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How can we model ethnic democracy? An application to contemporary India

The status of India as the world's largest democracy is often lauded. It has managed to maintain democracy despite (or some would argue, because of) its high levels of diversity (Manor 1996). However, India has not had an unblemished democratic record.i The re-election of the overtly Hindu nationalist Bharatiya Janata Party (BJP) in 2019 has increased concerns about the threat to India's religiously and linguistically diverse democracy and the rule of law (V-Dem 2018). However, India is not the only democracy facing challenges related to majoritarian nationalism; there has been a worldwide rise in the language of *majority* 'rights' in democratic systems (Kaufmann 2004, Loizides 2015). The importance of analysing the extent to which the rights of *majorities* are being increasingly institutionalized within *democratic* systems has therefore increased.

For policymakers as well as political scientists, it is vitally important to identify whether tendencies toward ethnic democracy are increasing (and the conditions under which they do so). There may well be red flags that emerge in established democratic systems, heralding the potential direction of travel. The conclusion revisits this point as it speaks to the significance of this article. This article proposes a methodology to identify degrees of ethnic democracy using a combination of formal and informal measures and illustrates it by assessing India as an ethnic democracy in relation to its Muslim communities.ii

Theory: concept of an ethnic democracy.

This concept starts with Smooha's writings on Israel, a country 'that combine[s] viable democratic institutions with institutionalized ethnic dominance' (1990: 389). For Smooha, ethnic democracies 'combine the extension of political and civil rights to individuals and certain collective rights to minorities with institutionalized dominance over the state by one of the ethnic groups' (1990: 391). This institutionalized dominance is what distinguishes ethnic democracies from other democratic systems. In Smooha's 2002 article for this journal he sought to 'transcend the "Israeli specificity" of' ethnic democracy. His more extensive definition is where

> '[t]he ethnic nation, not the citizenry, shapes the symbols, laws and policies of the state for the benefit of the majority… Non-members of the ethnic nation are not only regarded as less desirable but are also perceived as a serious threat to the survival and integrity of the ethnic nation' (2002: 478).

Importantly for Smooha, ethnic democracies are *democracies*, albeit *diminished* ones. As he argues, ethnic democracies combine 'the extension of civil and political rights to permanent residents who wish to be citizens with the bestowal of a favored status on the majority group' (2005: 21). He rejects the notion that it is a system of control (Lustick 1979) or an ethnocracy (Yiftachel 1992), arguing that neither of these systems are *necessarily* democratic (although they can be) (O'Leary 2018).

In the same way that a political system can have consociational features without possessing all four elements of Lijphart's model (Adeney 2002, McGarry and O'Leary 2006, Wolff 2007, Adeney and Swenden 2019) a political system can have *elements* of ethnic democracy even if it does not possess all of them. As Smooha argues, his model is not dichotomous: '[w]hat really

counts is … the position on the scale or the relative distance from the ideal type' (2009: 57). A country can have *degrees of ethnic democracy.*

Methodology

The concept of an ethnic democracy has been applied to regimes as divergent as Fiji and Slovakia (Duin and Poláčková 2000, Lawson 2012). Smooha lists its three essential elements: (i) the *ascendancy* of the 'ethnic nation [which] owns a certain territory that is considered as its exclusive homeland … non-members are the others, some kind of outsiders' (ii) a *perceived threat*, '[n]on-members of the ethnic nation are not only considered less desirable but are also perceived as a serious threat to the survival and integrity of the ethnic nation; and (iii) there is a *diminished type of democracy* as although '[m]inority citizens are allowed to conduct an intense struggle for equal rights without facing state repression …. [they] enjoy incomplete rights and are discriminated against by the state' (2005: 32-3).

As majoritarian nationalism increasingly appears in established democracies it is vitally important to operationalise these measures. Despite the proliferation of articles applying the concept to different countries, the concept has not been applied systematically (e.g. Abbink 1995, Haque 2003, Lawson 2012, Ivlevs 2013).

To this author's knowledge, only Smooha (2005, 25-29) has proposed explicitly a set of features for comparative analysis of the concept. However, as Yoav Peled (2014, 10) notes, seven of these eight features are 'state' led.[iii] This ignores the fact that ethnic democracy may be revealed through the behaviour of the dominant group, and/or outcomes for the non-dominant group(s). As Gurharpal Singh has argued, we should not ignore the informal

dominance of a group, even if it is not expressed in constitutional provisions (2000: 47). There may not be *formal* barriers to participation in societal and political institutions, but there are likely to be informal ones, for example, those related to lack of education and socioeconomic opportunities. This may affect the 'effective citizenship' of different groups within the state (Thomas 2015), whether ethnic democracy 'has taken hold in real life' (Peled 2014). This article firstly advances and improves on Smooha's conception by distinguishing between three formal and three informal measures of assessing the presence of ethnic democracy within a state.[iv] These measures are parsimonious, but also applicable across countries and across time.

Secondly, because this article assesses ethnic democracy on multiple criteria, it creates a continuum. States can be more or less of an ethnic democracy. As the conclusion revisits, there is a need to identify the strength of ethnic democracy across countries because the rise of populism across the world in the last decade has all too often taken an 'ethnic' tone, using the concepts of 'us' and 'them' to mobilise support.[v]

Each of these six measures are scored on a three-point scale: Low, Medium and High. 'High' equates to a high degree of ethnic democracy within a particular element. More details about the descriptors of these measures and conditions for scoring are below and include a mixture of quantitative (if appropriate) and qualitative data. It is important to include a qualitative dimension to allow for contextualization, but the inclusion of quantitative comparative data increases the applicability to other countries.[vi] A 'Low' score is possible on one or more measures even if a state scores 'High' on other measures as the measures are combined to achieve an overall score.

Measure 1. Constitutional provisions

Constitutions are important signifiers of the identity of the state. Constitutions can confer

privilege, either through direct encouragement of one group's identity, such as officially declaring a national language, using ethnically exclusionary symbols, or the refusal to redress historical imbalances (inaction in this case maintaining privilege).[vii] As (generally) written documents they are the easiest measure to score. A High score is indicative of either *de jure* and/or *de facto* discrimination in the constitution in ways that materially affect communities. This could be through the recognition of special rights for communities or providing privileged access to government power e.g. the choice of an official language or the requirement to be a member of a particular faith to become Prime Minister. A constitution would be scored Medium when there is *de jure* discrimination but *de facto* this provision has little impact, e.g. the provision that the Head of State has to be head of the Church of England in the UK.[viii] A Low score indicates that there is no *de jure* discrimination.

Measure 2. Citizenship provisions

Citizenship provisions reveal the national identity a state seeks to promote: whether citizenship is conferred through *jus soli* (citizenship as a result of birth on the territory) or *jus sanguinis* (citizenship by virtue of parents' ethnicity) (Brubaker 1992). Smooha argues that even in an ethnic democracy '[a]ll permanent residents who so wish are granted citizenship' (2005: 33). Citizenship laws may be part of the constitution or contained in separate legislation. If they are contained within the constitution they are assessed in this measure.

It is important to assess whether certain groups have privileged access to citizenship over others e.g. the Jewish 'Law of Return' in Israel. A High score can be indicative of a *de jure* or *de facto* ethnic distinction in citizenship eligibility. There may well be *de facto* ethnic dimensions such as the strict language provisions of Estonia and Latvia (Verdery 1998). A Medium score reflects that citizenship provisions are ostensibly non-ethnic but the costs of acquiring it are

higher for one community than another e.g. non-EU nationals in Germany having to renounce their existing citizenship compared to EU nationals[ix] or when citizenship rights are determined by whether the parent was born on the territory. A Low score is when citizenship is conferred based on birth within the territory, regardless of parentage (or is conferred when the individual achieves adulthood).

Measure 3. Legislation

We consider two types of legislation in scoring this element. The first type of legislation provides different laws for different communities. The second type of legislation ostensibly applies to all communities, but disproportionally affects negatively a community

The first type of legislation can be subdivided. Legislation can provide different laws for different communities, but these may have been welcomed (and often lobbied for) by these communities e.g. rights of inheritance/marriage or affirmative action measures. Such laws would be scored as Low. Different laws for different communities can be an important feature of multiculturalism. They differ from situations where differential laws are *imposed* on communities or establish a hierarchy between communities – which would be indicative of a policy of segregation e.g. the use of Arabic in Israeli schools (Harel-Shalev 2009: 956) or the prohibition on wearing a Burqa in public. These laws would be scored as High.

The second type of legislation we use to identify degrees of ethnic democracy are ostensibly neutral laws but ones that negatively impact one or more community more than others. Disproportionate consequences for one or more community would score High e.g. the ban on the wearing of religious symbols in schools in France, disproportionally affecting Muslim girls wearing headscarves rather than Christian girls wearing small crosses. The absence of these

policies would score Low.

Measure 4. Representation of groups

The representation of groups is important in a diverse society, especially if they want to be represented as such. There is a difference between descriptive representation (the numbers of a community that are represented) and substantive representation (where the interests of a community are represented, but not necessarily by representatives of the community) While it is possible for non-group members to represent a group's interests (Pitkin 1972), it will always be questioned whether this is adequate without the lived experience of being a member of that group. This is the premise of many affirmative action policies. Therefore, the premise of many (although not all$_x$) scholars working on diverse societies is that descriptive representation is important. As Stewart and Langer argue,

> political inequalities generally underpin … socioeconomic inequalities since they often lead to bias in the distribution of government resources … Moreover, the political inequalities can prevent corrective action towards the relatively powerless group (2007: 10).

Despite the correlation between the two, it is important to assess levels of representation separately to outcomes, as descriptive representation also provides an important symbolic and performative function (Rai and Spary 2019: 124). If a group comprises a small proportion of the population then even fully proportionate representation in parliament is unlikely to achieve substantive representation of its interests. This is where representation in core institutions of state is vital, where smaller numbers can have more of an impact. Deviation from proportionality will be calculated in the legislature and executive as well as in core institutions

of state. It is important that the levels of representation in different institutions are *combined* in assessing the degrees of ethnic democracy. This is a measure that may well score High in countries which have otherwise Low scores – confirming the importance of adopting a multidimensional approach. For comparative purposes however, it is necessary to standardise the scores. To do so we take the percentage of representation and subtract that from the percentage of the population e.g. in the UK 14 percent of the population are Black and Minority Ethnic (BAME), but BAME members are only 8 percent of the current House of Commons. This gives us a score of -6. To standardise this across countries we divide the underrepresentation (-6) into the percentage of the population (14) and multiply by 100 which gives us a score of -42.86. Unless there are reserved seats for a minority community, the chances of perfect representation according to their population is low. Therefore, the scoring allows there to be a slight discrepancy in representation (up to 15 percent of the community's size) while still scoring as 'Low'. A Medium level of ethnic democracy would be evidenced by under-representation higher than 15% of the community's population size, but lower than 50%. A High level would be when the community is underrepresented by over half its size.

Measure 5. Discourse

It can be electorally rewarding for politicians to mobilize around the politics of identity. Politicians seeking to use diversity as a source of mobilization create an 'us' versus 'them' narrative. This is easier to do in times of insecurity and flux but is not confined to these times as 'discourses of insecurity [are] social constructions rather than givens – threats do not just exist out there' (Anand 2005: 206). Part of this representation of danger involves the identification of a 'community' posing the danger. This community may be diverse, indeed, may have more that divides than unites them, but they are *portrayed* as homogeneous to

accentuate their 'threat'. This is achieved through the 'logic of equivalence' (Howarth and Sravrakakis 2000) where negative stereotypes are created as shorthand to describe the 'community'.

There are two separate aspects of this. The first concerns the way in which the non-dominant community is discussed by government ministers and includes the use of negative language, the association of a community with phrases such as 'anti-national,' as well as justifications for, or incitement of, violence against that community (Gagliardone 2014). Such negative language, if not associated with sanctions, is scored as High. The use of negative language that is penalised is scored as Medium. Low indicates that this is not a significant problem.

The second aspect concerns a failure of government ministers to condemn violence that has occurred against the non-dominant community or a justification of those actions. Justification of violence is scored as a High degree of ethnic democracy, failure to condemn the violence scores Medium and condemnation of violence scores Low. The two areas carry equal weight within the scoring for this measure.

Measure 6. Socio-economic indicators

When there are serious discrepancies in the socio-economic outcomes of different groups (such as levels of literacy, education, levels of poverty and levels of incarceration) questions must be raised about their 'effective citizenship.' It could be argued that poor outcomes on some of these measures do not reflect intentional discrimination, especially in the case of recent migrants to a country. However, when the groups are either national minorities (Kymlicka 1995), or are at least second generation migrants *and* these discrepancies reinforce each other,

increasing and perpetuating exclusion, it is problematic to absolve the state from responsibility. The scoring allows there to be a slight discrepancy in socio-economic outcomes (up to 15 percent of the community's size) while still scoring as 'Low'. A Medium level of ethnic democracy would be evidenced by under-representation higher than 15% of the community's population size, but lower than 50%. A High level would be when the community is underrepresented by over half its size.

These six measures are parsimonious and testable, yet flexible enough to be applied to different countries and across time.

Application to India

Many scholars have discussed the dangers that Hindu majoritarianism poses to democratic politics (Rawat 2013, Anand 2014, Hasan 2014, Adeney 2015, Jaffrelot 2017, Chatterji, Hansen et al. 2019) although this form of majoritarian nationalism legitimizes itself using the language of democracy.

> Democracy is identified now with majority rule; for many, it has begun to *mean* rule by a permanent majority, a system of peaceful rule by a political/ethno-religious group legitimately elected under a system of universal suffrage (Bhargava 2002: 87).

India is an excellent example to test the modelling of the concept of ethnic democracy. In recent years Hindu majoritarianism has achieved significant electoral success, and since 2014 the Hindu nationalist party, the Bharatiya Janata Party (BJP), has been returned to power twice with a single party majority in the Lok Sabha.

The sole application of the concept of ethnic democracy to India before the election of the BJP in 2014 was the work of Gurharpal Singh (1995).xi Singh argued that the institutionalized dominance of Hindus in India has been 'informal and implicit' and '[al]though the minorities have asserted individual and collective rights, the recognition of these rights has been based on a tactical accommodation with hegemonic Hinduism' (1995, 481). Singh argued that Hinduism was in effect a ''meta-ethnicity' in which there was inclusion … within the Hindu tradition' (2018, 430), but 'their relationship with excluded, peripheral and marginal ethnic group(s) is more problematic' (1995, 481).

This author has previously argued that divisions between Hindus and non-Hindus were weaker than Singh argued (reference removed). However, the existence of new data sources (Jaffrelot, Kumar et al. 2018, Adeney and Swenden 2019) as well as developments since 2014 mean that it is time to re-evaluate India. Using the categorisation of 'ethnic democracy' does *not* require us to accept that Hindus are an ethnic group. As argued above, the divisions within Hinduism are as substantial as between Hindus and other religions. But the increasingly systematic portrayal of Muslims as a homogeneous group threatening Hindus and the attempt to curtail their citizenship rights in areas other than the 'peripheral' regions of India makes Smooha's categorization the most appropriate methodology, despite the 'ethnic' label. Although there are continuities between the BJP and previous governments in managing religious diversity (Kim 2017), many appointments, policy interventions and statements of the BJP government have reinforced the dominance of the Hindu majoritarian narrative. As Christophe Jaffrelot argues, although '[t]he trend was palpable even before 2014 … the BJP's political hegemony has transformed a difference of degree into one of kind' (2017: 59). In contrast to Singh, Kim and Jaffrelot however, this article uses India as a case study to demonstrate the applicability of the

comparative methodology proposed. The analysis below concentrates on India as an ethnic democracy in relation to Muslims for reasons of parsimony.xii

Formal Measures 1: Constitutional Analysis

The Indian constitution included many protections for religious minorities. India was not created as Hindustan (land of the Hindus), despite the demands of many, even within the Indian National Congress (INC), for it to be so (Upadhyaya 1992: 826). Muslims and Christians retained their personal laws. Religious groups had 'the right freely to profess, practice and propagate religion' (Article 25(1)). The constitutional set up of India ostensibly scores Low. However, scholars such as Upadhyaya argued that the constitution treats communities unequally: 'one would be more equal than others' (1992: 817) e.g. the choice of the Constituent Assembly to adopt Hindi in the Devanagari script (rather than Hindustani in the Roman script) (Article 343). In 1947,

> … communal bitterness invaded the field of linguistics. To minimize these difficulties Mahatma Gandhi used the term Hindustani to describe a language which combined both Hindi and Urdu, and he persuaded the Congress to accept this term to describe the national language (Windmiller 1954: 313).

However, in July 1947 the Congress voted that Hindi not Hindustani 'should be the national language of India' and 'Nagari [should be] the national script' (Austin 1966: 277). This resolution was subsequently adopted in the Constituent Assembly, the result, a contemporary believed, of 'anger against the Muslims' Austin (1966: 277). As the Sachar Report later argued, the prescription that 'Hindi should draw increasingly upon Sanskrit for its vocabulary … practically put an end to Urdu instruction in most government schools, thereby affecting the

education of a whole generation of Muslims (2006: 18). This was the case particularly in the north of the country where the majority of India's Muslims lived.   Although it is important to recognise that many Muslims do not have Urdu as their mother tongue[xiii], the decline in numbers speaking Urdu since independence is striking. In 1961 (the first post-Independence census when data for Urdu were presented separately), mother tongue speakers of Urdu comprised 5.3 percent of the population. By 2011 this had decreased to 4.2 percent despite the Muslim population of India increasing to 14.2 percent. Taken in conjunction with the removal of reserved seats for Muslims (discussed below), the level of ethnic democracy in India before the 2014 BJP government must be scored Medium.

Have degrees of ethnic democracy increased under the Modi governments? The biggest *constitutional* change was the abolition of Article 370 of the constitution in August 2019. Despite the BJP's long-standing commitment to the abolition of the special status of Kashmir, the unilateral move was unexpected, and accomplished through presidential order. However, this change, affecting India's only Muslim majority state, is not sufficient to classify India's constitution as exhibiting High levels of ethnic democracy as less than five percent of India's Muslims live in the state.   However, other heralded changes such as the introduction of a Uniform Civil Code (UCC), should they be passed, would require a change in scoring. As things stand however, the constitution should remain scored as Medium.

Formal Measure 2. Citizenship

As Adeney and Lall have observed, 'the Nehruvian state adopted a territorial conception of citizenship rather than an ethnic one' (2005: 268). Those deemed to be of Indian *origin* - defined in territorial terms - were eligible for Indian citizenship. This included those who

found themselves across the newly defined international border between India and Pakistan and subsequently migrated to India; even if they were not Hindu. This was opposed by 'militant Hindus … wanting to restrict nationality to 'Hindu refugees' (Jaffrelot 1996: 106). In 2004 the BJP-led NDA coalition amended the Act so that people with 'one parent who was an illegal migrant at the time of their birth would not be eligible for citizenship by birth'. As Jayal explains '[s]ince most of the migrants from Bangladesh were Muslims, this covertly introduced a religion-based exception to the principle of citizenship by birth, undermining the principle of jus soli' (2019: 35). This requires us to score India as Medium before the election of the single party BJP government.

The BJP's 2014 manifesto stated that 'India shall remain a natural home for persecuted Hindus and they shall be welcome to seek refuge here' (2014). In July 2016 the BJP government sought to amend the Citizenship Act, permitting *non-Muslim* minorities from neighbouring countries to acquire citizenship within six years of residence in India rather than the existing 11 years. This would exclude persecuted Muslim migrants such as the Rohingyas of Myanmar. At the time social activist Kavita Krishnan opined.

> India is not like Israel, which is a Jewish state, offering the "right to return" to Jews anywhere in the world. Since India is constitutionally secular, this amendment tries to bring Hindu Rashtra into the legal framework through the backdoor …[by] inviting Hindus specifically to come back to Indian citizenship (The Hindu 2016).

Although the Bill lapsed as it failed to pass the upper house of parliament, a revised bill was passed in December 2019, providing that 'any person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh or Pakistan, who entered into India on or before the 31st day of December, 2014 … shall not be treated as illegal migrant for

the purposes of this Act' Article 2 (Article 2, Government of India 2019). The Act also reduced the time that Hindus, Sikhs, Buddhists, Jains, Parsis or Christians from Afghanistan, Bangladesh or Pakistan have to live in India before they can naturalise, from 11 years to 5 years (PRS Legislative Research 2019). The law thus introduces a clear differentiation to the rights of citizenship for Muslims coming to India from outside and challenges the secular nature of the Indian state. Huge protests erupted across India, including people of all faiths, only curtailed by the outbreak of Covid19 in the subcontinent (Johari 2019). As detailed by Human Rights Watch, (2020, 32) 'authorities particularly in BJP-governed states cracked down against protestors (and) … also failed to interfere with BJP leaders who incited violence.'

Home Minister Amit Shah has denied a link between a India-wide roll out of the National Register of Citizens (NRC), (already introduced in Assam) which requires people to prove their right to citizenship (Aggarwal 2019). However, concerns have been raised that those unable to produce documentation would be stripped of their citizenship, and that this would disproportionately affect Muslims under the revised Citizenship Act (The Wire 2019). Statements of senior BJP leaders who have claimed that Hindus would be able to claim citizenship under the revised Act, but that Muslims would not have given credence to these fears (Kalita 2019).

India thus scores High on this measure, with a clear ethnic distinction in citizenship eligibility.

Formal Measure 3. Legislation

In addition to constitutional change, it is also important to also look at legislation that affects 'effective citizenship'. One of these policy interventions was the ban on the practice of instant divorce through the mechanism of *triple talaq*. This was a change that had been advocated by many Muslim women's groups but was opposed by the Muslim Personal Law Board. Although

the change in law without the consent of the Muslim Personal Law Board can be defended on gender rights grounds, Flavia Agnes drew attention to the government's lack of legislation redressing other issues of gender (in)justice, particularly in the Hindu communities (2019: 350). Others noted that the Act's sanction of three years imprisonment for the practice of triple talaq was draconian. As Nithya Subramanian and Shoaib Daniyal note, 'a three-year jail term for wife-abandonment … is not a crime for followers of any other faith in India' (2019).

Another significant policy intervention from the first term was the government's attempt to ban cattle slaughter. Article 48 of the Constitution provides that the 'State shall endeavour to [prohibit] ... the slaughter of cows and calves…' but this provision falls within the *non-justiciable* area of the constitution. Decisions on the status of the cow are the jurisdiction of state governments (the vast majority of which ban cow slaughter). BJP manifestos have historically included statements 'to protect and promote cow [sic] and its progeny' (2014: 41). However, the issue of cow slaughter is divisive. Not only are non-Hindus or Dalits (formerly categorized as 'Untouchables') more likely to consume beef (a cheap form of meat in India) but are also more likely to be involved in the trading of beef or in the tannery trade. Muslims and Dalits were the prime victims of the closure of the slaughterhouses in India's largest state, Uttar Pradesh, following the controversial appointment of Yogi Adityanath as Chief Minister. In May 2017 the national government passed a decree that 'no person shall bring a cattle to an animal market unless … the cattle has not been brought to market for sale for slaughter' (Ministry of Environment 2017). The Supreme Court suspended the order in July 2017 citing 'the hardship that the ban on the sale of cattle for slaughter had imposed' (Reuters 2017).

Although the outcome retained the status quo, without the intervention of the Supreme Court levels of ethnic democracy would have been raised. At the same time there was an increase in violent attacks on Muslims by those seeking to 'protect' the cow (and a lack of action against

those involved). The September 2015 killing of Mohammad Akhlaq was the most prominent example, but since 2012 57 percent of those attacked in 'cow protection' incidents (India Spend 2019) and 86 percent of the deaths between 2012-2017 have been Muslim (Saldanha 2017). As Jaffrelot observed - caste Hindus involved in the beef trade have not been similarly attacked (2019: 60). Since the re-election of the Modi government violence related to cow protection has continued, although the independent hate crimes and cow related violence databases disappeared from the internet in September 2019 (Scroll 2019).xiv A month later the National Crimes Record Bureau withheld its data on 'mob lynching' and 'murder committed for religious reason' from its report (Tiwary 2019).

Should a ban on cattle slaughter be re-introduced this would be evidence of a High degree of ethnic democracy. Overall, we score the level of policy intervention as Medium, reflecting the disproportionate punishment for the religious crime of triple talaq and the attempt to ban cow slaughter.

Informal Measures

In addition to the changes to laws and constitutional articles, the BJP has changed the terms of debate within India. In assessing the direction of travel to or from an ethnic democracy it is important to operationalize the degree of ethnic democracy through an assessment of informal measures.

Informal Measure 1. Representation of groups

Before independence Muslims were guaranteed one third of seats in the central legislature (Adeney 2002). These reserved seats were controversially removed in the final draft of the post-independence constitution (Bajpai 2011, 51-3) which had a deleterious impact on their representation. This is significant because although there is a difference between descriptive and substantive representation, as Bhagole has found, 'Muslim MPs have had a greater relative share in questions asked about Muslims … the share of questions asked by them is much larger than their share of seats in the House' (2019). While she cautions that this does not mean that the Muslim representatives are 'doing justice to the concerns of the community' her analysis demonstrates that 'representation is … a necessary (although) … not a sufficient condition to ensure that relevant Muslim issues find a voice in Parliament' (2019). The under-representation of Muslim representatives is not a new trend and has many causes, but the situation has worsened under the BJP.

Chart One: the underrepresentation of Muslims in the Lok Sabha and Cabinet compared to their proportion of the population 1947-2019.
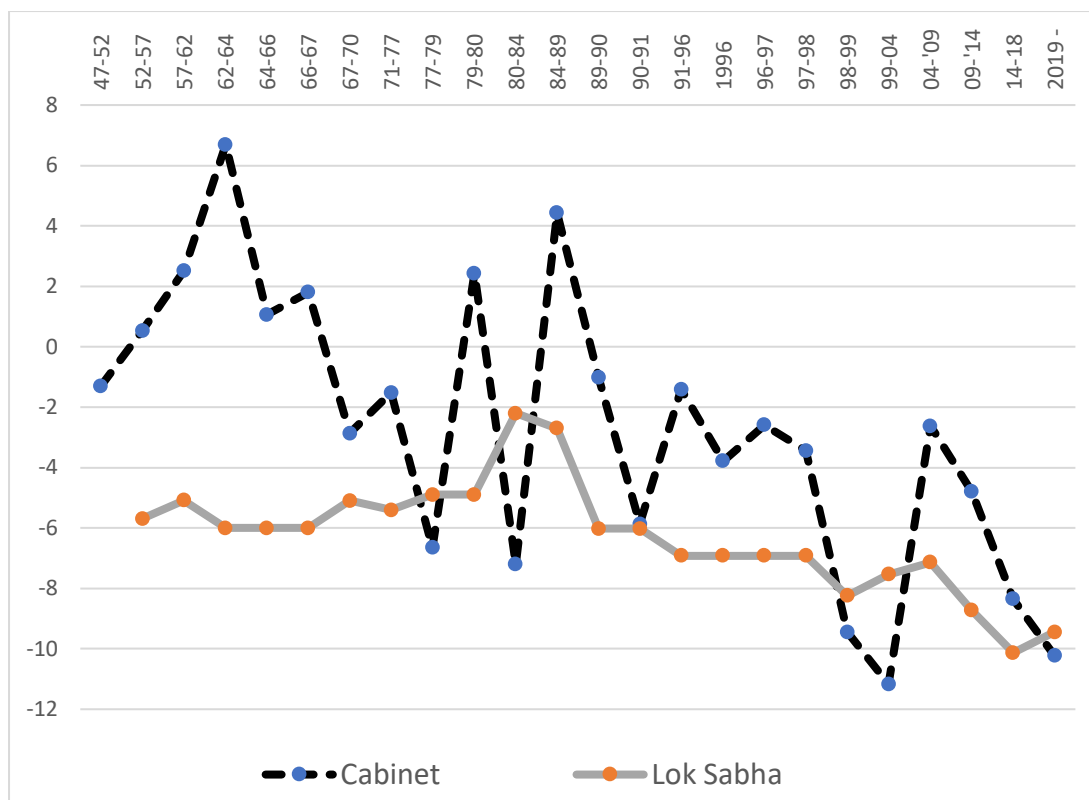
Notes: When a government crossed two census periods, the latter census population was used.

Source: (Jaffrelot, Kumar et al. 2018, Adeney and Swenden 2019, Verniers 2019).

Although the picture is more varied at the state level, Muslims have a lower proportion of representatives than their proportion of population in the vast majority of states. In all eight cases calculated by Jaffrelot, this under-representation has increased (2019: 50).

The same arguments about the lack of substantive representation can be made with reference to positions in the Cabinet. Chart One demonstrates that Muslims have not only been underrepresented in the majority of Cabinets, but the situation has got progressively worse. Perhaps unsurprisingly, the highest underrepresentation has been in BJP-led coalitions.

Although there has been an attempt to 'make up' for the lack of representation in the Lok Sabha through Cabinet positions in all except the NDA and BJP governments, 'even when minorities were given ministerial appointments, they were kept well away from the most important and sensitive posts' (Wilkinson 2000: 779). As Adeney and Swenden have catalogued (2019: 10) Muslims have never held either the Defence Ministry - one of those identified by Wilkinson as being too 'sensitive' to be allocated to a Muslim - nor the Finance Ministry. However, Muslims *have* held External Affairs and Home, albeit the latter for less than a year under the premiership of VP Singh. Under Modi there have been only two Muslim members of the Union Cabinet and both of these have been the Minister of Minority Affairs. Both Najma Heptullah and Mukhtar Abbas Naqvi are members of the upper house rather than directly elected politicians.

The low representation of Muslims at Cabinet level is replicated in other core institutions of state. With the exception of Karnataka, Gujarat, Tamil Nadu and Andhra Pradesh, '[a]ll other States show the representation of Muslims [in the bureaucracy] as less than half of their population share' (Sachar 2006: 171). And in 2016, Muslims comprised only 3.3 percent overall of the elite All Indian Civil Services, which include the civil service, police and foreign service (Shaikh 2016).

Representation (or its lack) in the police is particular worry as the Status of Policing in India Report makes clear. As Muslims (unlike Scheduled Castes (SC), Scheduled Tribes (ST), Other Backward Classes and women) do not have job reservations, they

> have disproportionately low representation in the police force. This is worrying notably in the backdrop of disproportionately high Muslim representation in the prisons.

Muslim representation in the police … is constantly less than half the size of their population in India (Common Cause 2018: 24).

The trend is even worse in the army. Wilkinson calculates that 'a little under 3 percent' of the army are Muslim (2015: 197) and Ali Ahmed calculates that 1.9 percent of 'the officers having passed out' in 2016 were Muslim (2018).

While statistics are important, it is vital that the levels of (under)representation are assessed across a number of institutions. These are presented in Table One. Although the level of under-representation has not increased markedly in all these institutions under Modi, in relation to the Cabinet, state assemblies and the Lok Sabha it has. Overall therefore we must score it as High.

Table One: Underrepresentation of Muslims in state institutions 2016-2019

Institution	Under-representation compared to percentage of population	Percent of population under-represented
Average of 8 State Assemblies	-7.43	-52.21
Police overall	- 7.96	-55.94
Lok Sabha	-9.44	-66.34
Cabinet	-10.23	-71.89
IAS (Elite Bureaucracy)	-11.23	-76.81
IPS (Elite Police)	-11.04	-77.58
Army overall	-11.63	-81.73
Army Officers	-12.13	-85.24
Average across institutions	**-10.13**	**-70.97**

Sources (Shaikh 2016, Ahmed 2018, Common Cause 2018, Jaffrelot, Kumar et al. 2018, Adeney and Swenden 2019, Jaffrelot 2019, Verniers 2019).

Informal Measure 2. Discourse:

The second informal measure is discourse. Since 2014, many government ministers have publicly denigrated Muslims and characterized them as enemies of India (Jaiswal, Jain et al. 2018). As research conducted by NDTV has calculated, the 'use of hateful and divisive language by high-ranking politicians … increased almost 500%' between 2014-18. 90 percent of these comments were by BJP politicians. Although the BJP were not the first party to use such language the scale is different. Three illustrative examples are discussed below. In December 2014 a minister in Modi's government stated that voters had to make a choice between 'a government of the followers of Ram [Hindus] and a government of bastards' (Iyengar 2014). Although she was forced to apologize, she remained in post. The killing of

Mohammad Akhlaq by a '200 strong mob' in September 2015 was described as an 'accident' by the BJP Minister of Culture (Kumar 2015). No sanctions were imposed on him or the other BJP politicians who made even more provocative comments, even appearing to condone the violence. As the data from NDTV makes clear, these were not isolated statements. The 2019 campaign saw an increased communalisation of discourse. Although the Election Commission did censure some politicians for their speeches, the campaign was notable for the extent to which BJP politicians were *not* censured (Dixit 2019). Thus Amit Shah, the President of the BJP was able to call Muslim migrants from Bangladesh 'termites and infiltrators' (BJP4India 2019) and Modi was able to freely accuse Rahul Gandhi of standing for election 'where the majority is a minority' (Saha and Ranjan 2019).

The fourth example is the use of the phrase 'Love Jihad', explicitly raised in the 2014 election, particularly by the current Chief Minister of Uttar Pradesh, Yogi Adityanath (Maiorano and Torri 2015). The phrase had been used since 2009 'to spread rumors … of a vast conspiracy by the Muslim community to train young men to seduce, marry, and convert Hindu women' (Strohl 2019, 27). In 2014, two weekly magazines produced by the Rashtriya Swayam Sevak Sangh (RSS), a Hindu volunteer paramilitary group closely associated with the BJP, focused on 'the issue' (Jaffrelot 2019: 57). After Adityanath was named chief minister of Uttar Pradesh in 2017, '"anti-Romeo squads" fanned out across the state to hunt for "love Jihadis"' (Jaffrelot 2017: 59). The campaign to set the agenda was successful: the Supreme Court ordered a probe into 'love jihad' in Kerala later that year (Mahapatra 2017) and the violent killing of a Muslim (filmed and shared on social media) in Rajasthan was accompanied by commentary of '[t]his is what will happen to you if you do 'love jihad' in our country' (BBC News 2017a). This element of discourse must be scored High.

However, it is not sufficient to look at the language used to describe minorities. Omissions are also significant. Modi's week long silence on the killing of Mohammad Akhlaq was notable (Iyengar 2015). After the attack Modi

> expressed his "gratitude to American people" for their hospitality during his recent trip to the US, greeted a cabinet colleague and a governor on their birthdays and the people of China on its National Day, offered his condolences on the death of a singer's son and congratulated a billiards champion on his prolific twitter feed. Not a word on Mr Akhlaq (Biswas 2015).

Modi's initial unwillingness to condemn the violent attack, along such clear communal lines, and the comments made by his ministers and party members amounts to an effective endorsement of the activity (Barstow and Raj 2015, Manor 2019: 124-5). At the same time, the political space to oppose the discourse of hate has shrunk. The assassination of the journalist Gauri Lankesh, a fierce critic of the Modi government, was widely welcomed by some Hindu nationalists (The Hindu 2017). Significantly, Modi did not condemn her murder, in comparison to the PM of Malta who unequivocally condemned the murder of an investigative journalist who had implicated his family in corruption (BBC News 2017b). Gauri Lankesh's death was not an isolated one. Reporters Without Borders notes the increasing number of attacks on journalists and that '[w]ith Hindu nationalists trying to purge all manifestations of "anti-national" thought from the national debate, self-censorship is growing in the mainstream media' (2017). Although Modi has not been entirely silent, and in August 2018 stated that 'I want to make it clear that mob lynching is a crime, no matter the motive' (Regan, Khan et al. 2019), the nomination of Pragya Thakur as a BJP candidate in a safe seat in 2019, on bail for participation in a terrorist attack against Muslims (Scroll 2019), means that this element must

also be scored as High. The extent of majoritarian discourse across both elements is clear and must be scored as High.

Informal Measure 3. Socio-economic indicators

When there are serious discrepancies in the socio-economic outcomes of different groups, questions must be raised about the effective citizenship of that community. As the authors of the Indian Human Development Survey argue, 'a holistic perspective on people's lived experiences must recognize how the separate dimensions of human development are interrelated. Employment, education, health, and social networks … do not exist as independent segments in people's lives' (Desai, Dubey et al. 2010: 4). The Sachar Commission found that 'Muslims … are seriously lagging behind in terms of most of the human development indicators' (2006: 2). Although the Muslim community is not a cohesive whole, also being divided by caste (Mahajan 2010: 23), analysing the category of 'Muslim' makes sense 'because from a socio-economic point of view, differences between the Muslim OBCs and other Muslims are remarkably limited, compared to the gap that remains between Hindu OBCs and other Hindus' (Jaffrelot and Kalaiyarasan 2018). The position with regard to health indicators is mixed – Muslims are slightly below the all-India average with regard to neonatal and infant mortality rates but slightly above average with regard to post-neonatal, child and under five mortality rates (International Institute for Population Sciences 2017, 223-225). A similar mixed pattern can be found with regard to height and weight indicators ((IIPS) and ICF 2017, 338-62). These data from 2015-16 are similar to that found in the 2006 Sachar report, which concluded that 'the differences … are not overly large' (2006, 43).

The data collated by Sachar demonstrates that although the socio-economic position of the Muslim community *has* improved since independence, their position has not risen as much as the SCs or STs. Muslims have an illiteracy rate of 43 percent compared to the overall illiteracy rate of 37 percent and had the lowest work participation rate of any religious group (Government of India 2011). Although it is true that 'Dalit, Adivasi, and Muslim families (fall) substantially behind other communities' with regard to 'reading, writing and arithmetic', the position of the Muslims has not improved as greatly as Dalits and Adivasis (Sachar 2006: 85). This position is confirmed by the Human Development Survey which notes that 'this educational deficiency is reflected in lower access to salaried jobs among these communities' (Desai, Dubey et al. 2010: 6). As Frances Stewart argues, '(l)ack of access to education leads to poor economic opportunities, while low incomes tend to result in poor educational access and achievements in a vicious cycle of deprivation' (2008: 13). Dalits and Adivasis, while lagging behind in many human development indicators, have been the beneficiaries of the reservation policies of the Indian government. Reserved government jobs are important because 'the disadvantages of caste, tribe and religion are moderated in public sector salaries, partially because of better government salaries for low skill workers' (Desai, Dubey et al. 2010: 46).

There may be multiple causes of the under-representation of Muslims in the formal sector. However, this low representation of Muslims in the core institutions of the Indian state, at least partially caused by the lack of educational and job reservations has had a material effect on the community's socio-economic outcomes. This led the Sachar Commission to argue that 'there is a strong case to put mechanisms in place that enable Muslims to engage in democratic processes at various levels of polity and governance' (2006: 241). Earlier in the report they

argued that the 'low participation of Muslims in local self-government bodies [has] resulted in developmental benefits failing to reach areas of Muslim concentration' (2006: 23).

The 'Status of Policing in India Report 2018' also found that the percentage of Muslim prisoners is higher than the Muslim population in India (almost 20 percent of prisoners are Muslims, compared to their population share of 14 percent) and concluded that this is because there are no 'legal provisions guarding [Muslim] … representation' (Common Cause 2018: 24). In addition, there are high rates of 'false implication', demonstrated by the low conviction rate of Muslim prisoners pointing 'to a deeper problem of biases within the structure leading to hyper-incarceration of a particular section of the society' (Common Cause 2018: 25).

Table Two: Socio-economic indicators of Muslims in India

Institution	Under-representation compared to percentage of population	Percent of population under-represented
Literacy	-5.8	40.8
Matric Secondary	-2.4	16.9
Higher Secondary	-2.0	14.1
Graduate	-2.9	20.4
Poverty Levels	-5.2	36.6
Prisoners	-5.6	39.4
Childhood mortality rates	-13.62	95.8
Average across institutions	**-5.36**	**-37.7**

Sources: Government of India (2011), Common Cause (2018), Desai, Dubey et al. (2010) ((International Institute for Population Sciences 2017). Poverty levels, percentage of prisoners and childhood mortality rates have been converted to negative numbers before calculations. Childhood mortality has been calculated from summing five different measures in the National Family Health Survey and averaging them.

Although the removal of reservations of Muslims has had an impact on their socio-economic outcomes, this is not something that can be attributed to the Modi government. However, as Kim points out, 'both the Sachar Committee Report and the Post Sachar Evaluation Committee's findings have been challenged by the Modi government for the quality of their analysis and data' (2017: 362). Although after the 2019 election the Modi government *increased* 'the budget for providing free and subsidised coaching for minority candidates' appearing in the civil service exam, the increase of 12 crore rupees (1.4 million GBP), has to be offset against the *decrease* in the funds 'allocated for the educational empowerment of the community', of 89 crore rupees (10 million GBP) (Dhingra 2019). Socio-economic outcomes must therefore be scored as evidence of a Medium level of ethnic democracy, with an average score of -37.7.

Conclusion

This article has demonstrated the methodology for assessing levels of ethnic democracy in six areas. Through analysing India it has established that it is important to do so through multiple measures, as a country may score Low on one measure, but score High on others.

However, although it is easier for changes to made in the informal sphere, as Table Three demonstrates, India has moved to a much higher degree of ethnic democracy since 2014 in *both* informal and formal measures. In relation to formal measures India must be classified as exhibiting a Medium/High level of ethnic democracy, an increase from its status before the election of Modi in 2014. On the informal measures it exhibits a High level of ethnic democracy, a clear increase since 2014. When the informal and formal measures are combined, India overall exhibits a High degree of ethnic democracy, substantially higher than its Low/Medium status before 2014.

Table Three: Formal and Informal measures of degrees of ethnic democracy

	Measure	Pre-2014 status	Score	Current status	Score	Direction of travel
Formal	Constitutional	Med	0.50	Med	0.50	Commitment to increase
	Citizenship	Med	0.50	High	1	Commitment to increase
	Legislation	Low	0.00	Med	0.50	Commitment to increase
		Low/Med	**0.33**	Med/High	**0.67**	
Informal	Representation	Med	0.50	High	1	Increasing
	Discourse	Med	0.50	High	1	Increasing
	Socio-economic	Med	0.50	Med	0.50	Static
		Med/High	**0.50**	High	**0.83**	
		Low/Med	**0.42**	High	**0.75**	

Notes: To increase the comparative applicability of the scoring method we assign these levels of ethnic democracy ordinal numbers. 1 = High, 0.5 = Medium and 0 = Low. When combined and averaged they are subdivided into the following categories: High 0.75-1, Medium/High 0.50-0.74, Low/Medium 0.25-0.49, Low 0-0.24. As this is an ordinal rather than interval scale we cannot assign a threshold below which a state is not an ethnic democracy.

According to Smooha, the fact that we can categorise India as exhibiting High levels of ethnic democracy means that we must now categorise it as a *diminished* democracy. In certain states of India, notably, those on its 'periphery' this has been the case previously. This is the first time since the Emergency of 1975-77 that we can apply this at an all-India level.

Countries can move up and down the ethnic democracy scale, the pertinent question for India is whether it will be possible to reverse the formal and informal changes seen under the recent BJP governments. As data from the National Election Survey demonstrate, there has been a sharp increase in those who believe (or are now willing to say they believed) that the will of the majority *community* (a religious definition) should prevail. In 2019 49.4% of respondents reported that they agreed with this statement, compared to only 35 percent in 2004 (Lokniti n.d.). Supporters of this viewpoint are not confined to BJP voters, indicating that the 'center'

has moved 'towards a more and more majoritarian and pro-Hindutva platform' (Palshikar 2015: 732). Even in the face of a world changing Pandemic, Covid19 has led to increased demonization of, and violence against, Muslims in India (Ellis-Petersen and Rahman 2020). The conclusions of this article go beyond India. There is a need for a rigorous multidimensional assessment of the degrees of ethnic democracy in different countries. India is far from the only democratic country where 'othering' is taking place, but is a salutary reminder that democracy may well fail to protect its minorities.

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[i] E.g. The use of the Armed Forces Special Powers Act and the politicised use of President's Rule to dismiss state governments (Adeney 2007: 185-9).

[ii] As the discussion in the section on socio-economic outcomes reveals, Muslims in the south of the country are in a much better position than those in the north and particularly those in the 'peripheral' regions of India.

[iii] The only feature which did not start with the 'state' referred to the 'dominant ethnic nationalism determin(ing) that there is only one ethnic nation that has an exclusive right to the country' (2005: 732).

[iv] This methodology was developed in an iterative fashion and received feedback in several venues. It was concerned to provide measures that worked across both formal and informal areas of a country, could be applied to different countries, as well as over time. Levels of violence were initially included within the measures but removed, because the absence of violence may be a sign that the non-dominant section of a

country has been intimidated successfully and violence is now redundant. The measure on discourse was also disaggregated to more reflect the absence of condemnation.

[v] It is possible to apply these measures to diminished democracies that score less well on democratic criteria. Even though Smooha's conception of an 'ethnic democracy' excludes non-democracies, he accepts that 'the model exposes the features of ethnic democracy' that non fully-fledged democracies possess (2009, 57).

[vi] Levels of (under) representation are directly comparable across countries. It would be preferable to use large datasets to code some of these elements so easily international comparisons can be made, but few of these datasets include measures that are directly comparable e.g. V-Dem includes religious or ethnic restrictions on becoming Head of Government, but combines this with other non-ethnic restrictions and the Ethnic Power Relations Dataset includes a group's access to executive state power but not wider measures of representation.

[vii] Citizenship provisions are considered separately in Measure 2, even if they appear in the constitution.

[viii] The role of Head of State in the UK is now largely symbolic.

[ix] This policy discriminates against German-born Turkish citizens, for whom renouncing their Turkish citizenship would entail the effective renunciation of their property rights in Turkey.

[x] E.g. Donald Horowitz (1985) articulates an integrationist argument; it is important to provide incentives for representatives of one group to appeal electorally to those of other groups.

[xi] Although Harel-Shalev (2009) has contrasted India with Israel's ethnic democracy.

[xii] Dalits and Christians have also been persecuted by the BJP.

[xiii] In 1961 23 percent of those speaking Urdu as a second language were in the South of India, 3.9 in the East and 7.4 percent in the West – 65.2 percent in the North Central region (Khubchandani 1978).

[xiv] Although its editor publicly expressed confidence that it would be back, this was the second time such a database had been shut down, the first after political pressure in 2017 (Scroll 2019).