



Perverse zeal

The NSA's misuse to suppress political dissent is a blot on India's democratic credentials

The detention of Dr. Kafeel Khan under the National Security Act (NSA), within days of his being granted bail, betrays the perverse zeal with which the Uttar Pradesh government is hounding the suspended government doctor. His arrest, at Mumbai airport, was in connection with an allegedly inflammatory speech he had made on the contentious Citizenship (Amendment) Act at Aligarh Muslim University in December 2019. The Special Task Force of the U.P. police accused him of promoting enmity through his speech. It was obvious that the flawed approach that treats criticism of government policy as though it is some anti-national activity was at work. Although he was granted bail, he was not immediately released. A few days later, the NSA was invoked against him, ostensibly to prevent him from acting in a manner prejudicial to public order. The paediatrician from Gorakhpur was sought to be blamed when oxygen shortage in the BRD Medical College Hospital led to nearly 60 children dying in 2017. After he had spent months in jail, an internal inquiry absolved him of the charges of negligence and corruption. However, the State government said he had not been given a clean chit. A fresh departmental inquiry was ordered against him for "spreading misinformation" about the probe report, and some alleged "anti-government" remarks during his suspension.

That the authorities invoked a stringent preventive detention law meant only for booking those whose activities constitute an imminent threat of violence shows that they are not content with prosecuting him. If they were under a bona fide belief that his speech was provocative, they could have filed a charge sheet and let the court decide if it attracted Section 153A of the Indian Penal Code (IPC). The resort to preventive detention as soon as a person is granted bail, with the perverse purpose of continuing his imprisonment, is not uncommon in the country, but the practice is condemnable. It normally indicates mala fide targeting by the administration concerned, and one does not need to look beyond the case of Dr. Kafeel himself to conclude that the latest instance of the resort to the NSA is aimed at inflicting disproportionate punishment on him for expressing political dissent on a supposedly forbidden subject. It is regrettable that the police and the bureaucracy appear to act in wanton disregard for basic rights. The relentless hounding of Dr. Khan is a blot on the country's democratic credentials. Taking the cue from growing opinion, most recently articulated by Justice D.Y. Chandrachud of the Supreme Court, that protest and criticism directed at government policy do not amount to being anti-national, officials should pause before they are seen as enablers of the excesses of an authoritarian dispensation. To invoke the NSA in cases where sections of the IPC would suffice is to undermine its efficacy as a tool to protect national security.

Delhi at the centre

Kejriwal must now work within his mandate, and the Centre should not stall him

Enthusing his admirers and infuriating detractors, Arvind Kejriwal took oath as Chief Minister of Delhi for a third time in six years. From stomping out of office after nearly 50 days of dystopian conflict with the Centre, he reoriented his approach during his five-year tenure and focused on areas within his control to improve. Consequent administrative innovations by his government improved many lives and paid him rich electoral dividends in Delhi, where he won 62 seats in the 70-member Assembly. Inaugurating the new term, he bears the burden of ballooning expectations in Delhi and beyond. Delhi's unique status as the national capital has necessitated a diarchy in the city, where the State is forced to share authority with the Centre. Policing and most matters related to urban development are with the Centre. The Centre's obstructionism and the Delhi government's combativeness had slowed down critical development projects in the past. There cannot be a stronger, clearer message to the BJP and AAP from the people who chose, over two elections, the former for the Centre and the latter for Delhi – they must work together in the interest of the city. While the Centre must be magnanimous, the State must be conciliatory. Mr. Kejriwal made the right move by inviting Prime Minister Modi to his swearing-in ceremony.

With local sources of pollution remaining largely unaddressed, apart from court-ordered steps such as the permanent closure of the Badarpur thermal power plant in 2018 and the Graded Response Action Plan, the shortage of public buses remains one of the biggest concerns – for reducing pollution as well as improving urban mobility. Having made bus rides free for women, the AAP government has to now make sure there are enough buses. In its 10-point "Kejriwal Ka Guarantee Card", the party promised Delhiites over 11,000 public buses and 500 km of Delhi Metro network. The scheme of 20,000 litres of free water to every household every month will be continued, but the quality of that supply needs to be consistent. Governments, State and Central, have spent several crores over the past decades to clean the Yamuna, but the problem remains. The Delhi government will not be able to address this problem on its own and will have to work with the Centre. Delhi has a huge housing shortage, and both governments must get their act together in implementing the long overdue land pooling policy that will provide a roof over the head for lakhs and to kick-start the sluggish sector. The Chief Minister will also need to focus on working with his counterparts in neighbouring Haryana and Uttar Pradesh to deal with the city's problems. Mr. Kejriwal has shown remarkable ability to evolve, as a politician and as an administrator. He must stay the course.

China, the media and truth-telling in a crisis

Wuhan has shown that when given the space to work, Chinese journalists can play a much-needed watchdog role



ANANTH KRISHNAN

On February 3, *Caixin*, a Chinese magazine known for its independent reporting – at least as independent as a media outlet can get in China – published the first of a four-part investigation. The article, headlined "How Wuhan lost the battle", laid bare how a month-long cover-up allowed the novel coronavirus outbreak to spread, while the Chinese public remained completely unaware. That very same day, the lead story on the front page of the *People's Daily*, the ruling Communist Party's official newspaper, reported breathlessly on how a visit by China's President Xi Jinping to a village in Qinghai province had transformed its fortunes. That visit, incidentally, was in August 2016.

A window to coverage

The two contrasting stories from two contrasting media outlets present a snapshot of how the media in China is covering the novel coronavirus outbreak, which as of February 16 has infected more than 68,500 people and claimed 1,665 lives on the mainland. In India, there is a widespread assumption that the media in China is one, single, heaving, Communist Party-controlled beast, where every article has to be signed off by the Politburo. Those perceptions, to be fair, have only deepened in the eight years since Mr. Xi took over the reins of the Party, a period that has seen a relentless tightening of controls over the media.

The Wuhan outbreak has served a reminder that below the surface, the media landscape in China remains a contested terrain, and that when given the space to work, Chinese journalists can play

a much-needed watchdog role. Unfortunately, as the crisis and cover-up has reminded us, finding this space has become all too rare. We now know, thanks to the reporting of *Caixin*, *Caijing*, the *Beijing News* and a few other outlets, that the crisis was unfolding in Wuhan's hospitals throughout December, even as the city and provincial leadership hid the scale of the outbreak. As a doctor at the Wuhan Union Hospital told *Caixin*, clinics were being flooded since late December with as many as 900 patients a day showing pneumonia-like symptoms. On December 30, eight doctors sent warnings on chat groups about the outbreak. Among the whistle-blower doctors was Li Wenliang, an ophthalmologist. The eight were hauled up by police for "spreading rumours" and forced to sign statements withdrawing their claims.

Moreover, a number of doctors and medical workers began falling ill, although hospitals barred doctors from disclosing this. The provincial government would maintain until January 20 that this viral pneumonia was under control and there was no clear evidence of human-to-human transmissions – a premature and ill-considered statement that helped magnify the crisis. Indeed, on January 19, the local government even held an annual community dinner for 40,000 families. It was only the following day, when respected Chinese epidemiologist Zhong Nanshan revealed the scale of the crisis did Wuhan realise it was in the middle of an unprecedented outbreak; Dr. Zhong rose to fame during the SARS or the Severe Acute Respiratory Syndrome fight, in 2002-03. And just three days later, with little warning, the entire province of Hubei would be put in quarantine – from buffet dinner to complete lockdown in 96 hours.

Structure of control

We know these facts only thanks to the brave Chinese journalists



who have been reporting relentlessly from Wuhan's ground zero. What explains the return of Chinese investigative journalism? Maria Repnikova, author of *Media Politics in China: Improvising Power Under Authoritarianism*, suggested in a recent article that the central government in Beijing has often deliberately granted limited space in times of crisis. Doing so serves at least two purposes: releasing a pressure valve that helps assuage public anger and assess public sentiment, and helping the central government better identify the source of the problem when under-fire provincial officials would be more concerned about saving their careers. The structure of control of Chinese media, to some extent, also enables such reporting. While the Hubei Party Committee would have direct control over media in their province, they have no such say over a magazine from Beijing or Shanghai. This explains why media from other provinces have led the coverage. Of course, even this is only possible because Beijing temporarily sees it as in its interest to protect what Ms. Repnikova calls "an image of managed transparency". Unfortunately, the space for such reporting is usually fleeting, as was the case after the Sichuan earthquake in 2008 and the high-speed railway accident in Wenzhou in 2011, that claimed 40 lives.

In political micro-targeting, the vulnerable Indian voter

With the electoral process tapping data, a data protection framework must uphold a voter's informational autonomy



PRASHANT SINGH & MEGHNA SHARMA

Two years ago, there was a massive outcry against the hiring, by Indian political parties, of Cambridge Analytica, a data mining and analytics firm. The episode highlighted the need for regulating social media platforms by way of a comprehensive data protection law which takes issues such as political micro-targeting seriously. With the recently introduced draft of the data protection law, the Personal Data Protection Bill, 2019, the debate has again resurfaced. In the Internet age, any data protection law must be alive to the potential impact of social media companies in shaping public opinion. The current draft empowers the Central government to notify social media intermediaries as significant data fiduciaries if their user base crosses a certain threshold and whose actions are likely to have an impact on electoral democracy. This provision merits serious discussion to ensure that digital tools are used for enhancing democracy

through citizen engagement, and not for harvesting personal data for voter targeting.

World of political advertising

In today's world, online presence, which ensures greater outreach, is a key source of competitive advantage. This realisation gave rise to strategic efforts by political parties to tap into the fragmented political discourse by catering to the individual. Earlier, the idea was to capture mass issues. But in the present day and age, the focus of the campaign is the individual. Political parties are increasingly employing data-driven approaches to target individual voters using tailor-made messages. Such profiling has raised huge concerns of data privacy for individuals and has become a burning issue for political debate. Therefore, the concerns related to regulation of the digital world are being debated in all jurisdictions which have experienced the impact of this technological advancement.

Although, each jurisdiction may have distinct factors influencing the final shape of the Internet governance model, the reasons for the initial debate are common to all, i.e. to arrest any negative externalities emerging out of the Internet. Therefore, any forward-thinking regulatory framework needs to have both supervisory mechan-



isms in place as well as effective law enforcement tools in its quiver.

This situation is not particularly characteristic of Indian politics. The United States and European countries are equally affected by the impact of this unregulated practice of micro-targeting. This practice has raised some serious concerns with regard to the kind of data that is being collected, the manner in which voters are being profiled, how transparent the process of profiling and targeting is, what the nature of functioning of organisations engaged in this business is, and how neutral globally present intermediaries such as Google and Facebook are. Recently, regulators in the U.S. and Brazil have held Cambridge Analytica guilty of employing illegal practices while harvesting personal data of millions of Facebook users.

Over the years, political advisory and advertising firms have de-

veloped sophisticated tools to gather voter data and made proper campaign products out of it. The politicians of today's age leave no stone unturned while canvassing for votes. The reason why this issue becomes important is that the passive users are just not aware of what they are being subjected to.

Indeed, there are already signs that the clampdown will resume. "The window now seems to be closing," the China Media Project reported on February 5, citing an internal government directive stating "reports concerning the epidemic must take [information from] authoritative departments as the standard".

Political impact

The current crisis is perhaps the biggest challenge facing the Party in the Xi era. The Party taking the unprecedented steps of showing, for the first time, videos of leaders speaking at usually secretive Politburo Standing Committee meetings, and subsequently releasing on February 15 an internal speech by Xi, suggest it is more than a little concerned about how the public is looking at its response. In the speech, Mr. Xi said he had as early as January 7 issued orders to deal with the crisis, a rare instance of him taking the step of actually explaining the Party's actions to the public. He called for lessons to be learnt, and for ensuring "social control and security". While a prolonged crisis could certainly hurt the Party's legitimacy, an early victory in the fight against coro-

navirus – which the world will be hoping for – could still end up as a rallying call for Mr. Xi ahead of the Party's 100-year-anniversary in 2021.

While the Party may well see more control as the answer, in the view of some Chinese, however, it is a systemic culture of secrecy that prides security above all else – one that only incentivises local officials to cover up, control their media, and maintain "stability" at all costs until a crisis has spiralled beyond control – that explains the Hubei provincial government's actions. How else would they respond if "stability maintenance" is a leading criterion for a promotion? In their view, transparency is the solution, although one need only look closer to home to conclude it is perhaps a necessary but not sufficient condition to deal with such outbreaks, which require a robust and prepared health-care system too.

Winds of change?

Moreover, they see the stifling of independent Chinese voices as hurting the government's own mission of trying to convince the world of its response. When much of the media is state-controlled and there are few independent outlets mediating China's rapidly expanding engagement with the world, scepticism will likely abound overseas, even if China ironically has, at least since January 20, been far more transparent in handling the outbreak than it was during SARS 17-18 years ago. To that end, a petition put forward by academics from the elite Tsinghua University in Beijing, Mr. Xi's alma mater, has now called to make February 7, the day of Dr. Li's passing, a national day for freedom of speech. It is perhaps too early to tell where such calls will go, and whether the current sense of anger will end up as fleeting as this revival of Chinese journalism.

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LETTERS TO THE EDITOR

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In the name of 'nation'

The two most abused terms in a democracy are "national interest" and "national security". They are used to curb citizens' rights and to pull wool over people's eyes. We should not forget that everything Hitler did was in what he considered to be 'national interest' and yet he took Germany efficiently and determinedly on a path to ruin. The rise of Hitler in the inter-war years was possible because the silent majority in his country saw in Hitler's ascent a manifestation of the 'national German pride'. Similarly, the dilution of Article 370 in 2019 was done in the name of 'national interest' and 'national security'. If the dilution was meant to facilitate Jammu and

Kashmir (J&K)'s integration into the national mainstream, why did the government hold on to the Kashmir-specific Public Safety Act (PSA)? Here, in Goa, Section 144 has been imposed citing the excuse of 'terror threats'. The reality is, for authoritarian governments, the biggest threat comes not from external enemies but from its own citizens. This is when elements in the jurisprudence such as Section 144, PSA and Section 124A, dealing with seditious, come into play. While the British Empire used the sedition law to curb free speech during India's independence struggle, the present government is using it to silence and harass those with divergent opinions, including writers, activists

and protesters. Britain repealed this law in 2009 while we in India continue to have it in our statute books. Mysteriously, the 'national interest' always converges with the political interests of whichever party or leader is in power. Considering this, a true patriot must always be ready to defend his country against his government.

D.C. DIAS,
Taleigao, Goa

Missing in action

There cannot be a bigger falsehood than Pakistan's claim to the Financial Action Task Force (FATF) that the international terrorist Masood Azhar and his family are 'missing' (Front page, "Masood Azhar & family missing, Pak. tells financial watchdog FATF," Feb. 16).

The international community, hopefully, has not forgotten Islamabad's denials of Osama bin Laden's presence in the country, later proved to be false when the 9/11 mastermind was found to be hiding in an Abbottabad mansion located near a military academy. Pakistan's assertions will not find many takers this time among observers.

K. VIJAYARAGHAVAN,
Hyderabad

■ Pakistan has taken no real action against any of the terror networks and terrorists operating from its soil. The country is not willing to give up its confrontational attitude over Kashmir and needs the support of the likes of Azhar. It won't be surprising if, after the fear of blacklisting by the

FATF is warded off, the deep state there prevails upon the judiciary to get the recently convicted Jamaat-ud-Dawa leader Hafiz Saeed freed.

S.S. PAUL,
Chakkdaha, Nadia, West Bengal

A common man's CM

By sharing the stage with Delhi's *safai karamcharis* (sanitation workers) during his swearing-in ceremony, Arvind Kejriwal once again proved that he is the Chief Minister of the common people. For political parties, people's involvement in our democracy often ends at polling booths. Spots at the

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swearing-in ceremonies are reserved for VIPs. Mr. Kejriwal has attempted to shatter this kind of 'democracy'. The Aam Aadmi Party (AAP)'s victory is partly because the group has made the umbilical cord relationship democracy must have with the people stronger. It has served its voters not merely through words but through deeds, by really providing or trying to provide the common people with better living conditions.

SUKUMARAN C.V.,
Palakkad, Kerala

CORRECTIONS & CLARIFICATIONS:

In the report headlined "Slapping Section 144 during CAA protests 'illegal': Karnataka High Court" (Feb. 15, 2020), there was an erroneous reference to the Bengaluru City Police Commissioner imposing Section 144 of the Code of Civil Procedure. It should have been the Code of Criminal Procedure.

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