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Democracy For All? Minority Rights and Minorities' Participation and Representation in Democratic Politics

The International IDEA Democracy Forum Madrid, Spain, 28 – 29 NOVEMBER 2011

Background note

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Table of Contents

Acronyms

AANDC	Aboriginal and Northern Affairs Department Canada
ANC	African National Congress
BEE	Black Economic Empowerment
BJP	Bharatiya Janata Party
FPI	Islamic Defence Front
GAM	Free Aceh Movement
ILO	International Labour Organization
MENA	Middle East and North Africa
NHRC	National Human Rights Council
OBC	Other Backward Class
OSCE	Organization for Security and Cooperation in Europe
RSS	Rashtriya Swayamsevak Sangh
SADC	South African Development Community
SC	Scheduled Caste
ST	Scheduled Tribe
TMW	Temporary Migrant Worker

Introduction

After two decades marked by a quantum leap in the number of countries formally considered to be democracies, it is widely understood that new and emerging democratic states confront a complex, many-layered set of often competing political, social and economic challenges. In the sphere of institutional design and development the key challenges—holding free and fair elections, establishing functioning political parties, entrenching an independent judiciary and so on—are readily identified, relatively well understood and thus the focus of domestic political reform efforts and international assistance.

Less appreciated or emphasized, however, is the critical importance of promoting and developing democratic *values* and *principles* within a society. Unquestionably, putting the institutional architecture of democracy in place is vital. In the absence of the bricks and mortar of accepted and applied democratic values and principles, however, in the long run the whole construct runs the risk of proving itself a flawed, chronically unstable political edifice.

In this context, moreover, experience indicates that a defining feature of a functioning democratic ethos is adherence to the theory—and practice—of the fundamental principles of *equity, justice and inclusion*. Put another way, the answer to the question posed in the title of this paper, 'Democracy for All?', is a resounding 'yes'. 'All' means women, men, young, old, able bodied and disabled alike, and regardless of race, class, ethnicity, religion or sexual orientation. Understood in this sense, promoting and ensuring inclusion is a continuing challenge for all democracies, a benchmark against which any democratic polity, new or established, may reveal significant shortcomings. The challenges of promoting genuine equity, justice and inclusivity to which this points, however, are critical to the long-term sustainability of the democratization project.

This paper focuses on a key—but by no means the only[1]—dimension both of promoting an equitable, just and inclusive democratic ethos and fashioning institutions and practices intended to entrench it: the protection and promotion of minority rights. For the purposes of this paper, 'minority' is used primarily in reference to issues of *identity*: whatever, in other words, is understood by groups within a society as defining or otherwise constituting their self-understanding. Precisely what those defining features of minority identity are varies significantly from country to country, and from context to context. The features that typically constitute the bedrock of minority identity, however, include religion, ethnicity, language, race, culture and regional/geographic location.

Beginning in late 2010, from Tunisia, Egypt and Libya to Syria, Yemen, Bahrain and Jordan, countries of the Middle East and North Africa (MENA) region have experienced individualized versions of what has come to be known as 'The Arab Spring'. In this context, moreover, these countries are now confronting their own versions of the multi-faceted, multi-layered democratic transition agenda noted above. This paper explores what, in line with the importance of inclusion to functioning democracy discussed above, constitutes a critical feature of the transition agenda for MENA region countries, namely promoting the rights of minorities as well as their representation and participation in the political sphere.

The importance of this issue to the prospects for continuing democratic progress in the MENA region has been vividly illustrated by sporadic outbreaks of

1 A list of other critical dimensions of the democratic inclusion agenda would include: women's participation and representation, sexual/lesbian/gay/bisexual/transvestite minorities, youth and people with disabilities. While the importance of these dimensions is undeniable, they are not the focus of this paper.

inter-communal violence between Muslims and the minority Coptic community in Egypt. The worst of these to date—an early October 2011 confrontation between massed Coptic demonstrators and the Army that left at least 27 people dead, the majority of them Christians—palpably shook domestic and international confidence in the Supreme Council of the Armed Forces, the country's transitional authorities since President Hosni Mubarak relinquished power in February 2011.

With the Iraqi Christian community's grim experience in the aftermath of Saddam Hussein's overthrow in mind,[2] one expert commentator recently suggested that 'The Arab Spring, it is widely feared, could yet mark the onset of the final winter for the forgotten Christian faithful of the Middle East.'[3]

At the same time, it is important to emphasize that MENA region countries are lacking neither in historical experience of nor practical resources for managing diversity within their societies. With respect to governance, for example, in many countries centuries of Ottoman rule carries with it the legacy of the *millet* system, under which designated confessional minorities enjoyed a wide degree of autonomy in managing their affairs.[4]

Even more fundamentally, as countries of a region where the main 'Religions of the Book'—Judaism, Christianity and Islam—have their origins, traditions of diversity, religious tolerance and minority accommodation, less tolerant contemporary Arab nationalisms and secular ideologies have long played an important role in shaping popular understanding of the virtues of *inclusive* approaches to majority-minority relations.

This paper explores a range of critical issues pertaining to minority rights, participation and representation through the prism of four (necessarily brief) country case studies: Indonesia, India, Canada and South Africa. Each of the case study countries has been selected due to their differing experiences and approaches in this domain, the comparative insights and lessons these experiences reveal and—last, but not least—their potential relevance and application to countries of the MENA region.[5]

This paper does not put forward a universally applicable template. Rather, it is suggested that these experiences, and in particular some of the overall policy approaches the countries examined have adopted with respect to minorities, can provide a useful comparative set of benchmarks and 'lessons learned' for MENA region countries seeking to promote inclusive politics within the framework of their specific transitional democratic trajectories.

Finally, for anyone who doubts the relative priority or importance of minority-related issues vis à vis other critical elements of the democratic transition agenda, it is worth recalling that a defining feature of the post-Cold War global political landscape has been the eruption of inter-ethnic and intra-state conflicts—in Rwanda, Burundi, Bosnia, Kosovo, Kashmir, Chechnya and Sri Lanka, to name but a few of the most salient examples. In all too many instances of such conflict, a central feature has been the state's failure to tackle minority demands, concerns and grievances.

In response to this development, the international community began to pay heightened attention to the need for more vigorous, even interventionist, minority rights protection regimes and policies. The results of this increased focus on minorities are particularly evident in Europe, where over the last 20 years multilateral structures, notably the Council of Europe and the Organization for Security and Cooperation in Europe's (OSCE's) High Commissioner for Minority Rights, have assumed a leading role in both developing new regional instruments for promoting the protection of minority rights and monitoring their implementation on the ground.[6]

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2 Current estimates suggest that up to 400,000 Iraqi Christians have left the country since 2003, principally due to a combination of persistent intimidation and harassment and—in some instances—Islamist-inspired local pogroms.

3 William Dalrymple, 'Egypt's Coptic Christians face an uncertain future', *The Guardian*, 10 October 2011.

4 In fact, the Ottoman system built on pre-existing Islamic rules concerning the treatment of non-Muslim minorities. Under Ottoman rule, 'millet' referred primarily to the separate courts regulating personal law that the imperial authorities permitted to function with little, if any, external interference.

5 In terms of methodology, at International IDEA's suggestion, the paper is based not on a review of academic and specialist literature but on a series of face-to-face interviews conducted during research visits to each country in autumn 2011. Those interviewed were drawn from a range of audiences: government and other official bodies, civil society organizations, academic institutions, think tanks and a limited number of specialist international institutions. *For a full list of those interviewed, see Annex 1.* The author assumes full responsibility for the version of people's views presented here, including any resulting distortions or inaccuracies. Overall the hope is that what the paper lacks in academic rigour is compensated for by the freshness and vitality of the snapshot of insider perspective on the issues in focus that it—hopefully—provides.

In the wake of the 11 September 2001 attacks, however, with respect to minorities no less than other aspects of the policy menu, international attention shifted towards the broader anti-terrorism agenda. An important consequence of this security-dominated refocusing of priorities is that it has become more internationally acceptable for states to treat domestic minorities first and foremost as a 'security issue'.

This has had serious and often deleterious consequences for minority groups around the world, notably for Muslim populations, who in accordance with the new securitized approach have all too often become the subjects of both heightened public suspicion and new or enhanced forms of state-sponsored discrimination and mistreatment.[7]

In addressing the multiple challenges of protecting and giving fair political representation to their prevailing minority or marginalized populations, it is hoped that new democracies of the MENA region will not be overly attracted to the pursuit of excessively securitized approaches to majority-minority relations. A wide range of alternative approaches and policies based on more inclusive, accommodating approaches exist; this paper seeks to highlight and explore these approaches, as seen in the practical experience of the four countries in focus.

6 A key example in this respect is the OSCE's 1999 *Lund Recommendations on the Effective Participation of National Minorities in Public Life* (see http://www.osce.org/hcnm/32240. The Lund Recommendations have since become a central reference document for law and policy makers in the OSCE region, and a widely cited model for how to develop policy in this area in other parts of the world.

7 Interview with Mark Lattimer, Minority Rights Group, London, 14 September 2011

8 Other Indonesian religious groups/minorities: Christians (9 per cent), Hindus (3 per cent), Buddhists and 'other' (2 per cent). All figures are taken from the 2000 Indonesia National Census.

Indonesia

Introduction

With a population of nearly 238 million scattered across a vast archipelago of over 13,000 islands, Indonesia is one of the planet's most humanly diverse countries. With over 86 per cent of its population officially designated as Muslims,[8] it also has the distinction of being the world's largest majority-Muslim democracy. This, combined with the country's relatively recent experience of democratic transition, a process that began in 1998 with the resignation of President Suharto, has already served to make it a focus of considerable interest among the MENA countries.

This is certainly the case in Egypt—which, as a large country of comparable complexity, power and regional stature—is arguably faced with similar types of challenges in the context of its (currently faltering) attempts to effect a transition from decades of military-authoritarian dictatorship to genuine, civilian democracy.

From the perspective of majority-minority relations and the political framework within which they currently operate, Indonesia displays a number of distinctive features. The Indonesian landscape comprises over 300 different ethnic groups and an even larger array of local languages and dialects—credibly estimated at more than 700.

Following the country's formal declaration of independence from its erstwhile Dutch colonial rulers in 1945, the 'new' official national language became Bahasa Indonesian, a version of a Malay dialect previously in wide use throughout the region that was promoted by the Indonesian nationalist movement from the 1920s onwards as the basis of a new national identity.

In ethno-linguistic terms Bahasa Indonesian is a minority language—a point underscored by a number

of those interviewed in the course of researching this paper as illustrative of the far-sighted approach of the architects of the country's independence.[9] As a consequence most Indonesians speak at least two, and often several, languages: Bahasa, their own mother tongue and quite possibly one or more of the other locally or regionally dominant languages. The country's official espousal of an inclusive approach to national identity is encapsulated in the national motto *Bhinneka Tunggal Ika*, usually translated as 'Unity in Diversity'.

By far the largest ethnic group is the Javanese, who constitute over 40 per cent of the population and are widely viewed as culturally and politically dominant. Alongside major regional ethnic groups such as Madurais, Sundanese and ethnic Malays, one of the most significant minorities is the Indonesian Chinese. A well-established community whose origins are in the sustained labour migrations from mainland China during the Dutch colonial era, their relative prosperity and perceived economic power has made the Chinese a frequent target of popular resentment that as recently as the 1990s spilled over into widespread anti-Chinese riots.[10]

While the Indonesian Constitution both espouses secularism and recognizes the right to freedom of religion, in practice only six faiths are officially recognized: Islam, Roman Catholicism, 'Protestantism', Hinduism, Buddhism and Confucianism—the latter the most recent addition to the list. For the purposes of national identity cards and other official documents, Indonesian citizens are required to state which religion they belong to—a formal citizenship requirement that at least for some remains controversial.[11]

The majority population's adherence to Islam also belies the fact that, historically speaking, Islam came fairly late to Indonesia, chiefly under the influence of Arab Muslim traders. The first evidence of local Muslim populations dates from 13th century northern Sumatra, and Islam only achieved a position of dominance across the Indonesian archipelago during the course of the 1500s. Prior to this both Hinduism and Buddhist-dominated kingdoms had long prospered, most notably the Buddhist Sailendra, Hindu Mataram and Java-based Majahipit dynasties of the 8-10th and 13-15th centuries. In addition, many point to the generally tolerant, accommodating version of Islam that has traditionally dominated in Indonesia as evidence of the enduring impact of Buddhism and particularly Hinduism on the Indonesian psyche.

Indonesia's current democratization process took shape in the aftermath of the Asian financial crisis of the late 1990s, rising popular discontent with General Suharto's corrupt, authoritarian 'New Order' regime and his eventual resignation in May 1998 after three decades in power. Suharto's assumption of power in March 1968 from Sukarno, the country's founding president, itself came in the aftermath of a protracted period of national upheaval marked by wide-scale violence—in particular ruthless Army-led purges directed against the hitherto powerful Communist Party of Indonesia—that left an estimated 500,000 people dead.

With regard to the position of minorities, an important aspect of the democratization process has been the wide-ranging series of *administrative decentralization measures* undertaken since 2001. In a vast country such as Indonesia, devolving power away from the centre and down to the 33 provinces was viewed as a practical means of enhancing citizens' access to government, boosting official accountability and fostering and consolidating democratic rule.

In practice, however, with respect to local inter-ethnic relations the impact of decentralization has not always proved to be positive. In areas across the country, the creation of new local administrative districts has often taken place along communal or ethnic lines, thereby exacerbating tensions.[12]

On a more positive note, a key feature of decentralization has been the Special Autonomy laws covering four regions—Aceh, Jakarta, Yogyakarta and Papua[13]—enacted since 2001. As a result, for example, in 2003 the Achinese authorities—despite serious prevailing tensions with the central authorities[14]—exercised their newly acquired right to establish an independent legal system, in this instance based on Islamic Sharia law, although the result remains both constitutionally contested and controversial, not least among segments of the local population.[15]

In relation to discourse regarding minorities, majorities and the relations between them, several interviewees pointed out that such terminology is largely absent in official Indonesian documents.

9 Notably in the interview with Ikar Nusa Bhakti, Indonesian Institute of Sciences, Jakarta, 23 August 2011.

10 Interview with Benny Subianto, Jakarta, 26 August 2011.

11 A point emphasized by Antonio Pradjasto, Centre for Democracy and Human Rights Studies, Jakarta, 22 August 2011.

Indonesian officialdom is similarly uncomfortable with terms such as 'ethnicity'—arguably a legacy of the Suharto-era 'nation building' project, which heavily emphasized the 'unity' aspect of the national slogan over and against its 'diversity' component. Over a decade into the new democratic order, old-style 'unitarist' thinking and approaches remain pervasive at the official level. On the ground, however, the undisputed reality is that the country contains a wide array of minority, ethnic and religious groups.[16]

Important minority rights legal safeguards are in place, and the Indonesian Constitution's human rights-related provisions are generally judged to be quite rich.[17] At the same time, conservative and fundamentalist forces undoubtedly exist in Indonesia. The growing political influence of Islamist groups is viewed as a testament both to what one interviewee described as 'their ability to outmanoeuvre the silent, tolerant majority',[18] and more specifically to the prevailing lack of political leadership from President Yudhoyono's administration in countering their views and actions.

Challenges

Migration and national identity

A cornerstone of the Suharto 'New Order' era was a large-scale programme of *Transmigrasi* (transmigration).[19] Following the advent of democracy, however, *Transmigrasi* has been significantly reduced, due among other things to a combination of the impact of decentralization measures, which have given local authorities a greater say over population migrations, and fears in some regions of the country (notably Papua) that indigenous local groups were fast becoming minorities in their own cities and districts.

While the downscaling of *Transmigrasi* is undoubtedly a move forward from the perspective of democratic control, a number of interviewees voiced some concern about its impact on the maintenance of Indonesian national identity—an issue that, economic considerations aside, undoubtedly played a critical role in Suharto's vigorous espousal of the transmigration program.

Establishing and maintaining a shared sense of national identity in a country as vast and diverse as Indonesia is no small achievement, and one of which many Indonesians clearly remain justly proud. How to maintain this sense of a shared identity in the new, more fractious democratic era is a question that clearly continues to exercise the minds of many.

In addition, according to one expert interviewee, a major challenge in maintaining a shared sense of national identity stems from the way in which ordinary people now tend to view their own—and equally, other people's—identities. 'They define people as "other" simply based on their religious or ethnic affiliation. And in practice these often cannot be separated, as ethnic groups usually identify with a specific religious affiliation.'[20] In this sense it appears

12 This issue was highlighted by all those interviewed and receives further attention in the 'Challenges' section below.

13 The number rose to five following a January 2003 governmental decision to divide Papua into two provinces—Papua and West Papua—a move widely interpreted as an effort to reduce popular support for independence for the region.

14 Fighting between the Indonesian Army and the pro-independence Free Aceh Movement (GAM), formed in the mid-1970s, continued until the unilateral ceasefire announced by the GAM in the wake of the January 2004 tsunami, which devastated the region and killed hundreds of thousands of Acehinese, and was only formally terminated with the signing of an internationally mediated peace treaty in August 2005.

15 Interview with Hikmat Budiman, Interseksi Foundation, Jakarta, 25 August 2011.

16 A salutary example of the less savoury impacts of 'unitarist' thinking in the past relates to the country's Chinese minority. Numbering between 5-10 million (estimates vary greatly), or 3-4 per cent of the total population, right up until the end of the Suharto era, their perceived economic success made them the target of regular, often violent, attacks. In one important sense, however, Chinese communities are effectively invisible in contemporary Indonesia. As a result of a late 1970s edict 'suggesting' that all Chinese change their names to Indonesian-sounding ones, pretty much the entire community took Suharto's none-too-subtle hint, and did precisely that.

17 Indonesia has ratified a number of the key international human rights instruments, including the UN Covenants on Civil, Political, Economic and Women's Rights.

18 Interview with Todung Mulya Lubis, Jakarta, 24 August 2011

19 This was originally a Dutch colonial-era initiative to move landless people from densely to less populated areas of the country. Revived by the Indonesian post-independence authorities, *transmigrasi* involved moving people permanently from Java, and to a lesser extent Bali and Madura, to areas such as Papua, Kalimantan, Sumatra and Sulawesi. The program's stated purpose was to reduce poverty and overpopulation on Java and to provide a workforce to exploit the natural resources of the outer islands—the unstated assumption being that indigenous local populations were too lazy to do so. The programme has proved highly controversial, not least because native populations fear a perceived 'Javanization'—and in provinces such as Papua, of 'Islamicization'—and has strengthened regional separatist sentiment and contributed to outbreaks of communal violence.

20 Op. cit., n15.

that, in Indonesia as in other transitional countries with past histories of imposed national identities, the advent of the democratic era has brought with it an outpouring of previously suppressed identity politics that all too often focuses on the political expression of narrow, exclusionary self-definitions.

Religious pluralism—and extremism

An upsurge in religious extremism and general intolerance towards religious minorities in recent years was noted by a number of interviewees. One obvious form this has taken is the introduction of sharia-type regulations by local mayors and city councils aimed at, for example, forcing women to wear the hijab, closing down bars and enforcing anti-pornography measures.

Increasingly, religious issues are being used by local leaders, who exploit loopholes in the existing legal framework in ways that antagonize inter-community relations. In Papua, for example, there have been efforts to apply sharia-type provisions regarding clothing in majority Christian districts, and in 2007 the local government declared Manokwari, the West Papuan provincial capital, a 'Bible City' subject to 'Christian bylaws'.[21] To date the central government has shown little, if any, inclination to take these issues seriously, less still to address them in practice.

Encouragingly, the number of local initiatives to promote religious bylaws is decreasing, largely as a result of local resistance. Aceh is a case in point, where the local government appears to have begun to realize that applying such laws simply does not work in practice. Thus prior to the 2009 local elections the local administration agreed to implement local Islamic law—an initiative started by the previous local assembly. The Aceh governor, however, reportedly refused to sign the relevant bill, with the result that it remains unimplemented. To quote one interviewee, 'By and large Indonesians will listen to religious arguments during election time, but ultimately they won't buy them'.[22]

Perhaps the strongest point of both domestic religious contention and recent international concern relates to the *Ahmadihya*. An Islamic sect originating from India that has existed in Indonesia for over a century,[23] in recent years Ahmadi communities have been subjected to growing social and political pressure. A June 2008 government decree limited Ahmadi rights to propagate their faith. Most recently, the July 2011 trial of an Islamist radical accused of murdering three Ahmadis during a mob attack on a community meeting resulted in a derisory three-month prison sentence.

Interpretations of the increasing pressure on the Ahmadis vary. Some emphasize the influence of an international fatwa pronounced by Saudi Arabian Wahhabis—in Pakistan the sect has been on the receiving end of some appalling attacks by local Taliban forces[24]—and argue that the assaults themselves are masterminded by 'foreigners'.[25] Domestically, others attribute the attacks largely to a lack of law enforcement by the police.

More broadly, there is widespread concern that President Yundhoyono's government has no real strategy—and little, if any, political willingness—to combat the influence of extremist Islamist groups. Religious Affairs Minister Suryadharma Ali has fanned the flames of discontent (and breached constitutional guarantees of religious freedom, some would add) by pronouncing the Ahmadis to be 'non-Muslims' and appearing to support their banning.[26]

A meeting between leaders of the radical Islamic Defence Front (FPI), which has been at the forefront of both anti-Ahmadi and anti-church agitation, and President Yundhoyono was also described by a senior government official as 'sending completely the wrong message'. As one analysis of the 2008 decree concluded, 'the government has no clear vision of basic principles but rather seeks compromise between those who speak loudest'.[27]

Issues with respect to the country's *Christian minority* currently revolve around two controversies: 1) campaigns against the activities of Protestant evangelical proselytizers in majority Muslim areas of West Java, which are spearheaded by organizations such as the radical FPI,[28] and

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21 The city is the seat of the regional Roman Catholic diocese and has a large Christian population.

22 Interview with Azyumardi Azra, Jakarta, 22 August 2011.

23 Ironically, Ahmadihya followers first came to Indonesia in the 1920s, at the invitation of a local religious movement, to assist in teaching Arabic and translating the Koran.

24 See e.g., 'We decide whether you're Muslim or not', *The Economist*, 10 June 2010.

25 In this instance, polite code for 'extremist Arab jihadists'.

26 Revealingly, a number of interviewees explained the Minister's anti-Ahmadi pronouncements as a thinly disguised attempt to bolster his own political party's standing among the Muslim faithful.

2) obstacles to church construction, as exemplified by a Protestant congregation in Bogar, West Java, whose 10-year long attempts to build a new church remain blocked by the local mayor—this despite all legal formalities having been completed and even a 2010 Supreme Court ruling in the community's favour.

These developments graphically illustrate the fissures that can open up in the absence of local-centre official coherence. Along with defence, security and fiscal policy, religious affairs remain a central Indonesian government competence. Yet it appears that across the country, locally elected authorities are demonstrating a growing appetite for using the powers afforded them by decentralization to pursue policies that are both antagonistic to religious minorities and in breach of the Constitution.

Overall, localized moves to curtail the rights and freedoms of religious minorities are seen as presenting an important constitutional challenge. Currently legal challenges to, for example, local government edicts preventing the construction of religious buildings (as with the ongoing church saga in Bogor) are channelled through local district courts. As things stand, the Indonesian Constitutional Court's competencies only extend to cases relating to judicial legal review, conflicts between state institutions, impeachment and the dissolution of political parties.

Human rights activists, however, argue that cases involving a constitutional complaint, particularly those where a fundamental principle—in this instance, freedom of worship—is at stake, should come under the Constitutional Court's jurisdiction, as is true in, for example, Germany, South Korea and a number of Latin American countries. More broadly, it was suggested that defining and guaranteeing access to processes of constitutional complaint is an issue that MENA countries such as Egypt should consider carefully in the context of drafting a new constitution.

In this respect one interviewee succinctly summarized the current situation as follows: 'The state intervenes where it shouldn't in religious matters, and doesn't intervene where it should—in protecting the rights of minorities.'[29]

Assessments of the impact of the *2001 Decentralization Law* vary widely. Some stress the resulting improvements in local service delivery and the extent to which, for example, customary law and governance structures are accommodated and included. Others, however, emphasize the negative—if largely unforeseen—impacts of decentralization on inter-ethnic relations.

There is growing evidence, for example, of provincial leaderships pursuing policies designed to exclude ethnic 'outsiders'. Some provinces have also begun to stipulate the required ethnicity of elected officials, even if this goes against the Constitution. In significant parts of the country, it is argued, decentralization has thus unwittingly assisted a process of homogenizing local populations at the expense of previously prevailing heterogeneity.[30]

The central authorities are currently in the process of drafting a set of revisions to the 2001 Decentralization Law intended to address these challenges, particularly with a view to curbing the role of ethnicity in the selection of local officials and elected officers. How this works out in practice remains to be seen, not least in provinces such as Papua, where the special autonomy law stipulates that the governor should be a 'native Papuan': but as one interviewee put it, 'how is the term "native" to be defined, and by whom?'[31]

Devolution of power means that mayors and other provincial leaders are elected locally, and as such are not directly accountable to the central authorities. Finding a means of reconciling the tensions between upwards- and downwards-directed accountability remains a critical challenge for Indonesian democracy.

Overall, the verdict on decentralization's impact to date is very mixed. On the negative side, in many provinces it has led to the election of what were described as 'local kings'—and related local dynasties—who govern essentially for their own benefit. In some regions, such as parts of Kalimantan, power has devolved to local communities that are hostile to all newcomers. Local elites have been given the opportunity to upgrade

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27 'Implications of the Ahmadiyah Decree', ICG Asia Briefing No. 78, 7 July 2008, available at <http://www.crisisgroup.org>.

28 While this issue was not often mentioned by interviewees, it is clearly a significant cause of concern in some quarters. For a detailed account of the issues involved, see e.g., 'Indonesia: "Christianisation" and Intolerance', ICG Asia Briefing No. 114, 24 November 2010, available at <http://www.crisisgroup.org.

29 Todung Mulya Lubis (see note 18).

30 Based on the latest available data, one expert interviewed suggested that approximately 50 per cent of the country's districts can now be classified as 'ethnically homogeneous'.

31 Interview with Dr. Djohermensyah Djohan, Home Affairs Ministry, Jakarta, 23 August 2011.

their position and importance, without necessarily passing on the benefits to the people.

At the same time, on the positive side it was suggested that when well managed, decentralization can prove to be an effective tool for enhancing local prosperity and managing prevailing diversities. As one interviewee put it, 'We Indonesians are still dreaming that local government will become an engine of local economic prosperity that also helps to strengthen the state.'

A potentially critical instrument for monitoring and promoting minority rights and protections is the National Human Rights Council (NHRC). Established in 1991, initially as something of a showcase institution, it was accorded more substantive powers and a clear legal standing in 1999 following the advent of the *reformasi* era. The NHRC's position today reflects some of the challenges confronting Indonesia in the minority rights arena.

While the NHRC's operations are financed from within the state budget, a senior Council staff member pointed out that the office remains hugely under-resourced in relation to the demands placed on it: its staff of 200, for example, is roughly one-third of that in sister structures in India and the Philippines.

As well as dealing with the large number of complaints it receives on issues ranging from police violence, conflicts between corporations and local populations to religious freedoms and the behaviour of local government officials, Council officials would also like to take a more active role in promoting tolerance and respect for human rights through expanded national education programmes. Budgetary constraints are such that this is currently not possible.

The fundamental challenge identified here, however, is the low level of attention and priority the Commission's work receives from the government. As a Council official argued, however: 'To make our democratic transition really work, values such as respect for minorities and freedom of religion really need to be placed centre stream in Indonesian society today.'[32]

The *representation and participation of minorities* in Indonesian politics appears problematic. Little, if any, research has been done on the subject to date, which is perhaps testimony to the fact that, as one interviewee put it, 'the "issue" of minorities is still new for most Indonesians'.[33] With respect to political parties, the only disadvantaged group for which there is any type of formal quota system is women.

In administration, the judiciary and other public bodies, it was suggested, minority representation is very low, particularly at the higher levels of office. In this context, the importance of civil society organizations starting to take on these issues, in particular promoting broader debate and discussion of the whole idea of quotas, was highlighted.

Lessons learned

Democratization's potential impact on majority-minority relations

In relation to the growing ethnicization of local Indonesian politics in the *reformasi* era, it is important to underscore the basic point articulated by one interviewee: *'Democratization opens up both a space for increased respect for minority rights and a forum where intolerance and hatred can come into play.'*[34] Recent experience in Indonesia—no less than in many countries across Central-Eastern Europe, the post-Soviet region and sub-Saharan Africa—points to the critical relevance and vital importance of paying due attention to this 'heightened conflict potential' aspect of the policy agenda in new democracies of the MENA region.

Impact of decentralization on minority rights

From the perspective of entrenching democracy, *devolving power to the local level is clearly a positive development,* particularly in a large country such as Indonesia where the obvious alternative—a federal structure—is still viewed with suspicion. At the same time, from the perspective of majority-minority relations, to date decentralization appears to have had a number of negative (if often foreseen) local-level consequences. More specifically, a number of wider 'lessons learned' can be drawn from this experience.

- It is important to *establish a clear, thought-through constitutional framework for reform.* As one interviewee put it, 'If you want to implement decentralization, first make sure [the framework] is clear in your constitution. If it isn't then you are certain to face all sorts of different constitutional interpretations and unforeseen legal tangles.'[35]

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32 Interview with Nur Kholis, National Human Rights Commission, Jakarta, 24 August 2011.

33 Op. cit., n15.

34 Op. cit., n10.

35 Op. cit., n31.

- In this context, and specifically with respect to drafting a new constitution—a process that MENA countries such as Tunisia and Libya are facing into 2012 and beyond—Indonesian experience points to the particular importance *of defining and guaranteeing access to formalized processes of constitutional complaint*. This is especially critical when issues of fundamental democratic constitutional principles, such as freedom of religion and worship, are involved. In a significant number of existing democracies, the constitution makes clear provisions for referring such cases to the higher authority of the Constitutional Court. The validity of this approach appears to be confirmed by Indonesia's recent experience, and is one to which transitional MENA countries would do well to give serious attention.
- *The implementation of decentralizing reforms is best undertaken gradually*. To quote the same interviewee cited above: 'In Indonesia we made the mistake of going for the "Big Bang" approach, trying to jump from a centralized to a decentralized system in one rapid move.' Specifically, in this context, it was suggested that the first round of local elections that are held following a democratic transition should use an indirect voting system: 'The first time round, the parties simply need to learn how the system works, and it will probably take two or three electoral cycles before you can get the approach "right."'[36]
- A related lesson drawn from Indonesia's experience may be that the country has, as suggested by another interviewee, 'put too heavy an emphasis on building democratic institutions while neglecting to deal with other vital issues such as economic and social rights and building a common sense of citizenship. It is particularly important that minorities develop a sense of citizenship: that way they can actually play a role in consolidating a society built on democratic principles'. It was further argued that *promoting the notion of shared citizenship with equal rights for all* might be as much a priority issue for countries of the MENA region as it remains for Indonesia today.

Strategies for countering the appeal of radical Islamism and promoting respect for minority rights

1. For all the opportunities afforded by the political freedoms the country has enjoyed since the beginning of the *reformasi* process in 1998, and despite an overwhelming majority Muslim population, a critical feature of Indonesian democracy to date is that *'political Islam' or 'Islamism' continues to play a relatively insignificant role in national political life*. While the majority of Indonesian political parties started life as Islamic cultural movements, to date parties with explicitly Islamist programmes have proved unable to attract anything more than minority electoral support.

Why is this? One view is as follows: 'By and large, Indonesians don't "buy" religion at elections: they will listen to [religious views] but they won't buy them in determining their government.'[37] To explain this fact, one can point to the influence of the country's historically moderate majority Islamic outlook, in which elements of Hinduism, indigenous, animist and Chinese religious influences have all played a role.

2. Indonesia's current struggle to hold the line with regard to policies of tolerance, minority recognition and rights points, however, to a wider lesson. *While it is critical to democracy's functioning that a clear, constitutionally mandated legal framework that upholds essential minority rights is in place, the existence of such a framework does not in itself ensure that those rights will be respected in practice*. It is vital that the authorities take a proactive lead to ensure that minority rights are respected on the ground, and to actively advocate within society for the fundamental principles of tolerance and inclusion upon which they are based.

The *prevailing lack of Indonesian governmental action or leadership in this area* has led one commentator to propose the creation of a taskforce to develop a 'national strategy on religious tolerance', with the aim of both 'underscoring the government's commitment to uphold[ing] a national value' and identifying an appropriate set of policies in this area.[38] Such an approach to upholding and promoting religious tolerance may also merit consideration in other democratizing majority-Muslim countries in the MENA region. Whether or not this specific policy approach appears relevant, it is vital that—both in theory and in practice—the authorities in new democracies of the MENA region work vigorously to uphold respect for fundamental minority rights within their societies.

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36 *Ibid.*

37 Op. cit., n22.

38 ICG (note 28), pp. 16-18.

39 Op. cit., n32.

3. In addition, one government official argued that vigorous official initiatives to promote religious tolerance should be accompanied by parallel *'education for diversity' programmes* modelled on post-apartheid-era South Africa initiatives. In this context, moreover, a related challenge—and opportunity—is what one interviewee described as 'finding ways to mobilize the positive resources of Indonesia's many and diverse cultures in favour of education rooted in tolerance'.[39]

40 According to the 2001 National Census, Hinduism has the largest following (80.5 per cent); other major religious groups include Christians (2.3 per cent), Sikhs (1.9 per cent), Buddhists (0.8 per cent), Jains (0.4 per cent), Jews, Zoroastrians and Baha'is.

41 Historically disadvantaged groups that are accorded both official recognition and special constitutional provisions and classified into two groups: SCs, commonly known as *Dalits*, and STs. Officially recognized SCs and STs currently constitute approximately 15 per cent and 7.5 per cent, respectively, of the population (based on figures from the 2001 National Census). The Constitution lays down general principles for 'reservation', i.e., affirmative action policies aimed at both groups. The SCs are the subject of special policies, introduced in 1950 and regularly renewed ever since, whereby a percentage of employed posts in government, public sector units, and all public and private educational institutions are 'reserved' for them. In 1991 reservations were extended to cover a third category defined as OBCs.

42 Interview with Shabnam Hashmi, Delhi, 30 August 2011.

India

Framework

Home to the planet's second-largest population—over 1.2 billion people—India is a country whose contours have in a fundamental sense been defined and shaped throughout its history by human diversity. The founding place of four major world religions—Hinduism, Buddhism, Sikhism and Jainism—India is also home to over 160 million Muslims, the world's biggest non-majority Muslim population and the third largest of any country.[40] A country where religion plays a central role in the lives of the majority of the population, India's founding 1947 Constitution also proudly defines the country as a *secular* democracy.

From the perspective of democratic governance, established following independence from Britain in 1947, moreover, it seems plausible to argue that democracy's success or failure in India ultimately rests on its ability to manage and accommodate the immense ethnic, religious, cultural and linguistic diversity of its peoples. As a country compelled by its very nature to address the challenges of minority rights, participation and representation within a democratic framework, moreover, India is also arguably well placed to offer 'lessons learned' in this sphere to other countries.

Challenges

The Indian Constitution accords absolute equality to all citizens and provides an elaborate framework for managing and accommodating diversity. Thus for example, over 200 *scheduled groups*[41] and 21 languages are recognized, and each of the country's 28 states is accorded the right to choose its own official language. In its design and formulation, the Indian Constitution was described even by one interviewee, who numbers among the fiercest critics of the current situation of minorities in India, as a 'real attempt at inclusive nation-building'.[42]

Specifically with respect to scheduled groups—Scheduled Castes (SCs), Scheduled Tribes (STs) and 'Other Backward Classes' (OBCs), as defined in the Constitution[43]—a three-pronged official strategy for promoting minority inclusion, participation and representation is envisaged:

- protective arrangements aimed at enforcing the legal equality of scheduled groups;
- affirmative action ('reservation') measures intended to provide preferential treatment in employment and higher education for disadvantaged groups, thereby promoting their integration into broader society; and
- development policies that allocate targeted resources to help bridge prevailing gaps between the economic and social conditions of scheduled groups and those of the rest of society.

Critical current challenges with respect to minorities were identified by many interviewees as centring on the *gap between the policy framework laid out in the Constitution and actual realities on the ground*. These challenges particularly apply to *cultural-religious minorities*, whose existence is neither formally recognized in the Constitution nor made the subject of policies designed to counteract any discrimination and structural inequalities they may face, as is the case with scheduled groups.[44]

Despite clear empirical evidence of their disadvantaged, even declining, socio-economic status, for example, there are no reservations for Muslims. Discussions with interviewees concerning whether or not this would be a desirable and/or helpful policy approach for India to adopt suggest that, while recognizing the existence of the problem—anti-Muslim discrimination and deprivation—a majority of people (Muslims included) nonetheless oppose this particular approach to addressing it.[45]

Less contested, however, is the fact that the last three decades have witnessed intermittent *outbreaks of communal*[46] *violence,*[47] at different times involving all the country's major religious groups and on occasion echoing the massacres of the Partition[48] era in their bloodiness and intensity. Combatting the rise of communalism is accordingly viewed by many as *the* critical challenge confronting the country today in the sphere of majority-minority relations.

In this context, there is widespread agreement that India has performed reasonably well when it comes to formal Constitutional provisions, thereby giving minorities an implicit stake in the success of its democracy. It is with respect to the *practical application of those provisions*, however, that the challenges are viewed as both real and readily apparent.

Since independence, *communalism* is argued to have passed through two distinct phases. The first post-independence decades were relatively free of inter-communal violence, largely due, it is suggested, to prevailing shock over the consequences of Partition. The 1975-77 Emergency Rule period instigated by Prime Minister Indira Ghandi, however, was an important milestone in inter-communal relations, not least on account of mounting evidence of police and paramilitary forces' involvement in localized attacks on Christian and Muslim communities.

The 1992 destruction of the 16th century Babri mosque located in Ayodyha—a focus of inter-religious controversy due to long-standing claims that it was located on the site of Hindu deity Lord Rama's birthplace—during a political rally that developed into a full-scale riot involving 150,000 people is widely viewed as a critical milestone in Hindu-Muslim relations. More than 2,000 people were killed in resulting disturbances in Mumbai, Delhi and other

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43 Op. cit., n41.

44 At the same time, it is important to point out that Constitutional provisions covering OBCs can—and in practice, often are—applied to Muslims and Christians, for example, with respect to their representation in government jobs, local councils (*panchayats*) and state assemblies.

45 Evidence of the Muslim minority's declining socio-economic situation is set out in the 2006 Sachar Report, available at http://minorityaffairs.gov.in/sachar. The Report was commissioned by Prime Minister M. Singh in the aftermath of the 2002 Gujarat riots to undertake a broad-ranging investigation into the situation of Muslims in India today.

46 In India, as in the sub-continent as a whole, the term 'communalism' is widely used to denote strong attachment to a particular religious-ethnic group—Hindu, Muslim, Sikh, etc.—over and above the country as a whole. The term has a parallel meaning to 'sectarianism', as it is used in other contexts and regions.

47 Major episodes of communal violence since independence include: anti-Sikh riots (1984), Hindu-Muslim riots in Mumbai and elsewhere (1992), anti-Muslim pogroms in Gujarat (2002) and anti-Christian violence in Orissa (2008-9).

48 In 1947 British-ruled India was divided up, broadly along demographic lines, to create the basis for two new independent states, India (majority Hindu) and Pakistan (majority Muslim). It is estimated that anywhere between 300,000 and 1 million people were killed during the mass population displacements that resulted from escalating post-Partition tensions between the two newly created states.

major Indian and Pakistani cities, and allegations of high-level police complicity in the violence were, and continue to be, strongly voiced.

This development is linked by some to the *rise of Hindu nationalism in the 1990s,* exemplified by the political ascendancy of the *Bharatiya Janata Party* (BJP)[49] and its radical supporters in the *Rashtriya Swayamsevak Sangh* (RSS).[50] Simply stated, the BJP and RSS are accused of stoking the fires of popular Muslim antipathy in order to bolster their political support, a strategy that culminated in the BJP's success in the 1998 elections.[51]

In this context, one interviewee pointed out that it is often argued that a consequence of India's diversity is that to win elections parties are forced to appeal to all, and thus naturally gravitate towards the political centre. On the face of it, however, the rise of the BJP refutes this view. Rather, it was suggested that the party pulled India's centre of political gravity significantly to the right, fuelling majoritarianism and weakening the basis of the country's inclusive, secular compact in the process.[52]

Some analysts interpret these dynamics even more sharply. According to this line of thinking, the *Hindutva*[53] has always viewed India's Muslim minority as implacably 'Other', a population with whom it is impossible for the majority to live in peace unless they (Muslims) are both politically subordinated and forcibly integrated into majority Indian society.[54]

Direct involvement of elements of the *Hindutva* in events such as the 1992 destruction of the Bahri mosque and the 2002 Gujarat anti-Muslim riots[55] apart, on this view the major worry today stems from the fact both that middle-class Hindus are increasingly gravitating towards sympathy for *Hindutva* slogans and positions,[56] and that mainstream political forces that espouse inclusive democratic values are not contesting or otherwise seeking to combat this development with anything like the necessary vigour or determination.

Importantly, it was suggested that the *conflict in Kashmir* should be viewed as belonging to a *separate category*, centring as it does on the position of a majority rather than minority Muslim population. In addition, at different points the Kashmir conflict has involved large-scale killings on both sides, and revolves around secessionist demands rather than the exclusion and oppression by the state that is the source of many minority grievances in India.[57]

Not surprisingly perhaps, the 2006 Sachar Report commissioned by Prime Minister Singh to investigate the *position of Muslims in India* in the aftermath of the 2002 Gujarat riots highlighted the structural disadvantages, discrimination and economic deterioration endemic to their overall situation. To date, however, implementation of the Report's recommendations for concrete actions to alleviate this situation in areas ranging from education, health and employment to Muslim's prevailing political under-representation has been minimal, hindered principally by what one interviewee described as the 'pervasive communalist mind-set of local administrations'.[58]

Official attempts to address the threat of communal violence are seen as exemplifying the gap between Indian Constitutional theory and political practice. While clear legal checks and balances exist, in practice these are often stymied by legal procedures. The National Advisory Council has drafted a new *Anti-Communal Violence Bill* that is likely to be tabled in the Lok Sabha (Lower House) before elections due by the end of 2012.

The Bill's concrete proposals are reportedly based on the argument that the existing legal framework for protecting minority rights is scattered, and that it needs to be strengthened by the creation of a central legal instrument. In addition, the legal definition of minorities looks set to be broadened to include regional as well as religious groups, and the Bill will also specifically target and criminalize 'hate speech'.

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49 India's second largest political party. Established in 1980, the BJP is commonly identified with a conservative Hindu nationalist outlook and a mostly right-wing political platform.

50 A radical Hindu nationalist paramilitary organization founded in 1925, originally to oppose both British colonialism and perceived Muslim separatism in India.

51 Interview with Achin Vanaik, Delhi, 29 August 2011.

52 *Ibid.*

53 A term widely used to describe political parties and social movements espousing a Hindu nationalist ideology (e.g., BJP, RSS), what Sangh Parivar, an umbrella structure for such organizations, calls 'Hinduness'.

54 Interview with Prafu Bidwal, Delhi, 31 August 2011.

55 The 2002 Gujarat riots—more properly described as anti-Muslim pogroms, in the view of some—began with a fire in a train carrying Hindu pilgrims that claimed over 50 lives, which was immediately blamed on local Muslims. In the ensuing violence over 2,000 people, mostly Muslims, were killed. An official enquiry later concluded that the fire that sparked the riots was the result of an accident rather than a planned attack on the train.

Several interviewees described the new Bill as a potential move in the right direction. A major weakness of the current system that the Bill is not expected to address, however, is the amount of time that legal cases involving attacks on minorities take to go through the courts. And in all too many cases, one interviewee argued, 'justice delayed effectively amounts to "justice denied"'.[59]

Overall, this is seen to reflect some level of state ambivalence with respect to minority rights protection. On one hand the required institutions and legal framework exist in essentials: on the other hand, experience suggests that ruling parties can—and all too often do—obstruct the law's functioning or simply use it to further partisan ends.

Given the situation of Muslims in India today, what further policies and practical measures for improving their socio-economic conditions could be envisaged? As one interviewee noted, it is important to begin by clarifying the fact that beyond the formal equality accorded to all citizens under the Indian Constitution, the additional rights accorded to Muslims are essentially cultural rather than political or representational in character.[60]

In particular, the affirmative action-based approach to combatting discrimination and structural disadvantage embodied in the reservations accorded to STs, SCs and OBCs has never been applied to Muslims as a socio-economic group. Even with respect to political representation, an area where there is little question that Muslims are poorly served by the current system, prevailing political orthodoxy remains almost universally opposed to the idea of Muslim reservations.[61]

As outlined by a number of interviewees, in common with other religious minorities there are *three key 'areas of anxiety'* for Indian Muslims, namely *identity, security* and *equity*. With respect to issues of *identity*, in the sense of the preservation and protection of core cultural-religious beliefs and practices, it is plausible to argue that Muslims fare reasonably well in contemporary India: indeed, some would suggest that in allowing Muslims to maintain adherence to personal, sharia-based laws and practices the Indian state has gone beyond the demands of 'reasonable accommodation', in the process contravening—in the spirit if not the letter—the Constitution's espousal of a uniform personal law/code.

With respect to Muslim *security concerns*, however, the picture is a good deal less rosy. Justice and accountability are perceived as having been seriously undermined by developments over the last two decades, in particular the 2002 Gujarat anti-Muslim pogroms in which there is clear evidence of direct official complicity, a command and control role stretching up to the highest levels of state authority and—perhaps most worryingly—a prevailing culture of impunity with respect to those implicated in directing and organizing the killings.[62]

Addressing this key area of concern through the creation of *new legal minority rights protection mechanisms*, it is suggested, is thus a key objective of the new Anti-Communal Violence Bill.[63] And not without reason: as an expert Muslim interviewee argued, issues relating to personal security are the key ones to address first—not least because, on this view, 'it will not be possible to fight terrorism unless communalism and the insecurities it brings for minorities are combatted with equal vigour'.[64]

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56 The use of nationalist 'Mother India'-type slogans by Ana Hazare's burgeoning anti-corruption movement, which has the potential to alienate both Muslims and Christians, was cited as evidence of the way *Hindutva*-based majoritarianism is continuing to gain ground in Indian politics. Op. cit., n54.

57 Interview with Kamal Mitra Chenoy and Anudhara Mitra Chenoy, Delhi, 29 August 2011. In this context it was also suggested that the Sikh movement agitating for the establishment of an independent Sikh homeland in the Punjab—known as *Khalistan*—that emerged in the 1980s had significant parallels with the situation in Kashmir.

58 Op. cit., n42.

59 Interview with Javed Anand, Mumbai, 2 September 2011.

60 Interview with Zoya Hasan, Delhi, 31 August 2001. Less clearly guaranteed in the Constitution, but generally applied in practice, are Muslim rights to personal law pertaining, for example, to marriage, divorce and property inheritance matters based on sharia law principles.

61 An exception is Hash Mander, a National Advisory Council member and former senior civil servant who resigned in protest of the 2002 Gujarat massacres. His recent study of the government's response to the 2006 Sachar Report calls for, among other things, targeted Muslim reservations.

62 This is the main reason why the draft Anti-Communal Violence Bill looks set to introduce the notion of 'breach of command responsibility' as a severely punishable offence on the part of higher state officials implicated in such events.

63 Interview with Hash Mander, Delhi, 30 August 2011. See also Harsh Mander (note 59) above.

64 Op. cit., n59.

On issues of *equity*, one of the central aims of the 2006 Sachar Report was to formulate practical proposals to remedy the combination of discrimination and declining socio-economic circumstances identified by the Report as characterizing the position of the majority of Indian Muslims. In response to such proposals, the BJP tends to argue that the ruling Congress Party is intent on 'appeasing' minority Muslim concerns. As the same interviewee cited above put it, however, 'most Muslims' position in Indian society today remains as disadvantaged as the most backward castes—hardly a case of appeasement'.[65]

In overall terms, whether in relation to their lack of political representation, access to basic goods and services or socio-economic conditions, issues of equity appear to be the area where the situation of Muslims requires the most urgent attention in India today. And as one interviewee also noted in this respect, 'a large minority that feels itself to be unjustly treated is definitely not good news in a democracy'.[66]

What is the remedy in this context? Needless to say, opinions among those interviewed on this central issue varied widely. Some urged the creation of a UK-style Equal Opportunities Commission[67] with a robust official mandate to promote equality through, as one interviewee put it, 'whatever legal means it deems necessary and appropriate to the purpose'.[68] Others—a clear but vocal minority—espoused the idea of *targeted Muslim reservations*.

A number of arguments are advanced in opposition to the idea of Muslim reservations. First, empirical evidence regarding the effect of reservations for STs, SCs and OBCs suggests that by and large such policies miss their main intended target. In particular, in the context of India's dominant caste structure, it is suggested, reservations benefit higher caste groups that can capitalize on their existing advantages to benefit from them, for example, in the sphere of government employment, educational access and all-round professional and economic advancement.

More broadly, many experts oppose Muslim reservations principally due to concerns about their potentially divisive impact, and more specifically the backlash they fear the introduction of such measures would provoke amongst the country's majority Hindu population. To quote one interviewee, the idea is simply 'too dangerous to be worth introducing'.[69] Given this set of concerns, those who recognize the need for substantive measures to improve the socio-economic conditions of Indian Muslims tend to favour either indirect or more specific 'targeted' measures—or indeed a combination of the two—intended to advance this goal.

Pointing to mounting evidence of the varied effects of existing reservation policies on their intended beneficiaries, for example, some interviewees argued that the best strategy for improving the situation of Muslims would be to use clear data regarding the specifically disadvantaged and/or discriminated-against segments of the community as the basis for *targeted socio-economic interventions* in their favour.[70]

For a country where religion plays a role that is both central and highly public, it may seem curious that India's founding Constitution defines it as a *secular democracy*. Within the country, however, secularism is widely perceived as a cornerstone of how—even why—democracy functions in India in practice.

As one interviewee noted, in the intense political debates of the immediate pre-independence period, it was deeply religious leaders such as Ghandi and Nehru who fought to have secularism enshrined in a new Constitution, while those who opposed the idea were by and large non- or anti-religious in their personal convictions.[71] A number of interviewees suggested that the explanation for this lies chiefly in the specific character and approach to secularism embedded in the Indian Constitution, an approach that has its roots in the country's millennia of experience with managing and accommodating religious diversity.[72]

Simply put, the Indian approach to secularism starts from the proposition that religion is central to the life of the majority of the country's citizens. Accordingly, the state's role is viewed as being not to keep religion

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65 *Ibid.*

66 Interview with Yogendra Yadav, Delhi, 2 September 2011.

67 Somewhat ironically in this context the UK Equal Opportunities Commission, established in 1975, was disbanded in October 2007 following its incorporation into a new official body known as the *Equality and Human Rights Commission*.

68 Op. cit., n59.

69 Interview with Gurpreet Mahajan, Delhi, 1 September 2011.

70 Op. cit., n51, 60.

71 Hash Mander (see note 63).

72 For a deeper critical account of the 'Indian model of secularism', see Rajeev Bhargava's extensive writings on the subject, e.g., *The Promise of India's Secular Democracy* (Oxford University Press, 2010).

as far out of the public domain as possible—as is generally the case in secular Western democracies—but rather to provide *a clear set of rules governing the state's engagement with all religions, inter alia* with a view to promoting mutual tolerance and respect and ensuring equality of treatment between the country's different religions.

With respect to the *representation and participation of minorities*, a number of interviewees highlighted the role of *panchayati raj* local governance structures.[73] Part of the system of local government that existed in India long before the establishment of formal democracy, the inclusive nature of these structures provides an important channel for minority participation in local-level decision-making processes, demonstrating the extent to which, as one interviewee put it, 'inclusiveness is part of the Indian mind-set'.

Additionally, it was suggested that emphasizing the identified needs of the community in selecting local *panchayat* members puts this structure at the opposite end of the spectrum from formal national and provincial electoral processes, where 'dividing people' and 'money and greed' are increasingly viewed as dominant.

The *panchayat* system's rootedness in customary structures, it was suggested, points to a further Indian lesson learned with a wider potential application, namely that it is vital to use and adapt prevailing customary structures as the basis underpinning society's democratic governance structures. As one interviewee expressed it: 'Unless you identify and adapt customary structures within your democratic framework, in many countries the enterprise will simply fail.'[74]

Lessons learned

Positive role of Indian secularism in promoting religious equality

1. India's post-independence experiment with *promoting a secular state in conditions of majority religiosity* suggests that, appropriately conceived, secularism is a critical and potentially effective tool for managing relations between majority and minority religious communities—all the more so if the government both insists on secularism in theory and applies it even-handedly in practice. Secularism, as understood by the majority in India, implies not an attempt to keep religion as far out of the public domain as possible, but rather a set of norms regulating the state's relationship to religious groups that aims to ensure that all religions are accorded equal public status and respect.

Crucially, it also *licenses the state to intervene whenever and wherever minority*—and indeed majority—*religious groups are subject to discrimination or ill treatment*: in other words, to prevent not only society's domination by a particular religion, but also—and equally importantly in the Indian context—a majority religion's domination of other minority religious groups.[75]

Role of the state vis à vis majority and minority rights

2. *'Minority rights are more important than majority rights.'* One interviewee argued cogently for this perspective based on a comparison of India and neighbouring Sri Lanka.[76] Ever since achieving independence from Britain,[77] the Sri Lankan state has consistently argued that undue concessions to minorities—in this case the island's Tamil population—lead to secessionism, which is why it opposes a federal setup and has instead opted to maintain a unitary state. In reality, however, Sri Lanka's approach to minorities has resulted in a destructive, decades-long civil war—something that it could have avoided, it was argued, if it had opted for the federal approach adopted by the Indian state after independence.

There is indeed a striking parallel here. Both countries entered the independence era with significant Tamil populations: while the Sri Lankan Tamils initially

73 A political structure found across South Asia. Traditionally the *panchayats*—literally an assembly (*ayat*) of five (*panch*) respected elders chosen by the local community—settled village disputes. Over the last 20 years, India has progressively decentralized a number of administrative functions to the local level, in the process empowering elected *gram panchayats*—not to be confused with the unelected *khap* (i.e., caste-based) panchayats found in some parts of India—to assume a prominent role in democratic governance.

74 Interview with Peter deSouza, Delhi, 3 September 2011.

75 In other words what Rajeev Bhargarva (see note 72 above) defines as *'intra-religious domination'*.

76 Op. cit., n57.

77 In February 1948, i.e., approximately six months after India.

couched their demands in moderate, non-secessionist terms, the Tamil political elite of Madras State (today's Tamil Nadu) were at first heavily inclined to seek independence from the newly-created Indian state.

With the combination of a devolved federal governance structure, full recognition of Tamil as an official state language and other accommodating gestures initiated by the Indian government, however, over time demands for independence waned, with the result that today Tamil Nadu is generally viewed as an integral part of the Indian polity.

In Sri Lanka, however, the opposite occurred. Decades of structural discrimination against Tamils, and a pervasive majoritarian political culture combined with official intransigence in the face of moderate demands for cultural-linguistic recognition backed by a form of regional administrative autonomy succeeded in radicalizing Tamil opinion, thereby creating the conditions for the emergence of the militantly pro-independence Liberation Tigers of Tamil Eelam, and from 1983 onwards, a bloody and hugely destructive civil war.

This example underscores the fact that *state policies with respect to minorities have the potential to either make or break the contours of the democratic polity—for minority and majority populations alike*. As one interviewee put it: 'Indian experience shows that if you allow prevailing diversities to enter through the front door of democracy and give them a legitimate place in politics, their creative energies can be harnessed and channelled to deepen your democracy.'[78]

In this context, moreover, it can be argued that it is vital to keep reminding politicians that, as one expert expressed it, 'the opposite of what many are afraid of is in fact true: strengthening minority rights means deepening, not weakening, democracy'.[79]

3. Current debates in India over the Anti-Communal Violence Bill point to an important lesson with wider potential relevance and application concerning the *overall role of state intervention in protecting and promoting minority rights*.

- India's experience strongly suggests that a *core of constitutionally entrenched measures* both recognizing minorities' existence and attempting to address the key structural disadvantages they experience is both vital to and effective in promoting their well-being and inclusion. The contrast with Sri Lanka's approach—and, most importantly, experience—discussed above makes the point tellingly.
- India's experience also points to the *limits of state intervention* in this domain. However much one might wish it to be otherwise, the simple fact is that a country cannot legislate anti-minority prejudice and discrimination out of existence. To be truly effective, legislative and other state interventions to help minorities need to be underpinned by, among other things, a broad-based programme of advocacy and education in favour of the fundamental democratic principles of tolerance and inclusion. In this context, moreover, civil society, no less than the state, has a critical role to play. Here, as in other critical areas of public life, the state can enable, but not dictate, the process of entrenching core democratic principles and practices.
- India's experience indicates a further fundamental issue for all minority rights regimes, namely whether those rights are best advanced on the basis of guarantees of equal, *individual citizenship* or collectively, based on *'group rights'*. India's current dilemmas in this respect are encapsulated in debates over the Anti-Communal Violence Bill, implementation of the Sachar Report's recommendations—specifically, the notion of Muslim reservations.
- In policy terms, a way through the classic 'individual vs. group' rights dilemma encapsulated in the 'Muslim reservations' debate is suggested by the idea of *targeted, regularly reappraised socio-economic interventions based on identified needs and structural disadvantages as opposed to group identity*. A notable advantage of this approach, moreover, is that it builds on broader lessons learned with respect to the impact of reservations, in particular empirical evidence that a small, largely caste-based 'creamy layer' has generally benefited from their practical application to date.

Democracy—diversity linkages

4. India's experience with minority rights protection regimes highlights the *fundamental linkages between democracy and diversity*. Contrary to the realist assumptions prevalent in much mainstream political thinking, safeguarding minority rights and managing diversities are not 'soft' issues or optional, liberal 'extras': they are critical to democracy's functioning

78 Yogendra Yadav (see note 66).

79 Interview with Dr. Naresh C. Saxena, Delhi, 31 August 2011.

and, in many contexts, to its long-term sustainability. Moreover, respect for minority rights is not only essential for minorities themselves; as the contrasting examples of India and Sri Lanka graphically illustrate, moving this respect into the political mainstream is critical both to majority prosperity and to overall democratic advance.

5. India's experience with the *panchayati raj* system points to an important lesson with regard to the relationship between the 'modern' and the 'customary' in democratization processes. Specifically, when designing reforms aimed at enhancing local-level democracy, India's experience suggests that it is vital both to pay attention to and (where possible and appropriate) *adopt governance policies and frameworks that are rooted in, or otherwise incorporate, already existing customary governance structures and processes*. One interviewee expressed the point acutely: 'Unless you identify and adapt customary structures within your democratic framework, in many countries the enterprise will simply fail.'[80]

80 Peter deSouza (see note 74).

81 A commonly used term that refers collectively to the significant majority of indigenous Canadian peoples who are neither Méti nor Inuit. Formally speaking, it is also used to identify peoples that are members of the 'Assembly of First Nations', an organization initially established to ensure indigenous representation in constitutional negotiations with the federal government that took place in the 1980s and maintained thereafter as a formal representative political structure.

82 Descendants of the mixed-race marriages between First Nation peoples and Europeans—in this instance, principally French citizens—that became an important feature of North American society in the aftermath of the first major waves of settler arrivals during the 17th century.

83 The smallest of Canada's Aboriginal population groups. Believed to have originated in western Alaska, from where they gradually spread across the Arctic region, within today's Canada the Inuit principally inhabit the country's Northern provinces, notably Nunavut.

Canada

Framework

As a political entity, Canada is in important respects defined by prevailing issues and challenges of diversity. Today's Canada is the inheritor state of the British-ruled federal dominion established in 1867 on territory long inhabited by indigenous 'First Nation' and other Aboriginal peoples prior to the arrival of the first English and French settlers in the late 1400s.

The foundations of the modern Canadian state rest, in turn, on what for all its continuing challenges nonetheless represents an inspiring example of negotiated accommodation between the country's majority English and minority French native speakers. Finally, the social contours of contemporary Canada—and indeed, some would argue, the core components of its emerging national identity—are shaped by a programme of continuing and large-scale immigration conducted within an official policy framework of explicitly multiculturalist principles, and underpinned by a resolute and far-sighted approach to promoting social integration and cohesion.

With respect to the issues of minority rights, protection and accommodation that provide the focus of this paper, Canada is thus a country with both considerable relevant experience and serves (potentially) as the locus of important lessons learned with respect to successful—and unsuccessful—strategies for addressing them.

Challenges

Aboriginal peoples

The prevailing diversity of Canada's population includes a significant set of indigenous peoples—conventionally referred to as Aboriginals—that together make up approximately 3.8 per cent of the total population. They consist of three distinct groups: the *First Nations,*[81] *Métis*[82] and *Inuits.*[83]

In an effort to promote self-government among Aboriginal peoples as well as enhance sharing of the country's natural resources, since the 1870s the Canadian state has progressively entered into a complex array of differentiated agreements and treaties with individual tribes. Today these treaties are administered under Canadian Aboriginal law, and their implementation is overseen by a dedicated ministry operating under the Minister of Indian Affairs and Northern Development.[84]

Despite all the affirmative action-directed efforts initiated to date, however, overall indicators suggest that First Nations and other Aboriginal populations continue to struggle within Canadian society, not least with respect to issues of social accommodation and overall socio-economic conditions.

The challenges involved in this context were characterized by expert interviewees as both considerable and complex. In overall terms, the basic challenge was described by one federal official as being 'how to reconcile the fact of Aboriginal rights with the fact of the Canadian state's existence',[85] notably with respect to land rights, where negotiations regarding access and ownership remain unresolved in provinces such as British Columbia.

More particularly, the *heterogeneity of Aboriginal populations* presents enormous obstacles to enlarging and entrenching the scope of self-government within their communities. Alongside large-scale and well-organized landholding groups there are also plenty of small tribes (sometimes numbering under 1,000) that, it was suggested, are simply too small for self-government to work in practice.[86] Overall, tribes are neither united nor homogenous units.

Tribal social and economic conditions also vary tremendously. While the populations of larger reserves—typically those located close to the big cities—often fare reasonably well in terms of socio-economic indicators (living standards, health, education, economic advancement and so on), all too often the situation in the smaller tribal settlements is the complete opposite—'totally dysfunctional', as one expert pithily described it.[87]

In addition, the legal framework for Aboriginal territories painstakingly developed by federal authorities over the last few decades is predicated on the assumption that First Nation populations essentially live on the reserves. As a result of increasing urbanization, however, it is estimated that approximately half of Canada's Aboriginal population now lives in cities.[88] The existing governance framework, it is argued, has little, if anything, to say regarding their position.

More broadly, one interviewee suggested that the assumption that self-government is the best governance solution for tribal populations in general, and the inhabitants of the reserves in particular, needs to be scrutinized more closely. In situations where the capacity for self-government does not appear to exist, moreover, it was argued that it may be worth exploring more flexible solutions such as what was described as 'aggregated self-government'.[89]

On a more optimistic note, some interviewees pointed to tangible signs of progress in, for example, the educational sphere. The number of First Nation and other Aboriginal peoples completing higher education and university has increased significantly over the last few decades, with a high preponderance—conceivably too many—opting to go into law. This development is important, it was suggested, because an expanding group of young, articulate and aspirational Aboriginals is being created in the process—a group that constitutes an emerging base of potential future community leadership at both the local and national levels.[90]

At the same time, it was pointed out that the number of young Aboriginals bitterly frustrated by their situation is on the increase, a concern compounded by the fact that in many Aboriginal communities—notably the Mohawk bands—guns are plentifully available.

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84 According to estimates provided by Aboriginal and Northern Affairs Department Canada (AANDC), over 80 per cent of land claimed by Aboriginal populations is now covered by some form of treaty with federal and/or provincial governments.

85 Interview with Francois Beauregard, AANDC, Ottawa, 19 September 2011.

86 Interview with Will Kymlicka, Queen's University, Kingston, 20 September 2011.

87 *Will Kymlicka (note 86)Ibid.*

88 Often in informal ghettos that are characterized by high incidences of gang-related violence.

89 Will Kymlicka (note 86).

90 Will Kymlicka (note 86). Whether they eventually opt to assume that role remains to be seen, of course. The example of India's emerging middle class and their palpable lack of interest in community-based issues and political affairs in general is worth noting in this context.

While the Canadian state's response to the need to enhance Aboriginal land and governance rights and address the poor socio-economic conditions that prevail among the majority of indigenous communities has generally been both positive and committed, the combination of mounting youth frustration and easy access to weapons led one interviewee to suggest that there is a clear potential for future repeats of the 1980 Oka Crisis.[91]

The language divide

Since 1969 Canada has officially been a bilingual state in which English and French enjoy equal federal-level status.[92] This is a good deal more than a symbolic gesture. As a consequence of official bilingualism, for example, citizens enjoy the right, where there is sufficient local demand, to receive all federal government services in English or French. In addition, official linguistic minorities are guaranteed the right of access to their own language schools throughout the country.

Current figures put the percentage of the population that identifies English as their first language at just under 60 per cent, with French at around 23 per cent. The only officially bilingual province is New Brunswick, home to an Acadian[93] French-speaking minority that makes up around one-third of the population. New Brunswick aside, the only regions of the country that are considered genuinely bilingual are parts of Québec and the metropolitan district of Ottawa. Additionally, a 1977 provincial charter makes French the official language of Québec. Interestingly, the definition of who is considered francophone has shifted in recent years to include, for example, French-speaking West African immigrants.

Generally speaking, the view expressed by interviewees on both sides of the English-French linguistic divide was that the federal government has worked very hard—and with some success—both to promote official bilingualism in general, and to accommodate Québec's demands for greater linguistic and political autonomy in particular.

For example, since the mid-1960s Québec has had its own immigration policy, and there are flexible local provisions with respect to, for example, education and healthcare services. Significantly, the overall outcome of this accommodating approach appears to be that separatism has slowly but surely lost popular support since the high watermark of pro-independence agitation during the latter decades of the 20th century.[94]

Despite official policies intended to promote substantive bilingual accommodation across the country, one expert noted that relations between the two language communities remain characterized by what was described as 'Fundamentally low tolerance in both directions. The prevailing attitude on both sides is still very much "don't try and impose your language on us."'[95]

In overall terms, moreover, it was argued that the successes achieved by bilingual policies ultimately come down to the fact that official rights-based discourse has been backed by the provision of language-determined basic services such as health and education in areas where there is a significant French-speaking population.[96] In addition, it was noted that in demographic terms French is on the way to losing both its position as the country's second biggest language and—perhaps most worryingly for native French speakers—its hold as the mother tongue of those born into French-speaking communities.[97]

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91 Will Kymlicka (note 86). This was a land dispute between a group of Mohawk tribespeople and local Québec town authorities that lasted 3 months (July-September 1990), which left at least one person dead. The dispute was the first high-visibility violent conflict between First Nations and the Canadian government of the late 20th century.

92 Additionally, eight Aboriginal languages, including Inuit Inuktitut and First Nation Cree, are officially recognized as 'regional languages'.

93 Acadians (*Acadiens* in French) are descendants of 17th-century French settlers who initially established themselves in 'Acadia', located in the modern provinces of Nova Scotia, New Brunswick and Prince Edward Island, as well as part of Québec.

94 Interview with Pierre Foucher, Ottawa University, 22 September 2011. From 1970 onwards, the radical *Front de liberation du Québec* pushed the issue of Québec sovereignty onto the centre stage of the national debate. A first, unsuccessful referendum on sovereignty was held in 1980. Following successive attempts to find an overall constitutional formula that would accommodate Québec nationalism—a process culminating in the (ultimately failed) *1987 Meech Lake Accord*—a second referendum on sovereignty was held in 1995. Although the margin of rejection was much narrower this time—50.6 against to, 49.4 per cent for—the defeat effectively spelled the end of concerted attempts by Québec political forces to push the issue forward at the national level.

95 Interview with Charles Cloutier, Forum of Federations, Ottawa, 19 September 2011.

96 Interview with Dr. Elke Winter, Ottawa, 21 September 2011.

97 Op. cit., n94.

The seemingly inexorable advance of English as the global language of communication, combined with the rising importance of other minority languages—Cantonese and Hindi in particular—due to immigration trends mean that overall, as one interviewee noted, 'the English-French linguistic divide that has been central to our modern history looks set to become far less of an issue within 3-4 generations.'[98]

Immigration and integration

In an important sense, contemporary Canadian society is both defined, and defines itself, with reference to prevailing human diversities. Based on current immigration and refugee policies, for example, current projections suggest that by 2031 Canada's Muslim minority will have increased exponentially to anything from 7-14 per cent of the total population. Within two decades, one in three workers will come from what in Canada are widely termed 'visible minorities', and/or will have been born outside the country (currently the figure is around 20 per cent of the population).[99]

In comparative international terms, Canada is doing quite well with respect to the integration of immigrants. That said, there is no lack of challenges facing the country in this area. For all the official rhetoric of aiming to attract qualified, capable migrants to the country, for example, evidence of low levels of economic integration—or to put it more directly, poor relative economic outcomes for immigrants—are visible in all areas of life. In this respect the major challenge, as one interviewee put it, is 'simply jobs, jobs, jobs'.[100]

The current government has emphasized bringing 'temporary migrant workers' (TMWs) into the country—in fact TMWs currently outnumber regular migrants in terms of new arrivals in Canada. As one expert noted, the broader context of this development is that while there is a mounting backlog of applicants for permanent residence, Canadian companies need workers 'today if not yesterday, and TMWs is a way of getting them into the country faster and more cheaply'. As was also pointed out, however, for Canada admitting significant numbers of TMWs is very much 'uncharted territory'.[101]

In this context there will also 'almost certainly be pressure to allow [TMWs] to stay in the country—at least as far as skilled workers are concerned. Eventually they will probably be given a 'fast track' to citizenship.' For unskilled workers, however, it was suggested that 'the story is likely to be rather different'. For skilled and unskilled TMWs alike, however, it is important to pay attention to and legislate for their overall rights, especially in the employment sphere.[102]

At the same time, it is becoming clear that at least for second-generation immigrants, education makes a critical difference to their prospects. For first-generation migrants, however, the challenges in this respect remain real. Several expert interviewees expressed concern about this issue. Under the current government, federal funding is being moved away from social support programmes that are targeted, for example, at promoting immigrants' economic integration. With officially sponsored immigration levels likely to remain constant for the foreseeable future, it was argued, such moves represent a short-sighted approach to the challenges involved in advancing social and economic cohesion within Canadian society.[103]

More broadly, Canada's immigration system is highly—and explicitly—selective. Simply stated, it aims to attract the 'best' (i.e., the most qualified) immigrants. Is this morally acceptable? The prevailing lack of domestic debate on this and related issues is striking. In terms of policy coherence, for example, with respect to immigration Canada appears to be trying to attract what one interviewee described as 'the best of the best', while simultaneously pursuing development assistance policies that emphasize helping people to stay in their country of origin and build their own—and the country's—livelihoods and capacities.[104]

98 Op. cit., n95.

99 Interview with Ümit Kiziltan, Ottawa, 19 September 2011.

100 Interview with Katherine Hewson, Ontario Citizenship and Immigration Ministry, Kingston, 20 September 2011.

101 Though not, it is worth noting, in West Asia-North Africa region countries ranging from the Gulf States to Libya. The existence of a large 'temporary' foreign workforce in Libya was brought to the forefront of international attention in the context of the violent upheavals that culminated in the final dismantling of Colonel Gadhafi's dictatorial 42-year-long regime in October 2011.

102 Will Kymlicka (note 86).

103 Interview with Mona Marshy, Metropolis, 20 September 2011.

104 Op. cit., n99.

With respect to *minority integration/accommodation into broader society*, in addition to a certain amount of official statistical evidence[105] suggesting that there has been an explosion of ethnic neighbourhoods in Canadian cities over recent years, concerns about the creation of minority 'silos' are voiced in some quarters. Such concerns, however, were forcibly dismissed by one expert. 'The real issues Canadians should be worrying about', it was suggested, 'are social isolation and poverty among minorities'.

In this context, moreover, it was argued that '"neighbourhood concentration" is a useless measure to privilege. The evidence indicates that the most ethnically concentrated minorities, such as the Chinese and Jews, are among the most economically successful.'[106] By the same token, the Afro-Caribbean community, which is among the most geographically dispersed, is also one of the minorities that consistently fares worst in the overall socio-economic statistics.

With respect to overall issues of integration, it was suggested that as Canada's social diversity increases there is a paramount need to pay attention to whether new arrivals are truly integrating into society. While the risk of isolated 'parallel communities' may be real, it was argued that an appropriate time perspective is needed in this respect. Experience in Canada and other comparable countries indicates that the process of integration may take a few generations to truly take root. At the same time, it is also important to pay attention to whether communities—majorities and minorities alike—are really talking to each other, for example through forums such as community-based interfaith dialogues.[107]

It is worth noting that in the context of the strengthened autonomy provisions it enjoys, over the last few decades *Québec* has pursued its own *distinctive approach to immigration*. Since the 1970s, moreover, in tandem with a rise in independence-directed sentiment, it was suggested that the provincial Québec government has used immigration policy more or less explicitly as a tool for 'localized nation-building'.[108]

To this end provincial immigration policy has been based on two tenets: encouraging migrants to stay in Québec, and to identify themselves first and foremost as *Québécois* rather than as Canadians. In general terms the approach has proved quite successful, and is indeed increasingly imitated by other provinces. This constitutes a significant reversal of previous thinking, in which immigration was viewed in Québec as a 'Trojan Horse' for enhancing English-speaking dominance of the country.

Up until the mid-2000s, Québec's approach to immigration appeared to be reasonably successful. Seemingly out of nowhere, however, and on the back of frenzied media coverage of the subject, emerged what is known as the 'Reasonable Accommodation' crisis. Responding to the perceived crisis of accommodation, the officially commissioned 2008 Buchard-Taylor report[109] examines a series of local Québec controversies, described by one expert interviewee as 'basically mini-events that were whipped up by media frenzy'.[110] As one commentator described it, the critical question for Québec here revolved around the issue of whether it had 'gone too far in accommodating immigrants'.

By way of example, the report examines the case of a Jewish day care in Montréal located near a women's fitness club that asked for glazing to be placed on the club's windows. One expert commentator suggested that the underlying issue here is that, while the rest of Canada is espousing multiculturalism, Québec wants to adopt a more French secular republican approach to issues of minority accommodation.

Indeed, in response to the Reasonable Accommodation crisis Québec sought to explain its approach as one based on what was dubbed 'inter-culturalism' or 'open secularism', defined as an 'interim approach' between Canadian-style multiculturalism and French secular republicanism, whereby the state remains rigorously secular, but citizens are free to express their religiosity in public life.

For all the hype, the question posed by one interviewee—'what, except for the name, is the real difference between 'inter-culturalism' and official

105 As provided by the official national agency Statistics Canada.

106 Will Kymlicka (note 86).

107 Op. cit., n99.

108 Will Kymlicka (see note 86).

109 The Buchard-Taylor report was commissioned in 2007 by Québec Premier Jean Charest. The authors are both professors and noted scholars: Charles Taylor is a well-known federalist philosopher, Gérard Bouchard an eminent historian and sociologist. An abridged version of the report is available at: http://www.accomodements.qc.ca

110 Will Kymlicka (note 86).

Canadian multiculturalism?'[111] seems apposite. In practice, moreover, Québec's policies in this area appear to have changed little since the Reasonable Accommodation furore, even if the overall effect of the crisis may, as one interviewee noted, have been to give immigrants reason to wonder whether they are truly welcome in the province.

Identity and multiculturalism

A number of interviewees suggested that in their own peculiar way, the multiculturalist policies promoted by the federal government over the last few decades have served as an implicit tool of nation-building and the accompanying assertion of a specifically Canadian identity. Up until the 1960s, it was suggested by one interviewee, majority English-speaking Canada largely viewed itself as 'a bastion of Britishness'. By this stage, however, Britishness had come to be viewed by many—not unreasonably, perhaps—as a 'dead-end of deferential conservatism'.

Given the perceived existential Canadian necessity not to be identified as 'Americans', a new basis for national identity was needed. Almost coincidentally, it is argued, the civil rights revolutions of the 1960s combined with the challenges of bilingualism and multiculturalism fomenting within Canadian society to form a new, progressive basis for the (re)construction and assertion of national identity. Increasingly, so the argument goes, multiculturalist policies have thus come to be viewed not just as a set of necessary concessions to prevailing social realities, but rather as a conscious assertion of 'who we Canadians are'.

There is clear evidence, it is claimed, that this new national identity construct has taken firm root within society. Whereas older Canadians may continue to view multiculturalist-inspired accommodations of minorities as an unwelcome constraint, younger generations have embraced prevailing social diversities as a living expression of 'who we really are'. Equally importantly, it is suggested, contemporary immigrants to Canada are in general acutely aware of this fact. As a result there is, as one interviewee described it, a 'strong prevailing norm against questioning "Canadian-ness": criticizing this understanding of national identity is to implicitly go against the social contract'.[112]

At the same time it was pointed out that, notwithstanding the existence of a clear mainstream political consensus in favour of policies aimed at enhancing social integration and inclusion, at the popular level there is still significant opposition to any suggestion of, for example, immigrants and minority communities receiving 'special treatment'.

As one interviewee explained, 'There is an assumption of consensus in this area. But within "older" immigrant communities, for example, you can hear strong opposition to bringing in any special measures for new arrivals, their argument being "We didn't get such help, so why should they"?' More broadly, it was suggested that strains of xenophobia and racism continue to lurk beneath the surface of Canadian society.

As the same interviewee put it, 'The unspoken issue here is not immigration but race. Canadians are very uncomfortable talking about race, and generally do not make the connection between the treatment of immigrants and, for example, the historical experience of First Nations.'[113]

LESSONS LEARNED

1. Linguistic-cultural accommodation

- Over the last few decades the federal government's efforts in this area have chiefly been characterized by strenuous efforts to promote official bilingualism combined with concerted efforts to accommodate Québec's demands for greater linguistic and political autonomy. A significant outcome of this approach seems to have been a *marked decline in the appeal of separatist political platforms within Québec*. This experience may contain some important lessons for other countries—in the MENA region and elsewhere—that are confronted with geographic regions and/or ethno-linguistic minorities demanding greater autonomy, sovereignty or outright independence from the central authorities.
- The successes of the bilingual policies pursued by Canadian federal authorities over the last few decades can be substantially attributed to the fact that official rights-based pronouncements have been anchored in *the allocation of sufficient official*

111 Will Kymlicka *(ibid)*.

112 All the above quotations are from Will Kymlicka (see note 86). He also pointed out that the same cannot be said for the country's Aboriginal population, whose perceived stake in, and corresponding sense of ownership of, official multiculturalism is (for obvious reasons) in general significantly lower.

113 Interview with Debbie Douglas, Ontario Council of Agencies Serving Immigrants, Toronto, 24 September 2011.

resources to support the provision of language-determined basic services such as health and education in areas where the population profile indicates this would be appropriate.

2. Multiculturalism and national identity

- The Canadian experience demonstrates the clear advantages—as well as the challenges—of *entrenching multiculturalism as an official state policy* and an overall approach to regulating majority-minority relations. In particular, codifying multiculturalism in a constitution ensures that the basic approach to protecting minority rights as well as promoting minorities' participation and representation in political life is not subject to the ideological whims of the dominant political forces of the day. More specifically, Canadian experience in this respect suggests that the best approach is, as one interviewee put it, to *'institutionalize the overall policy approach without prescribing the details of how to realize it in practice'*.[114]
- In addition, Canada's experience of multiculturalism suggests that if the broad-based political will to do so exists, over time it is possible for a society to *incorporate deep principles of tolerance and accommodation*, as well as societal policies based on them, into *the prevailing sense of national identity*. Preconditions for achieving this goal include not only strong political will but also, and most critically, a sustained willingness to match policies with the resources necessary to support their implementation.

3. Integration

Canada's experience with respect to its long-term efforts to integrate new—and old—minority communities into broader society points to a number of important lessons with wider potential application:

- It is vital that *overall official integration policies are complemented by strategies—and related resources—specifically aimed at the social and economic empowerment of minorities*. As one interviewee expressed it, 'multiculturalism can't just be a word. To work it needs to be backed by concrete programmes and resources'.[115] As well as providing a powerful way of helping to prevent the emergence of ethnic underclasses, such economic empowerment strategies can also be an effective means of combatting the rise of racially- and religiously-based extremisms.
- For integration policies to be truly effective, in tandem with the allocation of appropriate resources they also need to *involve a wide range of actors drawn from all levels of society*. It is vital, in other words, to ensure that integration policies acquire genuine grounding in prevailing social attitudes and behaviours. Failure to pay adequate attention to this critical aspect of an effective minority integration strategy carries with it the risk of creating the conditions for an eventual social backlash, especially if overall economic conditions within society deteriorate.
- It is critical to give minorities a *clear voice in decision-making processes* relating to the full range of policy issues that most affect them in practical terms: what one interviewee described as 'giving the officially expressed "will to accommodate" a real, tangible expression'.[116]

4. Indigenous/Aboriginal communities

- In Canada as in other countries, state policy with respect to indigenous populations has long been predicated on the assumption that *according communities greater self-determination will lead to improvements in their overall position within society*. Canada's experience to date in this area, however, suggests that in reality the picture may be rather more complicated. In conditions where either the size or prevailing capacities of indigenous communities are such that self-government does not appear to be a functioning option, new thinking and approaches may be needed. The idea of *'aggregated self-government'* covering designated groups of communities is one useful example in this respect.
- In addition, Canada's experience may point to the need for *longer-term perspectives on the impact of policies intended to enhance the self-government capacities of particular minority communities*. With respect to both the performance and outcomes of enhanced self-government, in other words, it may take one or more generations before resulting improvements become truly discernible.

114 Interview with Dan Hughes, AANDC, Ottawa, 21 September 2011.

115 Or as another interviewee put it somewhat more trenchantly, 'dedicated resources that aren't subject to the whim of whichever government is currently in power'. Op. cit., n113.

116 Interview with Alejandro Bravo, Maytree Foundation, Toronto, 25 September 2011.

5. Immigration

- While it is clear that in seeking to attract skilled labour Canada's unabashedly *selective approach to immigration* both makes the integration of migrants easier and stands to benefit the country economically, this approach nonetheless raises a number of *ethical issues and practical policy contradictions* that to date appear to remain under-debated and inadequately explored within Canadian society. How acceptable is it, from the viewpoint of human rights and other normative international standards, to pursue immigration policies that some liken to an advanced form of Darwinian selectionism? And how coherent or *consistent* are they, for example, with *development assistance policies that emphasize building and sustaining local human capacities in countries of the global South?*
- While such issues may appear to be something of a luxury item from the point of view of newly democratizing MENA region countries, they do nonetheless point to some fundamental issues with which all open societies of our increasingly globalized planet potentially have to contend. Canada's emphasis on immigration as a vital means of enhancing its competitiveness in the global economy would doubtless be echoed by political leaderships in many countries.[117] However, it remains essential for countries considering the adoption of such 'focused' immigration policies to give due consideration to their broader potential impacts, not least on the countries from which they seek to recruit migrant workers.

117 Not least in many countries of the global 'North' confronted with demographic trends that effectively compel them to consider how best to attract foreign workers, in particular those with vital skills that are in short supply among the domestic population.

South Africa

Framework

The rights-based 1994 Constitution of South Africa—the 'Rainbow Nation', as the country proudly proclaimed itself following the end of the apartheid regime—is widely viewed as a model framework for accommodating and promoting human diversity and, more specifically, the rights of minorities, within a democratic polity.

Both domestically and internationally, the inspirational impact of this emancipatory, democratic vision remains palpable. At the same time South Africa, no less than other transitional democratic countries, continues to confront a range of critical challenges, a number of which are located in the broad sphere of majority-minority relations, as they continue to unfold within the emerging post-apartheid compact.

Challenges

Minorities and Black Economic Empowerment (BEE)[118]

Of the countries visited while researching this paper, South Africa is one where, to an even greater extent than in Indonesia, internationally accepted discourse regarding minorities is most commonly viewed as problematic. In South Africa's case, moreover, it is not difficult to understand why this should be the case. With its emphasis on categorizing and segregating people on the basis of their membership of artificially-constructed racial categories, the apartheid regime has bequeathed on South Africa an all too easily

118 The BEE programme is a post-apartheid governmental attempt to redress existing structural inequalities by giving previously disadvantaged groups economic opportunities previously unavailable to them. The programme includes measures such as employment equity, skills development, socio-economic development and preferential procurement.

understandable mistrust of viewing, and particularly of treating, minorities on the basis of their ethnic and/or racial identity.

Critically, too, historically speaking many of the issues of discrimination, marginalization and subjugation encountered by minorities in other countries have been—and still are—central to the experience of South Africa's *majority* (c. 79 per cent) black population. In focusing, as this paper does, on critical issues and challenges pertaining to minority populations in contemporary South Africa, it is vital to keep in mind the fact that since the dismantling of apartheid in the early 1990s, the principal focus of ruling African National Congress (ANC)-led governments has been on improving the living conditions of the majority (i.e., black) population.[119]

That said, the 1996 Constitution on which the post-apartheid nation-building project is based accords robust recognition to the realities of what, at its core, it proclaimed the new South Africa to be—'The Rainbow Nation'. In many ways, the minority-related issues that have forced their way into the political spotlight during the last two decades can be traced to the unresolved—and ultimately, perhaps unresolvable—tension between the two halves of the country's core constitutional equation: recognizing and accommodating the *'rainbow'* in all its colours, and at the same time building a new, more equitable and unified *'nation'*.

Immigration and xenophobia

One of the most serious minority-related challenges to confront South Africa's post-apartheid democratic dispensation has been the rise of *xenophobia*, in the first instance directed against immigrants from Zimbabwe and other neighbouring countries, but also more generally against new and recent arrivals from across the African continent.

While pre-1994 African migrant labourers and immigrants undoubtedly experienced discrimination at the hands of the country's apartheid rulers, this did not give rise to the levels of hostility, combined with sporadic (and, on occasion, widespread) outbreaks of violence, that they have experienced subsequently.

The most serious post-apartheid era instance of anti-immigrant violence to date occurred in May 2008. Riots in north-eastern Johannesburg's Alexandra township, primarily directed against local Malawians, Mozambicans and Zimbabweans, subsequently spread across Gauteng province and into migrant settlements across the country, notably in Mpumalanga province and the Durban and Cape Town metropolitan areas.

In an effort to contain the violence President Thabo Mbeki authorized the deployment of armed forces in Gauteng province—the first time that the government called troops out onto the streets since the end of apartheid. Sixty-two people were reported killed, and hundreds were injured in the ensuing violence, which also resulted in the widespread destruction of immigrant-owned shacks, shops and other property.[120]

Politicians and civil society organizations rushed to condemn the attacks, which were subsequently attributed to a wide variety of factors, including suggestions in some quarters that the violence was part of a broader politically motivated attack on the ANC, and more specifically an attempt by domestic opponents to unseat President Mbeki.[121]

Interviewees, notably those working in service provision organizations focused on the situation of migrants in South Africa, described the 2008 attacks in the context of the broader challenges confronting the country in the post-apartheid democratic era. First, it was suggested, it is important to recognize that the 1996 Constitution adopts a robustly rights-based approach to non-nationals and nationals alike: the only significant right not accorded to non-nationals is that of voting in elections—an approach South Africa shares with many other countries.

Key challenges with respect to the position of non-nationals were accordingly identified as fourfold:

1. the gap between constitutional theory and the realization and implementation of those rights—a challenge that also applies to the majority black population in a whole host of areas, especially with respect to service delivery;

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119 Interview with Kgothatso Serote Matshidiso, International IDEA, Johannesburg, 7 October 2011.

120 It is also important to note that in a number of areas of the country, notably some parts of Gauteng and KwaZulu-Natal, civil society coalitions were able to prevent localized attacks on migrant and refugee settlements.

121 A number of studies conducted in the aftermath of the 2008 riots, notably by the African Centre for Migration and Society, addressed the question of why violence occurred in some localities with significant refugee/migrant populations, and not in others. A key conclusion that emerges is that the violence was concentrated, or developed more rapidly, in areas where there is either a weak, or effectively non-existent, local political structure and leadership.

2. a directly related issue is the prevailing lack of administrative capacity and resources to implement official policies intended to safeguard migrants' rights in a wide range of areas including residency documentation, housing, health, employment and education;
3. pervasive official corruption, e.g., within the refugee reception office system; and
4. widespread popular xenophobia, not least as a consequence of the country's isolation from the rest of the African continent during almost a century of apartheid and apartheid-based rule.[122]

With respect to the *gap between theory and practice* resulting from the prevailing lack of resources available to realize the rights of non-nationals, it was pointed out that at a fundamental level, this 'disconnect' mirrors the 'delivery on the ground' challenges that have faced successive ANC-led governments since 1994.

As one interviewee commented, 'The thing that lets us down is always implementation—not what we say but what we *do*. If we build houses for people, for example, they usually turn out to be really poor quality. We have an excellent constitution, laws and policies, but to date the majority population has mostly not been able to really benefit from them.'[123]

An example noted within the current refugee and migrant reception system underscores the point forcibly. In the aftermath of the 2008 riots an official moratorium was declared on efforts to deport illegal and undocumented Zimbabwean migrants.[124] Illegal migrants were encouraged to take the steps necessary to acquire official documentation and residency papers at refugee reception offices throughout the country.

In practice, however, the initiative has proved something of a fiasco. Existing reception offices have nowhere near the capacity required to process the number of migrants involved, with the result that to date they have only been able to deal with a tiny proportion of cases. In addition, media reports have highlighted the endemic corruption pervading the refugee reception system. New arrivals at reception offices are obliged to pay bribes just to gain a place in the queue, and more broadly, as one interviewee put it, 'corruption has now become part of how things such as the administrative and health systems work for non-nationals'.[125]

A recent development is that many reception offices situated in major urban centres are being closed down and relocated to border areas of the country—a move that will hardly increase their accessibility to migrants already living inside South Africa. In addition there are reports of, for example, Somalis being turned away at the border on the grounds that they did not seek asylum in their first country of arrival—a move viewed as symptomatic of broader efforts to 'tighten up' South Africa's borders.

In response to this emerging policy approach, one expert interviewee suggested that the fundamental challenge today is to 'change attitudes in South Africa to "people on the move", first and foremost in the context of efforts to achieve greater economic integration in the SADC[126] region'. At the moment, it was argued, 'restrictive regulations are applied to things that people are going to do anyway—trade, move from country to country, for example—an approach that simply enhances the incentives for corruption'.[127]

In overall terms there appears to be a basic contradiction between promoting a fundamentally rights-based system of governance for all citizens and residents of the country on the one hand, and on the other pursuing policies that, as one interviewee put it, 'increasingly seem to be modelled on the "Fortress Europe" approach to refugees and migrants'.

In this context, moreover, it was suggested that 'if West Africa can have a common zone for passports and peoples' movement between countries, why can't we have something similar here in the SADC region? Why not, for example, have a region-wide Facilitation of Movement Protocol?'[128]

122 Interview with Roshan Dadoo, Consortium for Refugees and Migrants in South Africa, Johannesburg, 6 October 2011.

123 *Ibid.*

124 It is estimated that out of a total population of around 50 million people there are currently up to 5 million illegal immigrants living in South Africa, of whom some 3 million are Zimbabweans.

125 Op. cit., n122.

126 The South African Development Community. A regional body promoting socio-economic cooperation and integration as well as political and security co-operation among its 15 southern African member states.

127 Op. cit., n122.

128 *Ibid.*

Specifically regarding xenophobia, which remains pervasive within South African society, interviewees highlighted several key underlying factors:

- *In prevailing conditions of a lack of resources combined with poor service delivery, it is all too tempting for people to blame foreigners for their situation.* An example cited relates to Somali migrants, who to date have proved highly successful at establishing businesses that both provide a good service and undercut the prices charged by the locally-run shacks that have traditionally serviced townships. Targeted violence against Somali-run shops was an important feature of the 2008 riots, and sporadic attacks against them have continued ever since, notably in 2009 in the Western Cape area.
- One of apartheid's more pernicious legacies is that for many decades *the majority of South Africans hardly travelled outside the country, if at all*—unless, of course, they were wealthy. As a result the country has a recent history of effective isolation from the rest of the continent. South Africans generally have a poor understanding of the culture, much less the difficult situation confronting the citizens, of other countries such as regional neighbours Zimbabwe and the Democratic Republic of Congo.
- Even with the large numbers of migrant workers from neighbouring countries who moved to South Africa during the apartheid era, for example, it was suggested that they were widely seen as 'people who just came and went' rather than as 'neighbours with their own history and story to tell'. Such 'isolationist South African exceptionalism'—or 'small-mindedness' as one interviewee trenchantly described it—is still viewed as pervasive in the national mentality.[129]
- *Issues of race* are still 'washing around in the country', as 'reflected in people's attitudes to others. If you and your people have been beaten down for ages, it is tempting to do the same to others if and when you get the opportunity to do so'. Additionally, it was pointed out that under British colonial and subsequent apartheid-era rule, the black majority population was, as one interviewee expressed it, 'forcibly urbanized and industrialized'.

Today, however, there are fewer and fewer jobs left in traditional industrial sectors, and as with the white British working class during the Thatcher era, it is all too understandable that people look for a scapegoat to blame for the situation: the most obvious scapegoat is, of course, 'foreigners taking our jobs'.[130]

'Coloured', indigenous and white minorities: impacts of minority exclusion

Perhaps the most challenging and deep-seated minority challenge to the consolidation of South Africa's democratic order is posed by the situation of the country's *'Coloured'*[131] population. A racially determined apartheid-era composite of a number of minority communities including mixed-race European-Africans, Cape Malays, Khoikoi/Khoisan and other indigenous peoples, in recent years the position of 'Coloureds'—and in particular their continuing exclusion—within the post-apartheid dispensation has come to the forefront of political attention.

Interviewees provided an engaging in-depth account of the challenges confronting the 'Coloured' community in contemporary South Africa. First and foremost, a number of community activists in the Cape Town region, home to the country's largest 'Coloured' population,[132] stressed the growing popular awareness of the fundamental linkages, and corresponding sense of identity with, the indigenous—but hitherto, widely viewed as separate—Khoikoi/Khoisan community.

Scientific support for this perception has been provided by recent medical studies suggesting that, viewed as a whole, the 'Coloured' community's DNA may be as much as 80 per cent Khoisan.[133] The overall driver of this growing sense of identity between the two hitherto separated communities, it was suggested by one interviewee, is the economic and political discrimination experienced by both groups.[134]

129 Crystal Orderson, South Africa Broadcasting Company, Johannesburg, 6 October 2011.

130 Op. cit., n122.

131 The designation is placed in quotation marks in recognition of what appears to be increasingly widespread unease with the term within the community itself.

132 According to current estimates, 'Coloureds' constitute approximately nine per cent of the country's population. Asians—a separate official category—represent around 2.5 per cent.

133 A perception that, whether ultimately scientifically accurate or not, nonetheless provides a powerful basis for the reframing and reinterpretation of community self-understanding and identity.

134 Interview with Una Cupido and Edwin Lombard, *Die Son*, Cape Town, 7 October 2011. Modelled on UK tabloids in its editorial format, this Afrikaans-language newspaper is one of the country's largest-circulation dailies.

Responding to Afrikaner minority concerns regarding linguistic rights—Afrikaans is the language of the majority of the 'Coloured' population—a number of interviewees stressed that from their perspective this is very much a second-order issue. Rather, the key issues for the majority of the community relate to basic issues ranging from land ownership to access to natural resources, education and jobs.[135]

In this respect a powerful sense of discrimination and exclusion from the benefits of the new democratic order enjoyed by the majority black community was expressed by a number of 'Coloured' community representatives. As one articulated it: 'The ANC should stick to the Freedom Charter:[136] these days they seem to have forgotten the things they fought so long for—full individual and group rights for all.'[137]

By way of evidence of this sense of exclusion, reference was made to a number of factors, notably:

- overall barriers to employment opportunities encountered as a result of BEE-related strategies aimed at privileging and empowering the majority black community;
- in particular, the application of BEE policies in the government department and retail sectors, which has resulted in systematic preference being given to Black candidates over and against 'Coloured' applicants;
- continuing disputes regarding access to and ownership of land, notably in the Western Cape province. In attempting to combat this perceived discrimination, moreover, Khoisan community activists are increasingly using International Labour Organization (ILO) Convention 169[138] as their internationally recognized benchmark; and
- large-scale, officially sanctioned population movements from the Eastern Cape—principally of Xhosas—into hitherto majority 'Coloured' populated areas of the Western Cape.

In response to these challenges, interviewees stressed that in a truly non-racial democracy, the empowerment goals encapsulated in BEE strategies would unquestionably be applied in practice to the 'Coloured' community. This, however, is precisely what is perceived not to be happening at the moment.

In part, it is suggested, the increasing linkages and sense of identity between the Khoisan and 'Coloured' communities can be explained with reference to a shared sense of exclusion within the present majority-directed political dispensation. As one interviewee articulated it, 'the Khoisan advocate for the reclaiming of ancestral land rights, Coloureds for their basic economic rights: in reality these issues are two sides of the same coin'.[139] Or as another expressed it, 'Now is an opportune time to know your roots—and rights. We "Coloureds" are not mixed race: in reality we're descendants of the Khoisan'.[140]

The traditional political docility of the 'Coloured' community is such that, through a series of high-profile efforts to reclaim the ownership of ancestral indigenous lands, Khoisan community leaders are, in the words of one interviewee, 'leading the way in putting pressure on the ANC government for us'.[141]

In this context a focus of recent concern and related community mobilization was occasioned by a controversial March 2011 TV interview with government spokesperson Jimmy Manyi, in which he suggested that in view of their prevailing 'over-concentration' in the Western Cape, 'Coloureds' should consider moving to other areas of the country.[142]

In the course of the ensuing public outcry over what was widely interpreted as an implicitly racial attack on the 'Coloured' community, Presidential Planning Minister Trevor Mani responded with a blistering open letter accusing Manyi of, among other things, a racist assault on the 'Coloured' community that is at odds with fundamental ANC values and principles.[143]

135 Op. cit., n134.

136 The foundational statement of the ANC's core principles with respect to a future non-racial South Africa adopted in 1955, and widely characterized by its opening demand, 'The People Shall Govern!'.

137 Op. cit., n134.

138 Over the last few decades, ILO Convention 169 has become a critical reference point in the efforts of indigenous peoples across the globe—for example in Nepal and the Andean region—to achieve national and international recognition of their fundamental rights.

139 Interview with Tanya Kleynhans, Institute for the Restoration of Aborigines in South Africa, Cape Town, 10 October 2011.

140 Interview with Ferdinand James, community activist, Cape Town, 7 October 2011.

141 Interview with Mackie Mackenzie, Khoisan activist, Cape Town, 10 October 2011.

142 See 'Jimmy Manyi on coloureds in the Western Cape', S. African TV interview, Feb. 2011, at <https://www.youtube.com/watch?v=oBqCD_498hY>.

Opinions regarding the depth of the challenges to the pursuit of inclusive democracy posed by the exclusions experienced and articulated by the country's 'Coloured' community vary considerably. As viewed from the perspective of some Khoisan and 'Coloured' community leaders, however, the basic problem is that, in the words of one, 'sometimes it seems as though white supremacy has simply been replaced by black majoritarianism'. 'If you want evidence of this', it was further suggested, 'just go and talk to the communities that are suffering under the present dispensation. Whatever the government says, our democracy is colour-coded today—this time for blacks rather than whites'.[144]

Afrikaners

A notable minority-related challenge that has surfaced in recent years comes from what may appear to be a somewhat surprising quarter—the country's white Afrikaans-speaking population. Synonymous in many eyes with the apartheid-era past in which they played such a pivotal role, currently a number of Afrikaner civil society groups, notably the *Solidarity* trade union and its sister organization *AfriForum*,[145] are engaged in a widely publicized legal dispute with the government over a range of issues pertaining to Afrikaner minority cultural rights, notably in the educational sphere.

While not denying the role that militant far-right organizations[146] have played in past political mobilizations within the Afrikaner community, the *AfriForum* leadership is at pains to stress the fact that their main aim is to represent the interests of what they describe as 'the majority 80 per cent Afrikaners who both accept and embrace the new political dispensation, and also feel strongly about preserving their identity and culture'.[147] More specifically, *AfriForum* focuses on two areas: upholding the rights of the Afrikaner community as defined in the 1996 Constitution[148] and advocating for respect for and adherence to international human rights provisions within the country as a whole.

As is the case with other key South African minorities, attention is drawn to the contrast between constitutionally entrenched rights and provisions, which with a few important exceptions are felt to be robust, and communities' actual experience of attempting to exercise those rights on the ground.[149]

AfriForum and their supporters are particularly exercised by what they view as a lack of official commitment to supporting the realization and upholding of cultural rights in general, and access to multilingual education in particular. With respect to multilingual education, they argue that constitutional provisions are currently not backed by corresponding government funding or support for Afrikaans-language schools in areas of the country where there is either a majority, or a significant minority, of Afrikaans speakers.

In this context, moreover, they point out that empowerment measures are not the same as genuine minority rights. As one interviewee expressed it, 'It's not enough to say that you have a right to exist: there have to be clear state interventions in your favour'[150]—a line of argument that is consistent with that adopted with respect to minority issues—and in South Africa's case, majority ones—in many countries.

Compounding present controversies regarding access to Afrikaans-language schools, community leaders point to the 'facts on the ground' being created by the appeal of English as a medium of school instruction, notably in the traditionally Afrikaans speaking Cape 'Coloured'[151] community, where sending children to English-language schools is increasingly viewed by parents as synonymous with social advance.

143 See 'Trevor Manuel's open letter to Jimmy Manyi', IOL News, 2 March 2011, <http://www.iol.co.za/news/politics/trevor-manuel-s-open-letter-to-jimmy-manyi-1.1034606>.

144 Tanya Kleynhans (note 139).

145 The websites of the two organizations are respectively http://www.solidaritysa.co.za and http://www.afriforum.co.za.

146 Uncompromising, often violent opposition to the 1990s transition from white-minority to black-majority rule was exemplified by Eugène Terre'blanche's notorious white supremacist *Afrikaner Weerstands-beweging* (Afrikaner Resistance Movement), whose activities gained international prominence.

147 Interview with Kallie Kriel, *AfriForum*, Johannesburg, 6 October 2011.

148 The key provisions cited in this context are Articles 30 and 31 regarding, e.g., cultural and linguistic rights and freedoms.

149 Exceptions relate to what is viewed as the lack of legally mandatory qualifications in a number of the relevant constitutional provisions. Such provisions stating that the authorities simply 'can', rather than 'must' consider specified measures.

150 Op. cit., n147.

151 See above for a fuller discussion of the country's 'Coloured' population.

Additionally, in a recent instance where a case regarding a school's Afrikaans-language instruction policies reached the courts, in making its determination the Supreme Court of Appeal ruled against the school on the basis that the right of access for everyone overrode the school governing body's right to determine its language of instruction.

AfriForum leaders argue that first, if the state wishes to support majority access to schools then it should fund (not just legislate) it; second, that this approach only strengthens both the argument and the need for specific provisions for safeguarding minority-language instruction in South Africa today; and third, that for minority rights to function in practice it is vital that members of the community have a say in decisions (such as school language policies) that affect them directly—in other words, to devolve power to the lowest practicable level.[152]

While the issues in focus are in a sense particular to one minority—and one, moreover, that is both unpopular with the majority community and vulnerable to suspicions that it is, as an *Afriforum* leader put it 'just trying to retain the privileges we enjoyed under apartheid'[153]—in a number of ways they exemplify some of the broader challenges the country faces with respect to the position of minorities. Particularly notable in this respect is the contrast articulated by those involved between an essentially empowering constitutional theory and an altogether less positive or enabling prevailing reality.

Reflecting on this, one community leader suggested that a key lesson is that 'if you sincerely accommodate minorities from the beginning you can prevent later disappointment'.[154] The reference to 'disappointment' is perhaps understated: a number of interviewees stressed the degree of disillusionment among minority communities as a whole—'Coloureds', Indians and Khoisan no less than Afrikaners—with the ANC, and the corresponding perception that a strategic opportunity to realize the dream of 'unity in diversity' articulated in the 1996 Constitution is in danger of being lost, if not forever then at least for the foreseeable future.

152 Op. cit., n147.

153 *Ibid.*

154 *Ibid.*

Lessons learned

Majority experience, minority rights and state building

1. *Popular receptivity to the notion of minority rights depends critically on prevailing historical-political conditions in the country in question.* Given South Africa's profoundly negative experience of the effects of categorizing people on the basis of their membership of official racial categories, it is not hard to understand the prevailing mistrust of treating people on the basis of their perceived ethnic and/or racial identity. In addition, South Africa's experience points to the importance, when addressing the situation of minorities, of consistently bearing in mind the conditions experienced by the majority population of the country.

2. Many of the challenges confronting South Africa today in the realm of minority-relations have their basis in the *unresolved tension between the two halves of the country's constitutional equation*: recognizing and accommodating the *'rainbow'* in all its colours, and at the same time building a new, more equitable and unified *'nation'*.

Immigration and xenophobia

3. With respect to the challenge posed by the xenophobic attitudes that may prevail within a society, South Africa's experience suggests that it is critical to bear in mind that:

- *in conditions characterized by a lack of resources combined with poor service delivery, it is all too tempting for people to blame foreigners for their situation;*
- *a poor understanding of the culture and overall situation both in neighbouring countries and further abroad* provides fertile ground for the growth of social attitudes characterized by ignorance, indifference and intolerance towards non-nationals residing in a country; and
- *in conditions where population groups have themselves experienced oppression, degradation and marginalization it is all too easy for them to accord similar treatment to new social minorities.* In this respect, moreover, in conditions of economic recession there is a strong tendency for majority populations to blame the prevailing lack of work opportunities on foreigners 'taking our jobs'.

Impacts of exclusion

4. *Prevailing economic and social exclusions can lead to the creation of linkages and a sense of common identity between hitherto divided minority communities.* As long as the

prevailing political order is perceived as excluding minorities in significant ways, countries such as South Africa (where this is perceived to be the case) are likely to witness the emergence, and political advance, of potentially powerful communities in which *issues of identity* play a crucial role.

Moreover, such political communities may well articulate their grievances in ways that challenge the fundamental basis of the existing democratic dispensation: witness the argument advanced in today's South Africa that 'white supremacy has been replaced by black majoritarianism', or that 'our democracy is colour-coded today—this time for blacks rather than whites'.

Empowerment policies

5. *Empowerment measures are not synonymous with guaranteeing and earmarking resources to the practical realization of minority rights.* 'It's not enough to say that you have a right to exist', in the words of one interviewee, 'there have to be clear state interventions in your favour'.[155] Moreover, for such rights to truly function in practice it is essential to give members of minority communities a clear say in decisions on matters that affect them directly—in other words, to devolve power to the lowest practicable level.

155 *Ibid.*

Conclusions and recommendations

Framework

Taken as a whole, the practical evidence and policy insights derived from the country case studies presented above provide a significant set of 'lessons learned' with respect to broadly applicable strategies for protecting the rights of minorities and promoting their participation and representation in the political process. Whether these insights are considered helpful or relevant with respect to the challenges confronting MENA countries engaged in the complex process of promoting and entrenching their democratic transitions is ultimately a matter of internal, contextualized judgement by governments and other critical actors within particular societies.

That said, what follows is an attempt to summarize key policy-related conclusions and recommendations arising from the four country case studies with broader potential relevance and application. It is hoped that these insights will indeed prove to be both relevant and useful in the context of efforts to address the challenges of minority protection, recognition, participation and representation in new and aspiring MENA region democracies. Specific application—actual or potential—to new democracies of the MENA region is indicated in instances where this was either highlighted by interviewees themselves, or where the author's analysis leads him towards that—tentative—conclusion.

Hopefully, these conclusions and recommendations will provide some useful policy-directed food for thought for donors and other external actors seeking to support long-term democratic consolidation in the MENA region. Whether either of these aspirations proves justified will be the subject of deliberations at the IDEA Democracy Forum for which this paper was commissioned.

Conclusions and recommendations

The role of institutional reform and/ or promoting democratic values in transitional countries

1. In line with the argument outlined in the paper's introduction, a key lesson, notably of Indonesia's democratizing experience to date, relates to the risks of an *overemphasis on formal institutions at the expense of attention to other vital issues pertaining to citizens' economic and social rights, in particular to building a common sense of citizenship shared by majority and minority populations alike*.

2. In addition, while it is critical to ensure that a clear, legal framework that upholds basic minority rights is put in place, *the existence of such a framework does not in itself ensure that those rights will be respected in practice*. In particular, experience in transitional countries such as Indonesia indicates that beyond establishing an appropriate legal and institutional framework for protecting minority rights, it is vital for governments to take a proactive lead in ensuring that those rights are *respected on the ground, and in actively advocating for the fundamental principles of tolerance, inclusion, justice and equity upon which they are based*.

These general conclusions, deriving both from the specific transitional experience of Indonesia and more generally from that of numerous 'new' democracies over the last two decades, are ones to which nascent MENA region democracies would do well to pay close attention. In countries such as Egypt that have large, well-established religious minority communities, it is particularly important for transitional authorities to take a leading role in protecting and promoting the rights of minorities.[156]

In the Egyptian as well as other regional contexts, moreover, official efforts in this area can potentially draw support from prevailing popular attachment to the values of inter-religious tolerance and respect—a fact to which in Egypt's case, the Muslim-Christian alliance underpinning the mass Tahrir Square demonstrations of early 2011, and the spontaneous resultant gestures of inter-confessional solidarity and support, gives potent testimony.[157]

3. With respect to overall democratic reform processes, it is essential for the leaderships in new MENA region democracies to demonstrate a keen appreciation of the fact that in practice, *democratization opens up both a space for increased respect for minority rights and a forum within which intolerance and hatred can come into play*. Recent experience in Indonesia, no less than in many countries across Central-Eastern Europe, the post-Soviet space and sub-Saharan Africa, points both to the critical relevance and vital importance of paying due attention to this 'heightened conflict potential' aspect of the experience of new democracies.

Mindful of the bloody inter-ethnic conflicts that have stained the transitional experience of so many countries over the last two decades, new and emerging MENA democracies need approaches to majority-minority relations that are informed by a keen awareness of the lessons learned from these painful experiences.

Secularism

4. India's experience as a secular state in conditions of majority religiosity suggests that, when appropriately conceived, *secularism is a critical and potentially effective tool for managing relations between majority and minority religious communities—all the more so if the government both insists on secularism in theory and applies it even-handedly in practice. Crucially, India's approach licenses the state to intervene whenever and wherever minority religious groups are subject to discrimination or ill treatment*, and thereby to prevent a majority religion's domination of minority religious groups.

To date the idea of secularism has not received particularly positive press in the MENA region. To the extent that it is identified with Western policies that are based on attempts to keep religion as far

156 Other important religious and/or ethnic minority communities of the MENA region include: Shia Muslims (Bahrain*, Iraq); Kurds (Syria, Iraq, Iran); Assyrians/Syriacs (Syria, Iraq, Iran); Armenians (Syria, Iraq, Iran); Maronites (Lebanon); Circassians (Syria, Jordan, Libya); Druze (Syria, Jordan); Alawites (Syria); Jews (Iran, Tunisia). * A statistical majority of the Bahraini population Shias are subjected to significant political discrimination and disadvantage—a fact that came to the forefront of international attention during Bahrain's mass 'Arab Spring' demonstrations of March-April 2011.

157 See e.g., 'Egypt's Muslims and Christians Join Hands in Protest', BBC News, 10 February 2011.

158 Turkey's long-standing official secularist policies are ones that for obvious reasons of history, geography and cultural affinity have hitherto received a good deal more attention than India's among MENA region countries. Although Turkey's approach to secularism is interesting and important in this context, however, it does not constitute part of the focus of this paper.

out of the political domain as possible, this is wholly understandable in countries where the primacy of religion in the majority of the population's lives remains a basic fact of life.[158] Informed as it is by a fundamental appreciation of a broadly similar social reality, however, Indian democracy's approach to secularism is one that merits much closer study and attention among new and transitional MENA region democracies.

5. Independently of the presence, or absence, of an official secular policy framework, vigorous official initiatives to promote religious tolerance should ideally be accompanied by parallel *'education for diversity' programmes* modelled, for example, on post-apartheid era South Africa initiatives in this area. In this context, moreover, a related challenge—and opportunity—is what one Indonesian interviewee described as 'finding ways to mobilize the positive resources of [a country's] . . . diverse cultures in favour of education rooted in tolerance'.

From an early stage, new and transitional democracies in the MENA region should seriously consider engaging in the development of nation-wide civic diversity education and promotion campaigns tailored to the specific needs of majority-minority relations within their own context.

State interventions in favour of minority rights: impacts and constraints

6. *Democracy and diversity are fundamentally linked*. In new MENA region democracies, as elsewhere in the world, safeguarding minority rights is not a 'soft', optional policy issue. It may well be critical to democracy's essential functioning and, in many contexts, to its prospects for long-term sustainability. Concrete evidence of this is provided by the recent experience of countries that do (e.g., India) and do not (e.g., Sri Lanka) pursue minority policies based on an appreciation of the fundamental democracy-diversity linkages.

7. Further, India's approach to accommodating minority demands and concerns, as compared to neighbouring Sri Lanka's experience in this domain, suggests that *state policies with respect to minorities have the potential to either make or break the contours of the democratic polity—for minority and majority populations alike*. This basic perspective on the strategic importance of devising appropriate policy frameworks for managing majority-minority relations is one that all new and transitional MENA region countries would do well to consider, first and foremost in the context of fashioning their own democratic institutions and related constitutional frameworks.

8. At the same time, it is also important for transitional MENA region countries to adopt a realistic approach to the *overall role of state intervention in protecting and promoting minority rights*. In this respect India's experience points specifically to a number of important, related lessons that also merit close attention in other transitional contexts:

- *constitutionally entrenched measures that recognize minorities' existence, and seek to address the key structural disadvantages they experience, are both vital to, and effective in, promoting their overall well-being and inclusion;*
- *anti-minority prejudice and discrimination cannot be legislated out of existence*. To be effective, legislative and other state interventions need to be underpinned by, among other things, a broad-based programme of advocacy and education in favour of fundamental democratic principles of tolerance and inclusion;
- *empowerment measures are not synonymous with providing resources for the practical realization of minority rights*. As one interviewee argued, 'It's not enough to say that you have a right to exist: there have to be clear state interventions in your favour'; and
- for such rights to function in practice it is essential to *give members of minority communities a clear say in decisions on matters that affect them directly*—in other words, to devolve power to the lowest practicable level.

9. India's experience with respect to the classic 'individual vs. group rights' dilemma also suggests the value of an approach predicated on the notion of *targeted, regularly reappraised socio-economic interventions with respect to minority groups that are based on identified needs and structural disadvantages rather than simply group identity*. This approach has the additional merit of building on broader Indian lessons learned with respect to the impact of 'reservations' on the prevailing socio-economic conditions of the intended beneficiaries of these policies.

Targeted socio-economic interventions based on the empirically identified needs and structural disadvantages of specific communities thus offer new democracies in the MENA region a potentially promising alternative policy approach to one based on traditional 'group rights'-based affirmative action initiatives on behalf of minorities.

10. *Prevailing economic and social exclusions can lead to the creation of linkages and a sense of common identity between hitherto divided minority communities.* As long as the prevailing political order is perceived as excluding minorities in significant ways, countries where this is perceived to be the case are likely to experience a rise in political protest and agitation in which issues *of identity* play a defining or otherwise crucial role. Moreover, such new 'political communities' may articulate their grievances in ways that *challenge the basis of the existing democratic dispensation*: witness the argument advanced in today's South Africa that 'white supremacy has been replaced by black majoritarianism', or that 'our democracy is colour-coded—this time for blacks rather than whites'.

For democratizing countries in the MENA region in particular, this conclusion points towards two important and related further policy considerations.

a) *Ad hoc* coalitions between disparate minority and other political groupings have been an important feature of the broad-based opposition movements that have emerged over the last year in countries from Tunisia and Libya to Syria and Yemen. What has bound these coalitions together is essentially a strong shared sense of grievance against the existing political order: in some countries this has already provided the basis for the toppling of that order—and may yet prove to do the same in others as well. In all cases, the coalitions formed in opposition to the old or existing order are likely to remain an important political factor beyond the democratic revolutionary moment itself, and in this context it is important for new or nascent democratic authorities to pay close attention to the specific demands they articulate beyond the basic call for systemic change.

b) New democratic dispensations in the MENA region must be prepared for the fact that, their support for or role in an initial democratic revolution notwithstanding, minority groups may well continue to articulate their demands beyond that point in ways that challenge the emerging democratic order, not least with respect to questions of regional, cultural, religious or linguistic autonomy. In this context an awareness of the range of pre-emptive strategies available for accommodating and addressing such concerns and demands may prove to be a matter of democratic transitional urgency, even necessity.

Decentralization and minority rights

11. *Devolving power to the local level is a potentially useful tool for promoting minorities' sense of ownership of both the overall democratic polity and related decision-making processes.* In this context, moreover, *establishing a clear, thought-through constitutional framework for local-level democratic reform* has paramount importance. In the context of MENA region democratic transitions, it is vital that an understanding of this basic perspective is *mainstreamed into constitutional reform processes*, in particular in the context of the constituent assemblies currently being formed in Tunisia and other countries.

12. *The implementation of decentralizing reforms is best undertaken gradually.* Adopting a 'Big Bang' approach to attempts to move from a centralized to a decentralized system of governance carries with it the likelihood that at least as many problems will be created as a result—many of them unforeseen and unpredictable—as old ones are 'solved'. MENA transitional countries should thus avoid the temptation to rush—or be rushed by outsiders—into rapid decentralization programmes that attempt to 'fix' all aspects of centre-region governance relations in one fell swoop.

13. When designing reforms aimed at enhancing local-level democracy, it is vital both to pay attention to and, where possible and appropriate, *adopt governance policies and frameworks that are rooted in, or otherwise incorporate, already existing customary governance structures and processes.* India's adoption of the local-level panchayati raj system is a concrete and largely positive example of how this approach can be applied in practice. And as one interviewee expressed the broader issue to which this points: 'Unless you identify and adapt customary structures within your democratic framework, in many countries the enterprise will simply fail.'[159]

In newly democratizing countries of the MENA region, it may thus be critical to explore governance institutions and approaches located within traditional tribal and other customary structures, *inter alia* with a view to identifying those that can be appropriately integrated into or otherwise accorded formal recognition within emerging transitional democratic frameworks. In this respect, moreover, it is important to take account of the central role of customary institutions and decision-making processes in many MENA region countries—democracies and non-democracies alike—notably in relation to prevalent, and often powerful, tribal social structures.[160]

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159 Interview with Peter deSouza, IIAS, Delhi, 3 sept. 2011.

160 An example of this is examined in some detail in the Egypt case study contained in the International IDEA Report *Customary Governance and Democracy Building: Exploring the Linkages.*

14. With respect to the specific situation of indigenous peoples within a decentralized or decentralizing democratic polity, *longer-term perspectives on the impact of policies intended to enhance the self-government capacities of minority communities may be necessary*, particularly in cases where the small size of indigenous communities makes the exercise of self-government problematic in itself. Generally speaking, strategies for promoting indigenous peoples' inclusion and representation in the political process—a subject that merits a broader, separate study in itself—should be informed by an understanding and appreciation of customary indigenous institutions, structures, culture and decision-making processes.

Immigration, integration and national identity

15. *It is possible to incorporate deep principles of tolerance and accommodation, as well as societal policies based on them, into the prevailing sense of national identity.* Preconditions for achieving this goal include not only strong political will but also a sustained readiness to match formal policies with the resources necessary to support their practical implementation.

Unique though it is to date, Canada's recent experience in this domain suggests that in conditions where the requisite level of political will is matched by the necessary resources, *it is possible for a democracy to refashion majority perceptions of identity in favour of an inclusive, open and accommodating national self-understanding.* In this respect, new MENA region democracies are in principle well placed to embark on the project of refashioning national identity on the basis of an explicit embrace of the democratic principles of openness, inclusion and respect.

16. *In order to be effective, official integration policies must be complemented by strategies—and related resources—aimed at the social and economic empowerment of minorities.* As well as constituting a potential means of combatting the root causes of minority exclusion, for example as outlined in recommendation 9) above, appropriately targeted and adequately resourced policies aimed at promoting minority social and economic equity, empowerment and integration have an additional 'added value' to the process of democratic consolidation.

As well as being a powerful tool for preventing the emergence of ethnic underclasses, such equity-based integration-enhancing policies are a potentially effective means of *combatting the rise of racially- and religiously-based extremisms.* In countries of the MENA region with well-organized—and in many cases, well-supported—radical religious structures, notably among Wahhabi and Salafist-inspired Islamist groupings, the relevance and appeal of such targeted integration policies seems readily apparent.

17. *Popular receptivity to the notion of minority rights depends critically on prevailing historical-political conditions in the country in question.* Given South Africa's profoundly negative experience of the effects of categorizing people on the basis of their membership of official racial categories, for example, it is not hard to understand the prevailing mistrust of viewing people on the basis of their perceived ethnic and/or racial identities. When designing transitional reform programmes aimed at improving the situation of minorities within a country, national authorities and external assistance-providers alike should thus ensure that such initiatives are informed by a careful, nuanced understanding of dominant social attitudes to what might be called 'minority discourse'.

18. In highly diverse democracies, many prevailing minority-related challenges have their roots in *the tension between recognizing and accommodating existing diversities on the one hand, and efforts to consolidate and build a unified 'nation' on the other.* This is a tension that in its own local variants, many new MENA region democracies will sooner or later be forced to confront, either implicitly or in some cases—such as Egypt—on a more explicit basis.[161]

19. When considering the option of *immigration policies focused on attracting the 'best' (i.e., most skilled) workers—as is the case in Canada—it is important to give due consideration to the broader impacts of such policies, not least with respect to their potential undermining of domestic capacity within target immigration countries.*

For countries of the MENA region, notably Libya and the Gulf States, one of the most important current challenges with respect to the question of foreign/migrant workers is the prevailing lack of official recognition of migrant workers' basic civic, economic and political rights—and in some cases, even of the fact that they exist within the country. From the perspective of basic democratic rights—let alone minority recognition and protection—this is an unacceptable state of affairs and one that, for example,

161 With respect to Egypt, the need to identify and promote a version of the democratic nation-building project with which the minority Coptic community, no less than majority Muslims, can identify appears to be paramount.

Libya's transitional authorities should be strongly encouraged to address as a matter of political priority.

Official language policy

20. *State policies based on the structural accommodation of minority languages—notably in the form of formal regional and/or state sponsored bilingualism/multilingualism—have the potential to reduce the appeal of separatism.* In this respect both the Canadian and Indian experiences provide empirical support to this general hypothesis and the overall policy approach it suggests.

For MENA region countries that have significant minority language populations—the indigenous Tamazight-speaking Berber population of countries of the Magreb region being an obvious case in point—accomodationist regional and/or national linguistic policies up to (but not necessarily including) the level of official bilingualism should be given serious, contextualized policy attention. The issue assumes particular importance, moreover, in MENA region countries with a history of strong regional or even separatist sentiments and in the broader context of efforts to promote consolidation and strengthening in prevailing conditions of state fragility, as is the case in countries such as Libya and Yemen.

Xenophobia

21. With respect to the challenges posed by the prevalence of xenophobic attitudes within a society, in MENA region transitional countries, no less than in established democracies elsewhere, it is critical to bear in mind the following conclusions drawn in the first instance from the earlier analysis of recent South African experience:

- *in conditions characterized by a prevailing lack of resources combined with poor service delivery, it is all too tempting for people to blame foreigners for their situation;*
- *a poor understanding of the culture and overall situation in neighbouring countries and further abroad provides fertile ground for the growth of social attitudes characterized by intolerance towards non-nationals residing in the country;* and
- *if population groups have themselves experienced marginalization, it is all too easy for them to accord similar treatment to new social minorities.* In this respect, moreover, in conditions of economic recession there is a strong tendency for majority populations to blame the prevailing lack of work opportunities on foreigners 'taking our jobs'.

Annex 1

List of interviewees (in chronological order)

Indonesia, 22–27 August 2011

- Antonio Pradjasto, Executive Director, Centre for Democracy and Human Rights Studies (DEMOS), Jakarta
- Azyumardi Azra, Director, Graduate School, State Islamic University, Jakarta; International IDEA Board Member
- Ikrar Nusa Bhakti, Research Director, Indonesian Institute of Sciences (LIPI), Jakarta
- Todung Mulya Lubis, Founder and Senior Partner, Lubis Santosa and Maulan; Caretaker, Indonesian Legal Aid Foundation, Jakarta
- Heriyanto Yang, Junior Partner, Lubis Santosa and Maulan, Jakarta
- Nur Kholis, Vice-Chairperson, National Human Rights Commission (Komnas HAM), Jakarta
- Dr. Djohermansyah Djohan, Director-General, Regional Autonomy, Home Affairs Ministry, Jakarta
- Dhanana Putra, Vice-Director for Foreign Co-operation, Ministry of Law and Human Rights, Jakarta
- Hikmat Budiman, Chairperson and Senior Researcher, Interseksi Foundation
- Benny Subianto, International Consultant, Jakarta
- Brian Hanley, Asia Director, Search For Common Ground (SFG), Jakarta

India, 29 August–3 September 2011

- Kamal Mitra Chenoy, Professor, School of International Studies, Jawaharlal Nehru University (JNU), Delhi
- Anuradha Mitra Chenoy, Professor, School of International Studies, JNU
- Achin Vanaik, Professor, Delhi University
- Dr. Bhaskara Rao, Chairman, Communication and Media Services (CMS), Delhi
- Shallaija Chandra, New Delhi Chief Secretary (Ret.), Delhi
- Shabnam Hashmi, Founder and Director, Act Now for Harmony and Democracy (ANHAD), Delhi
- Dr. Naresh. C. Saxena, Former Secretary, National Planning Commission; Senior Civil Servant (Ret.), Delhi
- Prafu Bidwal, Journalist and Columnist, Delhi
- Zoya Hasan, Professor, Centre for Political Studies and Dean, School of Social Sciences, JNU
- Hash Mander, Director, Centre for Equity Studies, Delhi; National Advisory Council (NAC) member
- Dr. Gurpreet Mahajan, Professor, Centre for Political Studies, JNU

- Dr. Peter deSouza, Director, Indian Institute of Advanced Study (IIASS), Shimla
- Yogendra Yadav, Senior Fellow, Centre for the Study of Developing Societies (CSDS), Delhi
- Javed Anand, Editor, *Communalism Combat*, Mumbai
- Dr. Ali Ashgar Engineer, Chairman, Centre for Study of Society and Secularism, Mumbai
- Mahesh Bhatt, Film Director, Mumbai
- Shagupta Rafique, Muslim Actress, Mumbai

London, 14 September 2011

- Mark Lattimer, Director, Minority Rights Group (MRG)

The Hague, 15 September 2011

- Natalie Sabanadze, Political Advisor, OSCE High Commissioner on National Minorities (HCNM)
- Vincent de Graaf, Senior Legal Advisor, HCNM
- José Arraiza, Senior Legal Advisor, HCNM
- Bob Deen, Senior Legal Advisor, HCNM

Canada, 19–25 September 2011

- Felix Knuepling, Head, Programs and Partnerships, Forum of Federations (FoF), Ottawa
- Charles Cloutier, Vice-President, FoF
- Ümit Kiziltan, Director-General, Research and Evaluation, Department of Citizenship and Immigration Canada (CIC), Ottawa
- Katherine Hewson, Assistant Deputy Minister, Ontario Ministry of Citizenship and Immigration (CIC) and Visiting Researcher, Queen's University, Kingston
- Will Kymlicka, Professor of Philosophy, Queen's University, Kingston
- Elke Winter, Associate Professor of Sociology, University of Ottawa
- Dan Hughes, Senior Adviser, Department of Aboriginal Affairs and Northern Development Canada (AANDC), Ottawa
- Francois Beauregard, Senior Adviser, AANDC
- Pierre Foucher, Professor, Faculty of Law, Ottawa University
- Andrew Stewart, Senior Policy Specialist, Metropolis, Ottawa
- Mona Marshy, Senior Policy Research Analyst, Metropolis, Ottawa
- Alejandro Bravo, Leadership and Learning Manager, Maytree Foundation, Toronto
- Evelyn Siu, Project Co-ordinator, *Cities of Migration*, Maytree Foundation, Toronto
- Piali Roy, Writer/Web Editor, *Cities of Migration*, Maytree Foundation, Toronto
- Debbie Douglas, Executive Director, Ontario Council of Agencies Serving Immigrants (OCASI), Toronto
- Lin Fang, Associate Professor, Faculty of Social Work, University of Toronto
- Bradley Lee, Chinese Community Activist, Toronto

South Africa, 5–10 October 2011

- Crystal Orderson, Journalist and Commentator, South Africa Broadcasting Company (SABC), Johannesburg
- Kalle Kriel, Executive Director, AfriForum, Johannesburg,
- Roshan Dadoo, Regional Advocacy Officer and Acting Director, Consortium for Refugees and Migrants in South Africa (CoRMSA), Johannesburg,
- Kgothatso Serote Matshidiso, Senior Programme Officer, International IDEA, Johannesburg
- Una Cupido, Journalist, *Die Son*, Cape Town
- Edwin Lombard, Assistant Editor, Di Son, Cape Town
- Lindiwe Mthembu, Community Counsellor, Cape Town
- Ferdinand James, Khoisan Community Activist, Cape Flats Township
- Tanya Kleynhans, Director, Institute for the Restoration of Aborigines in South Africa (IRASA), Cape Town
- Appollus Matrus, Western Cape Customary Council, Cape Town
- Mackie Mackenzie, Khoisan Community Activist, Cape Town

What is International IDEA?

The International Institute for Democracy and Electoral Assistance (International IDEA) is an intergovernmental organization that supports sustainable democracy worldwide. International IDEA's mission is to support sustainable democratic change by providing comparative knowledge, assisting in democratic reform, and influencing policies and politics.

What does International IDEA do?

In the field of elections, constitution building, political parties, women's political empowerment, democracy self-assessments, and democracy and development, IDEA undertakes its work through three activity areas:

- providing comparative knowledge derived from practical experience on democracy-building processes from diverse contexts around the world;
- assisting political actors in reforming democratic institutions and processes, and engaging in political processes when invited to do so; and
- influencing democracy-building policies through the provision of our comparative knowledge resources and assistance to political actors.

Where does International IDEA work?

International IDEA works worldwide. Based in Stockholm, Sweden, it has offices in Africa, Asia and the Pacific, Latin America, and West Asia and North Africa.

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