphed by the virality, the speed, and the permanent archive of the internet.

These feelings, then, continue to fester in a person irrespective of the final decision in the court of law, and also in situations where they are ruled to be not guilty. This is particularly true for people who occupy public positions. Even in situations where the accusations are not true, the need to manage public perceptions in the face of intense scrutiny may instill feelings of guilt in the person facing the media trial, causing a psychological spiral where a person internalizes the narratives presented by the media. This shame does not arise from guilt, but from exposure – the shame of being made legible to others through a narrative not your own.

The internalization of stigma, especially when coupled with the knowledge that the person has of their innocence, creates further dissonance, putting the individual in a position where they also have to battle and prove their case to themselves, constantly

reminding and convincing themselves of their innocence. This leads to a struggle where an individual must constantly flit between processing the experience of trauma and trying to gain control over the situation that is inflicting the trauma. During my brother's incarceration, there was no dearth of people saying it could have been avoided – if only he hadn't entered politics.

Politics does not figure in the aspirational mold of middle-class India. In many ways, the middle class forms the ideal "cynical subject" (Murtola 2012, 330). They are fundamentally aware of the brutalities committed by the State daily, but choose not to care because acknowledging that reality would disrupt their comfort of respectability and progress. So, they prefer this mask of ignorance over acknowledging reality. This ignorance becomes increasingly challenging to feign when they are confronted with the realities of this violence first-hand. In such situations, rather than questioning the worldview that they have so insistently adopted, it is easier, and often more critical for their mental and emotional health, to convince themselves why they are different and why this would never happen to them. In this situation, the most straightforward explanation and the safest reasoning for them is: "*Politics aisa hi hota hai*" (This is how politics is) – a way to naturalize injustice and retreat to the comfort of their safety.

This need to assure themselves that they would never be put in a similar crisis situation becomes more pressing when the problem is legal. The ideal middle-class Indian would prefer to go through their entire lives without having anything to do with the police, lawyers, or courts because of the intense shame associated with these

institutions. Legal entanglement threatens the fabric of the middle-class self-image that depends on maintaining a distance from "criminality." This aversion persists even though millions of people in India are caught up in civil and criminal cases. However, even when people are entangled in legal cases, they still often treat it as a private shame – something not spoken of, hidden from community life, or treated as a moral failure.

Shame has been an inseparable part of the legal system since premodern times (Nash and Kilday 2010). In fact, shame has not only been inseparable from the legal system but has also been the aim of judicial processes where punishments like public whippings were designed to humiliate the culprit while also serving as a warning to society at large. Nash and Kilday (2010) also observed that the press was instrumental in promoting the "cultures of shame" since premodern times, specifically since the 1800s. In his pioneering work on the public sphere, Jürgen Habermas (1989) similarly observed that the press was potentially the most potent tool for effecting public humiliation. John Braithwaite (1989) argued in favor of shaming, introducing the idea of "reintegrative shaming" to address increasing crime rates and reintegrate criminals into society. The theory holds that shaming is not stigmatized when it is directed at the offence, rather than at the offender. However, in writing about media trials in the nineteenth century, Barrie (2015) observes that there is a paucity of research on the link between public shaming accomplished by the media and the judicial sphere.

In our case, even when we knew we had done nothing wrong, there was still the sense of being marked by the legal system – people avoided making eye contact, friends

reached out but did not know what to say, no one asked about what happened, but everyone knew. Even with friends and family, our narratives were silenced. The potency of the shaming triggered by the media and by judicial processes is intensified by the authority associated with these institutions, especially among the middle class. In the case of the media, this legitimacy is derived from the significance attached to the printed word as a reliable source of information. This significance was heightened since the nineteenth century when journalists could achieve effective shaming by writing "a few damaging sentences" (Barrie 2015, 376).

Judicial processes also carry the same, if not higher, legitimacy, which is further intensified by the opacity and the technicality of court proceedings – delays in proceedings, requirement of documents, issuance of notices, and other regular, bureaucratic procedures of the court are turned into public symbols of shame. When the common public does not understand the intricacies and technicalities associated with the proceedings, they are not in a position to contemplate them and arrive at independent conclusions on the matter. Innocence became irrelevant in a system where shame was already etched onto us by public narrative and institutional performance. We weren't just waiting for a bail – we were learning how to live with being misunderstood, unheard, and invisibly condemned.

The Unrecorded Sentence

In his farewell address, Justice (retd.) J.R. Midha remarked, "In a Court of Justice, both parties know the truth. It is the judge who is on trial." The judge is the one

person who does not have access to all facts, just the ones presented to them by each side to their advantage.

According to the Prison Statistics India report released by the National Crime Records Bureau, as of 2022, 76% of inmates in Indian jails are awaiting trial. That means more than three out of every four inmates in Indian prisons have not been convicted and are essentially innocent until proven otherwise. At the same time, the pendency of court cases is a massive issue – in 2024, the total number of cases pending across all courts in the country crossed 51 million. Furthermore, more than 180,000 cases have been pending for over 30 years in district and high courts nationwide.

Despite the tedious process of creating the court file and putting everything down on paper and in the record, ironically, courtroom observations – often the most revealing part of a proceeding – do not make it into the official records. Except for what is sometimes reported in news media by journalists present in court, no comments that the judge makes from the bench are put into writing, except for the things that the judge specifically authors in the final judgment. Even after the arguments are done and the judge has delivered the short oral order, which specifies whether you have won the case or not, the detailed written order that specifies the judge's reasoning can sometimes take weeks and even months to be issued. Unless you get that written order, you cannot appeal the judgment in a higher court, adding to the time a person spends in jail as an undertrial and furthering their tendency to internalize the stigma.

The legal system, thus, does not just reflect reality but actively constructs a version of reality that is often disconnected from lived experiences. Courts and legal processes are, then, not just neutral arbiters of truth but constructed simulations of reality that don't fully correspond to or engage with the actual lives of the people involved. They are performative structures that manufacture a version of truth through a technical procedure. Similar to the simulation of reality constructed through the court file, judges and lawyers are actors who enforce the simulation of justice. Legal processes are so formal and specific that they end up being disconnected from the pursuit of justice and fairness. Legal technicalities, precedents, and processes take priority over the lived realities of individuals. Consequently, the very systems meant to administer justice have become disconnected from truth and justice.

A version of justice, however, is immediately delivered on people's television screens. Media coverage of trials is critical to democracies as it demystifies court procedures for the public (Anderson 1995, 7-8). The problem, however, arises when the media abandons its role as a provider of information, instead taking on the role of the judiciary, albeit an entertaining one, converting a somber courtroom trial into a "media carnival" (Phillipson 2008, 15). Taking their role as a judge in the court of public opinion with utmost seriousness, journalist Barkha Dutt asks on NDTV 24x7: "Do you believe in the judiciary, or do you believe judiciary needs a push from the media?" (Ninan 2006).

With years of judicial backlog, the dependence on this instant justice has deepened over the years. While court cases lag in pendency, court vacations, and adjournments,

media trials are expedited on prime-time television. These media trials routinely privilege the prosecution's version of events, without the cross-examination, scrutiny of evidence, or procedural fairness required in courts. While they claim to only be reporting what the State is saying in court, this manipulation has the effect of publicly shaming the accused. While alternative and internet-based independent media outlets have attempted to provide a counter-narrative to the mainstream news media, their reach is not a fraction of that of the national news channels. A paraphrased quote attributed to the journalist Hubert Mewhinney in the late 1940s highlights the role of an ideal journalist where if one person says it's raining and another says it's not raining, then it is not the job of the journalist to report both the statements but to look out the window and report the truth.

When it comes to the politicized world of the twenty-first century, however, media trials achieve the same purpose that raids on people's homes do – they lay out details of an individual's personal life without context, details, or background to be scrutinized, discussed, debated, and judged by a group of strangers, effectively colonizing reality and the truth.

This absolute absence of power and control creates a dissonance in the mind of an individual. On the one hand, everyone has the right to approach the courts for justice. Furthermore, everyone is heard and judged within the framework of the same law; that is, the same law applies to everyone in the country. This might lead to a feeling of control where a person might think they have a chance to influence the outcome of the matter. However, in reality, they are left navigating a system and narrative utterly

different from their own lived experience. This dissonance can create a sense of powerlessness and hopelessness in a person. Distorting a person's lived reality also leads to a sense of alienation where the person may internalize the idea that their truth does not matter, creating a feeling of deep-seated anxiety and anger. Fear and anger are intricately related, and "the fundamental source of either emotion is of the same kind, a disruption of coordinated cerebral activity" (Hebb 1946, 273).

After going through the battle of perceptions in courtrooms, media, and society at large, even if a person emerges victorious on the other end, they do not emerge unscathed. The experience leaves a lasting impact on the individual's neurological, physical, and psychological health. The legal system does not record what it most powerfully produces – silences, breakdowns, shame. It not only perpetrates injustice but also existential alienation, reshaping a person's truth, dehumanizing them, and leaving long-lasting psychological and emotional scars. In this performance of justice, the judge may be on trial, as noted by (retd.) Justice Midha, but it is the accused and their families who are sentenced, long before any judgment is delivered. Consequently, not everyone can put up this fight, and a substantial number of people end up giving in to the demands of the State, hoping to put an end to the aggression against them.

My brother got bail, but the seesaw continued — between memory and forgetfulness, truth and performance, the real and the recorded – up and down.

Political System

India is a multi-party democracy. The Election Commission of India (ECI) grants recognition to political parties as national or state parties based on a specific criterion, mainly involving vote share and the number of seats won. According to the ECI, as of March 2024, there were six national parties, 58 state parties, and 2763 registered unrecognized political parties (RUPPs are the parties that have not managed to secure the necessary vote share in state assembly or national parliamentary elections to attain a state party or national party status) in the country. While two parties – the Indian National Congress (INC) and the BJP – form the bulk of representation, regional parties have been bettering their tally and gaining larger representation on the national level. The number of political parties in the country, necessitated by the pluralistic nature of the Indian polity, is representative of its diversity, catering to myriad aspirations and demands on regional, state, and national levels.

On the national level, India has a bicameral legislature where members of the lower house (the Lok Sabha, or the House of the People) are elected directly by the people in the general elections, and members of the upper house (the Rajya Sabha, or the Council of States) are elected by the elected representatives of all state legislatures with each state getting proportional representation in the House based on its population. The Lok Sabha consists of representatives of 543 single-member

constituencies; that is, each constituency is represented by a single individual. The members of the Rajya Sabha are elected by the elected members of the state assemblies, by single transferable vote. Unlike the US, the representation of each state in the Rajya Sabha is proportional to the population of the state. 233 members of the 245 are elected in this manner, and the remaining 12 members are nominated by the President of India.

Political Cooperation and Compromise: Coalition Governments

The multi-party system in the country, combined with the growing popularity and support base of regional parties focused on specific and particular state issues, has significantly shaped the political landscape of post-Independence India. The emergence of regional parties was accompanied by an increasing decentralization of national politics and a dilution of the prominence of the Indian National Congress (INC), which, for decades, had enjoyed a near-monopoly on governance. The decentralization of politics also brought successive coalition governments to power.

The first coalition government in the country was formed in 1977 when the Janata government took over power from the Congress party, marking a critical shift in Indian politics. It was also the first non-INC government created when an amalgamation of parties came together in opposition to the state of national emergency imposed in the country (1975-77) by the then-Prime Minister, Indira Gandhi. However, internal clashes among the constituent parties and their lack of ideological cohesion led to instability, and the government could not complete its

term, collapsing in 1979 and paving the way for the formation of a full-majority INC government.

The INC-led majority government was again propelled to power by the tragic assassination of Prime Minister Indira Gandhi in 1984 and the sympathy wave following it. However, following the brutal assassination of Prime Minister Rajiv Gandhi in 1991, the country was pushed into a situation of political volatility again as the Congress party struggled with a leadership crisis.

The return of successive coalition governments continued for 25 years until the time when Modi came to power in 2014 with a full majority.

During the coalition years leading to 2014, both the INC and the Bharatiya Janata Party (BJP) found themselves relying on alliances to form governments. The most fundamental issue often raised with coalition governments is the problem of policy paralysis brought about by "coalition compulsions;" as admitted by Dr. Manmohan Singh, the former Prime Minister of India who headed two coalition governments over a decade, "My compulsion is that I have to bear a lot because we cannot have elections every six months. Some compromises have to be made in managing a coalition" (*The Hindustan Times* 2011). The reason for these coalition compulsions and compromises is the fact that all parties in a coalition have fundamentally different priorities. Furthermore, there are often instances where the ideological positions of two or more parties of a coalition on an issue can be diametrically opposed to each other. These compulsions often lead to delays in decision making and what is known as "policy paralysis."

This was seen during the tumultuous time of the civil nuclear deal signed between India and the US in 2008. The deal was met with stiff opposition from the Communist Party of India (Marxist)-led Left Front that was a part of the governing coalition. The Left Front eventually left the coalition, triggering a trust vote against the government. It was a time of high drama as MPs were summoned from hospitals and also prison cells to vote in Parliament. After numerous instances of cross-voting, abstentions, and allegations of bribery and cash-for-votes, the government managed to win the trust vote 275-256 (Sengupta 2008).

Due to the compulsions of cooperation and consensus building that come with coalition governments, both the leading national parties – INC and the BJP – have emphasized the need for "strong and stable" governments in election campaigns over the years, highlighting the drawbacks of a "hung Parliament" (where no one party secures a majority on its own). India's experience with coalition governments remains a compelling study in the need to strike a balance between efficient governance and inclusive and diverse representation.

Political Crisis: Constitutional Breakdown in Maharashtra

Crisis 1.0 – The constitutional crisis in Maharashtra began after the 2019 Legislative Assembly elections, which resulted in a hung assembly despite the pre-poll alliance between the Bharatiya Janata Party (BJP) and the Shiv Sena securing a comfortable majority. The BJP won 105 seats and the Shiv Sena 56, giving them a combined total well above the 145-seat majority mark in the 288-member assembly. However, a

power struggle erupted when the Shiv Sena demanded a rotational chief ministership, claiming that there was a prior agreement with the BJP to share the top post. The BJP denied such an arrangement, leading to a breakdown in their alliance.

Following this fallout, the Shiv Sena sought support from ideologically different parties – the Nationalist Congress Party (NCP) and the Indian National Congress (INC) – to form a new coalition called the Maha Vikas Aghadi (MVA). In a dramatic turn of events on November 23, 2019, BJP leader Devendra Fadnavis was sworn in as chief minister in a surprise early morning ceremony, with NCP leader Ajit Pawar as his deputy, allegedly claiming the support of NCP MLAs. This move was widely criticized and seen as an attempt to bypass the MVA alliance that was still finalizing its arrangement. The Supreme Court intervened, and after it ordered a floor test, the NCP MLAs did not support the government. Consequently, Fadnavis and Ajit Pawar resigned, paving the way for Uddhav Thackeray of the Shiv Sena to become chief minister.

Crisis 2.0 – The 2022 Maharashtra political crisis was a major upheaval that led to the collapse of the Maha Vikas Aghadi (MVA) government and a dramatic shift in power within the state. The crisis was triggered in June 2022, when senior Shiv Sena leader and cabinet minister Eknath Shinde rebelled against party leadership, accusing then-Chief Minister Uddhav Thackeray of sidelining Shiv Sena's core Hindutva ideology and compromising too much by aligning with ideologically opposing parties like the NCP and Congress.

Shinde, along with a group of rebel MLAs, moved to Surat and later to Guwahati, effectively distancing themselves from the MVA coalition. He claimed the support of a majority of Shiv Sena MLAs, which threatened the stability of the Thackeray-led government. The rebellion sparked legal and political battles over anti-defection laws, the legitimacy of the breakaway faction, and control over the Shiv Sena party name and symbol.

As the numbers tilted against him, Uddhav Thackeray resigned on June 29, 2022, ahead of a scheduled floor test. The next day, Eknath Shinde was sworn in as Chief Minister with the support of the Bharatiya Janata Party (BJP), and Devendra Fadnavis of the BJP took the role of Deputy Chief Minister.

What led to a constitutional crisis, however, was the fact that the other two parties in the new coalition government were factions of the NCP and the SS that had split from the main party and joined the BJP to form a government. At that point began what would become a months-long legal struggle to prove who was the "real" NCP and SS. While a lot can be written about the manner in which the defection occurred, the intricacies of the process, and the resulting legal and constitutional crisis in the state,

The Supreme Court of India delivered its judgment on the 2022 Maharashtra political crisis on May 11, 2023, addressing critical constitutional questions arising from the split within the Shiv Sena and the formation of the Eknath Shinde-led government. The Court held that the then-Governor Bhagat Singh Koshyari acted improperly by calling for a floor test without sufficient objective material to indicate that the Uddhav Thackeray-led government had lost its majority. It emphasized that internal party

dissent cannot be a valid basis for such intervention and that disputes within a party must be resolved internally. However, the Court also noted that since Uddhav Thackeray chose to resign without facing the floor test, it could not order the reinstatement of his government.

Political Funding: Electoral Bonds

The electoral bonds scheme was introduced in 2018 to govern and regulate the process of campaign contributions and funding of political parties in India. Contesting elections is an expensive process. According to the expenditure reports declared to the Election Commission of India (ECI), the BJP spent Rs. 1737.68 cr (more than $198 million) for the general elections of 2024 (this does not include expenditure on state elections that happened in the same year). While the ECI has restrictions in place for expenditure limits of candidates (each person contesting for the general parliamentary election can legally spend up to Rs. 95 lakh or about $108,000), there is no limit for expenditure by political parties. This expenditure goes towards conducting rallies, creating publicity campaigns, buying media advertisement spaces, and other such activities. There is also undeclared expenditure incurred through impermissible activities like cash-for-votes, distributing materials (including, but not limited to, alcohol), and covert advertising. The declared assets of the BJP for the financial year 2019-2020 were to the tune of Rs. 4847.78 cr (over $554 million). Money power, thus, is among the most vital decisive factors for winning elections in India, and political funding is the focus of much discussion and debate.

Contributors, both individual and corporate, who contribute less than Rs. 20,000 (about $228) to a political party in a single transaction are not required to disclose their details and are classified as "unknown donors." The Modi government introduced electoral bonds to secure political funding above the Rs. 20,000 amount in 2018. The passing of the Bill itself was mired in controversy since it was labelled as a money bill. Money bills, as defined by Article 110 of the Indian Constitution, are legislations concerned with financial matters like taxation and government expenditure. Bills that are classified as money bills only need to be passed by one house of the Parliament – the Lok Sabha (or the House of the People), bypassing the Rajya Sabha (or the Council of States). In the Lok Sabha, the Bill was passed through a brute majority despite the opposition's demands for discussion and debate on the provisions of the Bill. However, the bypassing of the Rajya Sabha was conducive and necessary since the BJP lacked a majority in that House then.

According to the speech given by Mr. Arun Jaitley (then-Finance Minister of India) in Parliament, electoral bonds sought to address the issue faced by political donors in donating by cheque or through transparent means, having to disclose their identity and possibly face "adverse consequences." In accordance with the electoral bond scheme, political parties were exempt from having to maintain detailed records of contributions received through electoral bonds. The bonds would be sold by the State Bank of India (SBI), and while the SBI would maintain a record of the purchaser of the bonds, those details would not be disclosed in the public domain. Furthermore, electoral bonds were the only way in which political parties could now accept funding

above Rs. 20,000. Electoral bonds also removed the upper limit to donations by private companies, even those that were unprofitable, encouraging the "proliferation of fraudulent shell companies created to fund political parties" (Mudgal 2024). Ironically, supporting the bill in the Supreme Court, the Union government argued that the scheme was meant to eradicate the use of unclean money.

The electoral bonds scheme was challenged in the Supreme Court and subsequently struck down by a 5-judge bench as unconstitutional on 15th February 2024. The Court was of the opinion that the scheme violated the right of the citizens to have information about political funding and also created an uneven playing field where the funding coming through electoral bonds gave an unfair advantage to the incumbent government. Furthermore, the Supreme Court bench opined that the scheme "would lead to quid pro quo" arrangements between corporations and political parties. The Court also directed the State Bank of India to hand over the details of the donations, including the names of the donors and the recipients, to the Election Commission of India (ECI) by 6th March 2024 and ordered the ECI to publish those details on their website by 13th March 2024, so that the citizens could make an informed decision in the elections that were to be held starting 19th April 2024.

The Court's opinion that the scheme would lead to quid pro quo was not unfounded. Three of the top five donors on the list of electoral bonds (Future Gaming, Megha Engineering, and Vedanta) made the donations as they faced probes by the Income Tax (IT) department and the Enforcement Directorate (ED) (Tiwary and Manral

2024). In all, 41 companies that were under investigation by the IT, ED, or Central Bureau of Investigation (CBI) made donations worth Rs. 2471 crore (more than $282 million) to the BJP (Mint 2024). While these numbers themselves are way beyond the possibility of coincidence, the dates and chronology of the donations clear all doubts. On April 02, 2022, the ED attached movable assets worth Rs. 410 cr (more than $46 million) of the lottery company Future Gaming and its subsidiaries. Five days later, on April 07, 2022, the company purchased electoral bonds worth Rs. 100 cr. (more than $11 million) (Radhakrishnan and Ramani 2024). The electoral bonds scheme, thus, is obsfuscated and shrouded in secrecy, the weaponization of law enforcement agencies as extortion agents of the State. The agencies threaten corporations with legal action or the threat of legal action. This action is, then, followed by the company in question making a sizeable donation to the BJP.

Chapter 4

Fawning: The Choreography of Compliance

They say when an animal is backed into a corner, it fights.

It attacks.

Not my cat, though. Whenever he was backed into a corner, Neko would lie down.

Perform innocence

Give in to the forced kisses and cuddles.

Not everyone fights. Some accept.

Some obey.

Some, in their obedience, become more faithful than the most faithful supporters.

Puppets Performing Perfection

Those who say nothing, smile when they are scared,

And help put strings on others

Puppets. Many of those who find themselves cornered in today's political climate in India choose compliance over confrontation. This instinct to please is neither isolated nor trivial.

It is the beginning of monsoons, with the initial sporadic showers easing the unbearable summer heat and the weather getting more pleasant. My brother finally got bail after spending about 5 months in jail, and within 3 months of getting bail, he

was elected as a Member of Parliament. One afternoon, I am meeting three politicians over tea, talking to them about their perspectives on the political situation in the country and whether it has changed over the years that they have been in politics. After the initial pleasantries, the conversation turns, quite naturally as it often does these days, to the targeted legal action and the use of law enforcement as puppets against opposition leaders across the country.

One of the politicians says, "Have you read that joke about the ED? It is going around on social media." Another person interrupts him, "I don't use social media. It is not social, it is anti-social. Anti-social media," he chuckles. Everyone laughs in agreement. The first person who was about to tell the joke nods in agreement, and then pulls the conversation back to his joke: "An opposition leader gets a call. *Trrrring trrrring*," he acts out. "The leader answers the phone and the man on the other side says, 'I am from the ED and we are opening an investigation against you. You need to come and answer a few of our questions' The leader is stunned. He says, 'But I already joined the BJP last week.' There is silence on the other side for a few seconds, and then the man who called says, 'Sorry, wrong number' and hangs up." Everyone present in the room laughs. Then, laments are made about the state of politics in the country and the use of agencies as tools of the State.

About 6 months later, one of the politicians in this conversation faced an investigation by the ED, and two months after that, he joined the BJP.

In the 2024 general elections in India, 106 of the 435 candidates contesting the election on BJP tickets had defected[1] from other parties in 10 years of PM Modi being in power. Of these, 90 joined the BJP less than 5 years before the election. While the earlier chapters explored freezing, fleeing, and fighting, this chapter is about the quieter, less recognized, survival strategy – fawning – the act of obedient performance in the face of persecutory authority. Just like my cat, in politics, too, not all who are cornered fight back. Some choose to comply, not out of conviction or ideological change but out of a desperate attempt to survive. This chapter is about them.

It would be easy and convenient to assess each opposition leader and their claims of honesty based on their response to the threat of agencies: did they give in to the pressure and cross over to the BJP or not? However, while the distinction between leaders who defect and leaders who do not is very important for political realities in the country, the analysis cannot be so clear-cut since every leader has their own emotions, attitudes, and compulsions guiding their actions. Obedience under the threat of punishment is a complex and nuanced process – it is not always ideological,

[1] In Indian politics and law, the switch of a politician (mainly elected representative) from one party to another is called defection. The anti-defection law was introduced in India in the year 1985 through a constitutional amendment. Until then, "political party" was not a term mentioned in or recognized by the constitution. According to the anti-defection law, legislators can join in or merge with another party without facing disqualification if two-thirds of the legislators of the party are in favor of the merger. In such cases, neither the legislators who choose to defect, nor the ones who choose to remain with the original party are disqualitifed. The case of Shiv Sena and Nationalist Congress Party was also deeply contested on that ground – though two-thirds of the parliamentary party had defected, they did not merge with the BJP. On the other hand, the "rebels" claimed that they had not defected but were, actually, the "real" SS and NCP.

but sometimes, biological and performative. In this chapter, I discuss both the obedience in the fawning response – an effort made by a victim to please and placate the aggressor in order to stop the aggression – and the disobedience or resistance seen in the results of the general election of India in 2024.

Though the inclusion of fawning as a response to fear along with freezing, fighting, and fleeing is a relatively new development, the idea of fawning has appeared in literature and has been studied closely over the decades. It has also variously been referred to as appeasement and obedience, which have implied, theoretically, similar processes of thought and behavior. While the experiments on the obedience to authority undertaken by psychologist Stanley Milgram at Yale University starting in 1961[2] have shaped contemporary understanding of compliance and responsibility, he has been widely critiqued in recent years for major ethical and methodological flaws in the process of conducting the experiments (Nicholson 2011; Perry 2012). However, the central premise of the Milgram experiment – that obedience is not always forced, but is often a voluntary compliance to authority – has been reiterated by psychologists over the years (Karakostas and Zizzo 2016; Meyer 2021).

I divide the chapter into a chronological narrative starting from obedience to dissent or disagreement, and finally to disobedience, unpacking what each of the responses

[2] The Milgram experiment was a series of experiments conducted by social psychologist Stanley Milgram at Yale University from 1961. The experiment studied participants' obedience to authority, especially in situations where the orders from the authority figure conflicted with their own sense of personal ethics. In the experiments, an authority figure instructed the participant to administer increasing levels of electrical shocks to individuals who the participant was led to believe were volunteers.

looks like in the age of performative arrests and the spectacle of legality. The often interchangeably used ideas of appeasement, fawning, or obedience are very similar to what is known as the Stockholm Syndrome; however, there are some fundamental differences between the two, which I delve into in the first section of this chapter. Though the Stockholm Syndrome is explained only in terms of psychology and implies an emotional connection between the victim and the aggressor, the appeasement response is rooted in neurobiological impulses, negating the assumptions of a positive connection with the aggressor. In the context of the neurobiological processes of appeasement and the drawing on experiments on obedience, I examine what is known in India as the "washing machine politics" of the ruling Modi-led BJP, demonstrating how federal agencies double up as recruitment agents for the State. However, the State does not always get the response it hopes for, and opposition leaders often fight back rather than try to appease them.

In the second section of the chapter, I examine the processes of dissent and disagreement that arise when the instinct of obedience to authority cannot overcome the strain created by the authority's demands. Consequently, political leaders continue to speak up against the government despite incarceration or the threat of incarceration. While the previous chapters used my brother's arrests and imprisonment as a discursive base, this chapter zooms out from a personal level to focus on happenings on a national level, emphasizing how larger tragedies are made up of small individual testimonies of trauma and oppression. The aim of this

recentering of focus is to emphasize that the acts of political persecution are not isolated.

It is important here to acknowledge my use of psychological theories to make arguments about the behaviors of groups (in this case, political parties). This argument is based on the present reality of the BJP. After the rise of Modi from the Chief Minister of Gujarat to the Prime Minister of India, the party (BJP) has become indistinguishable from the person (Modi). Modi has himself accepted this situation with much pride, especially during election campaign rallies, where he reminds people that they will be voting for the BJP representative in the constituency, but the vote will actually be for Modi. The aspects that differentiate group behavior, that is, the coexistence of divergent viewpoints, the need to negotiate, and the diffusion of power, do not exist in the case of the BJP, which acts as a monolith.

The processes of compelling obedience and compliance from opposition leaders have not been isolated events, but are shockingly textbook moves across the country. This aggression by the State, in fact, served as a catalyst in bringing together vastly different political parties and leaders under the big-tent coalition called the INDIA Bloc that united to counter the Modi-led government and, in their words, "safeguard the democracy and the constitution of India." Individual cases of political persecution, thus, have larger consequences on the results of general elections

This political theatre culminated in the general election of India in 2024. In the last section, I discuss the results of the election, a climax to the extremely dramatic campaign that came as a shock to almost everyone in the country across political and

ideological lines – the Modi government lost its majority. While the BJP was focused on orchestrating the most disciplined troupe on the election stage, the disobedience took place backstage – political disobedience came in the form of democratic assertion. Though the Modi government was reelected for a third term, it was a pyrrhic victory, where the defeated celebrate, and the victors face an uncertain future.

Act 1: Obedience and Appeasement

In the summer of 2022, after the world had weathered and was getting over the torrid cyclone of the COVID-19 pandemic, the state of Maharashtra witnessed another storm that thrust it into an unprecedented constitutional crisis. A rebellion within the ruling coalition, spontaneous or manufactured, turned discussions of loyalty, ideology, fear, and greed into dinnertime conversations. At the center of these discussions was the sitting Chief Minister of Maharashtra – Uddhav Thackeray – respected and isolated in equal parts.

Scene – OUT. STREET. NIGHT.

Location – Varsha Bungalow (CM Maharashtra Residence)

23rd June, 2022 (10 pm)

Uddhav Thackeray, the Chief Minister of Maharashtra, is seen exiting Varsha, the official residence of the CM, with his family and moving back to his family residence: Matoshree. The gate of the CM bungalow is surrounded by throngs of people – media, supporters, probably some curious onlookers. There are blinding camera flashes – a simulation of lightning, perfect for the storm that Maharashtra politics is currently witnessing. Cameras zoom onto the sparse luggage loaded into

the waiting cars – suitcases, and some stuffed paper bags that look hurriedly put together. The throngs of supporters, in the meanwhile, shower yellow flower petals on his departing car, which shine in the camera flashes and turn into gold.

Supporters on the street (cry out): "*Thackeray saheb aage badho, hum tumhare saath hain*" (Thackeray Sir keep moving forward, we are with you).

Though this departure held a stoic silence on his end, earlier that evening, his voice had echoed in people's homes as he appeared in an emotional but dignified address streamed on Facebook. I vividly remember watching the address, halfway across the world in the United States, with my native language, Marathi, echoing in my office for the first time.

CUT TO: Television screen

"The sad part for me is that my own people have lost trust on me. I considered them mine; I don't know about them. I am ready to resign but come and meet me face-to-face. Tell me that I should quit to my face and I will resign" (*The Hindu* 2022).

This was not, however, as clear an acceptance of defeat as it appeared, which is evident from the fact that the case went to the Supreme Court. This was a performance that sought to either appeal to a decades-long loyalty or to trigger shame. Nonetheless, that face-to-face meeting never happened. Stalemate continued.

On 2nd July 2023, less than a year before the general election of India, a new regional government was sworn in in the state of Maharashtra, replacing the existing elected government consisting of a coalition of three political parties – the Indian National

Congress (INC), the Nationalist Congress Party (NCP) and the Shiv Sena (SS). This new government was also a coalition consisting of splintered factions of the NCP and SS, along with the BJP. My focus here is on the apparent motivations of the defections, especially in light of the fact that the NCP and SS were already in government. The major motivation for most actions in politics (and also, to some extent, in the world) is power. However, what would induce these political leaders to fracture the parties that, in a lot of cases, they spent decades building, and risk not just disqualification but, potentially, political oblivion, to align with the BJP despite already holding power? While Thackeray's departure from Varsha was a performance of betrayed loyalty, there was another choreographed act of compliance taking place behind the scenes, away from the camera flashes. The compulsions of the "rebel" leaders can be clearly illustrated through the proceedings in an old case in the Bombay High Court on 6th July 2023, merely 4 days after the new government took an oath.

The accused in the case is Hasan Mushrif, who has been facing an investigation under the Prevention of Money Laundering Act (PMLA) by the Enforcement Directorate (PMLA is discussed in detail in Chapter 2), and the hearing today, on 6th July, is regarding his plea to quash the charges against him. So far, the prosecutor in the matter, that is, the lawyer of the State, had been vehemently opposing all his pleas for relief, arguing that Mushrif has been involved in serious corruption and money laundering. That is what was expected to happen today, or at least, that is what everyone expected one week back, because the situation has changed since then.

Mushrif is one of the nine "rebel" NCP leaders who broke away from the main party to join the new government with the BJP. Everyone is waiting in anticipation to watch the drama unfold.

The suspense is broken, quite comically, when the prosecutor sheepishly backtracks from his previous position. After spending months giving details of the magnitude of Mushrif's offence, the prosecution says they need time to seek instructions from the law enforcement agency about how to proceed further, acknowledging the "change in circumstances." The judges burst out laughing, asking if the prosecutor was seeking an adjournment on behalf of Mushrif's lawyers, and grant the next date (Vidya 2023). The absurd proceeding was a part of the larger play of compliance, where lines were reluctantly delivered and the ending was already known to all. The BJP's washing machine works quickly.

This proceeding is indicative of a larger pattern, not just in Maharashtra but across the country as a whole. The newspaper, *The Indian Express*, did an investigative piece in April 2024 where they discovered that since the Modi government came to power in 2014, 25 opposition leaders facing corruption investigations defected to the BJP, of which 23 got legal reprieves – 3 of those cases were closed, and investigations were stalled in 20 others (Tiwary 2024). These statistics, however, only account for the leaders who switched to the BJP. But obedience is not always a leap; it is also, often, a lean. There are others, like the leaders of NCP and SS, who did not defect but politically allied with the BJP. This is not always just an example of political opportunism, but often, a situation where leaders under the lens of law enforcement

(especially the ED) naigate fear and coercion by giving in their oppositional stand to stop the aggression against them, becoming classic examples of fawning or obedience, as opposed to acting in the typical fight-or-flight manner.

Fear and Appeasement

Stockholm Syndrome describes a situation where the individual subjected to aggression does not seem to respond in the typical fight-or-flight manner usually observed in situations of fear and trauma. It often implies a positive emotional relationship between the victims and the aggressors (Jülich 2005), and it is on this basis that Stockholm Syndrome has been criticized over time. Academics, psychologists, and neurobiologists, over the years, have viewed it as an oversimplification (Namnyak et al. 2008). Bailey et al. (2023) argue that in a state of terror, the level of conscious processing that would be required for Stockholm syndrome to occur is at odds with the physiological experience of the body in that situation. They argue that Stockholm syndrome does not reflect the experience of victims and, therefore, needs to be replaced with "appeasement" to "emphasize the asymmetry in the relationship and the adaptive strategy to regulate and calm the captor, thus minimizing potential injury and abuse to the victim" (2; see also Triesman 2004). The primary goal of the nervous system is to feel safe (Porges 2022). This inclination of the nervous system to survive and thrive irrespective of the circumstances counters the narrative of positive emotions and bonding underlying discussions of Stockholm syndrome (Bailey et al. 2023, 3-4). In other words, Stockholm syndrome involves a shift in the victim's psychological and emotional

bond with the aggressor, and, on the other hand, appeasement simply implies a surrender to the reality of the situation and the victim's belief that both fighting and fleeing are not options in this situation. This surrender to reality is also made worse by the prolonged nature of the threat (in this situation, legal and political persecution), impacting not only an individual's political but also their personal identity (as seen in Chapter 3). "Appeasement," therefore, more accurately describes the instinct to survive and thrive in all circumstances, which is fundamentally different from a positive emotional connection with the perpetrator.

The concept of appeasement describes the psychological and biological surrender to power and is a useful tool in exploring how such submission to power operates in political situations, when political leaders surrender to obedience, which is triggered by fear and not faith. There can be two kinds of obedience: one motivated by the mood of cooperation and another motivated by the threat of punishment (see Karakostas and Zizzo 2016). The former signifies the spirit of willingness, and the latter is compelled by fear. It becomes essential to distinguish between the acts of people whose ideologies align with the State's oppressive practices and those who have been forced into submission. A state of tension is only experienced by the second group of obedience, of individuals acting out of fear. These individuals are simultaneously experiencing two psychological forces – on the one hand, there is a common cause or ideological commonality with the people standing in opposition to the State. This simultaneous experience of opposing motivations creates tension, and

it is up to the State to ensure that the force compelling obedience is high enough to preclude disobedience.

In a conversation with a prominent political leader who had also experienced a period of prolonged incarceration, I asked about his feelings regarding the people who had switched to the BJP. For a person who had experienced being in jail and still persisted in his fight, I expected some bitterness or hostility in his response. What I did not expect, however, was what he said: "They are not bad people. They were just scared." My face must have betrayed my surprise at the response, because he went on to describe conversations he had with at least two other leaders over the period before their defection to the BJP. A few snippets of the conversations show how the terror built up to the point of appeasement:

"Do they give enough food in jail?"

"Did you sleep on the floor? Are there mattresses?"

"I have children. Grandchildren, even. This is not my age to go to jail."

"They were trembling," he recounted, "They had a lot to lose." It is pertinent here to note that these were very senior leaders – leaders who had held positions of significant power and authority over the years. They did not believe they had the endurance or even the youth to be able to survive a prolonged period of incarceration. They could not feel joy, hope, warmth, safety, or the things that make life worth living. They lived in the shadow of dread, in a state of waking nightmares, through nights of sleeplessness. The dread became unbearable to the point where defecting to the BJP was the only option they could see to put an end to this terror. It would be an

oversimplification of the situation to categorize their defection as mere betrayal. While it could be seen as a betrayal, it was also shaped by a sense of survival enacted in a world where dissent is criminalized and dreams are imprisoned. However, what they failed to realize was that though they escaped the architectural and physical space of jail, they were still incarcerated by their own minds.

In these cases, appeasement involves the surrender of the body to become obedient, while the mind remains conflicted. It is, therefore, in essence, the separation of the body and mind. To use Althusser's (1971) term, these political leaders have been "hailed" by the idological apparatus of the BJP to not just conform under pressure but also to perform and internalize their roles as "nationalists" and "loyal party members" through the very systems that oppress them, coerced into performing allegiance as if it were a belief. Why is it that some leaders who were incarcerated for months (even years) did not defect, while others defected with the mere threat of imprisonment? The rationale here is not as straightforward as that of guilt and innocence.

Talking about "complex personhood," sociologist Avery Gordon (2008) argues against the reductionist thinking that slots people into neat categories of victims, heroes, or villains, instead insisting that they be recognized as nuanced, layered, and contradictory beings. There is no singular or unitary "truth" of a matter, and any stories that people tell about themselves are an amalgamation of "what is immediately available as a story and what their imaginations are reaching toward" (4-5). The argument against the flattening of individuals and their slotting into labels has been consistent in anthropological literature. Michael Jackson (1998) refers to what he

calls the "interstitial person" who exists in the liminal space between being a victim and an agent, constantly navigating contradictions and shifts. In both these conceptions, people are caught between ambiguities, and choices are not as free as they might seem. These concepts help frame the situation of political appeasement in India beyond ideological binaries and clear moral categorizations.

There have been different levels of obedience – some people just stopped speaking against the government, some expressed support for the government, some contested elections on the BJP's ticket but kept their discourse limited to constituency issues, and there are some who switched to the level of indulging in hate speech. The different levels of obedience are clear from the reasons that different leaders provide when joining the BJP, as well as from their actions once they defect to the party. Former Chief Minister of Maharashtra, Ashok Chavan, attributed his departure from the INC to the party's "unpreparedness for the elections," emphasizing that staying in the party would be a waste of his effort. He also acknowledged the ideological shift, saying, "I know it is not possible to change your ideology overnight. I will have to understand it. I may not agree with everything" (The Mint 2024). On the other hand, Gourav Vallabh, an INC spokesperson, made the ideological transition and joined the BJP, saying he was against what he called the INC's anti-Hindu "sloganeering" and stance (Hindustan Times 2024). These levels need to be distinguished between if we want to make sense of what is happening and if we seek to devise a method to counter these coercive practices. Understanding the decisions of political leaders in light of the appeasement theory, as well as the ideas of complex personhood and interstitial

personhood, provides a more nuanced framework for analyzing political behavior and its consequences, shifting the focus from a moral judgment to a deeper comprehension of the politics of fear. Everyone who underwent a cleaning in the BJP "washing machine" cannot be painted in the same color.

Washing Machine Politics

Since Modi came to power in 2014, the BJP has followed not just a politics of persecution but what the opposition parties call "washing machine politics." On 29th March, 2023, the Chief Minister of West Bengal, Mamata Banerjee, made a perceptive (and entertaining) gesture to the BJP's washing machine politics during a two-day protest against the BJP government's tactic of blocking central funds to the state government. An oversized washing machine labelled "BJP Washing Machine" was placed on the stage. Seeking to demonstrate the "magic of the BJP washing machine," she put a big black cloth into the "washing machine" on stage. After waiting momentarily for it to be "cleaned," she then pulled out a clean, laundered, white cloth from that "washing machine." It was political satire, but it was also collective memory.

Opposition leaders, apart from Mamata Banerjee, also often gesture to the strategy of the BJP: they make allegations of corruption against opposition leaders, the State initiates legal action, compels the leaders to switch over to the BJP, and then the cases are either closed or do not progress any further, prompting the opposition parties to refer to the BJP as the washing machine for corruption and crimes. In doing so, a difference is demarcated between the politician and the party: while the parties are

labeled corrupt by PM Modi in his speeches, politicians from those same parties find a warm welcome into the BJP. It is, then, the parties that are corrupt and not the leaders. While this answers why a persecuted political leader might join the BJP, it raises the question of what the BJP has to gain from inducting these defectors. Here, a comprehensive political analysis would benefit from examining the BJP as a single unit rather than a collective or a group. This personalization and centering of politics around an individual and their personal popularity is a rising trend in authoritarian regimes around the world. Kendall-Taylor, Frantz, and Wright (2017) discuss this new "authoritarianization model" and personalist dictatorship (regimes where power is highly concentrated in the hands of a single individual) around the world, specifically in Russia and Turkey, noting its rise in Bangladesh, the Philippines, Hungary, and Poland.

When fear is deployed by the BJP led by Modi, it often induces fawning, like in the case of Shiv Sena and NCP. It shatters the cohesiveness of the party, often leading to an internal split, majorly denting (if not ending) their capacity to mount a credible opposition to the BJP. By inducting the defectors into their party, the BJP also precludes disobedience by completely severing a leader's ties to their party and decimating their respect among their supporters, ensuring that the political leader will never be in a position to speak against the BJP again without losing their own credibility even further. Because once a leader joins the BJP, they become equal participants in the party's actions, including the ones that they criticized before, and also the ones that forced them to join the BJP – they turn into the puppets responsible

for putting strings on others. The legal concept of the "approver" or state witness enables puppets to put the strings on others. Under Section 306 of the Criminal Procedure Code (CrPC), an accused person can be granted pardon in exchange for providing "truthful testimony" against other co-accused persons, turning the law itself into the script in the theatre of coercion. These accused individuals who later get pardoned are called approvers. In the Delhi excise policy case, the core of the case is built on the testimony provided by Dinesh Arora and Raghav Magunta Reddy, who named opposition leaders like the Chief Minister of Delhi, Arvind Kejriwal, and the Deputy Chief Minister, Manish Sisodia, facilitating their arrests. Raghav Magunta Reddy's father, Magunta Reddy, got a ticket from a key BJP ally – the Telugu Desam Party (TDP) – to contest the 2024 election (Janyala 2024).

When individuals decide to be compliant and align with the aggressors, they stop holding themselves accountable for their actions. 17th-century English philosopher Thomas Hobbes (1651) argued that any act that is carried out by an individual following instructions or orders is not the responsibility of the person carrying out the act but of the authority ordering the act. As political scientist Jean Lachapelle (2022) argues, by viewing themselves as mere executors of orders, individuals avoid personal responsibility and end up legitimizing state repression. Similarly, Jothie Rajah (2012, 2024) also argues that "authoritarian rule of law" deploys legislation to not only silence non-state actors but also to normalize authoritarianism.

However, a threat of arrest is often a better strategy to use than actually executing the threat of arrest. Once a leader has been arrested and goes through the lengthy judicial

process to acquire bail, the BJP has nothing left to threaten them. When outright arrests are deployed against political leaders, the act can often result in mobilizing public sympathy for those leaders and create a greater cohesiveness in the political party members who present a united front against the State's aggression. This has been witnessed globally – for instance, after former Prime Minister Imran Khan's arrest and disqualification from the 2024 election, Pakistan voted overwhelmingly for Khan's PTI, giving them 93 out of the 272 directly elected seats (Curtis 2024).

Apart from creating public sympathy, the execution of arrests also takes away the fear of the unknown. The questions that kept the leaders who defected awake at night – Do they give enough food in jail? Did you sleep on the floor? Are there mattresses? – are no longer speculative. They have not only been answered but also lived through. Four days after my brother got bail, he wrote against the government, vowing to fight harder. My mother had a complete meltdown. She begged him to stop. "Hasn't this been enough? Haven't we been through enough?" My brother, however, was calm. "They did what they had to," he told her. "If they could have kept me in jail longer, they would have. If they didn't, it's because they couldn't. What can they do now that would be worse than what they've already done?" The arrest, paradoxically, is the liberation of the mind from the prison of fear.

The response to fear is not always compliance. Defiance and disobedience are also responses to the fear of authority. The decision of compliance or defiance occurs in a particular moment of fear, and all actions following this moment are fundamentally characterized by it.

Act 2: Dissent and Disagreement

The winter of 2023 was a time of immense uncertainty for the territory of Delhi, its sitting Chief Minister, Arvind Kejriwal, and his Aam Aadmi Party (AAP). After the extremely high-profile arrest of the Deputy Chief Minister by the ED just about seven months back, Mr. Kejriwal was summoned by the agency for questioning for the first time in October 2023. Making a very bold political statement, he refused to attend. That was followed by a saga of nine summonses and refusals, each making it to the headlines and causing intense speculations. After a very tense winter of unyielding fear, things finally came to a head on a warm spring night.

Scene – OUTDOOR. STREET. NIGHT.

Location – Civil Lines (CM Delhi Residence)

21st March, 2024 (9 pm)

Arvind Kejriwal, the Chief Minister of Delhi, is seen exiting his official residence at Civil Lines. The gate of the CM bungalow is surrounded by throngs of people – media, supporters, party members. Relentless camera flashes fracture the darkness. The scene harkens back to a similar scene outside the bungalow of Maharashtra's CM a little less than two years back, but on a closer look, the charged atmosphere of the situation and the palpable tension in the air is markedly different from the dignified air of the moral high ground and emotional solidarity witnessed in Maharashtra. This is the air of confrontation and uncertainty, tinted by determination and a revolutionary zeal.

Cameras zoom in on the entrance of the CM's bungalow. The ED has been searching the premises since that morning and is expected to walk out of there at any moment. In the middle of the night, at around 9 pm, ED officials are seen exiting the premises, but they are not leaving alone. Arvind Kejriwal walks out, led by the officials, which leads to cries of support and indignation from his supporters. Kejriwal's departure is markedly different from that of Thackeray – there are no yellow petals glittering on the car, and there is no free will. Kejriwal has been put under arrest. And under the now-familiar provisions of the PMLA bail process – by now etched into public consciousness – everyone present on the scene knows that it will be a while before they can see their CM a free man again[3]. This time, I was not halfway across the world. I was in Delhi, witnessing the events as they unfolded. My first thought was about the ripple effect this arrest was going to have, not just on the politics of the nation and the upcoming elections, but on the lives of his family.

There is a cry of indignation and protest from his supporters, and a frenzy of reporters clamoring to take the best shot of the historic moment – the first ever arrest of a sitting Chief Minister in India[4]. Visuals blur; you hear snippets of every reporter

[3] While he was in jail, he was also arrested by the Central Bureau of Investigation (CBI), further complicating the process of securing bail. He eventually got bail in both cases from the Supreme Court and was released from jail almost 6 months later, on 13th September 2024.

[4] He is referred to as the first sitting CM to be arrested in India's history because he continued to occupy his position as CM while in custody. On 31st January 2024, the ED arrested the sitting Chief Minister of the state of Jharkhand – Hemant Soren. However, before being produced in front of the magistrate to finalize the arrest, Soren first tendered his resignation to the Governor of Jharkhand before the ED formalized his arrest and also designated his replacement to prevent the BJP from usurping power in the state or orchestrating mass defections from his party in his absence as they did in Maharashtra. Hemant Soren and Arvind Kejriwal were both arrested under

screaming into their mics over the din of AAP party workers; camera flashes continue to light up the scene; the police push people back to make way for the departing ED cars; supporters are placed under detention; people are loaded up like cattle into police vans. Through the clamor, Kejriwal is a vision of calm. The arrest was expected, but after months of wondering when the sword would drop, it was finally here. The dread that hung over everything was over. That is not to say there was no apprehension of the future. But the paralysis of uncertainty had passed.

As noted in the previous section, what is also important in cases of political persecution and incarceration threats is that the fear of the threat only lasts as long as the threat is not carried out. An individual can be controlled through fear only as long as there is a threat of incarceration; once a person is arrested, and the threat is already carried out, the individual cannot be controlled to that extent anymore. Unexpectedness is a key factor in causing fear. For instance, a noise must be sudden to cause fear. Similarly, a loss of support triggers fear when it is sudden, not one for which preparation has been made (Hebb 1946, 267). Fear thrives in uncertainty. Once the unknown becomes real, it loses its power. In the case of Arvind Kejriwal, he was issued with nine summonses by the ED to appear for questioning. With every summons, the party and its supporters were convinced he would be arrested, so the fear of arrest lingered through every speech, press conference, and rally. Every time

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the notorious Prevention of Money Laundering Act (PMLA) discussed in Chapter 2. The difference in the responses of the two CMs – Hemant Soren deciding to resign and hand over the chief ministership to another person, and Arvind Kejriwal resolving to continue being the chief minister from jail – can be attributed to the difference in the political situations and electoral considerations of both states.

he was issued a summons, leaders from AAP declared that he was to be arrested. There was a constant state of flux, an unrelenting series of maneuvers – one wrong move could be the tipping point; it was a long, long walk on the edge of a sword, until the sword fell. Once he was arrested, the State lost its one bargaining chip – it had acted on the threat, taking away the fear of the threat itself.

Fifty days after his arrest, on 10th May 2024, despite impassioned opposition from the prosecution, the Supreme Court granted Mr. Kejriwal an interim bail for 21 days so that he could campaign for the general elections. It was an unprecedented order that was vehemently opposed by the State counsel. The Court, however, observed that "It is no gain saying that General Election to Lok Sabha is the most significant and an important event this year….General Elections supply the vis viva[5] to a democracy. Given the prodigious importance, we reject the argument raised on behalf of the prosecution that grant of interim bail/release on this account would be giving premium to placing the politicians in a beneficial position compared to ordinary citizens of this country" (Banerjee 2024). He was ordered to surrender back to custody on 2nd June 2024, a day after the final phase of voting and two days before the declaration of the election results. This was an exceptional order that was passed not on the grounds of his personal liberty or statutory rights but on the grounds of the larger public interest involved with the general elections. This was the first victory of the opposition, even before the results of the election came in.

[5] Meaning "Life force"

People scrambled outside the jail, waiting for the release of the Chief Minister. There was a massive crowd at Gate No. 3 of Tihar Jail; people beating drums, distributing sweets, dancing, waiting for a glimpse of Kejriwal. People called out, "*Jail ke taale toot gaye, Kejriwal ji chhoot gaye"* (The locks of the jail have broken, Kejriwal has been released). The jail authorities cleared the CM's convoy from Gate No. 4 instead. However, Kejriwal stopped the car in the middle of the crowd and got out through the sunroof of his vehicle to address the people gathered there for him. Amid cries of "Kejriwal *zindabad*" (Long live Kejriwal), "*Tanashahi murdabad"* (death to dictatorship), and "*Inquilab zindabad"* (Long Live the Revolution), Kejriwal called for the 140 crore (1.4 billion) Indians to help his fight against dictatorship (Ghosh 2024).

Through the persecution of opposition parties and leaders, the BJP counted on the fleeing or fawning responses. What they failed to account for was the extent to which the persecuted leaders would put up a fight, refusing to appease their tormentors. Kejriwal's party, the Aam Aadmi Party (AAP), was contesting only 22 seats out of the 545 seats across India – 14 in Punjab, 7 in Delhi, and 1 in Gujarat. However, over the next 21 days, Kejriwal relentlessly campaigned not only for his own party but also for other parties in the INDIA Bloc (the coalition of different opposition parties that came together to counter the BJP), holding rallies around the country, including in states like Maharashtra and Uttar Pradesh, where his party was not contesting at all. The State had dealt their hand; now it was his turn.

His arrest did not silence him; instead, it amplified his dissent, not only putting a major dent in the seeming invincibility of the BJP, but also countering the BJP's claims that the INDIA Bloc would not work in practice – the INDIA Bloc that was born out of the resistance to the politics of fear unleashed by Modi's BJP. Act 1 of the BJP persecution playbook is based on uncertainty and apprehension; however, it is important to remember that they are not the only characters in play. Act 2 is a demonstration of dissent despite persecution that sets the stage for future political opposition and also for disobedience, that is, the redefining of the balance of power between the government and the governed.

INDIA Bloc

The need to counter the growing authoritarianism of the Modi government and the common experience of facing political persecution at the hands of the State led to the formation of the INDIA Bloc of parties, that is, the Indian National Democratic Inclusive Alliance, a pre-poll alliance of 26 political parties that came together in opposition to the Modi-led BJP (Indian Express 2024). It is a big tent alliance, that is, an alliance that represents a broad spectrum of beliefs and ideologies – including right-wing Hindu nationalists, left-wing Marxists, parties founded on principles of regional autonomy and pride, and parties working solely on the plank of welfarism – united under the common stated purpose of saving the democracy and the constitution of India which, they claimed, were under threat of being demolished by the Modi-led BJP.

The press conferences of the INDIA Bloc presented unique and unprecedented visuals – parties that had spent years fighting each other politically, even parties whose creation itself was based on the opposition to another party, were all together, recognizing that there was a larger need to put personal differences aside both in the interest of the larger welfare of the nation and also acknowledging that the very survival of the opposition in the nation was under threat. The NCP was formed in opposition to the leadership of Sonia Gandhi, the wife of former Prime Minister Rajiv Gandhi, owing to her Italian roots. The AAP was born out of the India Against Corruption movement, which essentially targeted the widespread allegations of corruption by the INC both at the level of the Center and in Delhi. The SS has historically aligned with the BJP and has been in bitter opposition to the NCP and INC. The TMC has historically fought the INC, BJP, and the CPI(M) simultaneously in the state of West Bengal. These parties have often fielded joint candidates against the TMC in a politically volatile landscape. All of these parties, however, put their histories and differences aside, coming together under the INDIA Bloc[6].

The idea of the pre-poll alliance was to consolidate the votes of the opposition. Despite securing only 37.36% of the votes in the 2019 elections, the BJP formed a majority government holding 303 out of the 543 seats in the Parliament due to the

[6] This is not to say, however, that the process of coming together was smooth for these parties. There were differences in particular regions where these parties competed for the same voter base causing a lack of consensus for seat-sharing. TMC contested alone in West Bengal, but managed to significantly reduce the tally of the BJP regardless. The INC and AAP managed to negotiate seat sharing in Delhi, but not in Punjab. JD(U) exited the INDIA Bloc and joined BJP-led NDA right before the election.

first-past-the-post system. The aim of the INDIA Bloc was to ensure effective consolidation of the more than 60% of votes that were in opposition to the BJP. The INDIA Bloc decided to have a pre-poll seat-sharing rather than a post-poll alliance to ensure that the opposition vote was not split between parties. On as many seats as possible and agreeable to all parties involved, the INDIA Bloc would field a joint candidate against the BJP-led NDA.

The ideological diversity of the alliance, rather than being a hindrance, proved strategically advantageous for crafting campaign strategies. While the BJP had to restrict themselves to issues that had an all-India character and focus, and had a campaign heavily dependent on identity politics and religious polarization, particularly targeting the Muslim minority, the INDIA Bloc could address and raise people's specific concerns in different parts of the country, even when those concerns were in direct opposition to the issues of people in other parts of India. For instance, the BJP emphasized cow vigilantism, where numerous people, almost all Muslim, were lynched on accusations of having consumed or smuggled beef. It was, therefore, particularly embarrassing for the party when the BJP vice-president of Kerala and a BJP legislator in Meghalaya both came out to slam the proposed ban on beef in the BJP-led state of Assam. The BJP state chief of Meghalaya went further to state that he eats beef, which is a part of the lifestyle in Meghalaya (NDTV 2023). Such contrarian stands could easily be adopted in the INDIA Bloc since the parties in the alliance spanned a wide range of ideologies across regions.

In the state of Uttar Pradesh, the alliance took up the issue of a caste-based census and the welfare of religious minorities as well as the "backward" classes; in Maharashtra, the focus was on the "betrayal" of the mandate of the people and the toppling of the government as well as on the crony capitalist practices of the Modi government; the parties in Tamil Nadu raised the issue of regional assertion and spoke against the politics of the imposition of Hindutva and Hindi; and in West Bengal the issue of curtailment of the rights of non-BJP led states and the BJP's attack on the federal structure of the country took center stage. The resultant election campaign was hyper-regional, tailored to address local and state-level issues, rather than trying to impose a one-size-fits-all approach to a highly diverse nation like India, giving a significant advantage to the INDIA Bloc. The performance of the INDIA Bloc in 2024 not only reframed the politics of the country in Modi's third term but also emphasized the viability of coalition politics in Modi's increasingly centralized India.

Act 3: Disobedience and Pyrrhic Victories

Through the month of May, India burned not just in the heat of the sweltering tropical summer, but also in the fires of an extremely toxic and communal campaign led by the Prime Minister, where he made several statements that critics and analysts describe as communally polarizing (Iyer 2024; News Minute 2024).

If the Congress comes to power, it will redistribute your wealth among those "who produce more children.[7]"

"The Congress will give your mangalsutra[8] to the Muslims."

The INDIA Bloc wants to divert funds to the Muslims. They will remain enslaved and "do mujra[9] to please their vote bank."

After the last phase of voting on June 01, 2024, news channels and psephologists began their post-poll predictions. Everyone predicted a landslide victory for the Modi-led BJP, declaring that the BJP would score enough seats to form the government on their own without needing any alliance seats. "The only question," they thundered, "is whether Modi will be able to break his own records with sweeping, unprecedented victory numbers." On counting day, however, everyone was in for a shock – the BJP failed to secure a majority on its own, depending on coalition partners to prop up a shaky government.

Scene: OUTDOOR. STREET. NIGHT

Location: BJP Headquarters (New Delhi)

04th June, 2024, (8 pm)

Modi laid the foundation stone of this massive new headquarters for the BJP in New Delhi in 2016 and inaugurated it in 2018. The preparation for festivities following the

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[7] This statement gestures towards a decades old implication of the BJP and the RSS that Muslims "produce more children" seeking to create demographic anxiety among the majority Hindus (Moodie 2010)

[8] A mangalsutra is a necklace worn by some married Hindu women as a symbol of their marriage.

[9] Mujra is a dance form performed by courtesans to entertain kings. It developed in the Mughal era.

election results is grand. The decorations are in place, everything is drenched in the color of saffron, and the place is bustling with people who are distributing sweets. Fireworks light up the night sky despite the ban on them in the Delhi region. There are party workers who are unrecognizable with colored powders on their faces as a mark of celebration, and there are supporters adorned in their best clothes. They are all waving signs of victory at the flashing cameras, some jostling and nudging others to be in the frame, but the smiles and the victory signs fade as the camera pans ahead. The aggressively charged atmosphere that usually accompanies these post-election victory shows over the last decade is missing. If a person were not aware of the final election results, they would certainly not be able to tell that this crowd is waiting here to be a part of a "victory" procession, because the crowd does not seem very victorious. The wait comes to an end as PM Modi walks toward the headquarters, holding both hands up in victory signs, followed closely by the BJP party president, J.P. Nadda.

As Modi walks, rose petals are being showered on him. Cameras zoom in on his face, and I am not sure if the fatigue I see on his face is real or just a figment of my imagination. The atmosphere is muted, as if the choreography of celebration has lost its rhythm. One key thing missing from today's celebration is the chant of "Modi…Modi." This chant, since 2014, has become a mainstay of Indian politics; you can hear it everywhere: in Modi's rallies, also by Modi's supporters in the rallies of opposition leaders, in Parliament, raised by the diaspora in foreign countries, or on airports when people trapped in conflict zones are brought back to the country.

Modi's election slogan was "*Ab ki baar, char sau paar*" (This time, more than 400 seats), claiming that the BJP alone would mark a historic win, winning more than 400 of the 543 total seats. The claim did not age well as the BJP was reduced to 240 seats, not just way short of their claim of crossing 400 but also well below their tally of 303 recorded in 2019. The BJP had secured the maximum number of seats but failed to reach the halfway mark required to form a government.

The person holding the mic on the stage, put up to celebrate Modi, is trying to enthuse the crowds: *Modi…Modi…Modi* (he chants, in a frail, shaky voice).

The crowd present gets the indication. A few scattered voices pick up the chant: *Modi…Modi…Modi*

By the time the others around them join in, Modi reaches the stage and takes a seat. Silence descends on the audience.

Nadda takes the stage first, thanking voters for placing faith "in the NDA" (National Democratic Alliance). The BJP had secured a majority on its own both in 2014 and 2019, with 282 seats in 2014 and 303 in 2019 out of the total of 543 seats, but formed the government with multiple smaller parties as a part of the NDA coalition[10].

[10] The BJP stayed in the NDA (National Democratic Alliance) through the decade between 2014 and 2024, when it did not need alliance partners or their seats to form the government. There are two plausible reasons for this decision. Firstly, and most importantly, with decades in politics and having seen (and also been responsible for) changes in political fortunes, Modi recognizes that political winds change directions when you least expect them to; he does not take electoral victory for granted. Secondly, a close analysis of the BJP's alliance partners emphasizes the political pragmatism of the BJP in securing regional and state-level advantages. In the pre-poll seat sharing of the NDA in 2024, the BJP contested 441 out of the 543 seats, leaving 102 for its 25 alliance partners. Of those, 43 seats went to alliance partners in the southern Indian states of Karnataka, Tamil Nadu, Kerala, and Andhra Pradesh, where the BJP has historically struggled to mark a presence, and 8 seats went to alliance

However, this is the first time in a decade that a BJP leader has referred to it as the "NDA government" and not the "Modi government." This is the biggest signal of the shift in power and possibly an indication that PM Modi's third term will look different than his first two.

After Nadda, Modi takes the mic to address the supporters gathered there, emphasizing again how, after six decades, "an alliance" has gotten the opportunity to serve the country for the third time in a row. That statement is a cause of celebration for the opposition: the Modi government is over, and the NDA government is not going to be a one-man show anymore. 2024 also marks the first time in Modi's decades-long political career, both as the Prime Minister for two terms and the Chief Minister of Gujarat for three terms before that, when he will have to lead a coalition government. He has never headed a government where he has had to compromise, negotiate, or build consensus. Those are qualities he is going to have to inculcate for the first time, at what appears to be the very end of his public life. His wish is not going to be the government's command anymore. This election verdict was an expression of defeat in the celebrations of victory, a pyrrhic victory.

In the Name of Ram

The defeat in the victory is highlighted best in the case of the Faizabad constituency, where the BJP's overt appeal to Hindu religiosity backfired. The Faizabad parliamentary constituency encompasses both Faizabad city and the historically significant Ayodhya city, which is of particular importance to the BJP as a party and

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partners in north-east India, where the issues of the region are markedly different from the issues faced by the rest of the country.

to Modi's election campaign of 2024. The construction of a grand Ram *mandir* (temple) in Ayodhya was one of the main election promises of the BJP leading up to the 2019 general election. On 5th August 2020, a ceremony for the commencement of the construction of the *mandir* was performed by PM Modi, and on 22nd January 2024, less than 3 months before the first phase of voting, he inaugurated the Ram *mandir* while it was still only partially completed. The event was celebrated with grandeur around the nation, with numerous BJP governments at the state levels declaring a holiday for the occasion. However, for a party that built its foundation on the assertion of the Hindu identity, this inauguration ceremony of an incomplete temple received flak from some. None of the four Shankaracharyas [11] attended the ceremony – the Puri Shankaracharya objected to the PM's presence in the *sanctum sanctorum* and complained that the event was being politicized, maintaining that the consecration should follow scriptural guidelines, and the Jyotirmath Shankaracharya objected to the inauguration of an incomplete temple (Srinivasan 2024). The other two Shankaracharyas did not issue any statements but did not attend the consecration ceremony.

However, despite controversy, the inauguration proceeded as planned, with the BJP positioning the incomplete temple as the centerpiece of its campaign, and the entire event was a massive performance spanning weeks if not months. The government of Uttar Pradesh (the state where Ayodhya is located) allotted Rs. 100 cr (more than $11

[11] The four *shankaracharyas* are the leaders of the four sects founded by Adi Shankaracharya in the eighth century. Each of the four *mathas* or centers – in Jyotirmath (Uttarakhand), Puri (Odisha), Dwarka (Gujarat), and Sringeri (Karnataka) – is meant to be safeguarding one each of the four Vedas and interpret the scriptures.

million) for events leading up to the inauguration, and the Government of India declared a half-day state holiday on the day of the inauguration. For 11 days before the inauguration, PM Modi fasted, drank only coconut water, and slept on the floor at night. On the day, he asked everyone in India to light lamps and celebrate the day as they would celebrate Diwali. There were hoardings put up all around the country – a view from the back of PM Modi, holding the hand of a small child (presumably baby Lord Ram, considering the clothing of the child), walking toward a grand temple. This portrayal of the Prime Minister guiding Lord Ram depicted as a helpless child, repositioned Modi as a guardian – a move that borders on theocratic self-deification. Eventually, the equation of PM Modi with God was a recurring theme; in an interview with a Hindi news channel, News18, Modi said, "Possibly, God has sent me for some work, for some purpose. And, for the achievement of the purpose, he gives direction, education, ability, energy, inspiration [...] Call it 'daivya shakti' (divine power) or "ishwariya shakti' (godly power); all this is not possible without it," reiterating his previous statement in another interview where he declared that he has been sent by God and that his "energy" is "not biological" (Yadav 2024).



Figure 1: The hoardings put up across the country in the run-up to the Ayodhya temple opening

Lord Ram occupied a central position in the campaign for the 2024 elections. BJP supporters raised slogans asserting, "*Jo Ram ko laaye hain, hum unhein laaenge*" (The person who has brought Ram back, we will bring him back). *Jai Shree Ram* (Hail Lord Ram, or Victory to Lord Ram) has long been used as a battle cry by the BJP and the *Sangh Parivar* (see Chapter 1 for a discussion of the *Sangh Parivar*). This association of the slogan with incidents of sectarian violence goes back to 6th December 1992, when mobs raised the slogan while demolishing the Babri *masjid* (Tully 2017). Over the years, the slogan has been associated with numerous acts of extreme violence – in 1999, the slogan was raised by members of the Hindu nationalist group Bajrang Dal when they burned alive the Australian missionary

Graham Staines and his two young children (Sarkar 1999), former Member of Parliament Ehsan Jafri was forced to chant the slogan before the mobs murdered him during the Gujarat violence (details of the violence and the particular incident in Chapter 1) (Bunsha 2006), in video surfaced in July 2019 of a 24-year old Muslim boy being forced to chant the slogan by a mob that had tied him to a pole and assaulted him before handing him to police custody where he died 4 days later due to the injuries (Pandey 2019). These are just some of the innumerable examples of the slogan being used as a battle cry and a call to action.

After centering the crux of BJP's election campaign and also their political identity over decades on Lord Ram, the 2024 election results came as a shock to many – the SP candidate won the Faizabad seat, defeating the BJP by a significant margin, mrking a democratic rejection of the Hindu-centric politics behind the Ram mandir campaign. As numerous opposition parties were quick to point out, the BJP lost not just Ayodhya but also all the other places and key pilgrimage sites associated with Lord Ram in the country – Ramtek, Chitrakoot, Nashik, Rameswaram. Overall, across the country, Modi's BJP failed to secure the number of seats required to form the government on their own and had to rely on their coalition partners to stake a claim to the government. The failure of the Ram mandir politics was not the only surprise – even Modi's own election numbers showed signs of electoral fatigue and anti-incumbency. For the last decade, the BJP contested every election in the name of Modi; Modi asked the voters to ignore the name of the candidate and assured them that every vote cast for the BJP would mean a vote for Modi himself. However, in

2024, in Varanasi, which is Modi's constituency, he won by a margin of a little over 150,000 votes[12], as compared to a winning margin of over 370,000 in 2014 and over 479,000 votes in 2019.

This sharply contrasted with the performance of the Shiv Sena (UBT) party in Mumbai. For decades, under the leadership of Bal Thackeray, the party has relied on anti-Muslim rhetoric, even being accused of spearheading massive violence against Muslims in Mumbai during the 1992 communal riots in the city (Anandan 2014). However, when Bal Thackeray's son, Uddhav Thackeray, was sworn in as the Chief Minister of Maharashtra in 2019, the party moved away from its anti-Muslim rhetoric while still maintaining its identity as a Hindu nationalist party, navigating an extremely frail balance. The party's new commitment to inclusivity was also emphasized when it joined the INDIA Bloc of parties against the BJP. In the general elections of 2024, the party won three of the four seats they contested in Mumbai, notably including seats with a high Muslim population. Muslims in Mumbai, in fact, worked hard towards mobilizing support for Uddhav Thackeray, a sight that did not seem possible even five years back (Punwani 2024). In other words, the voters of India took all the contesting parties by surprise, belying all assumptions about voting patterns, challenging the confidence of the ruling party and upending assumptions of the political analysts, registering their disobedience and opposing the decade-long authoritarianism through their votes.

[12] Winning margin is the difference between the number of votes polled by the winner and the number of votes polled by the candidate winning the second highest number of votes in the constituency.

Disobedience and Democratic Assertion

Disobedience is rooted in emotional strain, caused by a dissonance between personal values and the commands of authority. This tension can be resolved by mechanisms like avoidance, denial, shifting of blame, and bringing an individual to a point where they cease to feel this strain after surrendering to authority, even when they are asked to follow commands that they would ordinarily think of as wrong or improper. Obedience, in these cases, is sustained by moral disengagement and the abrogation of responsibility, and not by a sense of loyalty (Bandura 1999; Bauman 1989). However, for some people, the strain does not completely go away and becomes a site of resistance and disobedience. By refusing to internalize the authority's commands, people quietly work toward dismantling the machinery of obedience (Arendt 1963).

Obedience is passive. Disobedience requires thinking, consideration, reflection, and action. Disobedience occurs when the course of action demanded by authority becomes intolerable enough to compel individuals to rebel. After a decade of a majority Modi government, things came to a head in 2024, when both politicians and citizens were forced out of their passivity to act. Political parties went beyond their differences and came together to oppose the BJP. Also, on the one hand, citizens acted by casting their votes for the opposition and, on the other hand, numerous people who had heretofore voted for the BJP acted by not going out to vote[13] (Reuters 2024). In

[13] However, it is important to note that for the latter category of people, that is, BJP supporters, the decision to not vote was not influenced just by disillusionment or disobedience, but also by complacency. The slogan for Modi's campaign – *Ab ki baar, char sau paar* (this time, beyond 400 seats) – created an impression among voters that a full majority Modi government for the third time was a foregone conclusion. Perhaps the BJP's initial internal surveys revealed the same, which is why towards the

the case of Ayodhya, the push that compelled people out of their passivity came in the form of bulldozers on the houses that hoisted the BJP flag – videos emerged of people weeping over the rubble of what used to be their homes and shops, wondering how this could happen to them because they always voted for the BJP. They wanted the Ram *mandir* but not at the cost of their homes and livelihoods.

After the last phase of voting on June 1st, 2024, news media began running exit polls and analysis on the 2nd and 3rd June. Every news media agency and poll company predicted a landslide victory for the BJP, concluding that the BJP was poised to improve its 2019 performance of 303 seats. "The only question remaining to be answered," as a news anchor blared on his 9 pm prime time show, "is to see if they cross 400." BJP supporters had already begun celebrating, stocking up on fireworks for counting day. Opposition party leaders appeared on news shows, insisting that the numbers did not match with their internal polls and surveys and that the counting day would spring a surprise, but their nervous faces belied the firmness of their beliefs.

I was watching the exit polls with my brother, shocked beyond belief. As the poll predictions began on the first news channel, we first thought they sounded ridiculous and changed channels. Political parties do not rely on the polls of the news media – they have their own polls and numbers; all regional parties had run their own numbers, and they were vastly different than what was being predicted. But listening to similar numbers and predictions across the board was becoming harder to counter. A third term of Modi-led BJP, that too with a larger majority than the previous

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later part of the election campaign, Modi dropped the slogan and urged people to not be complacent and to go out and vote.

decade, was not a thought I even wished to entertain, but I had to with the numbers being hammered on the television screen – "The only question remaining to be answered is to see if they cross 400." I desperately discussed state-wise predicted numbers with my brother – "What is the minimum number of seats that the opposition will get?" The numbers on the screen were significantly lower than those numbers as well. However, despite all the criticisms against them, the BJP is an election machine; their numbers cannot be so wrong. Elections were done, the votes were cast, and all we could do was wait.

When pollsters asked who they were planning to vote for, people raved about the achievements of the Modi government, claiming their lives had improved over the last decade. However, KCore Analytics, led by Prof. Hernan Makse, used artificial intelligence to gather data from people's social media interactions and predicted that the BJP would win 240-250 seats. Makse opined that exit polls often go wrong because people lie in their responses (Srivastava and Soni 2024). Counting day on 4th June did spring a surprise, and that was in no small part due to social media and independent reporting on these platforms. Social media platforms, like Twitter, WhatsApp and Instagram, played a crucial role in amplifying the voices of disobedience and critiques of the government's handling of issues like unemployment, inflation (specifically food inflation), taxes, and religious intolerance before the elections, voices that were muted by the traditional news platforms often accused of favoring the ruling government. Evidence of collective dissent in the form of election results had enthused people to be more open with their criticism of the

government, shifting the balance of power that had held people in a tight grip for a decade.

Disobedience also has a domino effect. Once there is an instance of defiance, it diminishes the perceived power of the authority (Homans 1961). Resistance is contagious. Until an individual witnesses some form of rebellion or defiance, it might not occur to them as a possible response. Witnessing acts of resistance can create powerful social models that reframe obedience as neither inevitable nor virtuous (Bandura 1999; Staub 1995). As long as no one defies the authority, the responsibility of following and obeying even improper commands is divided between a larger group. However, as soon as some people defy authority, the responsibility to make a personal decision on obedience or disobedience falls on every other member of the group, disrupting the complacency of shared complicity. Obedience then becomes a conscious choice. Once there is defiance, the observer can also witness the consequences of that defiance, which, more often than not, are considerably more inflated in their minds than in reality, thus alleviating some fears (Scott 1990). Once the inflated consequences of disobedience are punctured, people find themselves getting out of the grip of fear. The election of 2024 was, thus, not just a political exercise but a psychological rupture, fracturing a decade of authoritarian dominance.

Silhouettes Without Strings

Obedience has long been considered a cornerstone of maintaining peace and order in society, especially in the case of obedience to authority. Conservative philosophers like Thomas Hobbes (1651) and Edmund Burke (1982) have argued in favor of a

strong central authority and hierarchy to prevent chaos and highlighted the dangers of rebellion and disobedience. This obedience, though evolved as an adaptive social mechanism enabling cohesion in society, still has to be cultivated (Arendt 1963).

When discussing obedience and compliance, critics often focus on authoritarian regimes. However, the tension between morality and obedience is not limited to such regimes. Authority is an inescapable structure of organized society (Weber 1978), including in democracies where leaders demand compliance. Postcolonial thinkers, especially, have highlighted the deeply coercive ways in which authorities, including democratic authorities, operate. Partha Chatterjee (2004) demonstrates how the State bypasses democratic norms in its dealings with the marginalized. According to Ashis Nandy (1983), this demand for obedience to institutions is a form of internalization of colonial structures of dominance, to an extent where defiance becomes psychologically and politically unthinkable. Democratically elected leaders, too, may act in ways that may pressure people to suspend their internal moral judgment and instead conform to orders (Arendt 1963; Bandura 1999), particularly when dissent is framed as being “anti-national”.

The demand for obedience to authority was challenged by a democratic revolt in the elections of 2024. The result of the election was not just a rejection of Modi’s BJP but a reframing of the power relations in the country, demonstrating a challenge to the whims of the centralized authoritarian government. 2024 has indicated a crucial shift from unchecked power to a more inclusive political landscape. It is through democratically exercised disobedience that the Modi government was humbled.

While the BJP managed to cobble together a coalition government and hold on to power, the election result was indicative of the seeds of disobedience that were sown. A substantial section, if not all, of the scholarly examination of coalition politics in India pre-dates the decade under Modi's full majority government. However, this decade, from 2014 to 2024, holds some important lessons for Indian politics and the functioning of the Indian State. Coalition governments are essential in these incredibly divisive times because only the representation of every single region, religion, and community can ensure the protection of the plurality of India, maintain its syncretic traditions, help in balancing multiple interests, strengthen the federal structure of the polity, and, most importantly, protect against the exertion of absolute power.

Modi's journey in public life began with the destruction of the Babri *masjid* in Ayodhya, an event that epitomized the rise of Hindu nationalism and right-wing politics in India. Ironically, it is Ayodhya – once a symbol of Modi's triumph – that became the biggest symbol of the beginning of his political decline. The result of 2024 put him in a position where he has to appease his coalition partners to keep his government together. In this story of political persecution and authoritarianism lies a story of hope for the future of democracy in India. The 2024 election clipped the strings of Modi's projection of unassailable power, reducing the Modi government to a silhouette of its original form.

This time, the puppets refused to dance, reminding the puppeteer that the strings were never his to hold.

Conclusion

Thresholds of Hope: Reclaiming Memory and Futures in Authoritarian Times

Have you noticed

How no song about hope can be written without it also being a song about fighting?

Struggling, battling, surviving?

You dig through despair to find hope – that is where it hides.

It nests in gloom,

Sleeps in misery,

Wakes in melancholy.

Hope lives within hopelessness.

Have you noticed

How no odes are written for cynicism, for "realism," for acceptance?

Poets are on to something.

Hope lingers in the shadows of cynicism, pushing through unbudging doors.

Doors. When our house was raided, I kept checking the door as eleven people struggled to fit in our tiny living room. Pulling my eyes away from the four rifles they carried, I looked for my three cats. "Don't leave the door open, I have cats," I wanted to call out, but I don't remember if I did. They didn't shut the door behind them when they left; they should have; I checked on my cats immediately and found them hiding

under the bed. Doorbells, if we ignore them long enough, the problems on the other side will leave, thinking we're not here. The loud, creaky doors of a jail, right out of horror movies. I don't think I have ever noticed the doors of a police station; is that supposed to make the place more "welcoming"? The sharp click of a bolt sliding into place feels too loud sometimes.

Doors signified the conflicting emotions, struggles, and coping mechanisms of different members of a family who go through the same ordeal.

After my brother got bail, and once we all felt relatively safe, even to try to convince ourselves that the worst was behind us, we began forcing a sense of normalcy, telling ourselves we were okay until we almost believed it. But the fear was more potent than our most earnest efforts. We all experienced it differently and tried dealing with it in ways that were sometimes diametrically opposed to each other.

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It is just after midnight, and the sound of the doorbell wakes me. I groggily open my eyes, trying to remember what I was dreaming about to figure out whether the sound was a part of my dreams or reality. The question is answered for me when the doorbell rings again, and then for the third time. Now I am panicking. This cannot be happening again.

I rush to the door, debating whether I should open it or not, but the fourth and fifth doorbells push the decision on me, and I open the door. It is my brother returning from dinner. I did not completely understand the idea of relief "washing over" you until that day. It felt like a bucket of icy cold water on an extremely hot day – the split

second where the feeling of pleasure coexisted with both the numbness and the initial shock that the body was trying to get rid of.

My brother, however, is neither happy nor relieved. “I told you I have a key, don’t bolt the door,” he says, extremely agitated. I explain that I hadn’t, but he won’t hear any of it. In the morning, my mother told us that she had bolted the door shut; after the raid on our house, she could only sleep well at night if all the doors and windows were bolted shut. I understand what my mother means. Also, what is the big deal if the door is bolted shut? The minute I think of this, I get it. What is a sign of safety for my mother triggers a memory of captivity for my brother – doors bolted shut. He needs to be able to open doors without waiting for someone to allow him in, and she needs the doors closed so firmly that no one can get in.

This one night, and the door at its center, revealed something deeper about fear’s residues, its afterlives, and the uneven pathways of healing not just in families, but in nations. The process of healing and getting back to normalcy was not going to be easy. However, though this dissertation chronicles persecution, weaponization of laws, and fear, it is also a testament to resilience, healing, and hope. It is also about the persistence of life, messy, wounded, but quietly determined to survive. While we discuss power and its misuse and its manifestations, fear does not always result in cynicism, inaction, and acceptance of one’s fate. This chapter is about the afterlives of fear, resilience, resistance, and the quiet hope of uneventfulness. We, too, remain hidden under the bed of memories sometimes until it feels safe to come out again.

Though it is crucial to critique institutions that prop up authoritarianism, it is also important to remember people within these institutions who resist, subvert, and fight back. Institutions may appear imposing and monolithic, but they are not sentient beings; they are constructed, maintained, repaired, and sometimes demolished by the people within them, and people are unpredictable. In this unpredictability lies the story of hope, and the story of the Indian democracy has always been a story of hope through more than seven decades since its establishment. Hope is not the opposite of fear, but its quiet undoing. There have been instances where the shadows of authoritarian attempts eclipsed the Indian democracy, but eclipses, though recurring, are momentary. Through this concluding chapter, I examine the periods of Indian democracy when we faced authoritarianism and temporarily lost the essence of democracy. However, the Indian people have healed after these authoritarian encounters, and we may begin to heal again, as long as we allow a sliver within the bolted doors that keep us safe, for the light to creep in.

Democracy at the Door of Independence

A discussion of the journey of Indian democracy cannot begin without acknowledging how deeply its very formation and continued existence were underestimated across the ideological spectrum. Years before India won independence, Karl Marx (1853) wrote,

> Indian society has no history at all, at least no known history. What we call its history is but the history of the successive intruders who founded their empires on the passive basis of that unresisting and unchanging society. The question, therefore, is not whether the English had a right to conquer India,

> but whether we are to prefer India conquered by the backward Turk, by the backward Persians, by the Russian, to India conquered by the Briton.

This statement is indicative of a profound lack of understanding of the history of India and the rich tapestry of the empires that shaped the culture, diversity, and pluralism of the region for centuries. Furthermore, it also demonstrates that the subjugation of the Indian people was not unique to the colonialists – its acceptance echoed across Western thought. Indian people were seen as passive and incapable of self-rule. However, India managed to do what few thought possible and gained independence from colonial rule in 1947. Even then, innumerable people in power were confident that the nation would not survive as a democracy and either fall to authoritarianism or balkanization.

The independence of the country felt like a grand, ornate door to a future of respect and equality wrenched open by a century-long struggle. However, for millions of people, all doors to happiness and peace were slammed shut by the horrors of partition – walls were built between families that were left with pieces and asked to begin constructing their entire lives and identities from broken bricks. India celebrated and mourned simultaneously when it welcomed independence from the two-century-long British rule while dealing with the unimaginably violent partition of the country and largest mass migration of people in human history – about two million people faced horrific, gruesome, and nameless deaths, and between 12 and 20 million were displaced, condemned to spend the rest of their lives looking for traces of their scattered families (Butalia 1998, Das 2006; Hajari 2015; Menon and Bhasin 1998; Talbot and Singh 2009). India experienced devastating religious conflict

simultaneously with the birth of the nation. The birth of the nation was also its first trauma.

This region, now comprising three nations – India, Pakistan, and Bangladesh – is often called the Indian subcontinent. Pakistan was declared a parliamentary democracy at independence. However, the first general election in the country was held only in 1970, 23 years after independence. The country has constantly struggled between the civilian government and the military. Over the years, Pakistan has witnessed five military coups – in 1953, 1958, 1971, 1977, and 1999 – and other unsuccessful attempts to overthrow the civilian government. Furthermore, at the time of independence, Pakistan comprised East Pakistan and West Pakistan until December 16th, 1971, when East Pakistan gained independence and became the sovereign nation of Bangladesh (see Khan 2023 for a detailed constitutional and political history of Pakistan since its independence).

Similar to Pakistan, Bangladesh also witnessed multiple military coups, starting with the coup in 1975, where the first Prime Minister, Sheikh Mujibur Rehman, and most of his family were assassinated. After multiple coups and military rule, parliamentary democracy was reestablished in 1991, twenty years after independence. The period after that, however, was also filled with turmoil, and a military-backed caretaker government was set up in 2006. The country remained under emergency rule for two years. In 2008, Sheikh Hasina, the daughter of the first Prime Minister Mujibur Rehman, came to power, where she stayed until August 2024, despite allegations of

authoritarianism and human rights abuses, when she was ousted following widespread protests (see Hossain 2015; Riaz 2019).

This pattern of political unrest and authoritarianism has been typical across South Asian nations. Sri Lanka has had to deal with ethnic conflict and a civil war that lasted for more than 25 years. Nepal was a monarchy until 2008, plagued by constant insurgencies and civil unrest. Myanmar, similarly, has grappled with military coups and ethnic conflicts. Afghanistan[1] has also witnessed incessant regime changes, political turmoil, foreign interventions, insurgency, and authoritarianism, and currently continues to experience a devastating humanitarian crisis under the Taliban regime. Bhutan could be considered a rare example of a largely peaceful nation in the region, which transitioned from an absolute monarchy to a constitutional monarchy in 2008.

However, proving the premonitions and predictions of the British wrong and in stark contrast to other nations in the region, India has remained a miraculous and stubborn democracy. While other nations in the region struggled with military coups, civil wars, and authoritarian reversals, the Indian democracy has persisted. Bearing the weight of the horrors of partition, whose wounds have not healed 75 years on, and struggling with the colonial legacy that continues to encumber the young nation, India continues steadfast on the path it picked in 1947 – the path of equality and harmony, fuelled not by certainty but by collective will.

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[1] Afghanistan is often considered a part of Cental Asia as opposed to South Asia. However, the country lies at the cusp of these regions (leading to it being called the Heart of Asia), and joined the South Asian Association of Regional Cooperation (SAARC) in 2007.

In a move against the political landscape where forgetting is often enforced, the Partition Museum becomes a site of resistance—a space where remembering itself is an act of defiance. The Partition Museum opened its gates in Delhi in May 2023. It is the second Partition Museum in the country, with the first being in Amritsar. The Partition Museum is a people-centric archive of the experiences of the horrors of the partition, which uses photographs, oral histories, and objects to tell the stories of trauma. As you walk around the place littered with memories of wounds, there are oral testimonies of 200 people who lay bare their most profound feelings of loss and fear. One particular gallery holds what is labelled as "Rose-Scented Memories." A wide, open bowl holds Sindh's fine, gray soil, looking like ashes of lost dreams, covered with fresh rose petals. Numerous survivor accounts speak about the trauma of being separated from their land, their "soil," recount instances of carrying a bit of that soil with their meagre possessions when they were torn away from their homeland. Visitors to the museum are also seen bowing down and touching their foreheads to the exhibit of the soil, evoking memories of the wounds that refuse to heal and the relentless presence of a sense of loss.

The post-Partition trauma that continues to live in the bodies and memories of people laid the groundwork for both deep fear and deep resilience, shaping the structure of democratic life in India. The memory of fear that the Partition imbibed in the Indian people continues to shape contemporary Indian political consciousness, making the Indian democracy both vulnerable and vigilant. Though we have occasionally faltered on this path, we have not changed trajectory. The Indian democracy did not survive

because of a lack of challenge, but because there were always voices of resistance to that challenge.

The Early Architecture of Authoritarianism

The challenge of authoritarianism in India did not arrive fully formed in 2014; its early scaffolding was erected under the guise of national unity, developmentalism, or public order. While the constitution was already drafted with a strong Center, despite having a federal structure, the first wound on civil liberties and fundamental rights was inflicted as early as 1951, only a year after the adoption of the Indian constitution. The amendment included changes to the land reform policy and specified that the "right to equality" would not preclude the government from making laws to benefit weaker sections of society. It was the third proposed change that caused uproar. The amendment imposed "reasonable restrictions" on the freedom of speech and expression (Burra 2008; Menon 2004; Narrain 2021; Sethi 2019, 200-232; Singh 2020). There are two pertinent points to consider when discussing this amendment. First, a provisional government brought in this amendment, a government that had not been popularly elected. Second, the reason for bringing in this amendment was to increase the control of the state over the media.

This need to restrict the media was triggered by what the interim government, and the then-Prime Minister, Jawaharlal Nehru, saw as threats to public order from both left-leaning Communist reporting and right-wing affiliated media. On the one hand, left-leaning media criticized the Nehru government for cracking down on a left-wing rebellion, and, on the other hand, the Nehru government was also concerned with the

right-leaning, Hindu groups' reportage of post-partition violence in East Pakistan (present-day Bangladesh) (Burra 2008). The then-government felt the need to bring in a constitutional amendment when the Supreme Court struck down the laws they passed to restrict the publication of the left-wing Communist Party of India's (CPI) newsletter *Cross Roads*, and the mouthpiece of the right-wing Rashtriya Swayamsevak Sangh (RSS), *Organizer,* as unconstitutional (Reddy 2012). The First Amendment had initially restricted the freedom of speech and expression on the grounds of "public order;" however, after considerable opposition and criticism in the Parliament, they added the clause of "reasonable restrictions" thus giving the courts the right to decide if a particular restriction fulfills the test of "reasonableness" (Burra 2008). The First Amendment was perhaps the first moment in the history of independent India when it was made clear that even after overthrowing the colonial rule, the right to question the State was going to be met with suppression and legal retaliation. This move set the stage for the subsequent instances of governmental overreach, marking a precedent for governmental intrusion on individual liberty, and providing a justification for State censorship and control under the guise of "public order," a tradition that continues to date.

The misuse of institutions was also initiated at this time. The State used the Intelligence Bureau (IB) to surveil political leaders, fabricate reports to suit the Central government, and transmit clandestine funds for political manipulation (Subramanian 2007, 90). The IB also assessed the electoral prospects of the ruling party and gauged the suitability of the prospective candidates to fight elections in

particular constituencies (ibid., 97). Following the tradition, the IB has been known to work for the government in power, especially during elections (Deshmukh 2004).

Though not comparable to the extent it is prevalent now, these instances of exerting control and misusing agencies are still essential to discuss because they laid the firm foundations for a scaffolding of authoritarianism on which the current government can build its draconian empire. These instances of overreach were motivated by the instincts of a paternalistic state, rather than an authoritarian state, which is clear from the vibrant discussions encouraged by PM Nehru both inside and outside Parliament, and also from his legacy of seeking advice, suggestions, and, most importantly, accepting when he was wrong. For instance, while Nehru praised large dams at the inauguration of the Bhakra Nangal project in 1954 as the "temples of modern India," his statement in 1958 reflects a shift in his position where he called India's obsession with large-scale development projects, including dams, a "disease of gigantism" (Nüsser 2013). However, though Nehru's actions were often guided by a belief in the benevolence and wisdom of the State, we can say with the benefit of hindsight that they established a dangerous precedent of suspending civil liberties in the quest for ephemeral "stability."

The Nehru government inadvertently laid the foundation for state control, and the structural integrity of that foundation was tested at its full capacity during the Emergency. Authoritarianism peaked in India in 1975-1977 when the then-Prime Minister, Indira Gandhi, also the daughter of the first Prime Minister Nehru, imposed a state of national Emergency, suspending all fundamental rights and democratic

processes. The Emergency was imposed by Indira Gandhi for 21 months between 1975 and 1977, citing internal and external threats to the country. The tradition of imprisoning opposition leaders began during this time, when thousands of political leaders and activists were put under preventive detention. Leaders were also arrested under draconian laws like the Maintenance of Internal Security Act (MISA).

This period and the PM's actions through the Emergency normalized the misuse of preventive detention laws and, more generally, the mobilization of law enforcement for political ends. (The Emergency has been extensively discussed in both academic and popular literature over the years. See Chandra 2017; Frank 2001; Jaffrelot and Anil 2021; Jayakar 1992; Kapoor 2015; Prakash 2019; Rudolph and Rudolph 1978; Tarlo 2003). What was once latent — the State's power to silence dissent — became overt and normalized. But beyond its legal violence, the Emergency produced a profound shift in India's political consciousness. It was the first indication that critique could lead to incarceration, and opposition could lead to erasure.

Rajiv Gandhi, the son of Indira Gandhi, was named Prime Minister after his mother's assassination. The beginning of his term itself was mired in tragedy, sympathy, and criticism, as the government was criticized for failing to control the anti-Sikh violence and for shielding the perpetrators of the ghastly atrocities against the Sikh people. The violence was triggered by the news that Mrs. Gandhi had been assassinated by her Sikh bodyguards. Apart from failing to act and put an end to the violence, Rajiv Gandhi was also heavily criticized for his statement regarding the violence: "When a big tree falls, the earth shakes." The elections of 1984, however,

saw a wave of sympathy for Rajiv Gandhi after the brutal assassination of his mother, and gave the INC a decisive victory.

While the governance through his tenure experienced a shift from overt and repressive authoritarianism to a more subtle form of control, the memory of authoritarianism continued to shape decisions long after the Emergency had ended. Though it had the indications of a fair, democratic government, there continued to be authoritarian undercurrents, partly because the legacy left by the imposition of the emergency had changed not just the political landscape but also how the INC handled dissent within the party. The anti-defection law, passed in 1985, though bringing in some stability to Indian politics (as seen in Chapter 4), also curbed dissent within political parties and strengthened the grip of central political leadership over elected members of the legislature. These legislative moves helped create a precedent where criticism was seen as a liability.

The government was also criticized for trying to bring in the Defamation Bill, 1988, to regulate the media. This Bill was withdrawn after widespread protests by journalists and people at large. However, a decision taken by the Rajiv Gandhi government had widespread implications for decades to come and, in some ways, also helped propel Modi's rise to power – the opening of the Babri *masjid* doors. This symbolic concession to communal forces gave an impetus to polarization and majoritarian sentiment that became the central pillar of the architecture of the fear-based authoritarian state.

The before and after of authoritarianism in India cannot be clearly marked because it crept in incrementally through the language of national interest, unity, and progress. The government, through the decade between 2014 and 2024, is a consequence of what I call "cumulative authoritarianism" – a subtly layered assemblage of legal precedents, institutional cracks, and political decisions that normalize State overreach and public acceptance. From Nehru's paternalistic control to Indira Gandhi's brutal Emergency and Rajiv Gandhi's symbolic majoritarian concessions, there is a long history of not only State control but also eroding dissent. Each of these regimes laid the bricks, installed the beams, and painted the facade of what stands tall as the edifice of authoritarianism today.

Democratic Facade and Authoritarian Core

An essential sign of a thriving democracy is political pluralism. The plurality of ideologies represented through multiple political parties provides citizens with the opportunity to choose from a diverse array of candidates and parties. This is particularly important in an incredibly diverse country like India, where the issues on which people vote range from more wide-ranging considerations of national policy to local grievances and concerns based on identity. According to the ECI, the average number of candidates in each of the 543 constituencies of India for the 2024 election was 15. One constituency recorded a fight between 54 candidates. There were six national parties, 47 state parties, and 690 registered (unrecognized) parties (the difference between the categories is explained in Chapter 4). Furthermore, the multitudinousness of parties does not account for independent candidates who are not

affiliated with any party and who contested the election. However, the political pluralism in the country has been under threat, especially over the last 5 years, which has been the main argument of my dissertation. There has been a bid to weaponize law enforcement agencies against political opposition – incarcerating some leaders and threatening others into defection.

On April 22nd, 2024, a little less than two months before counting votes and declaring the 2024 election results, the BJP won their first seat – the Surat constituency in Gujarat. The BJP candidate was elected unopposed as the INC candidate's nomination was rejected[2], and the eight other candidates who had filed their nominations for election on the seat all withdrew their candidature. Similarly, on the seat of the Indore constituency in the state of Madhya Pradesh, the leader of the INC, the main opposition candidate, defected to the BJP two weeks before polling. No other candidate could be nominated in his place since the deadline for nominations had already passed.

Unopposed elections like these represent a systemic problem where the political opposition is defeated not in elections through the ballot, but before it through manipulation and power exertion, creating a climate of fear so potent that it deters the opposition even before a single vote is cast. When voters are deprived of their right to

[2] A candidate wishing to contest Lok Sabha elections needs the signatures of 10 proposers (for an independent candidate), and one proposer for a candidate from a recognized state or national party. Since INC is a national party, the candidate only needed one proposer. The INC candidate still had their form signed by 3 proposers. However, on the last day of the withdrawal of nominations, all three proposers denied having signed the candidate's nomination. The nomination of the substitute candidate of the INC was also rejected on the same basis (Kumar 2024).

make their voices heard through their votes, they have no option but to turn to the streets. In these situations, protest is not a possibility but the only option left; it is not just a mark of resistance but also an indication of faith in democracy. A landmark story of agitation is the unwavering and immensely courageous resistance put up by the women of Shaheen Bagh in Delhi.

Shaheen Bagh was a peaceful sit-in that began in the middle of the unendurable Delhi winters on 15th December, 2019, and ended on 24th March, 2020, with the imposition of the COVID-19 lockdown. The most important and appreciable part of the protest was that it was mainly led by and consisted of Muslim women[3]. The women of Shaheen Bagh refused to let fear dictate their silence. In a moment where fear was meant to function as internal censorship, they turned presence into protest, and protest into hope. The agitation was triggered by the panic surrounding the implementation of the Citizenship Amendment Act when the Home Minister Amit Shah in 2019 asked people to understand the "chronology" – the CAA would grant citizenship to the non-Muslims in the country and this would be followed by the implementation of the National Register of Citizen (NRC). The NRC would require everyone to submit their identification papers and proof of citizenship to separate the citizens from what Shah calls "intruders." The implication was clear – millions of Muslims would be rendered stateless.

[3] The protesters demanded the repeal of the Citizenship (Amendment) Act, 2019, that seeks to grant citizenship to individuals escaping religious persecution in the neighboring countries of Bangladesh, Pakistan, and Afghanistan, specifically, Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians. The law, however, does not extend to Muslims, including Rohingya Muslims from Myanmar, or to religious minorities from other neighboring countries like Bhutan, Sri Lanka, or Myanmar.

While the protest failed to get the CAA repealed, various government ministers, including Home Minister Shah, assured that the law would only be used to grant citizenship and not take it away (Venkataramakrishnan 2019). The protest remains an inspiring testament to the grit, determination, and resilience of the Indian women (see Salam 2020 for an in-depth engagement with the women involved in the Shaheen Bagh protests). The protest marked a defiant act of hope, its very existence a declaration that the Indian nation would not be governed by fear.

Activists and academics have also mobilized and raised their voices against the State's oppression. The Bhima Koregaon case, particularly the treatment of Father Stan Swamy, illustrates the systemic criminalization of dissent under the guise of national security. The details of the case can be found in the evocative and in-depth work of Alpa Shah (2024), who argues that the case is the bellwether for the collapse of democracy in the country, particularly highlighting the misuse of law enforcement by the State through illegal surveillance as well as planting of evidence to frame the accused.

I want to specifically highlight the treatment meted out to Father Stan Swamy, an 83 year old priest and tribal rights activist, who became the oldest individual ever to be made an accused in a terror case, and arrested by the National Investigation Agency (NIA) on 8th October, 2020. He was suffering from Parkinson's disease, but was denied bail on the grounds of poor health multiple times. He, in fact, also had to apply to a special court requesting a straw and sipper because his health condition made it difficult for him to hold a glass of water. He also fell multiple times while in prison.

He tested positive for COVID-19 in 2021. He had to be put on ventilator support because of his rapidly deteriorating condition, and died on 5th July 2021. The State's persecution of dissenters like Father Stan Swamy was meant as a warning to the wider public – if an 83-year-old with Parkinson's can die under custody, no one is untouchable. The law, once an instrument of justice, is now a carrier of fear.

These instances of the extreme repression of people's civil rights have resulted in a steep decline in India's democracy rankings across indices. The Democracy Report 2025 by the V-Dem Institute highlights India's plummeting in the democratic index. It concludes that the level of democracy a citizen enjoys in South Asia is at pre-1975 levels. The report classifies India as an "electoral autocracy" (14). According to the report, while India's democratic status has been declining sharply since 2017, the country's descent into an electoral autocracy became clear in 2019 (15), after Modi was elected as Prime Minister for the second time. The degree of democratic backsliding is worrisome and has massive consequences for the people of the country, and the degree of oppressive crackdown on civil liberties and political pluralism is unprecedented. However, if history is any indication, at the precise moments of grave crisis, the Indian democracy has found within itself the will to resist and renew its commitment to its foundational ideals. The Indian democracy has experienced attempts to impose authoritarianism in the past, survived those attempts, and only emerged stronger.

A common theme among all these governments is that they were full-majority governments. The coalition era of successive coalition governments from 1989 to

2014 kept authoritarian tendencies in check as each government had to negotiate and build consensus between parties across the ideological spectrum, and no single party could dominate or exert its own will as opposed to in full-majority governments. While coalition governments are often criticized for "policy paralysis," they are excellent examples of compromises made for political stability. The last BJP-led government before Mr. Modi took power in 2014 was the government of Prime Minister Atal Bihari Vajpayee from 1999 to 2004. A comparison of the Vajpayee-led government and the first two terms of Modi as Prime Minister is the most apt illustration of the advantages of coalition governments in a diverse nation like India.

Though the BJP was the biggest party in the coalition in the Vajpayee government, they dropped issues like the Ram mandir (discussed in Chapter 4) from the agenda of the government in a compromise with their secular alliance partners. Coalition governments are, thus, essential to keep the authoritarianism that forms the bulwark of brute majority governments in check furthermore, since coalition governments in India have always been propped up with the support of regional parties, which ensures the protection of regional interests at the national level, safeguarding federal principles, and the independence of states. The fact that the election of 2024, though resulting in another term as Prime Minister for Modi, is different from other elections is also evident in the fact that the Democracy Index 2024 published by the Economist Intelligence Unit (2025) notes that though India continues to be classified as a "flawed democracy," the country has improved its democracy score in 2024.

Coalition governments dilute fear. Pluralism disperses power, and with it, the fear that centralization breeds.

With a lack of a majority, coalition governments are required to build consensus in Parliament to pass legislation. In this case, then, the laws that are passed reflect the real will of the people, as their elected representatives wield real power in ensuring that the legislation passed by the government does not infringe on the rights of people and that the laws are truly in the interest of the wider public. A powerful and assertive legislature is crucial for maintaining accountability of the executive, especially at a time when India navigates a deeply polarized political landscape. However, it is ironic that situations where the government has a full majority and is most susceptible to developing authoritarian tendencies are the same situations where the legislature and the Parliament are weakened most by their lack of numbers.

Disruption as Dissent: Voices in a Silenced House

The pattern of weakening the Parliament began with Indira Gandhi's majority government in the 1970s, where the Parliament was reduced to a mere rubber stamp – discussions were bypassed, dissent was silenced, and the government often relied on constitutional amendments and ordinances. Indira Gandhi's term as Prime Minister saw 21 constitutional amendments. Similarly, while in Modi's first term as Prime Minister, there was a limited scope for debate and for raising opposition voices in Parliament, the second term witnessed a more aggressive bulldozing of bills through Parliament, often without any discussions or debates. Extremely sensitive legislation like the CAA, the farm laws, and the abrogation of Article 370, which took away the

special status of the state of Jammu and Kashmir and its statehood, were passed with minimal or no debate.

In the winter session of December 2023, the Bhartiya Nyaya Sanhita, a new penal code to completely replace the "colonial" Indian Penal Code, was passed "unanimously" in the Parliament. The passing of the Bill was marked with enthusiastic thumping of the tables and cries of "*Jai Shree Ram*." The cheers of celebration enhanced the absolute, almost eerie, silence on the opposition's side. While the ruling party MPs cheered in Parliament, MPs of opposition parties sloganeered at the gate of the parliament, lodging their protest against the Bill – the "unanimous" passing of the Bill was the result of the suspension of 146 Members of Parliament for "unruly behavior," an action unprecedented in its scale in the history of India. The eerie silence of the opposition benches is a demonstration of how dissent is punished even in Parliament itself.

In these situations where even the most controversial and draconian laws brought in by the government cannot be blocked by the Parliament for lack of numbers, it is important to ask, does the Parliament even matter? What difference can the legislature make when the government has the numbers to overrule all opposition concerns and demands?

In cases of governmental majority, the performances of parliament come into play. Performances, here, do not imply inauthenticity but strategy. Even if legislative outcomes are foregone conclusions, parliamentary performances hold transformative power. These performances are not restricted to India. Winston Churchill once called

the Parliament "a great stage on which the life of a nation is played out." These performances are not only limited to making speeches, participating in debates, asking questions, raising people's issues, and taking the recourse to rules to demand discussions on issues of governmental failure, but also extend to tactics like holding protests outside the parliament house, donning black (or otherwise making a statement through clothing), and also creating parliamentary disruptions.

9th August 2023 witnessed a rather entertaining display of protest – Aam Aadmi Party MP Sushil Gupta turned up to Parliament donning a white shirt, beige trousers, sunglasses, and a garland of tomatoes – making the point that tomatoes had become so expensive that they could be used as jewellery. The situation was so dire that even global chains like Burger King, McDonald's, and Subway stopped serving tomatoes in their burgers, sandwiches, and wraps (Kumar and Paramasivam 2023). Despite the enormity of the situation and its effects on people's lives, the government refused to discuss the matter in Parliament, pushing Gupta to protest in this manner. As the session commenced, other opposition MPs called out to the Chairman, Vice President Jagdeep Dhankar – "*Gupta ji ko security dijiye Sir. Aabhushan pehen ke aaye hain*" (Please provide security to Gupta ji, Sir. He has come wearing expensive jewellery). Someone called out, "*Gupta ji, itne tamatar kaise laaye? Sambhal ke. ED aa jayegi*" (Gupta ji, how did you afford so many tomatoes? Be careful, the ED will come to question you). Gupta's tomato garland was not just comic relief or a theatre of the absurd but a declaration that when facts are suppressed, satire must speak.

Parliamentary disruptions have been the source of widespread public and media criticism. News media regularly run updates about parliamentary disruptions, computing the "loss" to the public exchequer. However, when debates and discussions are blocked in the parliament, and when the voices of the opposition are stifled, disruptions can be an important tool to continue raising the issues of the people and to highlight instances of government failure, particularly in full-majority governments that do not have the internal checks and balances that coalition governments have. BJP leader and former Finance Minister of India, Arun Jaitley, later a key figure in the very government that normalized silencing, justified parliamentary disruptions, writing "If parliamentary accountability is subverted and a debate is intended to be used merely to put a lid on parliamentary accountability, it is then a legitimate tactic for the Opposition to expose the government through parliamentary instruments available at its command" (2012).

Like public protests, parliamentary disruptions like sloganeering and walkouts are fundamental to the democratic process. These disruptions serve a strategic and symbolic purpose. First and foremost, parliamentary disruptions often bring attention to the issues being ignored (or deliberately silenced) by the government, emphasizing that "business as usual" cannot be carried out unless that particular issue is addressed in the House. For instance, when a massive ethnic conflict broke out in the state of Manipur, leading to the killing of 226 people and the displacement of about 60,000 (Baruah 2024), the opposition parties demanded that Prime Minister Modi address the Parliament during the monsoon session of July-August 2023 about the steps being

taken to address the issue. They also demanded a debate on Manipur under Rule 267, which suspends all listed business for the day to address a particular urgent issue of grave national concern. The government did not agree to a discussion under Rule 267, nor did the Prime Minister address the House, leading to massive parliamentary disruptions. Eventually, the opposition parties filed a no-confidence motion against the government.

Now, the filing of this motion was also performative because, since it was a full majority government, they had the numbers to pass the trust vote. However, the discussion on the motion allowed the opposition leaders to raise the Manipur issue and point out other failings of the Modi government. Consequently, the Prime Minister had to talk about Manipur in his reply to the motion, which was the very demand of the opposition from the outset.

Disruptions also ensure media coverage at a time when the news media and reporting are majorly influenced (and also often completely controlled) by the State. Negative news almost always gets more attention and coverage than positive news. As the famous adage goes, "if it bleeds, it leads." This makes the negative press that comes with disruptions a key tool for opposition leaders to highlight an issue of importance because such matters are either not taken up for discussion or, even on rare occasions when they are, rational, un-theatrical debates do not get the kind of media coverage that parliamentary disruptions and sloganeering do. The Parliament retains the symbolic and strategic power to contest draconian legislation, if not by vote then by voice.

Disruptions make a symbolic statement of defiance in case of the introduction of legislation that the opposition knows or believes to be improper, but lacks the power and numbers to block. In the case of such legislation, disruptions and walk-outs work to delegitimize the process and raise questions about the intent of the proposed law. Such strong displays of parliamentary opposition to particular legislation can also help mobilize and collectivize popular support against it, as it did in the case of the farm laws and the CAA.

Finally, disruptions in the Parliament often lay the groundwork for upcoming political or electoral campaigns. Campaigns are often kick-started in Parliament, ensuring the public's awareness of the issue before the proverbial fight is taken to the electoral grounds. Under the full-majority Rajiv Gandhi government, Parliament was routinely disrupted in 1988-89 by the BJP, which was then in the opposition, over allegations that the government received kickbacks in defence deals. Though Rajiv Gandhi was himself posthumously exonerated, it was a major poll issue, and the concentrated campaign was one of the factors leading to his defeat in the 1989 election. This strategy rings true not just for the opposition but also for the ruling parties.

For instance, the Modi government called a special session of the Parliament to pass the 106th Constitutional Amendment, seeking to reserve 33% seats in the directly elected Lok Sabha and all state assemblies for women. The special session was called even though the Bill could have easily been passed in any other session, especially considering that it would not be implemented before a census and delimitation exercise was undertaken. In other words, the special session was hurriedly called to

get the Bill passed, even though it could not take effect before 2029 at the earliest. The Bill, however, served a different purpose and was passed on 19th September 2023, a little over 6 months before the election, laying the groundwork for the Modi government's campaign of *Naari Shakti* (women's empowerment).

A majority government and the consequent brute force enabling the bulldozing of legislation in Parliament is, thus, though disheartening for a democracy, not an absolute power. If it functions to the best of its abilities, the Parliament still has the power to call problematic and draconian legislation into question, both inside and outside the Parliament. The opposition represents the voice of the electorate in Parliament; it continues to be the most enduring force in a democracy. Despite all the challenges to political plurality and the attempts to reduce the Parliament into a rubber stamp, the fact that the Indian people mark their political participation in the form of both mass agitations and through the democratic exercise of the election is a profound testament to the resilience of the nation. When the opposition is silenced in the Parliament, democracy still speaks in the streets and at the ballot box.

The Festival of Democracy: Power in Participation

An important example of a mass agitation that forced the government to accept defeat over the last decade of the Modi rule is the farmers' agitation of 2020-21 in North India. The protests were triggered by three contentious farm laws passed in the Parliament in 2020, despite the objections of the opposition parties. Farmers' unions asserted that these laws would place them at the mercy of big corporations. While demanding a repeal of the Bills, the farmer groups also raised a demand for legally

assured Minimum Support Prices (MSP) that would prevent corporations from controlling the markets. The farmers camped on the borders of Delhi after their march to Delhi was stopped by the police, who did not let them enter the city. The duration of the protest was 380 days (Jagga 2025), and though the State disputes the figure, farmer groups claim that over 750 protesters died through the agitation (see Moliner and Singh 2024 for a detailed discussion of the protest, its tactics, and the results). Eventually, on 19th November 2021, Prime Minister Modi held a televised address where he announced the repeal of the three contentious farm laws, marking a massive victory for the protesting farmers. If the streets are where dissent begins, the ballot box is where it culminates.

Rajendra Prasad, the first President of India, aptly called the voting day a "festival of democracy." 64.2 crore, that is, 642 million people voted in the election of 2024[4] of which 31.2 crore (or 312 million) were women (Election Commission of India, 2024). The size of the Indian electorate was greater than that of all other large countries that voted in 2024 put together (see image below for scale).

[4] This is the number of people that cast their votes. The actual number of voters eligible and registered to vote were 96.8 crore (that is, 968 million) and the voter turnout for the election was 65.7% (Election Commission of India).

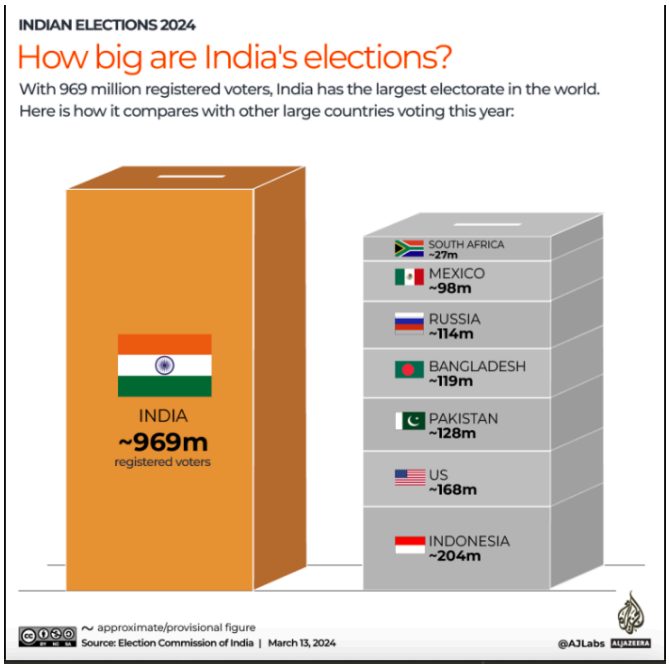


Image: Pradhan (2014)

The election was held across seven phases, starting on April 19th, and the last phase was held on June 1st. Through the blistering summer heat of India, people lined up patiently outside the polling stations – industrialists, daily wage laborers, salaried employees, taxi drivers, delivery agents, actors, everyone waited with the knowledge that their voices were all equalized for that one day. Every vote would matter equally. People flashed their marked index fingers – the smudged line of indelible ink that certified that they had cast their vote. Social media, news, and the streets were filled with marked fingers – the smudged ink a mark of pride and power.

All the 642 million votes (including votes cast through postal ballot) were counted in a single day on 04th June 2024[5]. When announcing the election schedule of 2024, the

[5] Vote counting is decentralized and is simultaneously undertaken in all the 543 constituencies of the country.

Chief Election Commissioner affirmed, “We will walk the extra mile so that the voters don’t have to. We will go in the snowy mountains and jungles. We will go through horses and helicopters and on the bridges and even ride on elephants and mules just to ensure everyone is able to vote” (Economic Times 2024), and they did just that. While the Election Commission of India’s (ECI) neutrality has been questioned in recent years, mainly for ignoring the violations of the code of conduct and the blatantly divisive and communal speeches given by BJP leaders, its commitment to ensuring that every single voter can exercise their franchise is a feat unmatched globally.

Polling agents traveled 180 km (110 miles) and borrowed a power connection from the military to ensure that a family of 5 living in a remote village in the Himalayas could cast their votes (Ali 2024). Tashigang, another remote village in the Himalayas with 53 registered voters, is the highest polling booth in the world at a height of 15256 ft above sea level. An entire polling station has also been set up deep in the Gir forest (the last surviving natural habitat of Asiatic lions). This polling station was set up for a single voter – Mahant Haridasji Udasin – a priest at a temple in the forest. Haridasji Udasin is the successor of Mahant Bharatdas Darshandas, who was the only voter in the polling booth for two decades before he passed away and was succeeded by Udasin (ECI 2007). While Udasin cast his vote in the morning, the polling agents were required to keep the polling station open until 5 pm according to the rules, after which they could make their way out of the forest. These are just a few among the

countless stories illustrating both the challenges and the enduring glory of the Indian democratic processes.

Fear may be built into the architecture of power through cumulative authoritarianism, but every protest, every disruption, and every vote is a brick pulled loose from that edifice. India's democracy endures not because it is flawless, but because it is fiercely claimed over and over again by its people.

The Politics of Possibility

While this dissertation has traced the mechanisms of political persecution and the deep and seemingly invincible roots of systemic fear, it is also crucial for this to be a narrative of hope. Unlike a focus on suffering, which emphasizes what was taken away, turning the attention to hope emphasizes what remains – resilience, resistance, and an unshakeable desire for future-making. Hope can challenge the edifice of oppression, pulling it apart, one brick at a time; it can give a sense of control to individuals and communities that seem to have lost a voice in determining how their lives shape up. Hope is not a balm, but a challenge, giving people a reason to wake up every day and fight, which is, oftentimes, all that they have.

Hope has only recently gained interest as a subject of study among anthropologists (Jansen 2021, 1). Much of this work on hope focuses on health, aging, or illness (Danely 2016; Good et al 1990; Mattingly 2010; Mrig and Spencer 2018; Warren and Manderson 2008), or on mobility, immigration, and displacement (Bendixen and Eriksen 2018; Bredeloup 2017; Jansen 2007; Jansen and Löfving 2008; Kleist and Thorsen 2017; Pine 2014; Puzo 2016).

Jansen (2021) argues that the scholarly anthropological work often romanticizes hope, avoiding its darker sides. First, he asks about the "detrimental workings of hope." Specifically, he refers to the work of Crapanzano (2003), who argues that hope may stand in the way of the flourishing of human life, primarily when the hope is hinged on forms of government. Jansen argues that hope may have both beneficial and deleterious effects, and anthropologists need to be able to account for both. Second, he points out that the hopes of different groups may be incompatible with each other. However, anthropological work on hope is often framed in a way that makes it appear that there is a consensus on hope. Third, in continuation of the second point, he argues that the work on hope "consists of empirical selectivity," where anthropologists tend to focus on the hopes that they "personally like and that they expect their readers to like too" (13-14). While these are valid critiques, I continue to advocate for ethnographic engagements centered on hope, because in contexts like India, where fear is state-engineered and systemic, hope is not a scholarly preference but a condition of survival.

Detrimental workings of hope – It would be superficial to attribute Modi's rise to majoritarianism alone, and examining his rise undertaken with the blinders of divisiveness alone will pose a serious challenge for the opposition's aim of mounting an effective challenge to the ruling party. Modi's first election in 2014 resulted from the exploitation of hope against the backdrop of increasing allegations of corruption against the ruling UPA government. In stark contrast to the kind of divisive government he helmed in Gujarat for three terms as Chief Minister, Modi's campaign

in 2014 did not take a communal pitch, but focused on *vikas* (development). *Achche din aayenge* (Good days will arrive) was his campaign for the election, creating aspirations of turning India into a developed nation. It was this hope that brought Modi to power, as opposed to a singular desire for divisiveness or majoritarianism.

Incompatible hopes and empirical selectivity – It is clear that the hopes of people in a nation, especially political hopes about ruling powers, are incompatible. If they were not incompatible, it would negate any necessity of undertaking election exercises. A consensus is, in fact, the argument of authoritarian regimes that claim to have universal support. However, my focus on the hope for a future without fear is not "empirical selectivity," but the basis of survival for not only the political opposition of the nation but the democratic foundations of the country itself. It is not a hope that wants to subjugate, but a hope that wishes to uplift; not a hope that takes away, but a hope that gives. This hope has also, in my opinion, resonated with a majority of the Indian populace, with the BJP ending with a 36.56% vote share even after making all efforts to decimate the opposition; that is, more than 63% of the country does not wish to have a Modi government.

Jansen (2021) critiques the "formula" of the "analytical operation" of studies that focus on hope. He summarizes that the authors writing about hope first categorize the time and place of their ethnographic engagement as one where hopefulness "is in short supply." Second, they criticize pessimistic interpretations of the situation and declare that they want to contribute to an anthropology that "invites one to hope." Finally, they make an effort, from an "etic vantage point," to "detect hopeful rays of

sunshine even where dark hopelessness seems to reign" (12). I argue, however, that hope is not only derived from the emic perspective of interlocutors but also the driving force in everyday life. If there were a lack of hope and a prevalence of "dark hopelessness," political opposition in India would long be decimated after the onslaughts it has been facing for a decade. The critique of hope also often emerges from the lack of a definition, the need to delineate its limits. Among the most poignant descriptions of hope appears in the work of Pandian and Mariappan (2014), who describe hope as "a thread carrying each moment over into the next [...] very small, so quiet and subtle." However, it indicates that "there is always something more to live for" (21). I argue that hope takes three different forms in mounting a defence against fear: "imagination" that counters inevitability and addresses political futures, "resistance" which engages with collective and individual action, and the "routine" that honors quiet forms of survival and resilience.

Imagination

Modi and the BJP understand the electoral power of hope. An important tool mobilized by the BJP, though it has escaped widespread attention, is the organized effort to wipe out any imagination of an alternate future. When faced with criticism or resistance, a common adage in the run-up to the 2024 election was, "*Kuch bhi kar lo, aayega toh Modi hi*" (No matter what you do, Modi will be elected again). This dismantling of imagination and the imposition of the feeling of inevitability destroys the ability of a subjugated population to resist because a different future does not seem possible.

According to anthropologist David Graeber (2004), anthropologists should focus on possibilities, not just power, because imagination is a fundamental requirement of freedom. While arguing that bureaucracy and capitalism are systems that kill the imagination, Graeber (2015) argues that moments of everyday resistance and solidarity are micro-utopias that embody hope in practice, even if they do not seem to change things immediately. It would be erroneous, however, to connect hope to blind optimism. Optimism assumes things will turn out fine. Hope, however, accepts that things might not eventually turn out fine but tries to create a better future anyway.

Contrary to the optimism that the future will be bright, hope accepts that the future is uncertain. However, within this uncertainty, people find the will to act because, if there is no assurance of a bright future, there is no assurance of a bleak future either. The 2024 election broke the spell; *Aayega toh Modi hi* is no longer a certainty, and it is in that rupture that possibilities of future-making emerge. Hope, then, is not unfounded, but based on a firm belief that a different future is possible, and also probable. While hopelessness and cynicism foster inaction and create an acceptance of the status quo, hope motivates collectivization, reimagination, and action.

Resistance

Romanian-American writer and political activist Elie Wiesel observed, “The opposite of hope is not despair, but indifference.” To be cynical is to be indifferent, because most often the truth remains that hope is most fiercely held on to by the most marginalized – the ones that cannot afford to give up, the ones whose dignity, and often survival, depends on resistance. It is easy to be cynical. The real resistance is

waking up every day and choosing to be hopeful. While cynicism might pass off as realism, hope is what changes the world.

As American writer and activist Rebecca Solnit argues, “untold histories” are full of hidden victories – small wins, forgotten protests – which carry the seeds of hope. While the manifestations of public resistance are met with mixed results – with the farm laws being repealed, but the CAA staying on the books; with political leaders getting bail after spending months or even years in jail, but activists like Umar Khalid continuing to be incarcerated – the full impact of this resistance is often not seen immediately. Hope is not dampened but derives strength from the future's unpredictability. Miyazaki (2004) and Miyazaki and Swedberg (2016) have engaged extensively with the anthropology of hope, which is a form of knowledge that relies on indeterminacy and the idea of “not yet”. This uncertainty is itself imbued with meaning and value. The testimony of uncertainty can reveal something more profound than certainty – it speaks of the undercurrents of silenced desires, dismissed experiences, hidden emotions, and hesitant dreams. Certainty belongs to those in power; it is loud and authoritative. Not knowing, however, is not a weakness, but a fertile ground for possibilities and transformation. Resilience lies in bearing witness to the testimony of uncertainty rather than denying its truth.

Framing hope as the “passive counterpart” of desire dependent on external factors, Crapanzano (1985) argues that hope “is the field of desire in waiting” (45), anchoring hope in a powerless framework of “waiting” and “not doing”. Bendixen and Eriksen (2020), on the other hand, distinguish hope and waiting with “the passive time of

waiting [turning] into a time of project-oriented activity [of protest]" with the latter signifying hope (97). At the same time, Pedersen (2012) argues that hope is work, and Hauer et al (2018) frame hoping as a practice (see also Elliot 2016 and the "labor of hope"). In these arguments, authors distinguish between "practices of hope and hope itself, which more often appears as a disposition or an affect" (Jansen 2021). However, I wish to separate hope from the unitary framework of waiting and practicing, because it signifies an overly rigid distinction between "action" and "inaction."

Routine

Hope offers a more fertile field of imagination in the conceptualization of anthropologist Veena Das (2007), who argues that survivors of State violence find hope embedded in everyday life instead of being either an abstract idea or even the need to do. Hope, for Das, is in the "descent into the ordinary" – in how people continue living and how ordinary acts like cooking, parenting, and praying become testaments of resilience and survival. These small acts are not an escape from politics, but acts of defiance against the violence embedded in everyday life. Hope is about endurance and transformation. Hope is a willingness to engage with the world as it is, rather than withdrawing from it, and attempting to shape it through small acts of care. Resistance is not just in a passive wait, or an active heroic defiance, but in quiet acts of everyday life and routine. The quietness of the everyday is often the loudest rejection of authoritarian power, the quietness that says, "we are still here."

Resilience comes from learning to find safety in the togetherness of family instead of behind bolted doors; healing comes from standing for a moment in front of a locked door with the certainty that someone is unlocking it for you in that moment. Even in the darkest of times, the doors opened, and behind those doors was not the loud thump of boots but the silent whisper of hope.

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