

# TIF - Academic Freedom In India

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*Academic freedom is about the right to study, teach and research a diversity of viewpoints. Yet, this right that is so crucial for the pursuit of knowledge has seen widespread attacks in colleges and universities across India.*

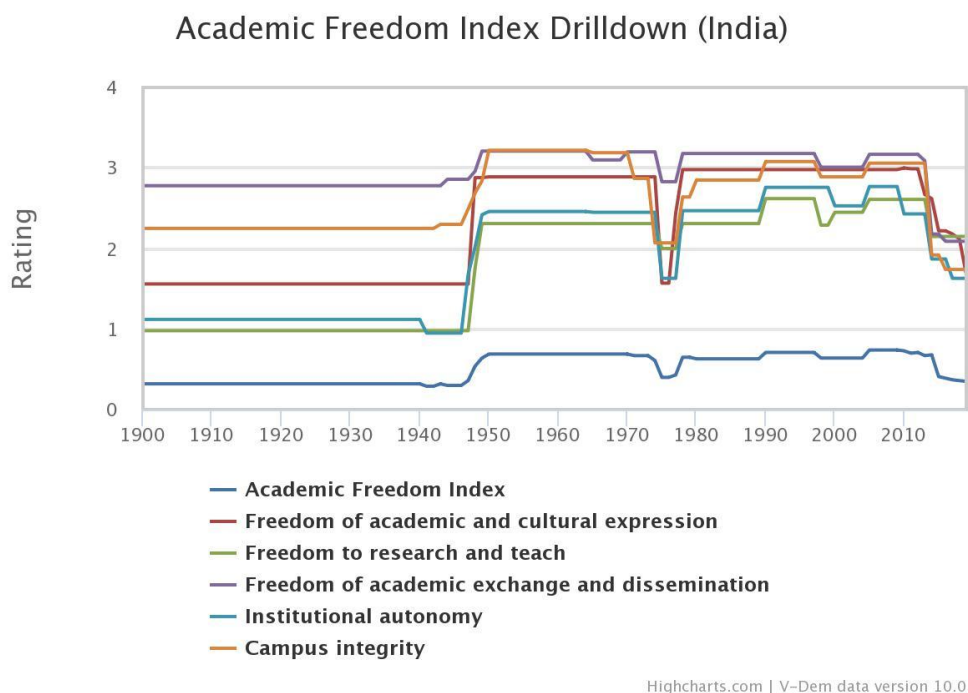
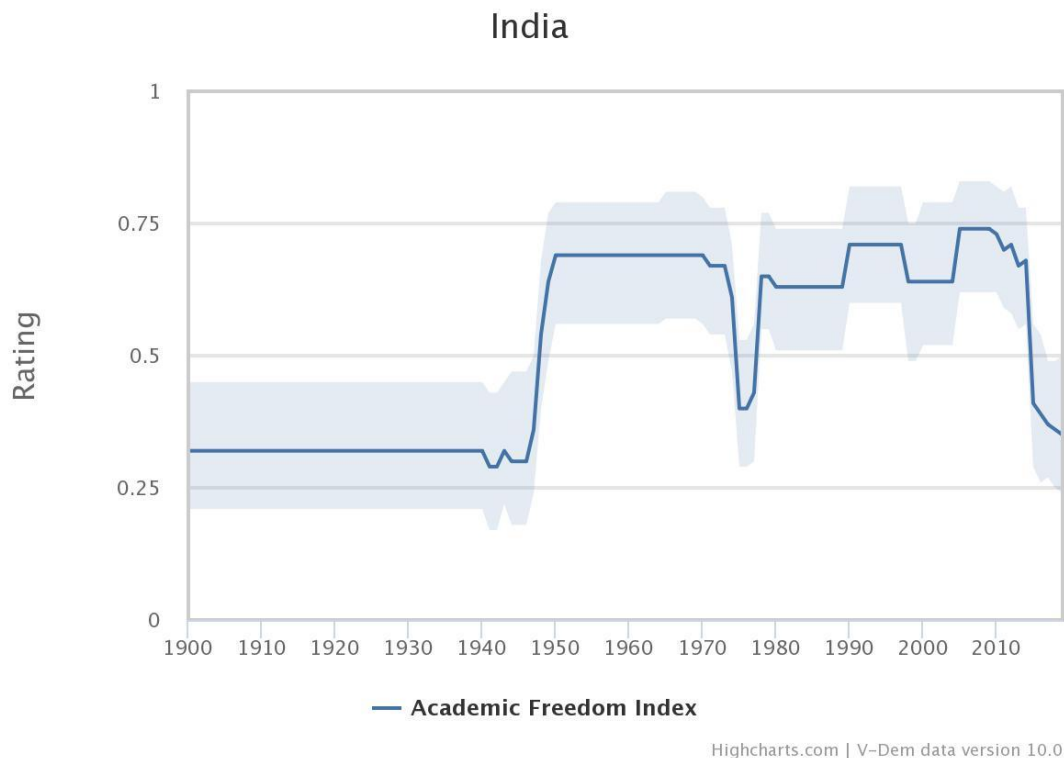
The New Education Policy (NEP) 2020 claims it is based on principles that include creativity and critical thinking, constitutional values, a respect for diversity and the local context, a positive working environment for students and faculty, and substantial investment in a strong vibrant public education system. It also promises “merit-based appointment of leadership” in higher education institutions, and “freedom from political or external interference.”

This article shows that the biggest problem for the NEP is the gap between promise and practice. It was written in June 2020 as a status report in response to a call for submissions on academic freedom by the UN Special Rapporteur on the protection and promotion of the right to freedom of opinion and expression. We would like this to serve as the base for a more comprehensive collaboratively developed status report, which will cover the different states of India, various disciplines and types of institutions.

## I. Introduction

There have been several structural concerns with academic freedom in the previous decades since Independence, especially during the Emergency (1975-77). However, the period since 2014, when the Bharatiya Janata Party (BJP) came to power under Prime Minister Narendra Modi, has seen an unprecedented assault on academic freedom as well as on academics. This is accurately reflected in the sharp downward decline in India’s position in an Academic Freedom Index developed by the V-Dem Institute of the University of Gothenburg, Sweden.

*No attempt to map academic freedom in India, including this one, can do justice to the vast diversity and unevenness in the higher education landscape.*



However, no attempt to map academic freedom in India, including this one, can do justice to the vast diversity and unevenness in the higher education landscape. According to the All India Survey on Higher Education (AISHE), 2018-19, India has 993 universities, 39,931 colleges and 10,725 standalone institutions. Of these, 385 universities and 78% of the colleges are privately managed while 394 universities and 60.53% of the colleges are located in rural areas. The enrolment in higher education in India is 37.4 million persons (19.2 million males and 18.2 million females). The Gross Enrolment Ratio (GER) in higher education in India is 26.3% (18-23 years). Certain categories of citizens have less access to higher education – for instance, Scheduled Castes have a GER of

23% and Scheduled Tribes have a GER of 17.2% as compared to the national GER of 26.3%. Muslims constitute only 5.2% of the student population, compared to their overall percentage of about 14.2% in the population.

The mix of public and private universities; central and state universities (funded by the central government and by the state government, respectively); 'deemed universities'; 'institutes of national importance'; state aided; and 'minority institutions' (run by religious minorities under constitutional provisions), affects the nature of institutional autonomy and subsequently, academic freedom. Public and private universities have different kinds of regulatory structures, incentives and even legal guarantees (e.g. minority institutions and private universities are not bound by quotas for affirmative action on caste grounds for students and faculty). The state universities in India are dependent on their respective state governments for selection of leaders, funding and other regulatory issues. Many private colleges are for-profit professional oriented ventures run by local business families, and unlikely therefore to encourage critical extra or intra-mural discussion that might invoke questions of academic freedom. Much of the information we have on restrictions on academic freedom comes from central universities.<sup>1</sup>

## II. The legal framework for academic freedom in India

As the jurist A G Noorani writes: "Be it remembered that as creatures of statute our universities fall within the definition of 'the state' in Article 12 of the Constitution and, therefore; the entire chapter on the fundamental rights applies to them in any event."

Under Article 19(1)(a), the Indian Constitution guarantees to all citizens "freedom of speech and expression," while 19(1)(g) ensures "the right to practise any profession, or to carry on any occupation, trade or business." The Constitution, however, introduces a caveat that nothing in clause 19(1)(a) "shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred in the interests of the sovereignty and integrity of India, the security of the state, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence."

Many of the threats to books, films and other forms of expression in India have come from (usually powerful) communities claiming their sentiments were hurt, and governments have resorted to the threat to public order and morality in banning these forms of expression. Gautam Bhatia, a lawyer who has written on freedom of speech, notes that "in judgement after judgement, the Supreme Court had decried the hecklers' veto, clarified that the task of maintaining law and order rested with the authorities, and that the risk of vigilante-caused disturbances could not be a ground for curtailing the freedom of speech." However, he writes, the police and other authorities continue to apply curbs because *other* laws, such as Section 124A of the Indian Penal Code, allow for the charge of sedition to be levelled against dissenting citizens, while Section 295A allows the police to ban books on the grounds of hurting religious sentiments.

Many of the cases where university authorities have denied students and faculty the right to hold public meetings, discussions, or film screenings on issues they deem 'controversial' would fall squarely under the scope of the right to free speech upheld by the Supreme Court. Even prior to 2014, many events – especially those touching on 'sensitive' issues like Kashmir or Maoists – were called off because of threats from the Akhil Bharatiya Vidyarthi Parishad (ABVP), the student wing of the BJP's parent organisation, the Rashtriya Swayamsevak Sangh (RSS). Not surprisingly, the ABVP's ability to veto campus events has dramatically increased since the BJP came to power. However, there has been no attempt to take the matters to court, and increasingly, under a debilitated judiciary, less hope that they will be entertained. On the other hand, since 2014, student leaders have been charged with sedition, and various sections of the Unlawful Activities (Prevention) Act – India's anti-terror legislation – under which it is difficult to even get bail.

Conceivably, various other provisions in the fundamental rights charter of the Constitution could be invoked to defend academic freedom, such as the Right to Life (Article 21), which has been expansively interpreted to mean

life with dignity.

Insofar as academic freedom involves expanding the scope of viewpoints that may be brought into the academy (whether of women, minorities or exploited groups like scheduled castes and tribes), one could invoke Articles 14, 15, and 16 which provide for equality, prohibit discrimination and assure equality of opportunity in public employment (especially for groups which have historically been denied this). Some cases like the discrimination against members of the Ambedkar Students Association at the University of Hyderabad or women students on the campus of Benaras Hindu University would be covered under this.

The Constitution also lays down the 'fundamental duty' of the state and citizens (under Part IV-A) to "develop the scientific temper, humanism and the spirit of enquiry and reform' (51-A, h) as well as to "strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement." (51-A, j). Both these should enshrine the promotion of academic freedom as a fundamental duty of states and citizens; however, this section of the Constitution is not justiciable.

India has signed and ratified the International Convention on Economic, Social and Cultural Rights, of which Articles 13 and 15 are especially relevant to academic freedom in higher education. Unfortunately, Indian courts have been cautious in incorporating international conventions in their decisions, the one exception being the Convention on Elimination of all Forms of Discrimination against Women (CEDAW), which gave rise to India's first guidelines and laws against sexual harassment at the workplace, including at universities.

### III. Identifying academic freedom

The components of academic freedom are well defined and are broadly the same across countries. For instance, the Academic Freedom Index is coded on the following indicators: 1) freedom to research and teach; (2) freedom of academic exchange and dissemination; (3) institutional autonomy; (4) campus integrity; and (5) freedom of academic and cultural expression. While this article follows the same parameters, we follow a somewhat different order and emphasis, drawing on previous research on the Indian context.

*We treat academic freedom as the right to do research, teach and study, and express oneself on different platforms, in keeping with academic conventions that are laid down by peers.*

#### III.1. Intra-mural freedom to teach, study and have an opinion

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At one level, academic freedom is a subset of the wider freedom of expression, and pertains to the freedom of the individual teacher and student to teach and study, both within the classroom and outside. Academic freedom within the classroom is often justified by the idea of the university as a 'marketplace of ideas', or as a space where heretical ideas can be discussed, even if these may be a threat to public order if voiced outside. Countering this, or supplementing this, Robert Post, among others, has argued that academic freedom differs from freedom of expression in that not all forms of expression can be given equal space within the classroom. Statements must be validated by the protocols of any given discipline. In this article we treat academic freedom as the right to do research, teach and study, and express oneself on different platforms, in keeping with academic conventions that are laid down by peers in the field and not on extraneous non-academic grounds.

## III.2. Institutional Autonomy

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In order to ensure the freedom to study, teach and research, academic freedom requires institutional autonomy – the right of the university to frame its own protocols for teaching and discussion. The nature of autonomy is well summed up by the Kothari Commission on Higher Education in India of 1966 which noted that autonomy was needed in three spheres: selection of students, selection of faculty and selection of courses as well as themes of research. There were three levels at which this autonomy was to be exercised: autonomy within a university (autonomy of individual departments), autonomy of a university with relation to the university system as a whole (such as the funding body the University Grants Commission (UGC), autonomy of the university system as a whole (including UGC) in relationship to the state and the centre, i.e., the funding agencies.

## III.3. Extra-mural freedom to express opinions

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It is the engagement with non-academics or the extra-mural activities of scholars which are most commonly contested, and also the site where academic freedom comes closest to freedom of expression.

Academics are called upon to deploy their expert opinion in a variety of fields outside the classroom and the campus. Sometimes this may be directly within their research arena, at other times they are called upon as general experts in a field. It is the engagement with non-academics or the extra-mural activities of scholars which are most commonly contested, and also the site where academic freedom comes closest to freedom of expression. It is important to note that the lines between classroom and extra-mural activities are often and increasingly blurred, especially in the social sciences, given the range of sources (internet, film) that teachers draw upon, the importance of public discussions to supplement classroom teaching, and the increasing pressure on academics to have a public presence through media engagement or twitter.

Academic freedom for students must inevitably include the right to challenge existing power structures which hinder their access to knowledge, whether gender (e.g., MeToo movements), religion or caste. For students from marginalised communities, many of whom are first generation learners and who face discrimination within the classroom and outside, assertion of their rights or identity is often seen as ‘politicising the campus’. However, the purpose of education must go beyond classroom learning, and include an assertion of dignity and social mobility. To the extent that education is as much about increasing democracy as it is about increasing ‘scientific knowledge’, extra-mural and intra-mural activities are deeply intertwined.

## III.4. The Political Economy of Higher Education

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As pointed out earlier in discussing the higher education landscape, an important influence on academic freedom is the political economy of teaching and research. The lack of tenure as a precondition for academic unfreedom is the obverse of tenure as a mechanism to ensure academic freedom. Given the increasing precarisation of the teaching workforce (a majority of jobs are now contractual), not only is it difficult to find the time to do research but there are also serious concerns about not alienating management, senior faculty etc. which limit free speech. Further, the nature of the global publishing industry – including the high cost of accessing journals, and the inequalities of peer review – turns what appears to be a global free flow of academic knowledge into one with troughs and barriers. While issues of funding or the new concerns created by the pandemic in terms of internet inequality are critical to academic freedom, they are beyond the scope of this report.

## IV. Growing restrictions on academic freedom

### IV.1. Restrictions on and subversion of institutional autonomy

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The restrictions on institutional autonomy are affecting different spheres such as the selection of university leaders or vice chancellors, selection of faculty, selection of students, framing of courses, and several other aspects of the university. Some of these, such as selection of university leaders, are structural constraints that go back to the colonial period.

*The National Education Policy (NEP) of 2020 too recognises the importance of academic freedom and autonomy, but the fine print of what this 'autonomy' will mean is still to be spelled out.*

Previous Indian Commissions of Higher Education (the S. Radhakrishnan report (1948-49), the Kothari Commission report (1964-66), and the Yashpal report of 2009) emphasised the need for autonomy in all institutions of higher education. The most recent policy document, the National Education Policy (NEP) of 2020, too recognises the importance of academic freedom and autonomy, but the fine print of what this 'autonomy' will mean is still to be spelled out.

So far, the main body to regulate higher education in India has been the University Grants Commission, which was set up in 1956. The UGC Act 1956 describes its core function as the coordination and determination of standards in universities, "in consultation with universities". The UGC is responsible for disbursing funds to central universities and selected other institutions, as well as regulating fees, determining the qualifications for faculty, and setting minimum standards of instruction. As [Niraja Gopal Jayal](#) has pointed out, in the last decade or so, the UGC "has seen a steady accretion of power and displayed a heightened propensity to function as an instrument of the [education] ministry."

The UGC is only one of some 15 or so regulatory bodies for higher education, and even in universities, the All India Council for Technical Education (AICTE) plays a big role because of degrees like MTech, MBA, MCA, etc which come under its purview. Then there are the Councils for medicine, nursing, law, accountancy etc which determine standards in those areas, ultimately leaving the university very little space for intellectual autonomy.

The UGC has been increasingly reinterpreting its role of regulation and standard setting with the imposition and monitoring of uniformity. For instance, it introduced a choice based credit system, which standardises the number of teaching hours per course across the country, and even proposes a 'model syllabus' that universities across the country can follow. The UGC has also laid down norms on how many PhD and MPhil students an individual faculty member can supervise; which journals students and faculty may publish in; the value that should be assigned to teaching, publications and other service in evaluating faculty for recruitment, among other things.

*Decision-making [...] took place through statutory faculty meetings and representative academic councils. Increasingly, however, university leaders, beholden to the government for their*

*appointment, are ignoring convention.*

In the past, the UGC's rectitude and the traditional protocols followed by central universities ensured a significant measure of self-governance. Decision-making on the content of syllabi, or qualifications and procedures for recruitment of students and faculty, took place through statutory faculty meetings and representative academic councils. Increasingly, however, university leaders, beholden to the government for their appointment, are ignoring convention.

In state universities, the situation is as bad, if not worse, with several state governments attempting to directly interfere with university or college autonomy. For instance, as Debaditya Bhattacharya documents, the West Bengal Universities and Colleges (Administration and Regulation) Act 2017 allows the state governor to replace the governing body of a college with their own 'administrator', reduces the representation of teachers and increases the number of nominees from the state government. It also allows direct governmental control over transfers of teachers from one college to another, service conditions, pay, and evaluations.

NEP 2020 proposes to replace the UGC and other regulatory bodies with different national bodies for regulation, funding, accreditation and academic standard setting, such as the National Higher Education Regulatory Authority, the National Accreditation Authority, General Education Council and Higher Education Grants Commission. It is not clear, however, whether this will reduce the levels of external power over universities or lead to a confused increase in control.

## **IV.2. Subversion of faculty selection**

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The case of faculty selection is being included here as an illustrative example of how conventions that upheld academic freedom and autonomy are being overturned, through the increasing appointment of university leaders and faculty on non-academic grounds, such as political affiliation. This is not a new problem, both in central and state universities, where political affiliation or simply nepotism has vitiated the process, but has become very marked since 2014. Since 2016, the Jawaharlal Nehru University Teachers Association (JNUTA) has been forced to repeatedly go to court against violations by their vice chancellor and in defence of existing statutory rules and conventions.

*Vice chancellors compose the selection committee arbitrarily, so as to ensure the selection of a faculty member who is supportive of the ruling party, and who would otherwise not have qualified.*

In the past, each department shortlisted applications; this is now done according to criteria set down by the UGC (including marks in BA, MA, etc.). Each department sends a 'list of subject experts' who form part of a selection committee. The selection committee for universities (as against undergraduate colleges) usually consists of the vice chancellor, the head of department, and subject experts (to ensure peer review). While vice chancellors always had powers to select subject experts, in the past they followed convention in going by the faculty list. Increasingly, however, as experienced by both Delhi University and JNU, and as documented in the case of JNU by the JNUTA Dossier on the Mis-Governance of JNU by its Vice Chancellor, Professor M. Jagadesh Kumar', the vice chancellors compose the selection committee arbitrarily, so as to ensure the selection of a faculty member who is supportive of the ruling party, and who would otherwise not have qualified. In many cases, the 'subject experts' are complete unknowns in their fields; in some cases they are not from the relevant subject at all. The procedure may be followed on paper, but the selection is totally vitiated. Another way of subverting existing

mechanisms to maintain institutional autonomy is ignoring the convention of appointing department chairs and faculty deans on the basis of rotation by seniority (date on which a person joined the university), and instead appointing people pliant to the university administration.

## IV.3. Political appointments to university leadership

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Given the size of Indian universities and the several pressures from teaching, student, and staff unions, as well as from state and national politics, the best-intentioned vice chancellor faces serious problems. A former vice chancellor and professor of chemistry, Ram Ramaswamy, notes: "The biggest threats to the academic freedom of an institution come from the appointment of poor leaders who, by dint of inexperience, are typically over compliant with norms imposed from the outside, while being susceptible to pressures of an unfamiliar kind."

*Since 2014, the government has systematically filled academic leadership positions with right-wing ideologues or pro-government sympathisers, many with no proper academic publications.*

However, the vice chancellors themselves are increasingly political appointees, as are the heads of various bodies set up to promote research in different fields. Since 2014, the government has systematically filled academic leadership positions with right-wing ideologues or pro-government sympathisers, many with no proper academic publications. Some of them have openly advocated anti-Muslim sentiments in the guise of scholarship, while others have tried to restrict the space for what is permissible on campus – for instance, the banning of meat in women's hostels. Some examples:

Indian Council for Historical Research (ICHR)

Chair: Y. Sudershan Rao, 2014-2017.

Qualifications: Member of the Akhil Bharatiya Itihas Sankalan Yojana, RSS History Wing, Professor of History at Kakatiya University, no peer-reviewed publications, studying ancient Indian history from RSS angle.

Indian Council for Social Science Research (ICSSR)

Chair: Braj Bihari Kumar, 2017-2019.

Qualifications: Founding Member of Astha Bharati (RSS front).

Blames caste on Muslim invasion, glorifies Prime Minister Narendra Modi, says textbooks should not mention communal or caste conflicts, nation should not tolerate Rohingyas etc.

Indian Council for Philosophical Research (ICPR)

Chair: S.R. Bhatt, 2016-2019

Qualifications: Formerly Professor of Philosophy at Delhi University specialising in Ancient Indian Culture.

In 2017, ICPR organised seminar glorifying Golwalkar as a 'robust nationalist'; in 2018 ICPR cancelled a seminar because it had papers on indigenous religions. The RSS considers all indigenous people Hindus.

Jawaharlal Nehru University (JNU)

Vice Chancellor: M. Jagadesh Kumar, appointed 2016.

Qualification: Professor of Electrical Engineering at IIT Delhi; No prior administrative experience.

Closely associated with the Vignyan Bharati (RSS Science Wing); see JNUTA dossier on the problems under his tenure.



## IV.4. Institutional harassment of faculty and students who dissent

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In the case of students who dissent, universities are routinely resorting to rustication, expulsion, and withholding of scholarships. In an emblematic case from Hyderabad Central University, a Dalit student, Rohit Vemula, died by suicide, bringing to light the extent of caste discrimination and arbitrary decision-making within universities and sparking nationwide calls for legislation to address campus discrimination. Following an altercation between the Ambedkar Studies Association (ASA) and the ABVP, the union education ministry intervened on behalf of the ABVP students, putting pressure on the university to take action against the ASA. The University took unprecedented and extreme action. The ASA students were not just rusticated from their hostels and their fellowships withheld, they were institutionally ostracised. The students responded by sleeping under a tent in the open, symbolically recreating a *velivada*, or dalit ghetto, on campus, highlighting the aspect of caste discrimination.

*Public universities have tried to impose service rules which [...] would prohibit faculty from writing for the press, participating in demonstrations, and a variety of other activities.*

In the case of faculty, public universities have denied leave, stalled or refused promotions, withheld retirement benefits or tried to impose service rules which are applicable to central government employees on university faculty. This would prohibit faculty from writing for the press, participating in demonstrations, and a variety of other activities. In 2019, fortunately, the Delhi High Court stayed the JNU vice chancellor's attempts to penalise faculty for not observing these rules.

The case of Manipur University is particularly egregious. As it is, there is a permanent army camp inside the campus, part of the overall militarisation of the state of Manipur which has long seen insurgency and counterinsurgency. The university was shut for several months in 2018, as students and teachers protested against the vice chancellor, A P Pandey for 'administrative ineptitude' and 'saffronisation' (carrying out the RSS agenda). The vice chancellor suspended both the faculty and the student unions, and police were brought in. Pandey was finally dismissed in February 2020.

In public universities, once you have 'permanent employment', service rules help in avoiding dismissal. However, increasingly, universities are run on the basis of ad hoc or contractual employees (up to 40% in the case of Delhi University). In private universities, there is even less security of tenure.

*[In cases of wrongful termination] courts have enforced the right to academic freedom of the faculty member. However, going to court is time consuming, expensive and uncertain and hence cannot really be*

Termination, however, is rare – and in two cases which have come to light, the courts have enforced the right to academic freedom of the faculty member. However, going to court is time consuming, expensive and uncertain and hence cannot really be a guarantee of academic freedom. The termination of Magsaysay awardee Sandeep Pandey from IIT BHU on grounds of being “anti-national” and showing banned films, which was subsequently quashed by the Allahabad High Court, was one instance where a contract was used to discipline dissent. In another case, *Subroto Roy vs The Union of India and ors*, which was decided by the Calcutta High Court on 9 January 2019, a professor in the management school of IIT Kharagpur whose contract had been terminated for whistleblowing on corruption, was compensated by the court. The court noted that there had been breach of contract, but since the contract period had expired the remedy chosen was compensation. Among other issues, the petitioner had complained that his letter of appointment had assured him of IIT’s “strong tradition of academic freedom.”

The RSS – sometimes through the ABVP, or directly through the government – has also put pressure on private universities to toe the line. For instance, in 2018, the ABVP prevented Ramachandra Guha, one of India’s leading historians and biographer of Mahatma Gandhi, from taking up a chair and directorship of the Gandhi winter school at Ahmedabad University (a private university), describing him as a “so-called historian”, a “directionless person” whose writings had “strengthened the activities of national disintegration, reckless behaviour in the name of personal freedom, freeing of terrorists, [and] freedom of Jammu and Kashmir.”

## **IV. Restrictions on intra-mural freedom to teach, study and have an opinion**

The most common threat to academic freedom is interference by governments in what should be taught or the restriction by non-academics and those outside a given discipline on what is taught inside the classroom. Inevitably in countries where state funding is important, ‘national priorities’ as defined by the ruling party act as extraneous influences.

*Since 2014 [...] the underlying force appears to be the RSS’ vision, in which the stated aim of education is to consolidate a Hindu nation and promote education based on ‘Hindu values’.*

In the pre-independence period in India, the major external influence on academic space was the freedom movement, with many students feeling that they should boycott classes. In the immediate post-colonial period, the emphasis was on nation building, including setting up scientific technical institutions. Most of the practices and conventions relating to academic freedom date to this period. Since 2014, whatever the BJP’s official position as government, the underlying force appears to be the RSS’ vision, in which the stated aim of education is to consolidate a Hindu nation, and promote education based on ‘Hindu values’.

Since 2014, this vision has taken the form of attempts to introduce subjects with a distinctly ‘Hindu’ focus or divert research funds to particular themes upholding the RSS’s pet concerns such as cow protection. For example, in 2020, an inter-ministerial funding programme “Scientific Utilization through Research Augmentation Prime Products from Indigenous Cows” (SUTRA-PIC India) has been planned with the support of Ministry of Science & Technology through Department of Science and Technology (DST), Department of Biotechnology (DBT), Department of Scientific and Industrial Research (DSIR)- Council of Scientific & Industrial Research (CSIR); Ministry of Ayurveda, Yoga, and Naturopathy, Unani, Siddha & Homoeopathy (Ayush); Ministry of New and

Renewable Energy (MNRE), Indian Council of Agricultural Research (ICAR), and Indian Council of Medical Research (ICMR).” In 2015, the Indian Science Congress allowed a symposium on Ancient Sciences through Sanskrit, at which untenable claims were made on aviation in ancient India, among others.

In 2017, in action that is quite unprecedented in the scientific community, some 12,000 scientists marched across India in protest against funding cuts and an end to the “propagation of unscientific, obscurantist ideas and religious intolerance’ ‘patronised by persons in high positions’, noting that “untested and unscientific ideas are being introduced into the school textbooks and curricula.”

When not promoting ancient Indian culture, the government believes in deploying universities to praise its ‘governance model’. For instance, in BJP ruled Gujarat, the Government issued a list of 82 topics suitable for PhD theses, pertaining to the (successful) execution of state and central government schemes, while in BJP ruled Uttar Pradesh, Lucknow University set exam questions on Modi’s schemes.

*Even under previous governments, there were objections to books that one party or the other found ‘politically dangerous’ [...] However, the scale of objections has increased with the coming in of the BJP government.*

Apart from promoting their own vision, the RSS, through its teacher fronts, has objected to certain books on university syllabi. This is not the first time this has happened, and even under previous governments, there were objections to books that one party or the other found ‘politically dangerous’ such as Rohinton Mistry’s novel, *Such a Long Journey* which was dropped from the Mumbai University syllabus. However, the scale of objections has increased with the coming in of the BJP government. (See Annexure 1 on censorship of books/interference with university syllabi). Increasingly, with a politicised and partisan student body, teachers have started noting the surveillance of lectures. Online lectures only increase this possibility.

The RSS vision of what education should be for is, however, contested by faculty and students within universities, which then leads to a second order, physical and legal, assault on academic freedom.



Teachers in Delhi protest against a yet another attack on a university teacher in August 2018 | News 4 University (CC BY-SA 2.0)

## V. Restrictions on extra-mural freedom to acquire and express opinions

Much of the debate around academic freedom on campuses in the US, UK, Canada and Australia has centred around right wing hate speech on campus, and whether that can be stopped, i.e. the concerns are that the liberal emphasis on 'non platforming' and creating 'safe spaces' for students may stifle freedom of expression. In the Indian context, while there have been occasional attempts at stopping hate speech from the right, by and large the concerns have been generated by administrative attempts in conjunction with the ABVP, to stop speakers of other persuasions. Most of the attacks on campus integrity have come through ABVP students, or police action on (mostly Muslim or dalit) students protesting against discriminatory laws. (See Annexure 2 on the denial of permission/disruption of seminars and meetings on campuses).

*The repression of dissent on university campuses has taken the form of arrests, banning of student and faculty unions, and a variety of other punitive measures.*

The longstanding convention that police should not be allowed on campus is now a thing of the past, and the police are routinely present on many campuses across the country. The repression of dissent on university campuses has taken the form of arrests, banning of student and faculty unions, and a variety of other punitive measures.

In January 2020, masked ABVP students vandalised the JNU campus and beat students and faculty, even as the police looked on. This came after months of protest against fee hikes. Earlier, in December 2019, students in Jamia Millia Islamia (JMI) and Aligarh Muslim University (AMU) (both predominantly Muslim universities) were brutally targeted, with some of them ending up in ICU, for protesting against the Citizenship Amendment Act 2019 (CAA), which for the first time in Indian history introduced religion as a criterion of citizenship. The JMI library was also vandalised by the police. Students across the country protested in solidarity with the JMI and AMU students. Women, starting with Shaheen Bagh, a locality near JMI, initiated peaceful non-violent assemblies against the CAA and in solidarity with the students. In February 2020, retaliation by the right led to riots, and since then, the police has been targeting students and faculty from JMI, AMU, Delhi University and elsewhere for 'rioting' and 'unlawful activities' even as those BJP leaders widely recognised to have incited the riots with their hate speech have gone unpunished.

In addition to these campus incidents of attack and arrest, both students and faculty have been arrested or suspended for social media posts. Women student leaders are badly trolled – in deeply offensive sexual terms – on social media.

*(Annexures 3, 4, and 5 tabulate the arrests of, physical attacks on, and suspension of students and faculty till June 2020)*

## VI. Freedom of academic exchange and dissemination

One of the essential components of academic freedom is academic exchange. India's low position on global university rankings is in part due to the low number of international students and faculty. The total number of foreign students enrolled in higher education in India in 2019 was 47,427, the bulk of whom come from neighbouring countries (AISHE 2019). African students face a great deal of racism and even physical attacks.

*The government has always made it hard for foreigners to get*

*research visas [...] Indian faculty wishing to attend conferences abroad, even during vacations, have to apply for 'permission to leave the country.*

While India is keen to improve her position in global rankings, the government has always made it hard for foreigners to get research visas. Conferences involving Chinese and Pakistani scholars, in particular, have to go through several hoops including clearance by the Ministry of Home Affairs. In July 2018 denial of visas to Pakistani scholars to attend the Association of Asian Studies in Asia conference led to a huge outcry among members. Indian faculty wishing to attend conferences abroad, even during vacations, have to apply for 'permission to leave the country', at least six weeks in advance.

*(Annexure 6 has a table on the denial of research visas/restrictions on academic exchanges)*

## **VII. Academic freedom in Kashmir**

It is necessary to have a special focus on Jammu and Kashmir because of the kinds of restrictions it faces on academic freedom, over and above the rest of the country. The dimensions of loss of academic freedom in Kashmir and for Kashmiri students and academics are manifold, complex and of longstanding. However, they have greatly intensified since August 2019, when the constitutional provision reflecting the terms of the former princely state's accession to India (Article 370) was read down, the state of J & K abolished and two union territories substituted in its place. The government arrested hundreds of political activists, shut down schools and colleges, and imposed a communications blockade.

### **VII.1. Physical vulnerability of Kashmiri students in and outside Kashmir**

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The life circumstances for young people (particularly teens and college going students) in Kashmir have been extremely difficult since 1989 since when they became the prime targets of the state's policy of 'catch and kill', arbitrary arrest and mass torture. As a result, there has been an ever increasing exodus of students from Kashmir to various educational hubs in India like Delhi-NCR, Pune, Bangalore, Chandigarh and so on, where such influx has helped the growth of lucrative commercialized educational enterprises. There has been a simultaneous reduction in the possibility of getting a decent education in Kashmir.

Outside Kashmir, there are numerous reported and unreported incidents of harassment and assault on Kashmiri students by right wing vigilante groups affiliated with the current majoritarian ruling dispensation or at times by ordinary Indian citizenry provoked by nationalist hate groups. In moments of crisis and sometimes otherwise too, Indians perceive Kashmiris as outsiders and enemies of the state. The frequency of assaults on them escalates during heightened India-Pakistan conflagration on the LoC, following militant attacks on Indian soldiers in Kashmir or when the two nations engage in some sports contest. If India loses, this is then taken out on Kashmiri students who are seen as an extension of Pakistan. The institutions where such assaults take place often punish the Kashmiri victims and join the victimizers by making them evacuate the campuses, suspending or rustivating them. In February 2019 two Dehradun colleges said they would no longer admit Kashmiri students. Kashmiri students are physically vulnerable both in Kashmir and outside Kashmir in India. They face discrimination, ill treatment and violence from society, educational institutions as well as the state.

## VII.2. Restrictions on the internet and access to information networks

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Withdrawal of communication services in response to what the state perceives as their potential to cause 'political unrest' is a tradition that has deep roots in Kashmir, going back to the princely/colonial period. Communication and information networks in Kashmir are regularly disrupted by the state on the excuse of fighting 'terror' or to contain 'external threats'. This includes disruption of postal services, newspapers, radio networks, local television channels, telephone lines, mobile and SMS services, and the Internet. Things worsened after the mass uprising in 1989 that was accompanied with insurgency and counterinsurgency. As communication systems turned digital in the late 1990s, the ability of the state to restrict, police or shut communication networks down altogether also increased.

After the unilateral abolition of J&K State and its reconstitution into two union territories on 5 August 2019, once again all modes of communication were snapped to prevent expression of dissent particularly on social media. For over five months a complete internet blockade was imposed, disrupting the academic calendar of the Kashmir educational system. This had a devastating effect on research scholars, among others. Appeals by scientists and others within India to lift the internet blockade of their colleagues and students have fallen on deaf ears.

*The absence of assured access to the internet has effectively rendered any form of meaningful intellectual activity and exchange of ideas in Kashmir impossible.*

On 10 January 2020, after several months of the internet blockade, the Supreme Court ruled in *Anuradha Bhasin vs Union of India and Ors*, that freedom of speech and expression, as well as of profession carried out over the internet were a constitutional right. However, it left it to the government to restore the internet, which then brought back only 2G. On 11 May, in response to another petition, *Foundation of Media Professionals vs Union Territory of J&K*, seeking restoration of 4G, which was especially needed during the Covid lockdown, the Supreme Court referred the matter back to a committee composed of precisely the same authorities who had denied it in the first place.

The lockdown to control Covid-19 has made the internet the only possible mode of academic exchange. The absence of assured access to the internet has effectively rendered any form of meaningful intellectual activity and exchange of ideas in Kashmir impossible. The restrictions on internet speed (allowed only to operate in 2G mode) as well as sudden disruptions that are routinely introduced, make it extremely difficult for students registered in various universities across India who have returned to Kashmir, to continue with their education, maintain contact with faculty or access online resources.

## VII.3. Atmosphere of fear, repression and self-censorship

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Since 1989-90 campuses in Kashmir have been frequently turned into garrisons to host military and paramilitary forces brought in to the valley to fight insurgency. Many of them were used to arrest and torture young people. It took more than a decade to partially recover these institutions from such forces. The simultaneous

garrisoning of armed forces and teaching on the campuses left a chilling effect from which these places never recovered.

*The academia in Kashmir have been rendered the least politically engaged part of the community unlike their counterparts elsewhere.*

Autonomous student political and intellectual activity has rarely been allowed space in Kashmir since 1948. In the absence of legal sanction, any form of collective student activity, if at all it takes place, is outside the realm of law. Most faculty play safe through self-censorship and formal, apolitical teaching with no relevance to the present social and political predicament in Kashmir. They also discourage critical academic research by students so as to protect themselves from the authorities. Those who do not cause trouble are likely to be rewarded while the exceptions who speak out are victimized in various ways. Thus the academia in Kashmir have been rendered the least politically engaged part of the community unlike their counterparts elsewhere in societies where intellectual freedom is valued and protected.

## **VII.4. The lack of intellectual freedom to discuss Kashmir inside and outside the state**

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Given the pressing political circumstances and human rights situation, the prevailing existential threat to the people, the place and its culture, Kashmiri students who opt for humanities, media studies, or social sciences feel naturally inclined to reflect on these issues before they can think of anything else. Where possible, creative pursuits and intellectual activity have provided an outlet to young people who have witnessed debilitating violence at close quarters. However the prevailing atmosphere of fear and repression across campuses in India and in Kashmir, particularly for Kashmiris and on the issues that concern them, makes it increasingly difficult for them to engage in wholesome intellectual activity.

*Academic events, seminars, documentary film screenings, and discussions on Kashmir are frequently cancelled following threats by right wing groups or by institutional decree.*

The increasing censorship in even the premier educational institutions in India, prevents Kashmiri students from freely reflecting on their circumstances. Academic events, seminars, documentary film screenings, and discussions on Kashmir are frequently cancelled following threats by right wing groups or by institutional decree. The February 2016 events which led to JNU student leaders being charged with sedition also originated in ABVP protests against students holding a meeting on Kashmir. Surveillance, harassment and arrests of Kashmiri students or their allies on flimsy grounds is not uncommon in India.

Some students have been covertly and overtly forced to change topics of their research or tone them down by the faculty so as not to attract the attention of the state authorities. In a recent case in Jamia Millia Islamia, the home ministry issued a show cause notice to the chairperson of a particular department over the title of a PhD thesis by a Kashmiri student that it did not agree with (personal communication).

## VIII. Recommendations

It is important that governments, both at the centre and in the various states restore and strengthen conventions on institutional autonomy; stop criminalizing faculty and students; allow visas for all academic exchanges, especially with neighbouring countries; and ensure right of access to the internet for Kashmir.

Universities for their part must restore and strengthen conventions on institutional autonomy; and inform student and faculty unions of their rights to academic freedom and free speech. Contracts with faculty should include a clause on the protection of academic freedom, i.e., they will not be penalized for extra-mural activities. Faculty should create a network to support academics (faculty and students) at risk.

Global institutions can help by including 'Academic Freedom' as one indicator in university rankings. Universities abroad must stop inviting authorities responsible for attacks on academic freedom to academic seminars.

*The section on Kashmir in this article was written by Gowhar Fazili and the remaining sections by Nandini Sundar. Sumit Kumar and Rajat Sonkar created the tables in the annexures.*

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