GLOBAL CENTRE FOR PLURALISM CENTRE MONDIAL DU PLURALISME

Why Did India Choose Pluralism?

LESSONS FROM A POSTCOLONIAL STATE

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I. INTRODUCTION

India, a highly diverse society, is an endangered pluralist polity. An early adopter of a constitutional framework that recognized group-differentiated rights, India is now challenged by forces that threaten its fragile political consensus. This paper is divided into four sections. The first section offers an overview of India's diversity, state forms and nationalisms in broad brushstrokes. The second focuses on a particular change experience: constitution-making in India (1946–49). The Indian Constitution's adoption of group-differentiated rights in 1950 presaged multiculturalism in some respects. However, despite a range of group rights, including quotas for Untouchable and tribal groups, and self-government rights for linguistic groups, a normative deficit remained in India's constitutional framework with respect to the protection of minority cultures. Shifting to the present, the third section discusses sources of inclusion and exclusion in the Indian polity. Focusing on reservations,

discrimination against Muslims, Hindu nationalism and violence, it outlines key dimensions of exclusion in India today. The final section summarizes key lessons from the Indian experience with pluralism.[1]

II. ORIGINS AND RESPONSES TO DIVERSITY: PEOPLES, STATE, NATION

India's Diversity

In comparative terms, India's demographic diversity is significant in at least two respects. First, it offers an example of extensive cross-cutting diversity along the lines of religion, language, caste and tribe. Hindus form a majority of the population, around 79.8% out of a total of 1.21 billion.[2] With around 180 million Muslims (approximately 14.2% of the population), India is also the third-largest Muslim country in the world, due to become the

largest Muslim country by 2050. The population of India's other major religious communities is: Christian 2.3%, Sikh 1.7%, Buddhist 0.7% and Jain 0.4%. However, the followers of each religion speak different languages and belong to a variety of sects, castes and tribes. In terms of language, there are some 22 official languages and 122 major languages listed in the census.[3] Hindi speakers constituted 41% of the population, followed by Bengali, Telugu, Marathi, Tamil and Urdu speakers, each constituting more than 5% of the population. Religious and caste divisions have been of enduring significance in national politics, with linguistic divisions becoming less contentious since the 1950s.[4]

Second, India's diversity is long-standing and not a product of recent migration. Unlike in most Western democracies, the rights of immigrants have not been central to debates on pluralism in India. India's different religious, linguistic and tribal groups are all national minorities of one kind or another.[5] It is true that Islam and Christianity are viewed by many Hindu nationalists as foreign religions, unlike Sikhism, Jainism and Buddhism, which are regarded as the progeny of Hinduism and indigenous to Indian soil. Nevertheless, with some of the oldest Muslim and Christian communities in the world,[6] and with most followers of Islam and Christianity seen as converts from Hinduism, religious minorities are not viewed as recent migrants, unlike in Europe and North America. The rights of migrant minorities have been a contentious issue mainly at the sub-national level, with sons-of-the-soil movements against migrants influential in some provinces (notably Assam).

With cross-cutting and long-standing patterns of diversity, which groups are to be considered India's minorities is not straightforward.[7] In national politics, the term has, for the most part, denoted religious minorities, particularly Muslims. In late colonial India, other groups claiming special representation (notably Dalits) also called themselves a minority, although during constitution-making attempts were made to restrict the term's use.[8] In numerical terms, as well as with regard to marginalized status, Dalits or Scheduled Castes (SC, approximately 16.6%) and tribal groups or Scheduled Tribes (ST, approximate 8.6%) are also minorities. At the sub-national level, the majority Hindus are a numerical minority in some states. In Hindu nationalist accounts, Hindus are often described as a besieged minority in a part of the world dominated by Muslims.[9] Hindu nationalism in India, like Sinhala Buddhist nationalism in Sri Lanka, reflects a "minority complex,"[10] a sense that the majority religion is not getting its due share of recognition and resources from the state. With regards to language, the speakers of the majority language Hindi (the Indian Constitution does not designate a single national language), as well as each of the 22 official languages (each state can choose its official language) constitute a minority in some provinces. As such, depending on the unit of analysis, there is hardly any group that lacks a claim to minority status. In caste terms, the official category Other Backward Classes (OBC), comprising several intermediate lower castes, constitutes a majority, nearly 44% of the population according to many estimates (based on the last caste census of 1931). Upper castes, including Brahmins and other dominant castes, constitute around 16%, a numerical minority.[11]

State Forms and Pluralism

Historical legacies of state formation in India favour a pluralist polity. In contrast with the history of European state formation, which saw the centralization of power and sovereignty, in pre-colonial India sub-continental empires competed with regional kingdoms as state forms.[12] Sub-continental empires that extended across much of Indian territory date back to the Mauryan empire of the fourth century, and include the Mughal and British empires between the 16th and 20th centuries. These were constrained from within by forms of indirect rule (e.g., the Princely States under British rule) and from without by regional kingdoms. Across varied forms, under both indigenous and foreign rulers, state power in India remained limited in its reach. The segmented and constrained nature of state power was not just a pragmatic concession to the power of local chieftains according to scholars, but also a principle derived from Hindu religious legal texts (*dharmasastras*).[13] A society consisting of different social groups was seen as prior to the state and independent of it. The rulers' duty was to protect and uphold the respective customs and laws of self-regulating social groups.[14]

Segmented and constrained forms of state power have favoured the accommodation of societal pluralism in several respects. The precedence of the moral order of society implied that the state would not seek to impose its preferred vision throughout society, but would respect the internal rules and practices of social groups so long as taxes and revenues were paid.[15] Furthermore, the social order was compartmentalized, which meant that communities could share "a sense of brotherhood within themselves," but "were not united to each other by fellow feeling," even though they were not antagonistic with each other.[16] External groups could be incorporated into this segmentary social order by creating a circle of their own, which existed not so much in open communication with the rest, but in a "back-to-back adjacency."[17] The caste system epitomized this order of self-regulating groups, embodying a principle of asymmetric hierarchy, i.e., a group that was at the top in terms of ritual status might be at the middle or bottom in terms of the distribution of political power and economic holdings in a region. A social order that was stratified along multiple axes made for greater intra-group diversity than in systems based on a symmetrical hierarchy, but also enabled the endurance of inequality, making it "cognitively more difficult to identify the structure of dominance."[18]

In sum, long-term trajectories of state forms in India have supported the accommodation of diversity, but within an order defined by hierarchy and inequality, what might be termed hierarchical or segmented pluralism.

Indian Nationalisms: Hindu and Secular

Indian nationalisms that emerged in the late 19th century had to contend at the outset with the claim that India's diversities meant that it was not a nation. Broadly speaking, two main responses can be discerned to the challenge posed by cultural diversity to Indian unity. The first sought to unify India's diversities around a core of Hindu religion and culture, defining India's national identity as fundamentally Hindu. Hindu nationalism emerged

from late-19th-century movements of Hindu reform. The formation of the Rashtriya Swayamsevak Sangh (RSS), the nucleus of Hindu nationalism (1925), was a response to the sense of cultural inferiority that came with colonialism,[19] and also to the perceived threat of aggressive pan-Islamism from the Khilafat movement.[20] RSS ideologues sought to establish that Hindus were a nation in the Western sense, a people descended from the Aryans, with an ancient tradition that dated back to the Vedic era, inhabiting a clearly demarcated territory that extended from the Himalayas to the sea, and a common language, Sanskrit, "the mother of all languages." India, it was argued, had succumbed to Muslim and Christian invaders repeatedly because Hindus were divided, weak and effeminate. It was the nationalists' duty to restore the lost "grandeur of Hindu culture and their supremacy over a land that had been invaded by foreigners" through fashioning a more muscular, disciplined and masculine Hindu identity.[21] In particular, the restoration of India's lost greatness required the rectification of Muslim conquest, a process that was accompanied by a demonization of Muslims as a separate people.[22] V.D. Savarkar's influential *Hindutva* (1923), regarded as Hindu nationalism's foundational text, located Indian identity in Hindu civilization (*sanskriti*) and defined a Hindu as a person who regards India as their father-land as well as holy-land—an influential definition that included members of Indic religions (Buddhists, Jains, Sikhs), but excluded Muslims and Christians. Politically, Hindu nationalism was overtaken and, to an extent, subsumed within the Congress-led movement for Indian independence, where leaders such as Mahatma Gandhi and Jawarhalal Nehru held it in check. Nevertheless, Hindu nationalism has remained a powerful

undertow throughout India's political history against which all other political forces have had to define themselves.[23]

A second response to the national question that was politically dominant at the time of independence, held that cultural diversity was India's distinguishing trait, and a source of strength rather than a weakness. The leaders of the Indian National Congress (henceforth Congress, formed in 1885)[24] rejected dominant Western models of nation-building based on commonness of language and culture, arguing instead for a "unity in diversity." What a shared Indian identity consisted of, beyond a history of co-existence of diverse communities in the same territory and a few similar cultural norms, remained nebulous. There remained a strong tendency, even in secular Indian nationalists such as Nehru, to "assume some kind of cultural or civilizational integration as the ultimate foundation of nationalism."[25] Until around the 1920s, the nation was depicted mostly in communitarian terms, as a composite of various religious, regional and caste communities, with conceptions of the nation that emphasized the individual citizen as their unit becoming prominent after the 1920s.[26] In political terms, a shared history of struggle against British rule in India was central to narratives of Indian unity, as was a commitment to inclusive citizenship, expressed in the slogan "irrespective of caste, creed or colour." Against the British claim that India was an assortment of quarrelling nationalities kept together only by the exercise of imperial power, the nationalist narrative asserted that communal discord was not inherent to India, but a product of a deliberate colonial "divide and rule" strategy. Was the ideological consensus on inclusive citizenship

at the time of Indian independence only an elite consensus, restricted to a few leaders such as Gandhi and Nehru? It is hard to know the extent to which the thousands of ordinary people who took part in the national movement shared its ideals, although participation meant that these came to be shared to an extent by a widening section of elites.

How did such a diverse people come to seek belonging to the same nation-state, given that "before the 19th century, no residents of the subcontinent would have identified themselves as Indian"?[27] Participation in a common struggle for independence from British rule helps to explain this to some extent, although several missing links still remain. The following factors are relevant. The Indian national movement was a loose federation of many different anti-colonial struggles. The kind of state that would emerge after independence remained open until after Partition and the creation of Pakistan in 1947.[28] The ambiguity over whether an Indian state would be a loose federation for instance, and what the nature of allegiance of the hundreds of Princely States would be, helped accrue support for its cause. Further, in India, "a sense of region and nation emerged together" such that being Bengali, or Marathi or Tamil-speaking, was congruent with an Indian identity from the start.[29] The Congress party recognized language-based units in its internal organization from the early 20th century, and more comprehensively from 1920,[30] as a more rational basis of provincial organization than British administrative boundaries. Finally, the national movement's leadership facilitated the accommodation of diverse, even opposed views. Congress resolutions and decisions were often adopted after robust debate, with many members

voting publicly against resolutions favoured by leaders such as Gandhi.[31] Nationalist campaigns against British rule often focused on the extension of civil and political liberties enjoyed by Britons to Indians, fostering a political culture of dissent. The accommodationist character of the Congress-led national movement likely enabled the identification of a diverse people with the nationalist cause.

The Congress-led national movement was, however, more successful in accommodating linguistic diversity than religious differences. The Congress leadership conceived of the Indian nation as multi-religious. From the 1930s, its official pronouncements favoured a secular state and individual rights to religious freedom and non-discrimination as mechanisms for the accommodation of religious diversity. Earlier, the Congress party had recognized religious communities—at various points, it accepted separate electorates for Muslims, reserved seats in proportion to their population for religious groups, as well as minority veto in some form.[32] However, its claim to represent all sections of the Indian nation meant that the Congress was increasingly hostile to demands for separate representation of minorities and mechanisms of power-sharing, holding that these were colonial devices to divide and rule.

By the time of independence in 1947, when the Constitution of India was being framed, the choice was between two alternative visions of the nation— political and cultural.[33] For secular nationalists such as Nehru, nationality was to consist in secular citizenship, with nation conceived mostly in political terms, as a community united by its commitment to common ideals such as secularism and democracy.

Becoming Indian involved learning to put belonging to India above belonging to any religious, linguistic, caste or tribal group. By contrast, for Hindu nationalists, India's national identity was defined in cultural terms as discussed, based typically on descent from Indic religions such as Hinduism and Sikhism. In this definition of the national identity, the accommodation of diversity rested on accepting the pre-eminence of Hindu culture, and to an extent Hindi as the national language. India's constitutional framework mostly expresses a secular national identity although it contains some elements of Hindu nationalism as well.[34]

II. CONSTITUTION-MAKING, 1946–49: A PIVOT POINT FOR INDIAN PLURALISM

What Accounts for India's Pluralist Constitution?

The Indian Constitution is accommodationist with respect to diversity along the axes of religion, caste, tribe and language, although differentially so. It was ahead of its time in instituting cultural rights for minorities and affirmative action for historically disadvantaged groups within a broadly liberal democratic framework. Group rights in the Indian Constitution include legal pluralism in religious family law (Hindus, Muslims, Christians, Parsis), affirmative action including quotas (known as reservations in India) in legislatures, government jobs and

educational institutions for lower caste and tribal groups, as well as self-government rights for linguistic and tribal groups. As such, many features of India's 1950 Constitution presage multiculturalism in Western democracies.[35]

What accounts for India's accommodationist constitution? As a post-colonial nation-state that was undergoing a bitter partition along religious lines at the time of constitution-making, it was not inevitable that India would adopt a constitution with multicultural type provisions. To begin with, historical legacies favoured group rights. From the late 18th century, East India Company administrators sought to exempt parts of religious law (pertaining to family law, caste and religious endowments) from the purview of their regulatory action.[36] Group-based representation in colonial legislatures dates back to the late 19th century, with Indians included in the representative institutions of the Raj as members of particular groups.[37] Different mechanisms of group representation came to be instituted including separate electorates, reserved seats, weightage (guaranteed representation for minorities in excess of their enumerated demographic share) and nomination.[38]

While such long-standing antecedents favoured multicultural provisions, there were also factors that went against their adoption. India's bloody partition along religious lines that unfolded during constitution-making was regarded by the Congress as the

outcome of colonial policies such as separate electorates for Muslims. The Congress was numerically dominant in the Constituent Assembly, and after Partition its majority rose to 82%.[39] Partition had weakened minorities in strategic and organizational terms, as well as numerically, and also hardened the public mood against minority demands.[40] The Congress no longer needed to conciliate minority parties in order to avert Partition. It also faced stronger pressures from its Hindu nationalist members opposed to concessions to minorities.[41] In addition, several obstacles that face the adoption of multicultural policies in other post-colonial contexts could be observed in the Indian case as well. These included the association of minority protections with colonial divide and rule, and the view that minorities were a potential "fifth column"—a threat to the security of the state on account of loyalty to a rival neighbouring state.[42]

In the end, short-term factors weighing against the adoption of group rights in the Indian Constitution were unable to overwhelm the longer-term legacies that favoured accommodation. Constitutional outcomes varied across different policy areas. In the case of religious minorities, separate electorates, and legislative and employment quotas (termed "political safeguards" or "reservations") were abolished. These were retained for ex-Untouchables and tribals—Scheduled Castes (SC) and Scheduled Tribes (ST) in official usage—as temporary affirmative action provisions.

The Constitution inaugurated a shift from consociationalism to affirmative action as the overarching framework for quotas. Provisions for cultural protection were retained in the form of religious family laws for instance, and territorial autonomy for tribal groups. Overall, the constitutional position on group rights represented a cutback on colonial constitutionalism, but was also distinct from the assimilationist positions espoused by Hindu nationalists in the Constituent Assembly.[43]

Several factors enabled the retention of group-differentiated rights, albeit within an altered framework. The Congress party had made public commitments to the protection of minorities through fundamental rights, as well as reservations for Untouchables. It also had a long-standing commitment to non-majoritarian decision-making. The presence in key power positions of political actors with a staunch commitment to the rights of minorities and historically disadvantaged groups, such as Prime Minister Jawaharlal Nehru and the chair of the Drafting Committee Dr. B.R. Ambedkar, prevented the withdrawal of group rights in the face of Partition and anti-minority sentiment. Finally, the ideological legacy of India's national movement—its commitment to a plural and egalitarian polity—meant that a normative vocabulary was fashioned in which some group-differentiated provisions were legitimate.

Constitutional Approaches to Group Rights: Integrationist and Restricted Multicultural

The normative vocabulary of Indian nationalism comprised a constellation of inter-related concepts: secularism, equal citizenship rights, democracy, social justice, development and national unity.[44] While most Congress members, including Nehru, felt that group quotas detracted from these ideals, it was argued that these were necessary for a short period in the Indian context, for the sake of the goals of social justice, national unity and development, in the case of the ex-Untouchable and tribal groups. With national development for instance, "catching up" with the industrialized Western world was the desired goal; quotas and other special provisions, it was argued, were needed for some time for those sections of the population "whose present backwardness is only a hindrance to the rapid development of the country."[45] Whereas the inclusion of legislative quotas for Untouchable and tribal groups was facilitated by the fashioning of normative resources in support of such provisions, in the case of religious minorities, comparable resources were not fashioned in any strand of nationalist opinion.[46]

Quotas in the case of ex-Untouchables and tribal groups were accommodated in the Indian Constitution as integrationist mechanisms rather than as multicultural rights. Legislative quotas for Dalits and Adivasis were not intended to serve as a form of representation as such, but were recast as a temporary form of "political' affirmative action."[47] These were not intended as a means of recognizing group identity, or as instruments of self-government for the SCs and STs. Secular nationalists were hostile to the recognition of religious and caste groups as units of state policy.

On the other hand, with respect to policies of autonomy for religious, tribal and linguistic groups, the Constitutional approach might be described as "restricted multicultural."[48] During the framing of the Constitution, despite the opposition of both Hindu nationalists and staunch secularists, a broad definition of the right to religious freedom was adopted, which included the right to practise religion in public spaces and, even more controversially, the right to "propagate" religion. Further, unlike many secular constitutions, the Indian Constitution recognizes the associational and institutional autonomy of religious groups. Every religious group has the right to establish and maintain institutions for religious and charitable purposes, to manage its own affairs in matters of religion, and to own, acquire and administer property in accordance with law (Articles 25, 26 of the Indian Constitution). Also in keeping with the concerns of many minority representatives, separate religious family laws for Hindus, Muslims, Christians and Parsis were retained. However, the overall approach in the area of religious freedom remained weak multicultural. Thus, the right to freedom of religion is subject to other constitutional rights including those of equality and non-discrimination. State intervention is permitted not just in the interests of public order, morality and health as common elsewhere, but also for purposes of social welfare and reform. In keeping with the

demand of many secularists and Hindu nationalists, the non-justiciable Directive Principles include a provision for a uniform civil code.

According to many liberal theorists, a weak multicultural approach is better than strong multiculturalism, as it offers better protections for individuals and vulnerable groups within minorities, such as women.[49] In the case of the Indian Constitution, the problem was not with its approach as with the normative resources fashioned, which remained deficient for the accommodation of religious diversity.

The Normative Deficit of Weak Multiculturalism

The repertoire of secular Indian nationalism did contain materials supporting weak multiculturalism. Thus, in a departure from the standard liberal position, groups were recognized as subjects of rights and entitlements, as well as individuals.[50] In most connotations of secularism in nationalist discourse, the preservation of religion, language and culture on the part of citizens individually, and as associations, were valued pursuits.[51] Nevertheless, justifications for weak multicultural provisions remained under-developed in nationalist opinion because of multiple factors. Prominent among these was the emphasis on individual over group rights in this period, driven by concerns regarding national unity. Equal citizenship, construed as the same rights for individuals from all groups, provided a means for welding together a people divided by their group membership into a nation. It also provided the basis for a common national identity in a situation in which ethnic criteria were divisive.[52]

The normative deficit of weak multiculturalism also derived from the fact that the move from all groups having rights to pursue their culture to the differential rights of minority cultures remained unarticulated. It is hard to find any elaboration in nationalist opinion on how the protection of minority cultures formed part of their vision of the common good. In particular, unlike in the case of SCs and STs, there were no attempts to go beyond formal symmetrical notions of equality to substantive, contextual notions that could justify special provisions for minorities. There were, for instance, no arguments along the lines that minorities faced a greater threat to the integrity of their religion, language or culture than the majority, whose practices are inevitably supported by society and the state.[53]

The normative deficit in nationalist discourse with regard to the protection of cultural difference is also observable in the case of tribal groups. The need for the protection of tribal lands was qualified in important respects. As a developmentalist perspective dominated, progressive change in Adivasi cultures in the direction of greater integration with mainstream society was not ruled out. Furthermore, protectionist policies such as land rights and tribal councils were envisaged mainly for areas where tribal populations formed a local majority in a given territory. For areas in which tribal groups were a minority, cultural protection was rarely admitted as a goal.

Territorial self-government is often seen as the paradigmatic form of multiculturalism, as a means to constrain the dominance of the majority language that is supported through its use by the state. In the Indian case as discussed, the dominance of

the majority Hindi language was limited from the start. While there were pressures for the adoption of Hindi as a national language during constitution-making, these were opposed from within the majority party by non-Hindi speakers and ultimately a compromise formula was adopted. Hindi in the Devanagari script was designated as an official language, to be used for "inter-provincial communication."[54] However, English would also continue as an official link language, initially for 15 years, extended since. Also, 14 regional languages were listed in the Constitution as official languages entitled to receive state support and to be used in public service examinations.[55]

Furthermore, the Indian case suggests that territorial self-government policies are not necessarily instances of group-differentiated rights or minority rights.[56] During constitution-making, all units within the federation were granted the same rights.[57] Constitution-makers declined to specify the basis for the definition of federal units, i.e., whether this would be on linguistic lines, despite pressures to do so. Though the many proponents of linguistic provinces in the Constituent Assembly pressed their case, they did not consider themselves separatists, in contrast to the conflict between "centralizers" and "provincialists" in the US and Canada.[58] The delineation of sub-national units from the 1950s onwards, occurred as a result of a political process involving contentious mobilization. Finally, in practice, self-government rights for states in India have often been in conflict with the rights of religious, tribal and linguistic minorities. The protection of minorities in India was an important consideration against strengthening the rights of states relative to the central government.[59]

The normative deficit of multicultural minority rights at India's founding moment has been politically influential. Despite the changed circumstances since 1947, subsequent generations of policy-makers have not been able to elaborate or robustly defend and disseminate a vision of multicultural minority rights (as distinct from group rights in general). Although group-differentiated rights have expanded in several areas, a lack of elaboration of their rationale through public debate and, in terms of their society-wide benefits, has left minorities vulnerable to resentment and backlash, as witnessed in the current dominance of the Hindu Right.

III. DRIVERS OF PLURALISM

Sources of Inclusion

The Constitution and institutions

The Indian Constitution, despite its flaws, remains a key source of inclusion in the polity. It endures and continues to elicit a high level of support from across the political spectrum, including from critics seeking political change. While its substantive pluralist provisions discussed above remain under-fulfilled in some areas such as religious freedom, their articulation in the Constitution has created standards for inclusion against which actions can be assessed and challenged.

The judiciary have been sources of inclusion, with powers to review legislative and executive actions for their constitutionality, and regular elections to elect governments overseen by an independent

Election Commission. Institutional heterogeneity in the political system, with a tension between parliamentary sovereignty on the one hand, and judicial review on the other, has also been a source of inclusion. The higher judiciary in particular has often asserted itself as the main guardian of the Constitution to compensate for its unelected status, frequently challenging the actions of governments and issuing reprimands for their behaviour.60 The ambiguity regarding who the final authority is on the Constitution acts as a source of inclusion, with claimants disappointed by the decision of one institution able to petition another.

A federal division of powers between the national and regional governments ("centre" and "states"), with significant powers vested in states (including education and health), has served as a source of inclusion. A flexible federal framework has allowed for the recognition of demands for autonomy by linguistic and tribal groups through a redrawing of state boundaries over time.61 Periodic conflicts and violence have been contained in particular regions, while life elsewhere continues as usual.62 In this, federalism has been helped by the nature of India's social diversity that is grouped around multiple axes and dispersed, rather than centripetal.63 This has prevented the emergence of a single enduring country-wide cleavage that threatens the centre, unlike in other countries. A federal system underpinned by cross-cutting social diversity has offered opportunities for the expression and accommodation of demands arising from multiple sources of exclusion.

Political parties and elections

Political parties and elections have also served as sources of inclusion. Political parties, for the most part, have been multi-ethnic and have offered avenues for the inclusion of minorities through, for instance, key positions in party organizations. Politicians have facilitated a politics of bargaining and compromise between different social interests. Furthermore, the plenitude of largely free elections at all levels allows groups that are under-included in one instance to contest again soon at another level. The large number of parties competing for votes in multiple electoral arenas has meant that in seeking to craft winning electoral coalitions, parties have often sought to court groups beyond their core supporters, thereby offering opportunities for inclusion. In elected institutions at the central, provincial, district and village levels, the representation of lower castes has been increasing. The fairness of elections has been maintained by an election commission and a judiciary that derive their legitimacy from their independence from the executive. On several occasions, the processes of electoral and party competition have also been exclusionary, with electoral appeals by political parties seeking to build electoral majorities of Hindus against Muslims, "backward castes" against forward castes, Maharashtrians or Assamese against outsiders, for instance. Nevertheless, overall, the working of the Constitution through the party system and elections has offered "great resources of self-correction."64

Civil society

In addition to political institutions, civil society organizations and a free press have been a source of inclusion in the polity. Critical yet engaged in their stance towards government, and multi-ethnic in their membership, these have served to highlight violations of the rights of vulnerable groups and to hold state agencies accountable through courts, street protests, television and newspaper debates. Unlike in some other countries, human rights are not seen as an external, Western imposition, in part because of a large sector of local rights organizations closely engaged with grassroots struggles to protect the constitutional framework of rights. Occasionally, civil society organizations have acted in partnership with the state to design inclusionary legislation and administrative processes; for instance, in the enactment of a Right to Information Act and a Rural Employment Guarantee Act that is the world's largest poverty alleviation program.[65] A relatively free press, with several 24-hour news channels competing over headlines and exclusive reports, has also served to highlight the violations of rights by political leaders and governments.

Finally, radical social movements as well as a critical intelligentsia have been important sources of inclusion. Intellectuals have sought to be the voice of the vulnerable and played a leading role in recent protests against the killings and harassment of critics of Hindu nationalism and police action on student campuses.[66] While Hindu nationalists have waged counter-campaigns of hate and disinformation through social media platforms, social movements and intellectuals have served to highlight the abuses of state power and to forge solidarities across identity groups.

Sources of Exclusion

Notwithstanding the sources of inclusion discussed above, substantial exclusions remain both in the Indian polity, and the society and economy more broadly. Three key domains of exclusion are discussed below.

Exclusions of an inclusionary policy: Reservations for disadvantaged groups

Although the policy of quotas has enabled the inclusion of ex-Untouchable and tribal groups in legislatures, employment and educational quotas remain under-filled at higher levels.[67] The reasons for this include the lack of educational and training programs to create a pool of qualified candidates, and the gross neglect of public education by central and state governments, on which the disadvantaged are disproportionately reliant. In turn, the preponderance of marginalized groups in lower level government jobs (e.g., Dalits as janitors), serves to reinforce their historical associations with stigmatized occupations. Furthermore, in the private sector, which is outside the purview of reservation policies, the under-representation and economic discrimination of Dalits and Adivasis is much greater. Caste diversity hardly exists in the boards of corporate firms and in national media houses.[68]

In India as elsewhere, quotas create resentment against beneficiary groups. Sub-categorization movements have demanded the targeting of benefits towards the more deprived sub-castes (e.g., Madigas in Andhra Pradesh), suggesting resentment against a policy seen to favour well-to-do Dalits

and Adivasis. Under-filled quotas in government employment have created staff shortages in some public universities and civil service sectors, intensifying the pressures on existing staff and reducing capacity in the public sector. Mobilization by prosperous, educationally disadvantaged groups (e.g., Jats, Patidars) for "backward" status and inclusion in quotas, threatens to undermine support for the policy more generally. Governments have tended to given in to demands for reservations from electorally powerful groups. Demands to include economically deprived upper-castes within the ambit of quotas suggest that their costs have been borne by weaker members of non-beneficiary groups, making these, as Marc Galanter puts it, a "costly success."[69]

Unlike the ST and OBC categories that are religion-neutral, the SC category excludes Muslims and Christians. Ostensibly on grounds that Islam and Christianity do not recognize untouchability, this was a concession to Hindu nationalist fears regarding conversions from Hinduism. Several recent studies have demonstrated similar levels of social segregation and economic exploitation among Muslim and Christian Dalits as among their Hindu counterparts.[70] Despite government appointed commissions recommending that SC status be made "fully religion neutral like that of Scheduled Tribes,"[71] this remains unlikely given the strong opposition of Hindu nationalists.

Despite shortcomings, the attempt to redress the exclusion of the SCs through reservations has had positive effects. The overall share of Dalits in government services has risen and is roughly proportionate to their population share. There is

some evidence of improvement among economically disadvantaged rural SCs as well.[72] The availability of avenues for government employment in the case of the SCs and STs appears to have encouraged the motivation for higher education so that outcomes are improving although still behind those of upper castes.[73] However, inclusionary policies co-exist with increasing state repression in the case of STs, with violations by security forces of the basic human rights of local populations and activists in areas of Maoist insurgency and valuable natural resources.[74]

Muslims and the multiple sources of exclusion

Unlike SCs, Muslims do not have quotas in elected institutions or government services in proportion to their population. The 2014 national elections resulted in one of the lowest numbers of Muslims in the lower house of Indian Parliament (Lok Sabha), 4.2% for a population estimated to be 14.2%. The pattern of under-representation is replicated at the state levels.[75] In government employment, Muslim share is less than half their share of the population of the country. This, combined with low shares in private sector employment, make Muslims "the most deprived minority in the labour market."[76] In education, Muslims are under-represented at all levels, with outcomes declining as we move up the education ladder.[77] These exclusions are reinforced by high levels of poverty, illiteracy, poor access to health amenities and segregated housing.[78] In the frequent incidents of inter-community violence across the country, the collusion of the police with anti-Muslim mobs has been a consistent pattern, leading to much greater losses of Muslim lives and property in riots.[79]

The marginalization of Muslims has persisted in the face of political initiatives to improve their status. Under the leadership of the last Indian prime minister Manmohan Singh (2004–14), a new framework was created for the inclusion of minorities, particularly Muslims. A Ministry of Minority Affairs was created in 2006, and a Prime Minister's high level committee was set up to look into the socio-economic conditions of Muslims, with regard to assets, income, education, employment and health (Sachar Committee). The Prime Minister's new 15-point program on minorities sought to earmark 15% benefits of a wide range of existing development schemes for members of minority communities.[80] Efforts were made to improve the recruitment of minorities in government departments and in the police forces. In 2008–9, a new program, the largest for the development of minorities since Independence, sought to identify districts with a concentration of minority population and focus welfare programs in these districts.[81] While the achievements of minorities in secondary and higher education were impressive, progress in other areas such as recruitment in public services remained hard to ascertain because of the lack of data disaggregated by religious community.[82] And despite a bill for the prevention of communal violence being drafted, approved by Cabinet and introduced in the Parliament on two occasions,[83] it could not be made into law, or even discussed.

How do we explain the lack of impact of mechanisms for minority inclusion, despite the commitment of key government actors and the institution of appropriate policies? The resistance and tacit opposition of substantial sections within the bureaucracies charged with the implementation of these programs seems to have been a significant factor. Muslims have low levels of representation in the bureaucracy, police force and judiciary;[84] this, combined with the influence of Hindu nationalist ideologies, seems to contribute to their biased treatment of Muslims.[85] Muslims across different socio-economic strata expect discrimination from state agencies of security and justice,[86] as well as development and welfare. State agencies have been unwilling to collect, disaggregate and release data according to religious community for most programs, making it impossible in many cases to measure the progress, or lack thereof, towards inclusion.[87] Exclusions in one sector have knock-on effects for others. Thus, the lack of employment opportunities for Muslims means that there are fewer incentives among Muslims to pursue higher education. Violence against Muslims, which has been rising since the 1990s, has intensified fear and insecurity, which in turn, has had an adverse impact on education and health outcomes.[88]

Beyond the state sector, trends in migration, housing and employment suggest wide-ranging discrimination against Muslims in society, among landlords, employers and service providers in the private sector. Direct discrimination is evident in recruitment to private sector jobs, as well as structural discrimination reflected in the increasing self-employment among Muslims and in their concentration at lower levels of the labour market.[89] In housing too, recent studies have confirmed reports of high levels of discrimination by private landlords in metropolitan cities like Delhi and Mumbai.[90] One consequence of discrimination in the housing market, combined with the violence and

insecurity faced by Muslims, has been increasing spatial segregation in cities in northern and western India, with ghetto like spaces consolidating in cities with high-levels of Hindu-Muslim violence, such as Ahmedabad and Mumbai.[91]

Hindu nationalism, state power and violence

Discrimination and violence against Muslims is supported by Hindu nationalist ideology, propagated by cultural nationalist leaders and organizations of the *Sangh parivar*.[92] While Hindu nationalist beliefs have been pervasive in society as a result of the educational and social work carried out by the RSS and its affiliates, at the national electoral level, Hindu nationalism achieved its breakthrough in the 1990s in a context marked by the decline of the Congress party amidst perceptions of corruption. The Bharatiya Janata Party's (BJP) decision to join the movement for the construction of a Ram temple at Ayodhya (regarded by many Hindus to be the birthplace of Lord Ram) and the subsequent destruction of the Babri Masjid, which was seen as a symbol of Muslim domination, in 1992 by Hindu activists, were key turning points.[93] The BJP sees secularism in the Indian Constitution and its practice by the Congress and allied parties since Independence to be favoring minorities ("minority appeasement") and has consistently opposed pluralist policies such as religious family laws and special status for Kashmir. Commentators have termed increased support for Hindu nationalism as a form of "elite revolt" by upper castes against the growing political power of lower castes.[94] The expansion of an urban middle class seeking identity and power amidst the contradictory pressures of globalization has fuelled the growth of nationalist

imaginaries in India, as elsewhere.[95]

While some tensions remain between the ideological moderation required for the BJP to retain power at the national level and the anti-minority campaigns of Hindu activists, when the BJP has held state power, it has furthered the cause of Hindu nationalism. Thus, laws against cow-slaughter and conversions in support of Hindu normative food habits and attitudes towards religion have been enacted or strengthened by states during the tenure of BJP governments. The enactment of Hindu nationalist beliefs into law and policy has been accompanied by an increase in incidents of violence, harassment and hate speech by vigilantes against those suspected of eating beef or engaged in conversion.[96] At the national level, the BJP has promoted the RSS's long-term agenda in education, notably by installing those sympathetic to Hindu nationalism or compliant with it as the heads of educational institutions in charge of curricula. Thus, the previous BJP-led national government (1999–2004) changed the heads of several national institutions, suspended commissioned volumes by scholars critical of Hindu nationalism, sought to introduce courses in Vedic studies, astrology, palmistry "in the name of restoring 'indigenous knowledge' which… meant 'Hindu knowledge.'"[97] A similar pattern is discernable in the case of the current government that has intervened controversially in appointments to national educational institutions, provoking protests from academics and students against the undermining of institutional autonomy. The Akhil Bharatiya Vidyarthi Parishad, the aggressive student wing of the party, has targeted critics of Hindu nationalism in universities as anti-national and, with the support

of Government ministers, put pressure on university administrations to suspend student activists, triggering protests in campuses across the country (notably the Jawaharlal Nehru University, and the University of Hyderabad).

The BJP's rise in the 1990s and its subsequent periods in state power have also been associated with increased levels of violence. One of the worst episodes of anti-Muslim violence in independent India occurred in Gujarat in 2002, when the BJP-led state machinery allowed Hindu mobs to kill and loot Muslims. Studies across different cases have shown that the most important factor for predicting the level and duration of Hindu-Muslim violence is "the will and capacity of the government that controls the forces of law and order," which in turn has tended to depend on electoral considerations.[98] Since the election of a BJP majority government in 2014, there has been an increase according to official data in incidents of violence and intimidation of religious and political minorities.[99] Some notable examples include: members of militant Hindu groups burning churches; killing anti-superstition writers; organizing campaigns against love-*jihad* (marriages or romantic relationships between Muslim men and Hindu women) and for *ghar-wapsi* (re-conversion to Hinduism, literally home-coming) among poor Christian and Muslim communities; lynching a Muslim butcher on the suspicion of consuming beef; and flogging Dalits transporting cow-hides. The government has resisted calls for strong public condemnation of violence against Muslims in particular; ministers who have made hate speeches against minorities remain in their posts. Instead, the government has appeared to support the cultural domination

of minorities through, for instance, demoting public holidays associated with minorities such as Christmas and Easter. As a result, prejudices against Muslims and demeaning stereotypes (as *madarsa*-going fanatics and a security threat,[100] as Pakistan loyalists and fifth columnists) are increasingly voiced openly in society, encouraged by the lack of strong condemnation by government leaders and the anonymity offered by social media.

The BJP 2014 election victory rests on narrow foundations (under a third of the electorate)[101] and it relies for its electoral successes on the consolidation of a divided Hindu vote. As such, religious polarization looks set to continue, although the electoral defeats of the BJP in some state elections in 2015 (Delhi, Bihar) demonstrates support for counter-majoritarian forces as well.

IV. EMERGING LESSONS: TOWARDS A PLURALISM LENS

1. India's experience suggests that societal pluralism can exist without inclusion as equals. Historically, in India, a segmented pluralism has prevailed, where interaction between different social segments was limited, and minority groups had autonomy, but within a hierarchical framework. In contemporary India, newer forms of hierarchical and segmented pluralism have overlaid older patterns in some places, and pose a challenge to inclusionary policies, as, for instance, in the growing residential and occupational segregation of Muslims in some cities.

2. A political order that seeks to accommodate societal pluralism within terms of equality needs a shared framework for the contestation of differences. The Indian Constitution (1950) was ahead of its time in instituting cultural rights for minorities and affirmative action for historically disadvantaged groups within a broadly liberal democratic framework.[102] Comprising conceptions of democracy, secularism, social justice, development and national unity, the legitimating vocabulary of the Indian Constitution has provided a common framework for debate over time.[103] The Constitution continues to be seen as exemplifying the enduring values of the polity by all political actors, and is often invoked to challenge the actions of governments and leaders.[104] As such, the many forms of discrimination and violence associated with societal pluralism in contemporary India have a common framework of political values to which the wronged can appeal, across the communities and interests to which they belong.

3. Several rounds of contentious debate and difficult compromises underpin the achievement of the Indian Constitution that was agreed to after three years of deliberations. Conflicting views regarding the recognition of differences of religion, language, caste and tribe, including from within the dominant Congress party, were expressed and publicly debated.[105] Minorities were well represented in the committees and leaders of the dominant party tried to avoid majority-decision making, seeking consensus instead, sometimes delaying decisions to arrive at agreement. Powerful leaders conceded on crucial points—reservations were not the first preference of either Nehru or Dr. Ambedkar, but were accepted in the Constitution and have been

an enduring feature of the political landscape.[106] The lengthy and public discussion of competing views, the willingness to compromise in order to achieve consensus, the limited recourse to majority decision-making as a last resort, contrast with the experience of many other post-colonial countries, as well as of contemporary Indian politics.

4. India's institutional heterogeneity in the area of group rights offers an example of a plural polity. The Indian Constitution recognizes multiple sources of cultural identity: religion, language and tribe. It also offers different routes to group autonomy—territorial (federalism, autonomous councils) as well non-territorial (religious personal laws). Even in relation to the same type of group, religious minorities, the Constitution embodies distinct approaches—integrationist (e.g., abolition of group representation) and weak multicultural (e.g., religious freedom including separate personal laws). As such, claimants for recognition and assistance from the state have multiple paths to choose from. For instance, Muslims can self-identify as members of a religious group in matters of family law, as citizens whose rights to religious freedom have been unjustly curtailed in a given instance, or members of a "backward class" for special treatment in education and employment in a few states. The Indian case suggests that state policies do not necessarily entrench group differences but can also serve to pluralize group claims.

5. In India, as in other countries, there is a need to build conceptions of national identity that are more inclusive of minority religions. Indian constitution-makers articulated inclusive civic notions of national identity, but these were more accommodating of

linguistic diversity than religious diversity. While nationalist histories highlighting the contributions of leaders belonging to different communities to the freedom struggle were written and sought to be disseminated through educational curricula, these were received as official, state histories. National slogans such as "unity in diversity" did have popular resonance in domains such as Hindi cinema; however, their translation into everyday citizenship remained limited. By contrast, Hindu nationalist accounts of Indian national identity established a firmer hold in society, particularly since the 1980s. Here, the Indian nation was seen as fundamentally Hindu, violated for centuries by Islamic and Christian invaders. Perhaps the most serious defect of the new Indian nation state was "the failure to create a liberal-pluralistic public rhetorical and imaginative culture whose ideas could have worked at the grassroots level to oppose those of the Hindu right."[107] The long shadow of the country's partition along religious lines in 1947 continues to limit political imagination with regard to the accommodation of religious diversity.

6. India offers a relatively successful example of multi-lingual federalism, and also shows that the relationship of <u>federalism</u> to pluralism is complex. With regards to sequencing, India's experience suggests that while federal principles of power-sharing need to be constitutionally entrenched, the delineation of the units is perhaps best left to a subsequent political process involving negotiation and compromise between political actors. Indian constitution-makers were wise to resist calls to define sub-national units in the Constitution, avoiding overload at the time of drafting, and allowing for flexibility in state boundaries.

Subsequent accommodationist policies towards linguistic demands have facilitated the management of conflict and the resilience of the Indian state. At the same time, India's experience also suggests, as does that of the United States and other countries, that the decentralization of power can diminish protections for minorities. Regional governments have often used self-determination provisions to restrict the freedoms of religious, tribal and linguistic minorities. Several instances of violence against Muslims and Christians have occurred through the collusion of law and order agencies under the control of state governments. Further, greater devolution to states of finances and powers for the provision of basic goods, such as education and health, can increase inequalities between citizens residing in different regions because of differences in state capacity, undermining equality of opportunity for all citizens. More generally, India's experience of federalism highlights that pluralism is a multi-dimensional concept, i.e., a policy that is pluralism-enhancing along one dimension (e.g., linguistic or tribal autonomy) can decrease pluralism along another dimension (e.g., religious freedom), or increase inter-group and intra-group inequalities.

7. <u>Elections</u> can have both exclusionary and inclusionary effects. On the one hand, Indian political parties have mobilized anti-minority sentiment during election campaigns for the consolidation of a Hindu majority across the lines of caste.[108] On the other, frequent elections and turnover of governments has meant that no party or coalition is able to lay exclusive claim to a democratic mandate for an extended period,

making it harder for electoral majorities and group enmities to congeal for long. Furthermore, in seeking to build winning social coalitions, and to differentiate themselves in closely fought elections, parties and politicians have also sought to highlight the concerns of minorities when this helps them win. Political competition also has the potential to contain Hindu-Muslim violence, with state governments elected through the support of minority voters acting to protect and advance minority rights in some cases (e.g., in Uttar Pradesh and Bihar in the 1990s). As such, elections have not always been exclusionary, but also offer opportunities for politicians to act as entrepreneurs of inclusion.

8. Political leadership can make a crucial difference to the inclusion of minorities. During constitution-making in the late 1940s, the presence of leaders such as Nehru and Dr. Ambedkar, who were committed to minority rights and held positions of executive power, enabled the adoption of inclusionary policies, despite the pressures against these after Partition. Between 2004–14, Prime Minister Dr. Manmohan Singh's commitment to improving the position of Muslims, supported by the Congress leadership, enabled a shift towards a framework that focused on the welfare outcomes of "socio-religious" communities (the term coined by the 2006 Sachar Commission Report). Leadership has played a key role at the sub-national level as well, with some chief ministers ensuring the protection of minority lives and property during periods of inter-religious violence, issuing unambiguous public statements and firm instructions that were followed. At the same time, while key actors can

provide pivot points for policy shifts, elite beliefs and actions do not suffice to enact and implement measures of inclusion. A wider process is needed for the value of diversity to take root "in the minds of the decision makers at all levels," as well as in the social attitudes of ordinary citizens, so that the "manifestation of diversity becomes a matter of celebration rather than a cause for social turmoil and political anxiety."[109] Public debates on diversity need to be a central part of such a process, both within institutions such as legislatures, schools and, more widely in the electronic and social media.

9. Correcting the exclusions of marginalized groups through inclusionary policies takes time and requires mechanisms of oversight. Thus, despite a policy of quotas, the under-representation of SCs and STs continues to persist at the higher levels of the public services and, more markedly, in private sector jobs. As such, the adoption of an official policy of positive discrimination also needs to be supplemented with mechanisms of monitoring progress towards inclusion. Given the mounting evidence of exclusions of Muslims across a range of sectors, a non-discriminatory approach requires the consideration of mechanisms that have been mooted such as comprehensive anti-discrimination legislation, and an Equal Opportunities Commission and Diversity Index to offer incentives for greater inclusion of Muslims in educational institutions, public employment and private sector jobs.[110] Furthermore, progress towards inclusionary policies requires the collection and release of reliable data disaggregated by membership of excluded groups which

bureaucrats have been reluctant to do, often citing its sensitive nature. Data disaggregated by membership of religious, caste, tribal and other under-represented groups should be required of large private sector employers, as well as public institutions.[111]

10. The protection of individual rights and liberties remains an important and threatened line of defence in the struggle to preserve pluralism in contemporary India. Some of the most prominent demands of minorities in India today pertain to the lack of enforcement by state agencies of rights to security, freedom, non-discrimination and equal opportunity available to all citizens, and of the impunity enjoyed by those who violate the rights of the vulnerable. In many crucial areas, such as physical security, freedom from arbitrary arrest and detention, religious freedom, freedom of expression including of dissent from dominant views, improving protections for minorities requires strengthening the defence of individual rights. Yet, while liberal ideas have been influential in India, both in the thought of leaders, as well as the practices of movements and institutions, their Indian variants have rarely expanded on the need for constraints on state power for protecting individual freedom.[112] The recent acts of violence against religious, caste and other minorities by vigilante groups on grounds of the supposed hurt to the sentiments of the majority further underscores the need to strengthen standard liberal rights, in order to improve protections for religious, political and sexual minorities in India.

NOTES

[1] I am grateful to Pushparaj Deshpande, Adnan Farooqui, Niraja Gopal Jayal and Will Kymlicka for suggestions and comments.

[2] "Population by Religious Community," accessed 4 August 2016, http://www.censusindia.gov.in/2011census/C-01.html.

[3] "Statement 1: Abstract of Speakers' Strength of Languages and Mother Tongues—2001," accessed 4 August 2016, http://www.censusindia.gov.in/Census_Data_2001/Census_Data_Online/Language/Statement1.aspx.

[4] See Niraja Gopal Jayal (2006), *Representing India: Ethnic Diversity and the Governance of Public Institutions* (New York: Palgrave Macmillan).

[5] As such, the distinction between the rights of immigrant groups and national minorities is arguably less relevant. Will Kymlicka (1995), *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press).

[6] Muslim presence in India dates back to the eighth century in Kerala and Sindh, expanding after the establishment of the Sultanate in north India. Christian presence in India is also long-standing, dating back to the followers of St. Thomas (called Syrian Christians) in the first century CE. Satish Saberwal (2006), "On the Making of Muslims in India Historically," *Sociological Bulletin* 55: 237–66.

[7] Myron Weiner (1997), "India's Minorities: Who Are They? What Do They Want?,"in *State and Politics in India*, edited by Partha Chatterjee (Delhi: Oxford University Press), 459–95.

[8] Rochana Bajpai (2011a), *Debating Difference: Group Rights and Liberal Democracy in India* (Delhi: Oxford University Press).

[9] Weiner (1997), 460.

[10] Stanley J. Tambaiah (1986), *Sri Lanka: Ethnic Fratricide and the Dismantling of Democracy* (London: I.B. Tauris and Co.).

[11] Ashutosh Varshney and David Stuligross (2002), "Ethnic Diversities, Constitutional Designs and Public Policies in India," in *The Architecture of Democracy: Constitutional Design, Conflict Management and Democracy*, edited by Andrew Reynolds (Oxford: Oxford University Press), 444.

[12] Susanne H. Rudolph and Lloyd I. Rudolph (2008), *Explaining Indian Democracy: A Fifty-Year Perspective, 1956–2006* (New Delhi: Oxford University Press), 51.

[13] Rudolph and Rudolph (2008), 11, 18.

[14] Sudipta Kaviraj (2010), *The Trajectories of the Indian State* (Ranikhet: Permanent Black).

[15] Kaviraj (2010), 12–13.

[16] Rudolph and Rudolph (2008), 9.

[17] Kaviraj (2010), 15.

[18] Kaviraj (2010), 12.

[19] Martha Nussbaum (2007), *The Clash Within: Democracy, Religious Violence and India's Future* (Cambridge: Harvard University Press).

[20] Christophe Jaffrelot (2011), "The Hindu Nationalists and Power," in *The Oxford Companion to Politics in India*, edited by Niraja Gopal Jayal and Pratap Bhanu Mehta (Delhi: Oxford University Press), 205.

[21] Jaffrelot (2011), 206.

[22] Paul Brass (2003), *The Production of Hindu-Muslim Violence in Contemporary India* (Delhi: Oxford University Press), 35. See also Partha Chatterjee (1993), *The Nation and Its Fragments: Colonial and Postcolonial Histories* (Delhi: Oxford University Press).

[23] Sunil Khilnani (1997), *The Idea of India* (London: Hamish Hamilton), 161.

[24] It is important to note that nationalism in India comprised "various, often oblique, currents" and diverse projects of anti-colonialism that "extended well beyond" the Congress. Khilnani (1997), 153.

[25] Sumit Sarkar (1998), *Writing Social History* (Delhi: Oxford University Press), 363.

[26] See chapters 6–7 in Gyanendra Pandey (1990), *The Construction of Communalism in Colonial North India* (Delhi: Oxford University Press).

[27] Khilnani (1997), 154.

[28] In 1971, Pakistan split into Pakistan and Bangladesh.

[29] Khilnani (1997), 153.

[30] Neera Chandhoke (2007), "Negotiating Linguistic Diversity: A Comparative Study of India and the United States," in *Democracy and Diversity: India and the American Experience*, edited by K. Shankar Bajpai (New Delhi: Oxford University Press), 120.

[31] Bipin Chandra, Aditya Mukherjee and Mridula Mukherjee (2000), *India after Independence, 1947–2000* (Delhi: Penguin Books), 21.

[32] Katharine Adeney (2007), *Federalism and Ethnic Conflict Resolution in India and Pakistan* (Basingstoke: Macmillan); Bajpai (2011).

[33] Gandhi's rejection of the nation-state meant that his views had limited influence over constitution-making.

[34] These include the prohibition of cow slaughter (Article 48, non-justiciable). Other proposals for Hindi as the sole national language and citizenship based on descent from Indian religions were rejected. See James Chiriyankandath (2000), "Creating a Secular State in a Religious Country: The Debate in the Indian Constituent Assembly," *Commonwealth and Comparative Politics* 38 (2): 16–18.

[35] Rochana Bajpai (1997), "Recognizing Minorities: Some Aspects of the Indian Constituent Assembly Debates, 1946–49," MPhil thesis, University of

Oxford; Gurpeet Mahajan (1998), *Identities and Rights: Aspects of Liberal Democracy in India* (Delhi: Oxford University Press); Rajeev Bhargava (2000), "Democratic Vision of a New Republic: India, 1950," in *Transforming India: Social and Political Dynamics of Demcracy*, edited by F. Frankel et al (Delhi: Oxford University Press), 26–59.

[36] Archana Parasher (1992), *Women and Family Law Reform in India* (New Delhi: Sage), 62.

[37] Groups defined in terms of social and economic criteria (landholders, universities and trade associations) were also represented in legislative bodies. Judith Brown (1990), *Modern India: The Origins of an Asian Democracy* (Oxford: Oxford University Press), 142; Khilnani (1997).

[38] For more details, see Bajpai 2011, chapter 2.

[39] Granville Austin (1966), *The Indian Constitution: Cornerstone of a Nation* (Oxford: Clarendon Press).

[40] Ralph Retzlaff (1963), "The Problem of Communal Minorities in the Drafting of the Indian Constitution," in *Constitutionalism in Asia*, edited by R.N. Spann (Bombay: Asia Publishing House), 66.

[41] Steven Wilkinson (2004), *Votes and Violence: Electoral Competition and Ethnic Riots in India* (Cambridge: Cambridge University Press).

[42] Will Kymlicka and Baogang He, eds. (2005), *Multiculturalism in Asia* (Oxford: Oxford University Press), 9.

[43] Bajpai (1997, 2011a).

[44] These had multiple conceptions. For instance, secularism, for some, meant equal citizenship for all individuals irrespective of religion and for others, religious freedom for groups. See Bajpai (2011a).

[45] K.T. Shah, *Constituent Assembly Debates* [*CAD*], vol. VII (New Delhi: Government of India), 655. Legislative quotas for SC/ST groups were initially written into the Indian Constitution for a period of 10 years and have been extended every decade without much debate.

[46] For details, see Bajpai (2011a).

[47] Kymlicka (1995), 141, 148; Marc Galanter (1984), *Competing Equalities, Law and the Backward Classes in India* (Delhi: Oxford University Press).

[48] On the distinction between strong and weak (or restricted) multiculturalism, see Ayelet Shachar (2000), "On Citizenship and Multicultural Vulnerability," *Political Theory* 28 (1): 64–89, February.

[49] Kymlicka (1995); Shachar (2000).

[50] See also Mahajan (1998); Bhargava (2000).

[51] Rochana Bajpai (2002), "The Conceptual Vocabularies of Secularism and Minority Rights in India," *Journal of Political Ideologies* 7 (2): 179–97.

[52] As such, links between national unity were both instrumental and constitutive. See Bajpai (2011).

[53] The cultural rights of minorities were thus interpreted largely as negative liberties. The duties required of the state were limited to forbearance from interference. On the general point, see Henry Shue (1980), *Basic Rights: Subsistence, Affluence and US Foreign Policy* (Princeton, NJ: Princeton University Press). Kymlicka (1995).

[54] Austin (1966), 266.

[55] Eighth Schedule of the Constitution [Articles 341 (1) and 351]. Currently, 22 languages are listed in the Eighth Schedule.

[56] Self-government rights are seen to "asymmetrically distribute rights or opportunities on the basis of group membership." Kymlicka (1995), 222, n. 8.

[57] Kashmir's special status (Article 370) was not based on a recognition of its ethnic or religious distinctiveness. See Louise Tillin (2007), "United in Diversity? Asymmetry in Indian Federalism," *Publius: The Journal of Federalism* 37 (1): 45–67.

[58] Austin (1966), 186, 239.

[59] Austin (1966).

[60] Pratap Bhanu Mehta (2007), "India's Unlikely Democracy: The Rise of Judicial Sovereignty," *Journal of Democracy* 18 (2): 70–83.

[61] Thus states with substantial tribal populations have been carved out of linguistic states, e.g., Chattisgarh and Jharkhand in 2000.

[62] Myron Weiner (1989), *The Indian Paradox: Essays in Indian Politics* (New Delhi: Sage).

[63] James Manor (2002), "Centre-State Relations," in *The Success of India's Democracy* (Delhi: Cambridge University Press).

[64] Nussbaum (2007), 331.

[65] National Rural Employment Guarantee Act (2005), accessed 26 September 2016, www.nrega.nic.in/netnrega/home.aspx.

[66] Around 40 celebrated writers from across the country returned their national literary awards in 2015. In the first quarter of 2016, hundreds of academics in India and abroad petitioned, marched and undertook teach-ins against police action on campuses at Jawarhalal Nehru University, Delhi, and the University of Hyderabad, Hyderabad. Amrita Basu (2016), "More Than Meets the Eye: Sub Rosa Violence in Hindu Nationalist India," Institute for Religion, Culture and Public Life (IRCPL) Conference on Democracy and Religious Pluralism, Columbia University, New York, 12–13 February.

[67] According to official sources, in 2012, only 11.5%, 4.8% and 6.9% of the total seats for the A-class administrative positions in India were occupied by the SCs, STs and the OBC (Government of India Ministry Of Personnel, Public Grievances and Pensions, Rajya Sabha, Unstarred Question No-3040, answered 20 December 2012). On under-representation in the judiciary, see the report of the National Commission to Review the Working of the Constitution, http://lawmin.nic.in/ncrwc/finalreport/v1ch11.htm.

[68] See Ravi Saxena, D. Ajit and Han Donker (2012), "Corporate Boards in India blocked by Caste?," *Economic and Political Weekly* 47 (32): 11 August.

[69] Galanter (1984).

[70] Satish Deshpande with Geetika Bapna (2008), *Dalits in the Muslim and Christian Communities: A Status Report on Current Social Scientific Knowledge*, National Commission for Minorities, Government of India, accessed 4 August 2016, http://ncm.nic.in/pdf/report dalit reservation. pdf.

[71] Government of India, *Report of the National Commission for Religious and Linguistic Minorities*, Ministry of Minority Affairs (2007).

[72] Sukhadeo Thorat, Nitin Tagade and Ajaya K. Naik (2016), "Prejudice against Reservation Policies: How and Why," *Economic and Political Weekly* 51: 8, 61–69.

[73] Interviews with Dalit politicians, December 2014.

[74] On the situation in Bastar, see for instance Nandini Sundar (2016), "Darkness at Noon in the 'Liberated Zone' of Bastar," *The Wire*, 4 February, accessed 4 August 2016, http://thewire.in/2016/02/04/darkness-at-noon-in-the-liberated-zone-of-bastar-20794/.

[75] See Laurent Gayer and Christophe Jaffrelot (2012), *Muslims in Indian Cities: Trajectories of Marginalisation* (London: C. Hurst and Co.).

[76] *Post Sachar Evaluation Committee Report* [*PSEC*] (2014), 177. On Muslim under-representation in government employment, see Sachar Committee Report (2006), *Social, Economic and Educational Status of the Muslim Community in India: A Report*, Prime Minister's High Level Committee, Cabinet Secretariat, 210, accessed 26 September 2016, http://www.minorityaffairs.gov.in/sites/upload_files/moma/files/pdfs/sachar_comm.pdf.

[77] Muslims "are less likely to attain" secondary and higher levels of education and technical qualifications. PSEC (2014), 180. Despite their better initial health indicators for both boys and girls (child sex ratio, infant and maternal mortality), Muslims lag behind in terms of health outcomes.

[78] Nearly half of Muslim female population is illiterate according to some estimates. In urban areas, "nearly half of their population (44 per cent) counted amongst the poorest compared to the national average of 29 per cent." See Tanweer Fazal (2013), "Millenium Development Goals and Muslims of India," Oxfam India Working Paper Series, 5.

[79] On recent incidents, see Abusaleh Shariff (2016), *Institutionalizing Constitutional Rights: Diversity, Equal Opportunities and Socio-religious Communities in India* (New Delhi: Oxford University Press).

[80] For more details of the15-point program, see Rochana Bajpai (2011), "Beyond Identity? UPA Rhetoric on Social Justice and Affirmative

Action," *New Dimensions of Politics in India: The United Progressive Alliance in Power, edited by Lawrence Saez and Singh Gurharpal* (London: Routledge), 79–96. Routledge Advances in South Asian Studies, 21.

[81] Vidya Subrahmaniam (2013), "Six Years after Sachar Report, Muslim Lot No Better," *The Hindu*, 14 January, accessed 4 August 2016, http://www.thehindu.com/news/national/six-years-after-sachar-report-muslim-lot-no-better/article4304959.ece. See PSEC (2014), 127.

[83] "Implementation of Sachar Committee Recommendations: Status Report" (March 2015), accessed 4 August 2016, http://www.minorityaffairs.gov.in/sites/upload_files/moma/files/Sachar-Committee-Status.pdf.

[84] According to one study, Muslims constituted only 6.26% of High Court judges, 2.95% of IAS officers and 4.02% of IPS officers. See Shabnam Hashmi et al. (2007), cited in Gayer and Jaffrelot (2012); also Omar Khalidi (2006), *Muslims in the Indian Economy* (Haryana: Three Essays Collective).

[85] Interviews with Muslim MPs, January 2014.

[86] PSEC (2014), 174.

[87] Sachar Committee (2006); PSEC Report (2014).

[88] Sachar Committee Report (2006); Fazal (2013).

[89] See Sukhadeo Thorat and Paul Attewell (2007), "The Legacy of Social Exclusion: A Correspondence Study of Job Discrimination in India," *Economic and Political Weekly* 42 (41): 4141–45; PSEC (2014), 177–78; Shariff (2016).

[90] Sukhadeo Thorat, Anuradha Banergee, Vinod Mishra and Firdaus Rizvi (2015), "Urban Rental Housing Market: Caste and Religion Matters in Access," *Economic and Political Weekly* 50 (26–27): 47–53. Security was cited as a consideration, along with non-vegetarian food habits by landlords.

[91] Gayer and Jaffrelot (2012), 323. On the feelings of insecurity and day-to-day discrimination experienced by Muslims, see Shariff (2016).

[92] The network of organizations created by the RSS that are collectively called the Sangh parivar include: the Akhil Bharatiya Vidyarthi Parishad (ABVP, student wing, formed in 1948); Bharatiya Mazdoor Sangh (BMS, labour organization, formed in 1955); the Sarasvati Shishu Mandir (formed in 1952 for education); Vanvasi Kalyan Ashram (formed in 1952 for tribal welfare, to counter the influence of Christian missionaries); and the Vishva Hindu Parishad (VHP, formed in 1964). The political face of the RSS, the Bharatiya Jana Sangh, was formed 1951. Its present incarnation, the Bharatiya Janata Party (BJP), was formed in 1980.

[93] The Liberhan Commission report, finally submitted in 2009, indicted the BJP leadership, suggesting that the demolition of the Babri Masjid was meticulously planned and executed with the help of the state BJP government.

[94] Stuart Corbridge and John Harriss (2000), *Reinventing India: Liberalization, Hindu Nationalism and Popular Democracy* (Cambridge: Polity).

95 Thomas Hansen (1996) "Globalisation and Nationalist Imaginations: Hindutva's Promise of Equality through Difference," *Economic and Political Weekly* 31 (10): 603–16, 9 March; Brass (2003).

96 For example, Christian groups reported many more incidents of harassment and violence in states that enacted anti-conversion laws. United States Commission for International Religious Freedom (USCRIF) Annual Report (2015), 149, 151, accessed 26 September 2016, available at http://www.uscirf.gov/sites/default/files/India%202015.pdf.

97 Corbridge et al (2014), 184.

98 Wilkinson (2004), 5. See also, Brass 2003.

99 See "Communal Violence Shows 24% Jump in First Five Months of 2015, Shows Govt Data" (2015), *The Times of India*, 22 July, accessed 4 August 2016, http://timesofindia.indiatimes.com/india/Communal-violence-shows-24-jump-in-first-five-months-of-201-shows govtdata/articleshow/48167102.cms.

100 According to the Sachar Committee Report, only 3–4% of Muslims are educated solely in *madarsa* schools. Data on dual education streams is awaited.

101 The BJP achieved its highest vote share (31%) in 2014 under Narendra Modi's leadership, with its seat share exaggerated by a first-past-the-post electoral system. Its previous highest-vote share of 25.59% was achieved in the 1998 elections, after which the BJP's vote share had declined to 18.80% in 2009.

102 Bajpai (1997); Mahajan (1998); Bhargava (2000).

103 Bajpai (2011a).

104 In 2015, the government announced that 26 November would henceforth be observed as Constitution Day.

105 See Austin (1966); Bajpai (2011a).

106 On how consensual decisions are more likely to endure, see Rochana Bajpai and Graham Brown (2013), "From Ideas to Hegemony: Ideational Change and Affirmative Action Policy in Malaysia, 1955–2010," *Journal of Political Ideologies* 18 (3): 257–80.

107 Nussbaum (2007), 82.

108 See Brass (2003).

109 PSEC (2014), 177.

110 Sachar Report (2006).

111 Corporations in India are not required to report their religious and caste composition to the government, in contrast with the US. Thorat and Attewell (2007), 4144. On the limitations of official data, see PSEC (2014), 187.

112 Bajpai (2011a, 2012).

CASE AUTHOR

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