THE RISE OF MAJORITIES & EMERGING EXISTENTIAL THREATS TO INDIA & CHINA

Article

Keywords
Affirmative Action, Minorities, Muslims, National Identity

10,100 words

Abstract

China and India are comparable in size, complexity, and their relatively recent state-building histories. Commencing in 1947 and 1949 the relatively recent foundations of India and China respectively, highlighted a 'unity in diversity' message. The significance of this lay as much in ideology, as in a pragmatism that was both central, and relatively successful in bringing what could be argued as many civilisations, into singular modern states. While the messages about diversity have always been contested in some quarters by rival ethno-nationalists, they remained significant in laying the foundations for a strong 'national' identity. To the majority populations, Hindu in India, Han in China, they called for restraint to any triumphalism or chauvinism; to the minorities they called for unshakeable loyalty in return for full citizenship rights. In both cases these messages were backed by constructive affirmative action measures that, irrespective of their efficacy, served to emphasize the 'unity in diversity' message, sowing a degree of fealty towards the state, over what may have been more prominent and compelling ethno-religious or ethno-linguistic cleavages. In recent years however this message has been significantly altered, as political majoritarianism has begun to oust legally or administratively determined minority protections. This essay seeks to offer an assessment of the potential impact on this phenomenon on each country, arguing that it has contributed to instability, sowing seeds for the rise of opposing sub-national identities that the founding parents of each state actively sought to counter in their statecraft.

1. Introduction

Despite their different human histories over the last few centuries, India and China have a range of similarities in terms of their size and complexity.[1] Over the centuries they have shared moments of deep friendship,[2] trade and cultural exchange[3] but have, in nearly equal measure, also shared significant distrust[4] and hostility,[5] most recently in the second half of the twentieth century which involved a bilateral armed conflict.[6] The legacy of that conflict remains central to contemporary Sino-Indian relations through a

This paper was developed in the context of a research progamme on affirmative action jointly hosted by the Universidade do Oeste de Santa Catarina (Brazil) and Middlesex University (UK).

1 For typically narrated histories of China and India see e.g. M Loewe, EL Shaughnessy, *The Cambridge History of Ancient China: From the Origins of Civilization to 221 BC.* (CUP, 1999); H Raychaudhuri, & BN Mukherjee, *Political History of Ancient India: From the Accession of Parikshit to the Extinction of the Gupta Dynasty* (8th ed. OUP, 1999).

2 Liu Xinru, *Ancient India & Ancient China: Trade and Religious Exchanges A.D. 1-600* (New Delhi: OUP, 1988) and Tan, Chung & Yinzeng Geng, *India and China: Twenty Centuries of Civilizational Interaction and Vibrations* (New Delhi: Centre for Studies in Civilizations, 2005).

3 See Probodhachandra Bagchi, *India and China: A Thousand Years of Cultural Relations* (Bombay: Hind Kitab Limited, 1950).

4 See John Garver, 'The Unresolved Sino-Indian Border Dispute: An Interpretation' in 47(2) *China Report* (2011) 99-113.

5 J Holslag, *China and India: Prospects for Peace* (New York: Columbia University Press, 2010).

6 BR Deepak, *India & China 1904-2004: A Century of Peace and Conflict* (New Delhi: Manak Publications, 2005).

continued territorial claim[7] that has manifest itself from varying degrees of dormancy,[8] defying official bilateral attempts to resolve it,[9] though the issue is likely to come more to the fore as competition heats up between two significant players of the G20.[10] The Chinese Belt and Road Initiative (One Belt One Road)[11] which attempts to spread Chinese influence in the region and globally has been perceived as a threat to India's own global leadership and commercial aspirations,[12] and this has no doubt contributed to the insecurity felt in India towards China.[13] The closer relationship between China and Pakistan facilitated by the opening up of the *China Pakistan Economic Corridor*,[14] the

[7] K Krishna Rao, 'The Sino-Indian Boundary Question and International Law' 11(2) *International & Comparative Law Quarterly* (1962) 375-415.

[8] RD Pradhan, *India-China Gridlock over Arunachal Pradesh* (Pune: Chinar Publishers, 2013)

[9] See *Report of the Officials of the Governments of India and the People's Republic of China on the Boundary Question* (New Delhi: Ministry of External Affairs, Government of India, 1961).

[10] FR Frankel, H Harding, *The India-China Relationship: Rivalry and Engagement* (OUP, 2004).

[11] Ling, X. (ed.) *Mapping China's 'One Belt One Road' Initiative* (London/New York: Palgrave Macmillan 2019). See also: TL Lim, H Chan, H; K Tseng, WX Lim, *China's One Belt One Road Initiative* (London: Imperial College Press, 2016).

[12] For an Indian view see: S Thaliyakkattil, *China's Achilles heel: The Belt and Road Initiative and its Indian Discontents* (Singapore: Springer, 2019).

[13] For an overview of these issues from both perspectives see LHM Ling, AE Abdenur, P Banerjee, N Kurian, MP Lama, and L Bo, *India China: Rethinking Borders and Security* (Ann Arbor: Michigan University Press, 2016).

[14] The official website of the project is available at http://cpec.gov.pk accessed 8 May 2020. For commentary see A Ghouri, 'Towards Greater Integration? Legal and Policy Directions of Chinese Investments in Pakistan on the Advent of the Silk Road Economic Belt' 4(1) *Chinese Journal of*

growing trade relationship between China and Sri Lanka,[15] and the prospect of the sea route envisaged as part of the One Belt One Road initiative crossing through Indian waters (between Andaman and Nicobar islands, opposite the Malacca Straits) are all significant to the tensions between the emerging superpowers.[16]

The seemingly stark differences in India and China's human histories over the last two centuries could be attributed to a significant extent to the fact that India fell under European colonial rule while China went into relative isolation. Yet, while following different paths and guided by different impulses, both states arrived at a similar existential moment in their respective histories towards the middle of the

---

Comparative Law (March 2016) pp. 36-68; MS Irshad, 'One Belt and One Road: Dose China-Pakistan Economic Corridor Benefit for Pakistan's Economy?' 6(24) *Journal of Economics & Sustainable Development* (2015) available online at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2710352 accessed 8 May 2020;A Ranjan, 'The China-Pakistan Economic Corridor: India's Options' *Institute of Chinese Studies* (Occasional Paper 10, May 2015) available: https://www.icsin.org/uploads/2015/06/03/fa3c4f39043c07adba6fa6c0e36dcab7.pdf accessed 8 May 2020.

[15] See U Moramudali, 'Against the Tide: The Growth of China and Sri Lanka Trade' *The Diplomat* (August 1, 2019) available at https://thediplomat.com/2019/08/against-the-tide-the-growth-of-china-sri-lanka-trade/ accessed 8 May 2020. There is expectation that a new *China Sri Lanka Free Trade Agreement* will be signed in the immediate future.

[16] See DM Baruah, *India's Answer to the Belt and Road: A Road Map for South Asia* (Carnegie Endowment for International Peace, 2018) available at https://carnegieendowment.org/files/WP_Darshana_Baruah_Belt_Road_FINAL.pdf accessed 8 May 2020.

twentieth century. The key battleground in both it would seem, is the issue that lies at the heart of this article: namely how to create a unifying identity in the midst of hyper-diversity built from centuries' old traditions of the intermixing of peoples, that would keep disparate communities of significantly different, perhaps even competing ethno-religious lineages, loyal to a single political entity. This challenge has been addressed to date and to varying degrees in each state, through attempts to create a veneer of equality: providing mechanisms that on the surface created a semblance of inclusion, promising equal rights and dignity to all, especially to the significant parts of the population that were different from the dominant ethno-religious or social milieu in power.

A previous paper published in the context of a wider research project examining the efficacy of Chinese and Indian affirmative action models to Brazil sought to shed light on the historical evolution and debates that were attendant to the establishment of significant affirmative action measures in both countries.[17] These stemmed from enlightened and pragmatic leadership in both countries that understood the extent to which the governance of large tracts of land with diverse populations is fraught with significant existential threats if conducted without a unifying ideology.

17 J Castellino, 'Historical Evolution and Contemporary Debates on Affirmative Action Measures in India and China' in *The Existence and Efficacy of Affirmative Action Measures in UK, South Africa, India, China, Latin America and Brazil* [N Baez, & E Dominguez Redondo, eds.] (Joacaba: Editora UNOESC, 2018) pp. 211-232.

In the case of China that unifying ideology was captured in a distinct narrative that focussed on the established need to 'curb Han chauvinism'[18] and find ways to unite the 55 *minzhu* translated as 'minority nationalities'[19] that formed the family of 'Chinese' nations.[20] Many questions were posed as to the efficacy of this ideology: the extent to which it accurately cast and identified the variety of groups that could be deemed 'nations';[21] whether the Chinese state was truly committed to implementing an agenda to promote what may have been 'fringe' groups;[22] the exclusion of a number of claimants for the tag *minzhu* to their eventual detriment;[23] the extent to which the

---

[18] This phrase is included in the Preamble to the 1982 Constitution of China. See [editorial] Chinese Academy of Social Sciences. 'Nationalities' 3 *Information China* (Beijing: Pergamon Press, 1988) pp. 9-12.

[19] According to a past Government White Paper for example, the fourth national census (1990) revealed that 91.96% of the country's total population belonged to the Han ethnic group, and 8.04%belong to minority ethnic groups. It also gives figures for a sample survey in 1995 suggesting a 0.94 percentage point increase over the 1990 figures for minorities. See: Information Office of the State Council of the People's Republic of China, *Government White Paper National minorities policy and Its practice in China* (Beijing, 1999).

[20] See: [editorial] Common Programme of the Chinese People's Political Consultative Conference Concerning the Minority Nationalities [1949]. 14, 4 *Chinese Law and Government* (1981) p. 11-12; Hsiao-T'ung, Fei, *Towards a People's Anthology* (Beijing: New World Press, 1981).

[21] See criticism of this 'Stalinist' definition of minorities: B Sautman, 'Ethnic Law & Minority Rights in China: Progress and Constraints' 21 *Law & Politics* (1999) pp. 283-314.

[22] D Deal, 'The Question of Nationalities in Twentieth Century China' 12(3) *Journal of Ethnic Studies* (1984) pp. 23-53.

[23] T Heberer, *China & its National Minorities: Autonomy or Assimilation?* (Armonk, NY: ME Sharpe, 1989).

measures designed were implemented;[24] and, perhaps most crucially, the extent to which membership of the Communist Party and therefore loyalty to a nationalist agenda trumped over any considerations over identity.[25] These significant problems could be more synonymous with the form and scope of governance in China rather than design flaws in the objectives to ensure that all the 55 minority nationalities had access to development.

In an Indian context the project of modern statehood ran into difficulties at birth itself when a significant chunk of the territory of British colonial India was divided on the basis of religion at the cost of significant loss of life and population transfer.[26] The attempt to maintain the territorial integrity of India at the time of transition floundered on fear stoked through colonial 'Divide and Rule' policies that drew on ancient simmering but often contained tensions.[27] A significant fissure in the Indian independence movement led by the *Congress Party* resulted in the establishment of the *Muslim League* whose prime demand was the establishment of a separate

[24] For more see 'Minority Rights in China' in J Castellino, & E Dominguez Redondo, *Minority Rights in Asia: A Comparative Legal Analysis* (OUP 2006).

[25] See an old critique that remains valid GA Luoji, 'A Human Rights Critique of the Chinese Legal System' 9 *Harvard Human Rights Law Journal* (1996) pp. 1-14.

[26] BR Ambedkar, *Pakistan or Partition of India* (Bombay: Thackers, 1946). See also the more contemporary reflection in A Singh, N Iyer& R Gairola, (eds.) *Revising India's Partition: New Essays on Memory, Culture and Politics* (Lanham: Lexington Books, 2016).

[27] S Tharoor, *Inglorius Empire: What the British Did to India* (London: Hurst & Co. 2017).

independent homeland for Muslims.[28] This claim was based on a fear of Muslims being submerged and made second class citizens in Hindu India, citing violence that had been perpetrated against the community at various points in history.[29] However the 'problem' did not end with the birth of the two states, since a sizeable Muslim population, the largest in the world at the time,[30] remained in India, with small communities of Hindus unable or unwilling to relocate from the two parts of Pakistan (the East of which subsequently became Bangladesh) that emerged.[31]

Thus at the birth of the two states, in 1947 and 1949 for India and China respectively, the incumbent governments found themselves in charge of vast tracts of land both of which had a history of trading relationships as a consequence of which significant influences had been brought to bear on their polities. These societies absorbed and subsumed communities of different religions, spoke different languages and bore allegiances to a range of different spiritual and practical values. Uniting them into strong independent modern states became the prerogative of the two ruling parties, and

---

[28] I Talbot, (ed.) *The Independence of India and Pakistan: New Approaches and Reflections* (Karachi: OUP, 2013).

[29] 'Minority Rights in India' in J Castellino, & E Dominguez Redondo, (supra note 24, pp. 58-59).

[30] The Muslim population estimated at around 55 million would have made India the largest Muslim country in the world. See H Kabir, 'Islam and India' 9(3) *Indo-Asian Culture* (Jan 1961) p. 241.

[31] See U Butalia, *The Other Side of Silence: Voices from the Partition of India* (London: Penguin, 2017). Also S Ali Sha, *The Hindu Heritage of Pakistan* (Islamabad: Constellation Plus, 2013).

they reached out to ideology as an important rallying point.[32] Both emphasised and embarked on the creation of a unifying national narrative, and both these narratives emphasised a message concerning unity in diversity.

This element of 'unity in diversity' was enunciated through administrative *diktat* in the case of China and through what could be defined, in the aftermath of the British colonial experience, as formal law in the case of India.[33] In both cases the *status quo* on the states' founding myths on these issues held firm despite significant contestations and many real and imagined threats for nearly 7 decades.

This article seeks to highlight the extent to which politics, in the shape of populist government, has sought to extend its hegemony by undermining the ideological and pragmatic stances of the founding parents of each state. It seeks to show how those stances and ideologies had become part of the socio-political fabric of each State, while highlighting the imminent dangers of these changes. To achieve this the next section will highlight the specific challenges that have arisen in both jurisdictions, showing how the actions of the incumbent governments have sought to challenge founding myths, in both cases offering an alternative founding myth that has gained significant popular support.[34] The section will briefly comment on the efficacy of the

---

[32] See ES Fung, *The Intellectual Foundations of Chinese Modernity: Cultural and Political Thought in the Republic Era* (Cambridge: CUP, 2010) and M Khosla, *India's Founding Moment: The Constitution of a Most Surprising Democracy* (Cambridge, MA: Harvard University Press, 2020).

[33] Castellino, J. (supra note 17).

[34] [Editors] *The Dangerous Rise of Populism: Global Attacks on Human Rights Values* (World Report 2017, Human Rights Watch 2017).

proposed ideologies. The article concludes by highlighting the threats that emanate from this shift, arguing that the measures heighten the very spectre they are purported to combat, and offering starting points for a roadmap to a more stable outcome.[35]

2. The Rise of Majorities in Contemporary Domestic Politics

China

The rise of President Xi Jinping to power has come at a time when China has become an increasingly important global economic player. As technology has enabled the rapid design and distribution of augmented quantities of goods and services, countries with significant population sizes have begun to benefit from their comparative advantage in terms of size and market.[36] China's economic pragmatism has been long admired among circles that could assess the country objectively, and this economic pragmatism also spilled over to political pragmatism that enabled schemes like One Country Two Systems with the return of Hong Kong at the end of the one hundred year lease of the island to the United Kingdom in 1997,[37] which, as further manifestation of the threats being highlighted in this paper has also currently come under considerable strain.[38]

---

[35] B Sautman, 'Paved with Good Intentions: Proposals to Curb Minority Rights and Their Consequences for China' 38(1) *Modern China* (2012) available at https://journals.sagepub.com/doi/abs/10.1177/0097700411424563 accessed 8 May 2020.

[36] E Economy, *The Third Revolution: Xi Jinping and the New Chinese State* (Oxford: OUP, 2018).

[37] See J Husa, 'Accurately, Completely and Solemnly: One Country, Two Systems and an Uneven Constitutionalism' 5(2) *Chinese Journal of Comparative Law* (Oct. 2017) pp.231-252.

[38] Z Suisheng, (ed.) *Chinese Foreign Policy: Pragmatism and Strategic Behaviour* (London: Routledge, 2016).

One key factor played a significant role in changing China's most recent rise of power: the creation of special economic zones in the East of the country by President Deng Xiaoping in the 1980s that first fostered Chinese trade with the so-called East Asian tigers.[39] It enabled China to start raising its capacity for production, in the knowledge that trading with fast moving export and trade-oriented economies would ensure wider distribution and markets for its goods. A similar move to the West of the country was launched, the Western Development Program (*xibu da kaifa*),[40] which sought to replicate the Eastern miracle but ran into significant difficulty.[41] Unlike in the east of the country, China's western frontier is heavily populated by nations with a historical animosity towards the Chinese state. At various points in China's long and illustrious history these communities have been closer or further away from power. Under the current historical era commencing in 1911 modified through the ascendance of the *Communist Party* in Beijing (then Peking), these communities were 'united' under the Chinese banner and globally accepted as part of the state of the *Peoples Republic of China* though their allegiance was not really tested in any meaningful way.[42] Pragmatic

[39] XL Lollar, *China's Transition Toward a Market Economy, Civil Society and Democracy* (Bristol: Wyndham Hall Press, 1997).

[40] MD Moneyhon, 'China's great Western development project in Xinjiang: Economic Palliative, or Political Trojan horse?' 31(3) *Denver Journal of International Law & Politics* (2003) pp. 491-519.

[41] ET Yeh & E Wharton, 'Going West and Going Out: Discourses, Migrants and Models in Chinese Development' 57(3) *Eurasian Geography and Economics* (2016) 286-315 available at: https://doi.org/10.1080/15387216.2016.1235982 accessed 8 May 2020.

[42] See e.g. MR Drompp, *Tang China and the Fall of the Uighur Empire* (Leiden: Brill, 2005).

policy making at the commencement of the reign of the Communist Party government ensured that there was heightened respect for these nationalities in the emerging national rhetoric, but prior to the significant attempt to 'develop' the areas they remained relatively isolated, in a country itself isolated from international affairs.

The *Western Development policy* may normally have been welcomed in provinces such as Xinjiang, Inner Mongolia, Tibet and Yunan, home to the highest number of minority nationalities, areas beyond the traditional focus of comparable central governmental funding. However while the *Western Development policy* brought infrastructure projects and investment to the regions, this came with the creation of jobs that were largely taken up by China's majority Han population who migrated to these regions in search of employment.[43] Thus while the investment was much needed in these areas and could have been crucial to regional development,[44] a feeling of resentment grew, building on more latent historical feelings of exclusion and domination, as the significant Han Chinese migration began to change cultural norms and take up opportunities at the cost of the local population.[45] This inevitably raised tensions towards Beijing and led to the commencement of policies that have begun to unravel the notion of China as an umbrella state to many nationalities.

---

43 D Gladney, *Internal Colonialism and China's Uyghur Muslim minority*. X(1) *ISIM Newsletter* (1998).

44 E Han & C Paik, 'Ethnic Integration and Development in China' 93 *World Development* (May 2017) 31-42.

45 D Gladney, *China's Minorities: the case of Xinjiang and the Uyghur People* UN Doc. E/CN.4/Sub.2/AC.5/2003/WP.16.

With tensions in Tibet relatively high through each of the seven decades since the foundation of the Chinese state,[46] difficulties began to arise in Xinjiang where the Uyghurs began to mobilise and raise their voices. In a phenomenon parallel to what will be discussed in the Indian context, these voices were deemed anti-national, or 'splittist' i.e. seeking to undermine the territorial sovereignty of the Chinese state, and were met with significant repression. The unfurling of aggressive Chinese police response to what were initially the skirmishes, titled *Strike Hard, Strike Harder,* created new enemies and swelled opposition,[47] with the rise in brutality leading to greater disenfranchisement among youth who saw no prospect for themselves in the new 'developments' in their region.[48] It is hard to imagine that external influences did not play a role in this escalation. The communities in this part of the border region have a close shared history and association with neighbouring Turkic speaking communities in Kazakhstan, Kyrgyzstan, Turkmenistan and Tajikistan, who were themselves beginning to flex their muscles as newly independent states in the aftermath of the

[46] T Shakya, *The Dragon in the Snow: A History of Modern Tibet Since 1947* (New York: Columbia University Press, 1999); B Sautman, 'Cultural Genocide and Tibet' 38(1) *Texas Intentional Law Journal* (2003) pp. 173-247.

[47] See [Editors] *Eradicating Ideological Viruses: China's Campaign of Repression Against Xinjian's Muslims* (Human Rights Watch Report, September 2018) available at: https://www.hrw.org/report/2018/09/09/eradicating-ideological-viruses/chinas-campaign-repression-against-xinjiangs accessed 8 May 2020.

[48] G Bovington, *The Uyghur: Strangers in Their Own Land* (New York: Columbia University Press, 2010).

break-up of the Soviet Union.[49] The rise of political Islam in the international community and attempts made by some segments to transform it into a transnational movement are also like to have been significant to a change in aspiration away from assimilation within a Chinese state, and towards an assertive self-determination.[50]

The Chinese response of building the world's longest railway lines to Urumxi and Llhasa, the capitals of Xinjiang and Tibet respectively, celebrated in Chinese circles as a significant achievement that would aid development of the region, was experienced by many in the region as a means to dispatch troops that could forcible pacify boundary populations in ways that are historically salient.[51]

The ascendance of President Xi Jinping to effectively occupy the metaphorical throne of historical Chinese Emperors and Elders,[52] and his genuine desire and drive to further

---

[49] Emmanuel Karagiannis, 'The New Political Islam in Central Asia: From Radicalism to the Ballot Box?' in 19(1) *The Brown Journal of World Affairs* (Fall / Winter 2012), pp. 71-82.

[50] For an early analysis of this see LC Harris, 'Xinjiang, Central Asia and the Implications for China's Policy in the Islamic World' in 133 *The China Quarterly* (1993) 111-129.

[51] See Xinhua News Net, 'China approves railway project in Xinjiang' (Xinhua 2018-05-08 1823:34) http://www.xinhuanet.com/english/201805/08/c_137164333.htm accessed 8 April 2020.

[52] The 2017 speech delivered by Xi Jinping is considered a marker of a new generation of governance in Chinese society. Full official English transcript available at http://www.xinhuanet.com/english/download/Xi_Jinping's_report_at_19th_CPC_National_Congress.pdf. Accessed 8 May 2020. For his own writings and perspective see Xi Jinping, *The Governance of China* (Beijing: Foreign Languages Press, 2014).

the prosperity of all of China led him to articulate the *One Belt One Road* initiative.[53] This in essence constitutes expansion of the physical trade routes through which Chinese manufacturing can reach the global economy through a land and sea route, where it has significant comparative advantage in terms of cost and, more recently, also in terms of quality.[54] In view of China's growing population, this serves as a means to attract investment and economic opportunities to China, and inevitably, as established in the previous two centuries by European expansion into first the Americas, and later into Africa and Asia, to spread its influence. Thus *Pax Sinica* may not be significantly different to *Pax Britannica* with the blanket and vehement criticism in European and American writings,[55] a manifestation of the double standards that have long accompanied western analysis and criticism of China.[56]

---

[53] J Zeng, 'Does Europe matter? The Role of Europe in Chinese Narratives of 'One Belt One Road' and 'New Type of Great Power Relations' 55(5) *Journal of Common Market Studies* (2017) pp. 1162-1176.

[54] P Ferdinand, 'Westward Ho - the China Dream and 'One Belt One Road': China Foreign Policy under Xi Jinping. 92(4) *International Affairs* (2016) pp. 941-957.

[55] For a collection of essays that addresses the theme of China in Africa see *Development Policy Review Special Issue China in Africa* (August 2010) available at: https://onlinelibrary.wiley.com/doi/toc/10.1111/(ISSN)1467-7679.china-in-africa accessed 8 May 2020. Also see Zhongguang Niu, 'China's development and its aid presence in Africa: A critical reflection from the perspective of development anthropology' 51(2) *Journal of African & Asian Studies* (2016) available at https://doi.org/10.1177/0021909614545699 accessed 8 May 2020.

[56] See R Peerenboom, 'Assessing Human Rights in China: Why the Double Standard?' 38(1) *Cornell International Law Journal* (2005) available: https://scholarship.law.cornell.edu/cilj/vol38/iss1/3/

From the perspective of minorities however this quest for economic dominance comes directly upon the lands and territories of people who appear at best, sceptical, about whether this economic development would benefit them. Many among them appear to perceive the expansion in very similar terms to the manner in which European colonisation was received in parts of the Americas, Africa and Asia in the past two centuries: as deeply exploitative of indigenous resources, with significant gains and wealth accumulation for the incoming powers, but with little benefit accruing to the autochthonous population. As their agitation has grown, and the autonomy given under a bespoke law to facilitate 'self-governance' has failed to restore order,[57] the harshness of the Central government's response has grown. The result is a clear statement from the government of President Xi Jinping that denounces 'splittism',[58] coupled with an aggressive response towards the communities caught within these claims, and attempts to silence critics who seek to support the call for rights and dialogue, most recently manifest through the establishment of detention camps to 're-educate' those whose loyalty to the Chinese state is deemed to be faltering.[59]

India

[57] The *Law on Autonomy* was adopted at the Second Session of the Sixth National People's Congress, promulgated by Order No 13 of the President of the People's Republic of China on 31 May 1984, and effective as of 1 October 1984.

[58] Xi Jinping speech (supra note 49, p. 13-14).

[59] See *Obstacles to Excellence: Academic Freedom and China's Quest for World Class Universities* (Scholars at Risk Project, 2019) https://www.scholarsatrisk.org/resources/obstacles-to-excellence-academic-freedom chinas-quest-for-world-class-universities/ accessed 8 May 2020.

The rise of Prime Minister Narendra Modi in India at the head of a 'Hindutva'[60] movement bears many echoes to the experience in China in terms of the rise of the majority,[61] though a very crucial difference lies in the fact that this rise has been achieved through verifiable popular consent as expressed through periodic free and fair elections.[62] Prime Minister Modi inherited a party cadre system that has, as its basis, grass root movements such as the *Vishva Hindu Parishad* (VHP),[63] along with the trappings of religious ideology as enunciated by the *Rashtriya Swayamsevak Sangh* (RSS).[64] The *Bharatiya Janata Party* (BJP) that he led to a complete majority in the Indian election of 2019 bears a long-standing legacy of opposition to the previously dominant force in Indian politics since independence: the Indian National Congress.[65] While the Congress was central to the enunciation of the founding ideology of the Indian state, it was also a beneficiary of a formula of identity politics calculation that had consolidated into a near perfect stranglehold on power in Indian

---

60 S Corbridge, J Harriss, *Reinventing India: Liberalization, Hindu Nationalism and Popular Democracy* (Cambridge: Polity Press, 2000).

61 W Berenschlot, 'Political Fixers and the Rise of Hindu Nationalism in Gujarat, India: Lubricating a Patronage Democracy' 34(3) *South Asia: Journal of South Asian Studies* (December 2011) pp. 382-401.

62 R Sardesai, *2019: How Modi Won India* (New Delhi: Harper Collins, 2019)

63 For more on the movement see M Katju, *Vishva Hindu Parishad & Indian Politics* (Hyderabad: Orient Longman, 2003).

64 See W Anderson & S Damle, *The Brotherhood in Saffron: The Rashtriya Swayamsevak Sangh and Hindu Revivalism* (Penguin Random House India Ltd., 2019).

65 For a history of opposition politics in India see S Ruparelia, *Divided We Govern: Coalition Politics in India* (New York: Oxford University Press, 2015).

politics.[66] By contrast, militant Hindu parties and bodies which at the time of independence included the *Hindu Mahasabha*, the *Jana Sangh* and the *RSS* had already articulated a competing ideology of religion-based statehood which would have involved scrapping the Constitution's distribution of powers to establish a unitary state. This sustained opposition was carried through the *Jana Sangh's* election manifesto of 1957 which complained, with some justification, that the federal structure had created rivalries between the central and state governments that were an obstacle to national solidarity.[67] It is important to reiterate that despite the pressures to constitute India into a Hindu state at the time of the framing of the Constitution, especially in relation to Pakistan's decision to adopt a state religion, India's leaders '…maintained that the country had an obligation to minorities who had chosen to stay on in India. It had to assure them that the state of India would not establish or endorse any religion as its own. This was the minimum guarantee for religious non-discrimination'.[68]

In his first term serving as Prime Minister (2014-2019), Narendra Modi appeared to largely accept these national compromises that were made at the foundation of the state in a bid to consolidate and secure the territory of India and the complex identities, religious and other, that formed a significant part of the population.[69] This consisted of key principles that were adopted at the foundation of the Indian state, within a fierce

---

66 R Vohra, *The Making of India: A Political History* (New York: Routledge, 3rd edition, 2015).

67 Granville Austin, *Working a Democratic Constitution: A History of the Indian Experience* (New Delhi: Oxford India Paperbacks, 2003) 150.

68 Gurpreet Mahajan, 'Religion and the Indian Constitution' in *Politics and Ethics of the Indian Constitution* [Rajeev Bhargava ed.] (New Delhi: Oxford India Paperbacks, 2009) 303.

69 L Price, *The Modi Effect: Inside Narendra Modi's Campaign to Transform India* (Quercus, 2016).

all-encompassing multi-religious and secular ideology,[70] but which were also pragmatic in generating a narrative of national identity designed to curb the further haemorrhaging of land and people. Thus citizenship and minority rights became intrinsically linked in the founding narrative of the State. For Baxi, this manifested in, first the decision for universal franchise, overcoming centuries' old legacies of the caste system's valuation of life on the basis of purity and pollution and seeking to outlaw it (article 17); second the outlawing of serfdom which had blighted Indian development for centuries (article 23); and third by recognizing gender based equality (articles 14, 15). The crowning achievement of these measures are manifest in the Constitution:

> The invention of 'citizenship', in the traumatic events of partition of India, also generates a special regime of solicitation for minority rights (articles 25-30). Constitutional secularism that mandates radical reform of the 'majority' Hindu religious traditions also results now in a cautious, piecemeal charter, based on communitarian-oriented, consensual bases for reform of the 'personal law' system of minority communities'.[71]

These values were buttressed by the inclusion of key elements in the foundation of the Indian state including: the principle of self-determination which enabled each of the former princely States to consent to the idea of India as a united entity; the decision to constitute India into a federal state with considerable devolved power; [72] the

---

[70] R Bhargava, *The Promise of India's Secular Democracy* (New Delhi: OUP, 2010).

[71] Upendra Baxi, 'Outline of a 'Theory and Practice' of Indian Constitutionalism' in *Politics and Ethics of the Indian Constitution* [Rajeev Bhargava ed.] (New Delhi: Oxford India Paperbacks, 2009) 105.

[72] T Benedikter, *Language Policies and Linguistic Minorities in India: An Appraisal of the Linguistic Rights of Minorities in India* (Berlin: Lit Verlag, 2009).

redrawing of administrative boundaries of India's former administrative units to ensure that India's significant linguistic diversity would be maintained and enhanced through linguistically determined statehood within the federation;[73] an overarching protection of equality and non-discrimination that underscored the need for accessible rights for all;[74] affirmative action measures (reservations) that sought to create bespoke mechanisms to advance the specific socio-economic development of Tribes and Castes that were specifically identified in a Schedule to the Constitution;[75] special protection for Kashmir which remained India's Muslim majority state; special protection for the North- eastern States of India designed to enhance cultural protection but also to protect these from non-indigenous encroachment;[76] and, guarantees of religious freedom to practise religion and to establish educational systems in line with their own belief systems.

---

[73] BVR Rao, *The Constitution and Language Politics of India* (Delhi: BR Publishing Corporation, 2003); R King, *Nehru and Language Politics of India* (Delhi: OUP, 1997).

[74] This element as well as the specific measures on caste are attributed to the work of Dr. BR Ambedkar who went on to become India's first law minister. For the impact of Ambedkar on Indian law and society see: D Keer, *B.R. Ambedkar: Life and Mission* (Bombay: Prakashan, 1962).

[75] This is enshrined in law by *The Constitution (Scheduled Castes) Order (1950)* which lists castes across India in its First Schedule; and, the *Constitution (Scheduled Tribes) Order (1950)* which lists tribes across the Indian states in its First Schedule. See VA Pai Panandiker, (ed.) *The Politics of Backwardness: Reservation Policy in India* (New Delhi: Konark Publishers, Pvt. Ltd, 1997).

[76] HK Barpujari, *North-East India: Problems, Policies and Prospects since Independence* (New Delhi: Spectrum Publications, 1998); J Jacobs, *The Nagas: Hill Peoples of Northeast India* (London: Thames & Hudson, 1990).

In addition, the constitutional debates that led to the framing of the Indian constitution had always insisted on the country being 'secular'. The Indian constitution dealt with the issue of religion by endorsing the principle of non-establishment of religion but without advocating the separation of religion from politics. It said 'no' in explicit terms, to establishing a state religion and an emphatic 'no' to the policy of separation of religion from the public domain. This meant that the state was to have no religion of its own, but religion was not also viewed as a personal or private matter: it was placed squarely in the public domain and the state was expected to be involved in a variety of ways with religion. While non-establishment assured different religious communities, particularly the minorities, that the state would not endorse any religion as its own, non-separation gave a special status to religion and religious communities in the public domain.[77] The ongoing nature of this discussion is a reflection of the value placed on it: in the first few decades of the Indian state this even led to a Constitutional Amendment that specifically changed the name of the state to reflect this value in 1976.[78] The Courts, in subsequent jurisprudence, sought to specify that secularity was to be understood in the Indian context was different to that elsewhere in that it was not the avoidance of religion, but a neutrality towards it, appropriate in keeping with the diverse faiths that have characterised Indian history.[79]

---

[77] Gurpreet Mahajan, 'Religion and the Indian Constitution' in *Politics and Ethics of the Indian Constitution* [Rajeev Bhargava ed.] (New Delhi: Oxford India Paperbacks, 2009) 301-302

[78] The clause 'socialist secular' was inserted into the title of the state between 'sovereign' and democratic' yielding the full title of the State as the 'Sovereign Socialist Secular Democratic Republic of India' by the *42nd Amendment Act 1976*.

[79] As articulated in *Valsamma Paul v Cochin University*, All India Reports 1996 SC 1011, para. 25.

The measures that could broadly be referred to as the 'minority rights' package within Indian law[80] had affirmative action measures at the very heart of the discussion. Indeed the model of protection afforded to 'Scheduled Castes, Scheduled Tribes and Other Backward Classes' in the Indian terminology, (abbreviated in the literature to SC/ST/OBC) is worthy of global study and replication as it accepts short-term inequality for the majority in favour of achieving structural change.[81] The expansion of the category of special measures to 'OBCs' was instigated as a political measure by the first opposition government to the *Indian National Congress* which emerged after a state of emergency was declared in 1977. These measures were tabled by the *Socially and Educationally Backward Classes Commission* headed by Parliamentarian B. P. Mandal. Known more popularly as the *Mandal Commission* this body produced a report that sought to extend affirmative action measures to a wider category than originally envisaged by the Indian Constitution. Instigated by the *Janata Party* government these measures were implemented by subsequent Indian Prime Minister VP Singh in the 1990s. Prime Minister V.P Singh's *Janata Dal* government shared political ideology with the BJP, both drawing inspiration from the *Bharatiya Jana Sangh* created in 1951 after its leader, Syama Prakash Mukherjee fell out with Prime Minister Nehru over difference concerning the special treatment afforded to Kashmir. The extension of 'reservations' across a wide spectrum of communities who were disadvantaged but not previously entitled to special measures effectively disrupted the Congress's election formula by mobilising political support and loyalty across a wider range than ever before for forces opposed to the Congress. The main reason for the popularity of

[80] Castellino, J. (supra note 17).

[81] M Galanter, *Competing Equalities: Law and the Backward Classes in India* (Berkeley: U of California Press, 1984).

mobilisation against the ruling Congress party was its failure in providing effective governance and any meaningful development to uplift India's masses languishing in poverty. With the party ridden with nepotism, corruption and regular governance failures, new forces of politics began to come to the fore, who sought to disrupt what was viewed as a Congress's permanent entitlement to govern India. The new political formulas emerging were creating significant tension in India in the 1990s bringing caste politics to the forefront and leading to widespread nation-wide protests on a scale that is being re-witnessed towards the end of the last few years of the first decade of the twenty-first century.[82]

However the affirmative actions that were often the point of contestation in the public square, measures such as the nature of job reservations, were never extended to religious minorities, whose rights package included the right to form religious institutions and to be governed by their own personal laws (also applicable to Hindus).[83] A key node and focal point for feelings of resentment towards Muslims came in the early 1990s with the destruction of the *Babri Masjid* which in itself,[84] and in the reaction towards it, was a key factor in the dismantling of the fierce protection of the public square as being anti-communal.

---

[82] P Louis, 'Scheduled Castes and Tribes: the Reservations Debate' 38(25) *Economic & Political Weekly* (Jun. 21-27, 2003) pp. 2475-2478.

[83] GJ Larson, (ed.), *Religion and Personal Law in Secular India: A Call to Judgement* (Bloomington: Indiana University Press, 2001); F Pereira, *The Fractured Scales: the Search for a Uniform Personal Code* (Calcutta: Stree Publishers, 2002).

[84] See AGAM Noorani, *Destruction of the Babri Masjid: A National Dishonour* (Allahabad: Tulika Books, 2014). Also see D Mandal, *Ayodhya: Archaeology After Demolition* (Hyderabad: Orient Longman, 1993).

There had always been low level criticism of the affirmative action policies within the country, heightened at times of economic difficulties as scarcity of opportunities created resentment that some should be earmarked on the grounds of identity. There was also a trend by which some from other communities sought to 'pass' as members of a 'reserved' category to benefit from measures specifically designed for that group. Many opponents of 'reservations' as the affirmative action measures were labelled, suggested that such engineering was bad for the system since it did not provide opportunity to the best talent, and therefore impacted overall efficiency. These criticisms in the public realm made the majority less willing to accept these kinds of preferences against them.[85] However tackling the system of reservations would have created a significant schism for the ruling BJP whose political strategy consisted of uniting the significantly greater Hindu numbers to seize control of the political system.

Seeking to unwind long term measures put in place to tackle caste-based discrimination would have significantly reduced its political numbers, allowing Dalits and groups that broadly fell with within the problematic 'Other Backward Classes' category in India to build competing movements. Attention therefore turned to 'the old enemy' of Muslims, who were pilloried as benefiting from privileges, recipients of blame for ongoing internecine violence in Kashmir and the rise of terrorism in India, all of which served as key touchstones to burnish an entire community, the vast majority of who lived in peace.

The Indian Muslim population is diverse in terms of its religious belief (sect), and linguistic backgrounds, with most speaking the local languages of the states in which

[85] Z Hassan, 'Caste, Social Backwardness and OBC Reservations (Mandal I and II)' in *Politics of Inclusion: Castes, Minorities and Affirmative Action* [Z Hassan ed.] (OUP, 2009).

they have lived for generations. The extent to which the 'Muslim' communities have been assimilated into 'Indian' society varies tremendously from urban to rural settings and is different in different states. In addition, the Muslim population of India grew in the aftermath of the brutal war conducted between India and Pakistan in the liberation and eventual establishment of the state of Bangladesh. The tensions in the Kashmir valley have also been a source of conflict due to which populations may have moved across the British inspired artificially constructed boundaries of the subcontinent.[86] These have become exacerbated as the special protection afforded to Kashmir under article 370 of the Indian Constitution was unilaterally revoked by the Government of Prime Minister Modi.[87]

A separate issue had been brewing in the state of Assam in the Northeast of India, nearest the Bangladeshi frontier, where the local tribal population had for long feared being assimilated into 'Indian' culture as their lands, rich in the tea plantations developed by the British, attracted non-Assamese owners who took over the departing colonial leases on estates. The tea plantations and the arrival of non-indigenous Assamese cultures had always been a source of tension in the region (as is currently the case further east in the frontier state of Nagaland), and this was not helped by the flow of Bengalis from the

[86] S Bose, *Kashmir: Roots of Conflict, Paths to Peace* (Cambridge, MA: Harvard University Press, 2003).

[87] Kumar, 'The constitutional legitimacy of abrogating article 370' 54(38) *Economic & Political Weekly* (21 September 2019): https://www.epw.in/journal/2019/38/commentary/constitutional-legitimacy-abrogating-article-370.html accessed 8 May 2020; M Verma, 'Diminishing the role of Parliament: the case of the Jammu and Kashmir Reorganisation Bill' 54 (45) *Economic & Political Weekly* (16 November 2019): https://www.epw.in/engage/article/diminishing-role-parliament-case-jammu-and-kashmir accessed 8 May 2020.

Indian state of West Bengal as well as those fleeing from what was traditionally East Bengal but became part of the state of Pakistan at the partition of colonial India. These incomers deemed 'foreigners' were referred to as 'Bengalis' which refers to a linguistic rather than religious group, whose members could be Hindu, Muslim or from other religious minorities that have lived either in the former colonial state of Bengal, or within one of the two entities that it broke into - the Indian state of West Bengal or the modern sovereign state of Bangladesh (formerly East Pakistan and even more formerly, East Bengal).

The tensions in that state had led to a low intensity armed conflict with significant spikes, and the matter was brought to a 'close' with the agreement of the *Assam Accord* in 1985, which among other measures designed to promote Assamese culture, promised the establishment of a 'National Register of Citizens'.[88] The problematic nature of formulating this register was clear to all: the lack of evidence in often destitute populations made proving anything difficult; the poor state of administration across India and the lack of literacy made the generation of paperwork hard. Successive Indian governments had realised that it would be impossible to instigate a system that could prevent or evict Indians from other states who had moved to Assam, in contravention of their right to free movement and residence in any part of the country. As a result the aspiration for a National Register of Citizens deemed to identify and evict those who did not belong in Assam was shelved, until the rise of the current Modi government, which

[88] For full text of the Accord see https://peacemaker.un.org/sites/peacemaker.un.org/files/IN_850815_Assam%20Accord.pdf accessed 8 May 2020.

not only instigated a series of Foreigner Tribunals,[89] it also built detention centres where the mass disenfranchised would be held.[90] The controversy of rendering a number that at one stage was estimated to be close to 4 million people stateless warranted significant criticism from within and outside India. The measure of making individuals stateless goes against the fundamental principles of international law. In addition, depriving individuals of citizenship based on their failure to prove their identity through a series of specific documents, unfairly places the onus upon individuals. The lack of a published plan as to what was meant to happen to those individuals deemed 'foreign' was also a grave concern to international peace and security, already compromised due to unfolding crisis, deemed by the *International Court of Justice* to constitute genocide of the Rohingya who faced similar pressures in the region in Myanmar.[91]

Two further elements fuelled a mass response from the Indian population: a promise made by the Home Minister (but denied in the midst of pressure by the Prime Minister) that a

[89] [editorial] 'Fact-finding team pick holes in Assam's foreigner tribunals' (New Delhi: *The Telegraph Online* 17th September 2019): https://www.telegraphindia.com/states/north-east/fact-finding-team-picks-holes-in-assam-s-foreigners-tribunals/cid/1705688 accessed 8 May 2020.

[90] PK Dutta, 'NRC and Story of How Assam got Detention Centres for Foreigners' *India Today* 27th December 2019: https://www.indiatoday.in/india/story/nrc-story-how-assam-got-detention-centres-for-foreigners-1631835-2019-12-27 accessed 8 May 2020.

[91] See *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)* Order of 23 January 2020, available at https://www.icj-cij.org/en/decisions accessed 8 May 2020.

National Register of Citizens would be rolled out across the country;[92] and, that due to their alleged persecution in India's non-Hindu surrounding neighbouring States, the Government of India would offer Indian citizenship to Hindus, Sikhs and Christians from the countries, enshrined in law through the Citizenship Amendment Act (2019).[93] This effectively meant that long-standing Muslim populations that had resided in India since time immemorial could be rendered stateless, while Hindu or other communities that had no current ties to the physical territory of modern India could be encouraged to get citizenship and move to India. This effectively signalled a complete reversal of direction for the modern State of India from a secular and diverse country with religious tolerance, to a theocratic state that was setting itself up as a homeland for one particular religion.

3. Conclusion

The world's two most populous states (China 1.4 billion; India 1.3 billion) are more than four times the size of the next most populous state (the United States of America, 327 million), and each have a greater population than each of the other continents in the world (Africa 1.2 billion, the Americas 1 billion, Europe 750 million and Oceania

92 See: PM Modi counters what Amit Shah, BJP Manifesto says on bringing all-India NRC' December 22, 2019: https://www.indiatoday.in/india/story/pm-modi-counters-what-amit-shah-bjp-manifesto-say-on-bringing-all-india-nrc-1630576-2019-12-22 accessed 8 May 2020.

93 For an authoritative analysis of the Citizenship Law, especially how it addressed minorities prior to these amendments see Valerian Rodrigues, 'Citizenship and the Indian Constitution' in *Politics and Ethics of the Indian Constitution* [Rajeev Bhargava ed.] (New Delhi: Oxford India Paperbacks, 2009) 165

38 million). The other continents account for as many as 193 of the 195 sovereign states that currently exist in the world. Even if the populations of China and India were homogenous, adhering to a single religion, or ethnic group or language, such a mass of people spread over considerably variable geographic terrain would be close to impossible to govern effectively.[94]

Two other factors need to be emphasized. First, the size of the Chinese and Indian diasporas in amidst their immediate neighbours and further abroad is significant. China's reign of influence traditionally spreads significantly into South East Asia, and many Southeast Asian states have significant Chinese populations. Overseas Chinese populations also feature strongly in every part of the globe with presence in every OECD country, and in more recent years through migration into Africa, following Chinese investment. The modern state of India is significantly smaller post-independence than it could have been if it had emerged undivided from British colonial rule. The states of Pakistan (216 million) and Bangladesh (163 million) formerly part of that entity, are the fifth and eight most populous states in the world. In addition, as a consequence of the spread of British colonial rule, Indian populations form significant and at times influential minorities in many countries in the East Africa, Oceania, South Africa, Europe, North America and since the 1970s due to labour migration, in the Gulf Cooperation Countries of the Middle East. This diversity and movement of peoples has made descriptions of 'Chinese' or 'Indian' identities fraught with the prospect of inaccuracy. Seeking to determine a single identity in the context of the sheer size of such numbers is likely to be an endlessly futile task.

---

[94] For up to date population estimates based on census and growth rates see:

https://population.un.org/wpp/

Second, the sizeable populations within the territorial jurisdiction of each state have significant ethnic, religious and linguistic differences.[95] This is a reflection of the size and geographies of each of the countries, the fact that as nations heavily dependent on global trade with historical wealth they attracted many communities who made their home amidst the populations, and the inevitable influences of other forces that sought to influence, benefit from, exploit and even plunder the wealth of the two countries. In the midst of all of this diversity and difference, keeping each of the two states united as viable modern states is an achievement that needs to be lauded for its effectiveness irrespective of whether this necessarily gained equal rights for all. Both states have faced significant existential threats, that either sought the overthrow of the government, or sought to undermine the territorial integrity and unity of the state. In their domestic and foreign policies both governments have shown genuine fear at this prospect and what it would do for the overall stability of the state.[96] As a consequence both have responded to such threats with alacrity.

Maintaining governance over this vast range of communities in such a wide landmass has until this point relied very heavily on pragmatic policy making that was wrapped in a 'national' ideology laced with the rhetoric and, perhaps to a lesser extent, the spirit of inclusivity. In making tacit admissions about the need to 'contain Han chauvinism', predecessor Chinese governments addressed a plea to the majority

---

[95] In the case of India this diversity was articulated in the judgment *T. M. A. Pai Foundation and others v State of Karnataka and others*, WP (Civil) No 317/1993 (31 Oct. 2002) Para. 158.

[96] In the case of Chinese history there is significant precedent for political movements to emerge that bring significant territory-wide change. See J Gray, *Rebellions and Revolutions: China from the 1800s to 2000* (OUP, 2003).

population to curb outward signs of numerical dominance; it also sought to send an important message that all of the different nationalities would be respected within a broad Chinese family of nations.

In adopting an avowed position against what is referred to in Indian literature as 'communalism', i.e. the identification of communities and their differences, usually interpreted as building national unity rather than allowing sub-national instincts and sentiments to dominate, predecessor Indian governments avoided the worst excesses of division and discord.[97] In both cases it is important to stress that the mere articulation of these policies did not mean that there was a perfect respect for the rights of minorities or that the ideologies did not meet with objection among both the majority and minority populations. However it did signify the presence of a 'national compact' or a loose alliance towards the belief that unleashing identity politics within the state would be harmful.

It is in this context that the two incumbent governments, of President Xi Jinping and Prime Minister Narendra Modi, and their advisors appear to be taking a U-turn from the policies of their predecessors, at the precise moment when global politics may finally yield them both a place at high table that their histories and cultures have warranted all along.[98] Arriving at that destination as stable peaceful mercantile states, celebrating their diverse cultures, viewing the diversity as a means to engage wider markets and generate even greater opportunity and wealth, ready to take on the mantle of global financial and moral leadership towards creating a more sustainable future built

[97] A Engineer, *Communalism in Secular India: A Minority Perspective* (Gurgaon: Hope Publications, 2007).

[98] M Sornarajah, J Wang, (eds.) *China, India and the International Economic Order* (CUP, 2010).

of lessons of long and rich histories would have been more in line with the pragmatism that have dominated the histories of both states. Instead, both arrive at this point, paranoid about existential threats, worried that the diversity within will lead to the dismantling of the state and suspicious of the loyalties of people they increasingly define as 'enemies within'. Within the next few years and decade, the manner in which the governance of these vast states progresses will eventually determine whether these threats will come to pass.

Irrespective of their efficacy (and there are significant valid critiques to be heard), affirmative action measures in both countries have served to placate and convince diverse populations that their future lies within rather than outside the state. Dismantling or undermining these for narrow political interests may not have as salutary an effect on the maintenance of the territorial integrity and unity of these States.

Towards a Roadmap for the Future

While it is relatively easy to criticize each of the incumbent governments, and while much of the criticism may be justified, a critique in and of itself does not offer any concrete directions for negotiating the current crises. The rise in majoritarianism is perhaps a natural consequence of a belief in democracy, though this simplistic version of it falsely equates democracy as a game of pure numbers bereft of any accompanying values. The regular drumbeat for a return to older values is polarizing societies in India: pitting more militant majorities on the one hand, against liberal majorities and minorities on the other. In China this division may appear less acute due to the lack of means for public protest, but this is clearly on the anvil in places such as Hong Kong, Urumxi, at sites of worker

rebellions and may become more widespread in view of the initially secretive handling of the Covid 19 pandemic in January 2020.

The protests, the state's response to them, the state's investment in seeking to deny legitimacy to voices raised in largely peaceful manners, the extent to which they attract more militant forces spoiling for a fight, and most importantly the overall dampening impact of these on generations of increasingly well-educated and skilled youth eager and ready to seek gainful employment at a time when their economies should be taking off, calls for an urgent need for a pragmatic discussion on the way forward.

While it is impossible to generalize on what a negotiated solution could be, and how it could be brought about, there are some key principles that could be expected to be germane, and this article concludes by briefly elucidating what these may be.

The most important element to any negotiated solution would be *acceptance of the need for such a solution*. This may prove harder to achieve than it would seem. Both governments have been keen to downplay the existence of a problem, and while the outbreak of the global pandemic towards the end of 2019 and into the commencement of 2020 may have stymied forces of protest in the context of a general lock down, it is hard to believe that these will be dissipated completely, especially since the manner in which both governments have handled their responses has manifest signs of a lack of transparency and wide consultation. A second element to any solution would need to be an acceptance that a continued and peaceful *future of the state is of collective importance to all*. While such a statement would immediately signal reified legitimacy for the existing territorial integrity of each state, serving as a strong statement against splittism or separatism, this would have to be a prerequisite for any incumbent Chinese or Indian government and indeed for significant majorities (consisting of majorities and minorities)

to be willing to engage in a discussion. In a bid to be inclusive of all the collective identities living within the boundaries of each state, this prerequisite to any negotiated settlement could include acceptance of the need to open separate negotiations over the status of specific entities, on the grounds that such discussions take place at a future date and through clearly demarcated channels. If each of the states are to be given a guarantee of their continued existence as a pre-requisite in any discussion, then it would be equally incumbent upon them to accept that *state repression of dissent must cease*. Rather than a moral imperative which many would argue it ought to be, this would also constitute a pragmatic decision, since the continued protests and bursts of sporadic or systemic violence present a short and medium-term obstacle to the growth which both incumbent governments are committed to, and which remains both the fundamental point of frustration for masses of communities as well as a source of hope for a brighter future. Having restored a degree of calm where the force of arguments can be assessed, it would then be important to commit to the establishment of a *national dialogue* within key parameters. Among these parameters would be respect for the wishes of the majority, openness to the fact that the ideology of the states may need to be reopened and renegotiated in a fair manner, guarantees for the physical safety and equality of minorities, a specific promise for inclusion of such minorities within any dialogue, a willingness for all to recommit to a unified future of the state, a guarantee of the removal of violence (state and non-state) from the discussion and for the state to punish all breaches of the peace irrespective of who may perpetrate it.

Subsequent features that ought to frame such a national dialogue ought to include questions around the *best form of representation* within the state: this may be a step farther than the Chinese government is willing to go, it may also be stymied in India where it

would seem that proportional representation would be a far better system[99] than the British colonial rule inspired first past the post system which in polarized societies creates 'winners and losers' and unclear mandates for governance. Other elements that would need to be subsequently tackled would include a comprehensive writing of inclusive national histories that remedy either the compete excision or the inherent bias against specific communities. The existing historical narratives may have been valid at a time of invaders and conquerors, they have little resonance for modern day descendant communities that have become knitted and interwoven into national social fabrics. Seeking to focus on origin myths simply divides polities, robbing the ensuing societies of the significant progress and comparative advantages that intermixing has brought.

While some of the elements painted above may seem beyond the realm of contemporary realist politics, the failure to address them would effectively be a useful benefit for external powers competing against India and China on the world stage. While it may seem simpler in the short-term interest of each state to repress dissent with an iron-hand, especially if this is tacitly or explicitly supported by the rise of majorities, the ability for regular dissent to transform into a movement that undermines the physical integrity and reputation of the states is a far greater threat necessitating a rethink for governments committed to national development.

---

[99] See S Jha, 'Rights versus representation: Defending Minority Interests in the Constituent Assembly' in *Politics and Ethics of the Indian Constitution* [Rajeev Bhargava ed.] (New Delhi: Oxford India Paperbacks, 2009) 348. Also, S Jha, 'Rights versus Representation: Defending Minority Interests in the Constituent Assembly', *Economic and Political Weekly* Vol. 38 (16) (Apr. 19-25, 2003), pp. 1579-1583.

The governments of India and China are acting with new found confidence in their ability to compete on the world stage. In both cases this is based on a rejection of older values that are discarded as soft, while taking on a harder stance. In India this is manifest, as analysed by Parekh as encompassing the following terms:

> India should see itself not as a civilization or even a culturally embodied nation-state, but as a state like any other. It should learn the art of *realpolitik*, acquire political power (which alone commands the world's respect), and use it to promote national interest. Political power comes from economic and military power. This is what China is supposed to be doing and India must follow suit. Poverty must of course be eliminated, but that is expected to come about as a result of trickle-down effect, limited forms of rural and urban employment schemes, rural industrialization, further extension of reservations, globalization etc. Inequalities and injustice will remain and even increase, but that should not matter; and in any case it is neither the state's business nor in its power to do anything about them.[100]

Yet, this view, born out of a race with China, is deeply flawed and unlikely to be successful. Both countries appear to be aping the means through which European powers claimed hegemony. This included subjugating territories and peoples, mass exploitation of natural resources and the ability to remove wealth from one part of the world to benefit populations 'at home'. This model of development was shrouded from history by triumphalist narratives that have dominated mainstream science and academia, which portray European civilization as essentially beneficial to the rest of the world. Populations in India and China are far more aware

[100] Bhikhu Parekh, 'The Constitution as a Statement of Indian Identity' in *Politics and Ethics of the Indian Constitution* [Rajeev Bhargava ed.] (New Delhi: Oxford India Paperbacks, 2009) 49.

of the counter-narrative of such dominance, and the world community has finally become far more aware of the impact of these 'developments' on climate change. For both China and India, with their own ancient and very different cultures to seek to adopt a similar path at a time when it is discredited is farthest evidence of the move away from their much vaunted wisdom and deep seated cultures. Asserting these values, including the strong unity in diversity message that comes from both countries illustrious histories would be far more likely to succeed.