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Institutions: The Hardware of Pluralism

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Institutions structure a society's approach to pluralism, which the Global Centre for Pluralism defines as an ethic of respect that values human diversity. Identifying the effects of institutions involves casting the analytic net to capture both institutions of governance and those that define citizenship, accord individual and collective rights, and identify obligations of citizens. These institutions can be termed the “hardware” of the pluralism experience, as contrasted to its “software” of cultural ideas, norms, values and practices. The work of the Centre often concentrates on institutions, and especially those at the national level but also formal institutions at regional, provincial and local levels as well as those of civil society at all levels.

Institutions belong both to states and to civil society, they operate locally as well as nationally and transnationally, and they may enhance or reduce the prospects for pluralism as an ethic of respect that values diversity. The message of this overview paper

is that under no circumstances can they be ignored or allowed to atrophy in the face of opposition to the values of pluralism.

INSTITUTIONAL FOUNDATIONS OF PLURALISM

The country studies carried out for this project on the Pluralism Lens repeatedly document the importance of a variety of institutions and their actions for the health of pluralism and for regenerating it when the commitment lags.

- Canadians often single out state policies – for example, those of bilingualism and of multiculturalism – that in the 1970s publicly proclaimed the country's commitment to recognizing, respecting and valuing diversity and eventually led to constitutional recognition in the Canadian Charter of Rights and Freedoms

This paper is part of a new publication series from the **Global Centre for Pluralism** called **Accounting for Change in Diverse Societies**. Focused on six world regions, each “change case” examines a specific moment in time when a country altered its approach to diversity, either expanding or eroding the foundations of inclusive citizenship. The aim of the series – which also features thematic overviews by leading global scholars – is to build global understanding of the sources of inclusion and exclusion in diverse societies and the pathways to pluralism.

of language rights, multicultural heritage, and indigenous rights. These are all now protected by the courts.

- In Colombia the 1991 Constitution guaranteed both individual and collective rights. The Constitutional Court has acted as the key institution for judicial recognition of the state's laws and decrees that oversee respect for the country's diversity, and particularly its indigenous heritage.
- In Brazil, too, it was a Supreme Court decision and then a federal law requiring affirmative action in federal public universities and technical schools that institutionalized the understanding – theretofore contested – that Brazil was a racialized society in which socio-economic exclusion followed in part from the practices of education. The courts, ministries and universities have become important institutions for establishing racial and income-based quotas for admission to higher education in order to advance pluralism.
- In Singapore, it was the British colonial state that bequeathed the city-state a “racial grid” labelling four communities—Chinese, Malay, Indian and Other (CMIO). The initial designation of the grid was a decision taken for practical administrative reasons by the agency responsible for the census. As used in state institutions after independence, the grid became a defining feature of Singapore's sense of national identity, and was used to structure and consolidate a version of communitarian multiculturalism.
- In Sri Lanka, however, in the 1940s the British colonial state was seduced into thinking that

the peaceful transition to independence and the cooperation among minority and majority elites meant that guarantees of minority rights in the post-colonial constitution were not needed. It quickly became evident that this belief was in error, as political parties moved to outbid each other in marginalizing Sri Lanka's minorities, institutionalizing exclusionary linguistic policies when in government.

These examples and the other case studies of the project document the central role played by courts in advancing pluralism and in protecting basic values from the pressures of electoral and legislative institutions. In Germany, from bottom to top of the judicial hierarchy, courts sometimes accepted and sometimes struck down legislation and administrative rules that ranked individual rights to manifest one's religion as second to the need for public order. Ultimately they came down on the side of the first. In Brazil, a Supreme Court decision paved the way to legislation on affirmative action while in Colombia claims-making before the courts widened and institutionalized the indigenous rights entrenched in the court-protected constitution.

But courts have sometimes been no match for mobilized political forces, especially political parties, in both democratic and authoritarian regimes. In France, the courts have sometimes simply given the stamp of approval to new limits on religious practices legislated and regulated after heated public controversy about republican secularism, while in former authoritarian regimes such as Côte d'Ivoire or Sri Lanka in recent decades the courts have simply been sidelined.

FOUR GENERAL OBSERVATIONS ABOUT INSTITUTIONS AND PLURALISM

While the centrality of courts to the story of pluralism is hardly surprising, given the importance of rights and protections in societies characterized by diversity, other generalizations also emerge from these case studies. Indeed four observations can be made about institutions' involvement in promoting or undermining pluralism. The effects of electoral institutions are not unidirectional; they may either support or threaten pluralism. Similarly, civil society institutions may hinder or support pluralism. Timing matters. International institutions sometimes determine outcomes.

Voting for pluralism?

Since the Second World War the values of liberal internationalism have designated liberal democratic institutions as foundational for well-functioning societies. Indeed, as colonial regimes transitioned to independence after 1945 they usually included institutions of electoral democracy. But simple rules of majority rule provide no guarantee that an ethic of respect for diversity will develop. Indeed the Sri Lankan case is exemplary here. The temptation of ethnic and religious out-bidding by political parties seeking power was so great that it undermined any efforts by elites from the majority and minority communities to create pacts that would guarantee minority rights in law. Côte d'Ivoire offers another, more complicated example. Independence from

France in 1960 promised electoral democracy but actually brought a one-party, authoritarian state. In 30 years of constant "re-election," the same president voluntarily pursued practices of ethnic, religious and regional accommodation. The 1990 democratic transition, however, ended this benevolent approach. Vicious competition among religious, ethnic and regional groups used exclusionary citizenship practices in elections. These affected both ordinary Ivoirians and potential candidates, eventually degenerating, just as in Sri Lanka, into civil war.

The fragility of pluralism's protection by liberal institutions is not confined to the global South. In both Germany and France anti-pluralist, anti-immigrant political parties and civil-society organizations are gaining ground. The temptations – and the incentives in terms of electoral success – to out-bid opponents so as to occupy this electoral ground are great. It is here that the interaction of judicial and representative institutions often becomes most important for the protection of pluralism, with courts and legislatures putting a brake on electorally approved excesses.

Sometimes for, sometimes not. Institutions of civil society and pluralism

Civil society organisations may play a role in reinforcing values of pluralism or may act to interfere with achieving a consensual ethic of respect for diversity. In Spain, for example, the transition to democracy in the 1970s began years earlier with mobilization against the dictatorship by institutions such as unions and citizens' movements. In France as well pressure to insert greater

pluralism into the principles of republicanism came historically from the Catholic Church, which sought accommodation within French secularism (*laïcité*) for Catholic, Jewish and other religious schools. Sometimes too competition among civil society institutions could become heated over who would best represent pluralism. For example, in Bolivia a dispute about the selection process for the Constitutional Assembly pitted civil society organisations (social movements, unions, peasant and indigenous organizations) against political parties, for the right to symbolize the nation's very identity. But the actions of the institutions have also, we must remember, sometimes undermined pluralism. Civil society networks of Tamils in Sri Lanka and Basque separatists in Spain had branches committed to the violence that targeted civilians as well as public authorities. German (and other European as well) civil society too harbours far right organisations committed to the anti-Islamic and anti-immigrant positions. Thus, just as electoral institutions may produce results supporting or undermining an ethnic of respect for diversity, so too may the actions of civil society organisations.

Institutional action for pluralism is time sensitive

Attention to the value of human diversity and commitments to respecting it have grown over time. At Sri Lankan independence in 1948 just as in German post-1945 citizenship law or French housing policy of the 1950s and 1960s, it was possible to ignore societal diversity. Yet, post-1945 strategies for economic growth brought population mobility, as individuals moved in search of better economic prospects. Vast population flows were a

European phenomenon but also characterized East Asia and other parts of the global South.

It was soon evident that individuals and families were not sojourning temporarily. Their children and grandchildren made claims on public institutions of all kinds to fully recognize them as society members. These were challenges to more than citizenship laws. Institutional recognition was at issue. For example, both Germany and France promised, but with limited success, to incorporate an institution representing Muslims into their existing institutional arrangements. Singaporean elites struggled to redesign their communitarian multiculturalism for a global city, as new immigration blurred the historically institutionalized CIMO distinctions.

Recognition of the long-term effects of these post-1945 population flows is a first factor that calls for institutional accommodation. A second factor is the claims-making to judicial and legislative institutions that arose during the third wave of democratic transitions that swept much of Latin America in the mid-1980s and then spread to the global South. When democratic institutions replaced authoritarian regimes, political space opened for institutions of civil society to claim rights for those marginalized under – often military-dominated – authoritarian regimes. As the Colombian case demonstrates, Latin America saw a regional trend towards inclusion of indigenous peoples into full citizenship, actions that thereby represented to the world the image of genuinely free, democratic and modern societies. In the years after its democratization and under pressure from a powerful social movement representing

Afro-Brazilians, Brazilian institutions have finally abandoned the mythical narrative of racial democracy and legislated affirmative action programs.

Institutions promoting pluralism across borders

Some case studies also reveal the role of international, transnational and supranational organizations in the consolidation of the practice of pluralism. For both France and Germany the institutions of the European Union have a legitimate role to protect rights guaranteed by the Union's treaties, and this has meant at times that European courts have been involved in authorizing or rejecting national decisions about restrictions on individuals' behaviour. While not always graciously accepted, such supranational involvement is fully accorded to the European judicial institutions by the countries' membership in the Union, as France and Germany have done.

In other places, external institutions' successful involvement in promoting pluralism is dependent on political skill and peer pressure. The 2007 Ouagadougou Peace Accord ending Côte d'Ivoire's civil war included a temporarily successful de-blocking of the stand-off over minority representation. The accord was negotiated with the facilitation of other Western African states, led by the President of Burkina Faso. Brazil announced a historical pivot in the international spotlight of the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance organized by the United Nations in Durban, South Africa. In his speech to the

Conference President Cardozo not only officially recognized the presence of racial discrimination in his country – thereby burying the long-standing narrative of racial democracy – but also promised in front of his peers to institute affirmative action.

In the Centre's analysis of pluralism, distributional fairness, good policy design, protection of rights and responsibilities, both in law and in politics, have a central role. Neither socio-economic inequalities nor cultural norms alone adequately account for the absence or presence of successful pluralism; institutions of all kinds are the intervening factors that mediate social and economic difference either to foster respectful practices for living together or to exacerbate and sometimes even generate inter-communal conflict. An ethic of respect that values diversity must be institutionalized if it is to persist and institutions must protect it.

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The Global Centre for Pluralism is an applied knowledge organization that facilitates dialogue, analysis and exchange about the building blocks of inclusive societies in which human differences are respected. Based in Ottawa, the Centre is inspired by Canadian pluralism, which demonstrates what governments and citizens can achieve when human diversity is valued and recognized as a foundation for shared citizenship. Please visit us at pluralism.ca