

*Developing the empirical evidence for DFID's  
strategy on exclusion*

**Public policy responses to exclusion:  
evidence from Brazil, South Africa and India**

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## Executive summary

This paper is a contribution to the evidence base for a new DFID strategy on exclusion. It provides a desk-based review of lessons learnt from public policy responses to tackle exclusion drawing on case studies of Brazil, South Africa and India. **It aims to explain how they have arisen, the degree of success they appear to have had and the nature of the obstacles they seem to have encountered.**

The limitations of the exercise need to be acknowledged upfront: there is a lack of available, rigorous evidence on the impact of policies from developing countries. In addition, the methodology adopted for the desk review has not been comparative nor systematic. **The aim is to propose ‘story lines’ about why/how certain policies have been adopted, discuss some evidence regarding impacts, and draw some lessons about identified constraints** in order to inform the DFID strategy.

**Brazil illustrates how pre-conditions for high-level political commitment to tackle social exclusion can emerge.** Focusing on racially-based exclusion, the case study illustrates how the ‘myth of racial democracy’ prevented the political acceptance of the existence of racism, even though the constitution and the legal framework provided for the right to racial equality. Key factors that led to the emergence of an explicit agenda to address racism include: the influence of social movements and initial institutional responses; the need for data and the role played by academics; international pressure for change, including through human rights commitments; and more significantly, the emergence of a broad-based political party, the Workers Party. A new approach adopted since 2003 includes making government as a whole responsible for tackling racism, based on coordinated action across ministries and secretariats. While it is too early to judge the impact of the new policies, an identified priority has been to tackle the link between racism and education and income opportunities. Controversial affirmative action quotas are being piloted in elite universities. The Lula government is generally seen as committed to social equity, beyond racism, and is supporting a number of social protection programmes. Various income guarantee programmes have been unified in *Bolsa Familia* (such as the well targeted conditional cash transfer programme in education *Bolsa Escola*). However, both affirmative action and social protection programmes need to be complemented by measures to target the quality of services – in this case, education.

**South Africa highlights some of the difficulties of implementing affirmative action programmes, and the trade-offs between growth and social spending.** The case study again examines policies to tackle racially based-discrimination. Policies already started to change in the latter years of the apartheid regime in response to the economic crisis, but have been intensified since. The constitution in particular provides a strong framework to promote substantive equality, including economic and social rights. Affirmative action policies have been introduced in the public and private sectors and have benefited women in political life. However, they have been criticised for over-emphasising numbers, lowering standards and only benefiting the black middle-

classes, in particular in the area of economic empowerment. Policies are being amended in the light of past experiences to ensure that they become broader-based. A review of efforts in the education sector illustrates the mismatch between policy and practice, including the need for complementary measures to address the quality of services and institutional incentives. Democratisation in South Africa has certainly contributed to enhancing policies to combat exclusion but an analysis of the political system suggests structural limitations. This includes the choice of the growth strategy, which may not be based on a pro-poor business coalition, and the greater responsiveness of the ANC, within a dominant one party system, to business and organised labour, rather than the rural poor.

**India provides different examples of a range of entrenched institutional, social and political constraints to implementing a 50 year commitment to equality.** The post-independence Constitution makes provision for quotas to achieve greater social equality. Looking in particular at the impact of social and religious discrimination affecting the 'intouchables' or *Dalits*, evidence suggests positive impacts in a number of domains, in particular political representation and the emergence of a more inclusive middle-class. Yet, there has been a failure to have an effective monitoring and implementation mechanism, and there is a need for 'exit' policies when disadvantages have been reduced. Barriers highlighted by the examined policies include technical failings in the design of policies, bureaucratic requirements to access benefits, institutionalised discrimination, and ongoing social discrimination. There has in particular been a failure on the part of agencies meant to protect excluded populations and social boycotts to resist policies. This has led some groups to mobilise through violence and resulting in more repressive measures. Again, political constraints are central and the hardest to overcome: while political representation of excluded groups has increased, clientelism in the dominant Congress Party and the chosen industrialisation strategies have been blamed for policy failures.

The conclusion highlights the following factors to inform DFID's strategy. First, **there seems to be a number of 'preconditions' for policy adoption:** including recognising that exclusion exists and is not acceptable as part of the 'social contract', the importance of social movements, the availability and use of data, and the potentially positive role of international pressure and domestic crises.

Second, **there is a range of promising technical responses:** including constitutional guarantees and an appropriate legal framework, affirmative action policies and social protection programmes. In addition the side effects of mainstream policies also need to be examined and combining policy instruments, as well as centrally-managed, coordinated programme across a range of sectors would seem to be the best strategy. Institutional reforms are needed at the meso-level.

Third, **political economy matters for effective implementation.** Political ideology and a democratic political system which facilitate mobilisation, accountability and responsiveness are not enough. Political constraints include the nature of the party system, patronage structures – including between the administration and elite groups – and the need for broad-based coalitions.

# 1 Introduction

## 1.1 *Scope and limits of the exercise*

**This is the second of two papers commissioned from the Overseas Development Institute by DFID's Exclusion, Rights and Justice Team to assist in developing the evidence base for a new DFID strategy on exclusion.** The other paper aims to collect, assess and analyse evidence on the use of new aid instruments and donor agency modalities to address exclusion (Booth and Curran, 2005). Additional research commissioned by DFID covered evidence on the nature and scale of exclusion globally (Kabeer, 2004), and on the links between conflict and exclusion, including through a series of case studies (Stewart, 2004).

The purpose of this paper is to highlight evidence of important national public policy responses to exclusion in selected developing countries. **It aims to explain how they have arisen, the degree of success they appear to have had and the nature of the obstacles they seem to have encountered.** Interventions by civil society organisations or donor agencies are not covered here, though it is impossible to discuss the emergence of such public policies without making references to social movements and other organisations that research, represent or advocate on behalf of excluded groups, and are able to put issues on the national agenda, inform policy choices, monitor policy implementation and suggest revisions to the adopted strategies.<sup>1</sup>

The methodology adopted for this paper has been to rely on a desk review of evaluation studies, surveys, grey and published literature covering a wide range of low and middle income countries where DFID operates. As de Haan and Maxwell noted a few years ago (1998:1) most writing about social exclusion has been about the North and our review of the literature has identified a **predominance of documented, explicit policy responses to exclusion from Western Europe.** This has mainly been focused on labour market and employment policies as well as social insurance and assistance programmes.

Social exclusion is still a relatively new concept as applied to developing countries. For example, a recent review of DFID interventions suggested that DFID staff found the concept most problematic in Africa, though they recognised the value of a social exclusion perspective as a useful analytical and operational addition to poverty (Beall and Piron, 2004). However, evidence that would demonstrate sustained positive impacts explicitly related to tackling exclusion in the South is still very limited. In some cases, this is due to the relative recent introduction of these policies. **Evidence is especially lacking in terms of impact on the lives of excluded individuals and groups.** This is mainly due to the restricted data available on excluded

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<sup>1</sup> Exclusion is defined with reference to groups of people who are excluded from social, political and economic processes and institutions on the *basis of their social identity* and who experience to a greater or lesser degree significant *poverty impacts* as a result of this exclusion.

groups. There is a similar problem of finding data on other forms of inequality beyond income, consumption or assets. Currently, available data tend not to capture inequalities of opportunities or horizontal inequalities between different groups (Anderson *et al*, 2004:3).

**Thus, the examples provided in this report need to be treated with caution:** the level of impact for each policy is difficult to determine, at times contested and is often a mixed outcome. The interaction of different policies to tackle different dimensions of exclusion (both as they impact a particular social group – e.g. economic, political or social opportunities, or trade-offs between groups – e.g. race and gender) could for example not be examined on the basis of the documents reviewed. Even where there is initial success, political or social developments can alter the impact of a policy response which may no longer be appropriate. For example, the economic policy in Malaysia improved the poverty levels of the ethnic Malay population, but there is now an emerging issue of intra-ethnic inequalities making the original ethnically-driven policy no longer appropriate (see Annex 1 for more details).

It is not entirely surprising that a broad-based desk research should have led to this result: **finding evidence of successful policies require that they be adopted in the first place, properly designed and implemented, and documented.** As is known with recent efforts to develop monitoring and evaluation systems for Poverty Reduction Strategy Papers, documenting policy change, in particular at the level of outcomes, is still underdeveloped. Monitoring and evaluation systems to follow the impact of particular policies on excluded groups and individuals are also rarely developed. Improving data gathering and monitoring and evaluation systems would seem to be a key recommendation for the DFID strategy.

**More significantly, the absence of data on excluded groups may result not simply from a lack of recognition of the issue by governments but from a deliberate policy of not collecting information on such a basis.** This is particularly the case when governments have a nation-building agenda and do not wish to emphasise the (continued) existence of disparate social groups. Rwanda provides an example: while external researchers and donor agencies would be interested in data showing the impacts of current policies on Hutu, Tutsi and Twa, this goes against the government's policy of promoting national unity and reconciliation by highlighting factors that unify Rwandans and controlling the space where 'divisive' factors may be discussed. Efforts to independently monitor the impact of sensitive policies, such as the *gacaca* participatory courts to deal with the genocide caseload, are treated with great caution. While the findings of research conducted by Penal Reform International have informed some of the revisions in the new law governing the *gacacas*, this has not been an easy process, in particular when research suggested undesirable impacts, such as an intensified sense of divisions between genocide survivors and others (PRI, 2004).

## **1.2 Approach adopted**

An initial broad-based review of available evidence found a number of interesting examples, some of which are presented in annex 1. However, this paper does not offer a comprehensive description of successful policy responses (for a list of possible intervention, see box 1).

**Box 1: Range of public policies to tackle exclusion**

**Constitutional and legal provisions** A starting point is the recognition of equality and non discrimination as fundamental rights guiding the behaviour of state agents and national policies. More detailed legal frameworks can specify how to seek redress (e.g. class action lawsuits, conciliation bodies or labour tribunals). Human rights commissions or Ombudsmen can examine patterns of discrimination, suggest remedial measures and policy responses.

**Affirmative action policies** have been introduced in some countries to give preferential treatment to groups that have been discriminated in the past and who continue to suffer from inequalities of opportunities and outcomes. They are often subject to opposition from individuals from groups other than those benefiting from the preferences.

**Political measures** can include various mechanisms to encourage representation of socially excluded groups and power sharing arrangements, such as: federal constitutions; proportional representation; decentralisation; reserved seats in elected bodies, etc.

**Economic measures** can include redistribution of government owned land and other policies to improve asset ownership by excluded groups, including of companies; growth strategies aiming for equity; or labour market interventions.

**Social measures** can include targeted action to adapt service delivery to the needs of excluded groups (e.g. use of indigenous language, informal education, adult literacy classes). Social protection programmes can also be used to tackle certain dimensions of exclusion. These may be targeted, conditional and include in-kind or cash transfers (e.g. pensions, school meals, minimum income guarantees, etc).

**Public expenditure** is key both in terms of the level and degree of progressivity of taxation, and in the levels and distribution of social spending.

**Administrative and service delivery** strategies can remove barriers to accessing entitlements and improve the quality of services. This needs to address institutionalised discrimination within the public service.

**Promotional activities and facilitating civil society interventions** are also required to tackle discriminatory values shared across society, including public policies to facilitate the mobilisation and organisational strength of social movements and media debates.

Instead, the approach adopted in this paper has been to focus on three countries with explicit policy responses and which have been discussed in the literature. **The paper aims to propose ‘story lines’ about why/how certain policies have been adopted, discuss some evidence regarding impacts, and draw some lessons about identified constraints.**

The analysis of developments in **Brazil, South Africa and India** has not been undertaken in a systematic and comparative approach. However, a number of relevant findings emerge by comparing them chronologically, with the most recent shift to explicitly addressing exclusion in Brazil over the last couple of years; 10 years of post-apartheid transformation in South Africa; and over half a century of affirmative action policies in India.

## 2 Brazil

### 2.1 Social exclusion in Brazil

#### 2.1.1 Race and exclusion

**Afro-descendants across Latin America disproportionately suffer from high levels of poverty and economic exclusion.** There are approximately 150 million people of African descent in Latin America. Most live in rural areas and disproportionately experience a lack of infrastructure, utilities, health services, schools, as well as high unemployment and low income. Afro-descendants make up over 40% of the poor in Latin America while constituting only a third of the population. In some countries this is much higher: in Ecuador, 81% of Afro-descendants live below the poverty line (Sanchez *et al*, 2003:3-4).

This section examines lessons that can be learnt from policies to tackle exclusion based on race in Brazil. **Brazil is one of the most unequal societies in the world, with a Gini coefficient of 0.60 in 1999 and Afro-Brazilians are over-represented in the poorest sections of society.**<sup>2</sup> Racially-based exclusion a significant issue as the following social indicators illustrate: according to data from the 2000 Human Development Report, the human development index for whites in Brazil would rank at 48 (before Croatia) and for blacks at 108 (equal to Vietnam); while 8% of the white population are illiterate, this affects 21% of Afro-Brazilians; in the most African-Brazilian town, Salvador, the difference in unemployment between blacks and white is 45%; the higher the education level of a black person, the greater the income difference with whites; and data for 1998 suggest that the gap with white men had increased over a 10 year period (Santos, 2001). A more recent study found that Afro-Brazilians constituted 45% of the population but represented 62.4% of the poor and 65.7% of the absolute poor, reflecting the close link between poverty and race in Brazil (Bairros *et al*, 2003). Afro-Brazilians live in all regions of Brazil, with a majority concentrated in the less-developed North-East region.

#### 2.1.2 The myth of racial democracy and failure of early reforms

In this case study, we focus on some of the factors that have led to the progressive adoption of policies to explicitly tackle racial exclusion, which required the public recognition that race was an issue. **It is only relatively recently that the links between poverty and race have been accepted in Brazil, creating major constraints to developing appropriate public policies.** In the 1930s for example, 'racial democracy' celebrated the mixed origins of Brazilians, but at the same time a policy was adopted to 'whiten' the population by encouraging white migrants. Blacks who attained higher socio-economic status were considered 'whiter' than poorer blacks.

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<sup>2</sup> Unlike other countries in Latin America, Brazil has a small indigenous population compared to the Black and Mestizo population: about 1% compared to 33% (maximum estimate) (Flórez, C. E *et al*, 2001:10).

In its 2003 report to the UN Committee of the Elimination of Racial Discrimination, Brazil recognised that 'For many decades, the myth of a nationality characterized by the harmonious and perfect fusion of three races, responsible for the construction of a "racial democracy" in the country, was propagated. Over a long period of time, the Brazilian State and society, acting on behalf of this myth, revealed themselves incapable of implementing effective mechanisms to incorporate Afro-descendants, indigenous individuals, and members of other discriminated groups into the larger society.' (CERD, 2003:5).

In 1956, the Brazilian Congress passed a law prohibiting racial discrimination **but racism was not a dominant political issue**. Brazil's 1988 Constitution, which emerged at the end of a period of military rule, provides for decentralisation and for a greater protection of human rights as set out in the instruments ratified by Brazil, such as the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). The constitution recognises the racial, ethnic and cultural plurality of Brazilian society and also stipulates that discrimination on the basis of race is illegal. It elevated racism from a misdemeanour to a felony, making it a non-bailable and imprescriptible offence and subjecting the accused to confinement.

**The adoption of the constitution prompted the introduction of policies to ensure the right to racial equality** 'ranging from classroom curricula and quotas ensuring the appearance of blacks in government advertising, through to the legalization of land titles for clandestine *quilombo* communities established by runaway slaves' (FNEN, 2001 quoted in Bairros *et al*, 2003:20). Legislation has covered discrimination in the media (Federal Law 8, 01/90, Lei Cao) and racism in the workplace (Law 9455/97). Yet, by the mid 1990s, equity-attempting reforms in Brazil failed to achieve progress towards redistribution and social inclusion. For example, while international pressure (including economic crisis and World Bank pressure for more progressive taxes) spurred **equity-enhancing reforms, they were domestically blocked, watered down and reversed**. Explanatory factors include: programmatic parties and broad-based alliances to demand higher social spending (rather than narrow benefits) were lacking, conservative bureaucrats resisted reform-minded technocrats, ministries protected their own sectors, and business leaders used segmentalist associations and personal links to protect their interests and thwart the implementation of reforms that were introduced (Weyland, 1996:106-110).

## **2.2 Preconditions for developing appropriate public policies**

While data on the impacts of various public policies are limited, **Brazil's history offers a range of examples of pressures that can lead to the adoption of public policies to explicitly tackle exclusion: social movements, the availability of data, international pressure and the emergence of a broad-based political party.**

### 2.2.1 Social movements

**Growing black social consciousness can be understood as an outcome of various social movements** that have mobilised overtime, such as the Brazilian Black Front (founded in 1931 but whose activities ended in 1937 when the Vargas rule promoted the ideology of racial democracy). During the period of military rule that lasted from 1964 to 1985 there were some back cultural movements but it is only in the late 1970s, during a period of political opening, that organisations such as the Unified Black Movement and the Afro-Brazilian movement Olodum were formed as a result of growing frustrations of the black population. They sought to raise black consciousness and organise against discrimination.

**A response to social movement pressure has been the setting up of institutional mechanisms to deal with the interests of Afro-Brazilians**, in particular in response to direct elections for state governments. For example, in 1982, the governor of Sao Paulo created a state agency known as the Council for the Participation and Development of the Black Community. In addition to the Councils (with civil society and government participation), there have been Advisory and Coordination Units and then Bureaus responsible for implementation (Barrios *et al*, 2003).

A federal level response occurred in 1995 when the black movement organised to commemorate the death of Zumbi dos Palmares (a slave who had led a successful rebellion against slaveholders in the northeast) with a march in the country's capital. International visitors contributed to raising the profile of the event. On the anniversary of Zumbi's death the President issued a decree that created an Inter-ministerial Working Group to Develop Policies Valuing the Black Population. This high-level group, chaired by the Human Rights Bureau in the Ministry of Justice, had as part of its mandate collaboration with the federal government's National Human Rights Plan, announced in May 1996. **This was the first time that the government officially recognised racial and gender discrimination as violations of human rights.**

**These institutional responses have had limited impacts in terms of outcomes for black and other socially excluded groups.** They are seen as having failed due to a lack of funding, specialised staff and authority. A weakness has been the lack of an overarching national mechanism to coordinate their work and a national policy framework. For Barcelos (1996:207 quoted Bairros *et al*, 2003), there is a danger that these agencies can be co-opted by elites and that their influence cannot last beyond the influence of a particular party or administration. As with the Indian examples discussed in section 4, there has been a failure on the part of state agents to internalise these new policies and programmes (Thorne, nd). These initiatives were, however, positive as they illustrated how the state could respond to social pressure and contributed to ending the myth of racial democracy.

### 2.2.2 Availability of data and research

**Another illustration of the interplay between social pressure and government bodies is provided by the production and use of data to inform policy-making.** Brazil's census allows respondent to 'self-classify' on the basis of colour. In the 2000 census for example 5.7% of the population identified itself as *preta* (black) and 39.5% as *parda* (brown) which can be interpreted to indicate that 45.2% of the population self-identifies as Afro-Brazilian - down from about 50% in 1991 - but still the largest population of African descent outside of Africa (Santos, 2001). **A constraint on social mobilisation has been the lack of a common racial identity:** the results of a 1976 survey show evidence of 134 different ways to self-classify one's race. The term *negro* is seen as pejorative, and many Afro-Brazilians prefer to self-classify as *moreno*, *mulato*, or *café com leite* (Warner, 2005:3). These results suggest a tendency for *branqueamento*: the black population tends to self-classify as whiter (Florez *et al*, 2001:30).

Over the years, the census had shown a declining number of persons identifying as black. In the early 1990s, **black activists decided to tackle this issue in order to create a stronger constituency in favour of targeted policies** to tackle social exclusion and racial discrimination. The campaign, which was funded by the Ford Foundation and the (Italian Foundation) Terra Nuovo, encouraged respondents to check darker colours and promoted positive images of Afro-descendants. Activists also wanted the National Institute of Geography and Statistics (IBGE) to include the category of race to strengthen Afro-descendants as a constituency for change. In the end the category of race was added, but to refer to indigenous peoples.

**The campaign was not fully successful, but it did have a number of impacts and highlighted constraints to change.** First, it showed resistance to change on the part of the statistical agency, and the key role that such agencies play to inform public policies. Second, though imperfect, census data have been used by activists and academics to show the links between race and poverty. Third, the campaign illustrated the strength of the black social movement in Brazil. Fourth, it also indicated the role that can be played by international organisations. In addition to the Foundations that funded the campaign, it is interesting to note that the 1991 census had included a question on indigenous peoples in response to a request by the World Bank to help in a land titling initiative (Thorne, nd).

**The availability of data has contributed to the production of academic studies and policy-oriented pieces that have informed policy makers.** In 2003 for example, DFID funded a multi-country study on inequality in middle income countries. The Brazilian case study brought together black academics who were able to highlight the importance of targeted policies to address racial discrimination (Barrios, *et al*, 2003). The project also included a case study of South Africa highlighting deficiencies in the country's growth strategy (Gelb, 2003).

### 2.2.3 International pressure for change

**Pressure from domestic social movements also combined with international pressure**, in particular the United Nations proclamation of 2001 as the International Year of Mobilization Against Racism and Brazil's participation in the Durban World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance. As a follow up to the Platforms of Action of international conferences (Beijing, Cairo and Durban) and other international commitments, a number of protocols have been adopted between the Ministry of Justice (SEPM) and other Ministries to develop specific programmes for equity (DFID, 2003:13-14). Examples of responses to international events include:

- In response to the 1993 Vienna Conference, the Brazilian government launched in 1996 the National Programme for Human Rights (prepared by the Ministry of Justice and various organizations of society, and co-ordinated by the Violence Study Unit of the University of São Paulo). This was the first time that the government admitted the existence of racial inequality and discussed affirmative action policies.
- In 1997, the Federal Government set up the National Department for Human Rights, to co-ordinate and support the implementation of the National Programme for Human Rights by government bodies and society as a whole.
- The National Council for Combating Discrimination was established in 2001.
- In 2002 Brazil adopted the National Affirmative Action Programme to implement the Durban Declaration and Programme of Action as well as the second National Human Rights Programme.
- The 2002 programme, which included a range of affirmative action programmes in different ministries, was co-ordinated by the Special Secretariat of State for Policies for Women (within the Ministry of Justice). This reflects the emphasis given to affirmative action programmes that promote the equal rights of women.

In addition, it is reported that social movements have made use of international human rights instruments, in particular the Convention for the Elimination of Racial Discrimination (CERD) and International Labour Organisation Convention 111, which calls for non-discriminatory salary equity and non-discriminatory workplace practices and has been interpreted to require the introduction of targeted policies.

#### *2.2.4 Political parties*

**Social movements have had an impact in part through their influence on political parties** and their ability to influence public policies in a period when military rule was in decline. In the 1982 elections, parties started to court the black vote; it is reported that it is in response to the growing mobilization of blacks that mainstream political parties started to incorporate anti-discrimination policies in their campaigns. In Sao Paulo, Afro-Brazilians were elected to federal, state, and municipal offices. In 1987, Benedita da Silva became the first black woman elected to the national Congress. However, parties courting black voters did not always implement policies that would effectively tackle racism and social exclusion. It is only in the mid 1990s that

President Cardoso publicly acknowledged that racism existed in Brazil, opening the door for more policies in his second term (1999-2003). In addition to the international events noted above, key developments during that period included: the implementation of affirmative action at universities (see section 2.4), Afro-Brazilians protests at the 500<sup>th</sup> anniversary of Portuguese settlement, the National Meeting of Black Parliamentary Politicians, and Benedita da Silva becoming governor of Rio de Janeiro state (Warner, 2005).

**The most significant shift has been in the impact of black social movement on the Workers Party**, which seized power in the 2002 elections. The Brazilian political system is described as consisting of weak parties, pushing for regional as opposed to national policies, with low party discipline and high degree of party switching. Party identification is low, and politicians are elected on the basis of personality, not ideology (Warner, 2005:4). In this context, the emergence of the Workers Party in the late 1970s was somewhat of an anomaly. It is a mass-based political party, linked to the trade unions with a high degree of discipline. The party was described as campaigning against corruption, clientelism and for a high degree of transparency and morality. It aimed to promote ties to civil society through 'nucleos', and was one of the first to have a nucleus of Afro-Brazilians.

Following the 1982 multi-party elections, the Workers Party moved to the centre creating more space for Afro-Brazilian social rights activists, whereas most left-wing parties had argued that class mattered more than race, limiting the potential for alliance across race and class. The Workers Party was thus elected on a platform that included combating racism. **The fight against racism, however, needs to be understood as part of a body of party policies aiming at social equality for all groups, including poor people, women and indigenous peoples.**

Warner's study (2005) tracks factors making racism a politically salient issue within legislatures and argues that the following **explain Afro-Brazilian's growing power within the Workers Party, contributing to the open promotion of the goal of racial equality**: the growing experience of Afro-Brazilian Workers Party parliamentarians seems to be the most important variable (though there is a lower proportion of Afro-Brazilian in the current legislature); an increased number of public events concerning race issues; the support of the executive; and the inclusion of social movements in the Workers Party.

## **2.3 Policies to tackle exclusion**

### *2.3.1 The Workers Party's agenda*

The provisions of Brazil's 1988 Constitution were only given real teeth when President Luis Inacio Lula da Silva came to power, with a political agenda to combat racism. As part of the election campaign a document called *Brasil sem Racismo* (Brazil without Racism) outlined the government's commitment to increase public policies focused on the Black population. It stated that policies that work to 'preserve equality of opportunities and treatment should **not be limited to the activity of isolated agencies in the government**

**administration but will be the responsibility of government as a whole in accordance with the legal provisions'** (Brazil without Racism, quoted in DFID *et al*, 2003:38). The change was radical: 'government support for racial equality seemed to explode in comparison to all preceding legislatures' (Warner, 2005).

These commitments resulted in the creation of the Special Secretariat for the Promotion of Racial Equality (SEPPIR) in March 2003 as an advisory body of the Presidency and supplementing the pre-existing National Secretary to Combat Racism. SEPPIR has the mission to promote racial equality and protect the rights of ethnic and racial groups affected by discrimination and other forms of intolerance. It represents **a fundamental step to make racial equality an actual governmental policy, based on cross-cutting actions, co-ordinated among different Ministries and Federal Secretariats.**

**Senior appointments have also reflected this new trend:** Lula's Cabinet included four blacks (including the secretary for the promotion of racial equality and the minister of culture, Gilberto Gil, an internationally renowned musician promoting Afro-Brazilian cultural heritage). Lula has appointed the first black Supreme Court judge and promised that blacks would account for at least a third of the federal government within five years.

The government is lobbying in favour of **the Racial Equality Statute, which, if passed by Congress, would require quotas for all levels of government** and even in the media. 2005 has been named the Year to Combat Racism with plans for the first national conference for the promotion of racial equality, Congressional passage of the statute for racial equality, and the creation of inter-governmental forum for racial equality.

The Workers Party election campaign included the following commitments with regards to education: stimulating juvenile and adult literacy, broadening the system of university quotas, creating financial incentives for families to send their children to school, and ensuring that African history and culture are part of the curriculum. In the rest of this section, we examine the impact of two education sector policies, starting with affirmative action and then conditional cash transfers.

### *2.3.2 Affirmative action in higher education*

**Inequality in education is an important dimension of social exclusion:** for example, educational inequalities explain the 48% wage gap and some 26% of income inequalities (Barrios *et al*, 2003). A recent study found that 'inequality of observed opportunities is responsible for a very substantial proportion of total outcome inequality in Brazil. It accounts for approximately 8-10 percentage points of the Gini coefficient for individual earnings. Fifty-five to 75 percent of this share can be attributed to parental schooling alone' (Bourguignon *et al*, 2003b:26). This is very high by international standards and policies are required to equalise opportunities both in schools and beyond education. In addition, family background impacts on income opportunities directly, suggesting that socially-based networks contribute to limited opportunities (*ibid*:28).

**Public spending on education in Brazil sustains racially exclusionary patterns.** It is dominated by higher education, which accounts for some 70% of direct government expenditures, and principally benefits the rich: 46% of government funding allocated to higher education benefits people who are among the richest 10% of the population. State and municipal governments are primarily responsible for primary and secondary which limits the role that the federal government can play in redressing the balance (Santos, 2003).

**Brazil has been piloting affirmative action policies in universities, through the use of quotas, to tackle historical imbalances.** According to data from the Brazilian Institute of Geography and Statistics, white Brazilians generally earn 57% more than black Brazilians working in the same field, and a white Brazilian without a high school diploma earns more, on average, than a black Brazilian with a college degree. Of the 1.4 million students admitted to universities in Brazil each year, only 3% identify themselves as black or mixed race; only 18% come from the public schools, where most black Brazilians study.

In 2000 a quota policy was introduced in the State University of Rio de Janeiro, but it was **blocked in 2001 in the face of a challenge on its legality brought to the Federal Supreme Court.** In 2003 pilot projects started at university campuses in Bahia and Rio de Janeiro. The pilot project at the State University of Rio de Janeiro triggered 300 court cases filed by white students whose applications for admission were rejected. They challenged the methods used by the university to determine the colour of students (self-definition). The quotas themselves were also controversial: 40% for black students, 50% for students of state-run schools and 10% for students with special needs. Critics claimed that the quotas overlapped given that Afro-Brazilians make up the majority of students in state-run schools (Toni, 2004).

Though there is limited data to assess the impact of the quota policies over such a short period, some commentators note successes. It is reported that **the policy doubled, and in some cases tripled, the enrolment of black and mixed-race students in elite professional schools** such as medicine, law and engineering. None of the court challenges have been successful, and the programme in the State University of Rio de Janeiro has been modified to clarify the quotas. Other universities have set up schemes (such as in 2003 the state university of Mato Grosso and the University of Brasília) and the Ministry of Education, together with the Special Secretariat for the Promotion of Racial Equality, was preparing guidelines on affirmative action for all public universities (Toni, 2004).

**Additional actions are required to complement the quotas.** It is in particular important to keep students at university once they have been admitted. They may be too poor to afford many of the costs associated with higher education. Scholarships are needed to assist first generation African-Brazilian university students. In addition, the affirmative action policies are meant to address the income gap between blacks and whites, but educational differences are not the sole determinant of this income gap. There is also a

need to address education in primary and secondary schools and the wider deficiencies in the education system. Additional proposals based on the experiences of the Black social movement to promote a more inclusive educational policy include: 'adult literacy classes to vocational training for youngsters, in addition to citizenship tutoring, in parallel to building up the capacities of teachers for a diverse and plural education, while also preparing black children and youngsters to achieve better-paid careers on the labour market that are traditionally held by whites' (Barrios *et al*, 2003). **These recommendations point to the need for combined public policy instruments rather than simply relying on (controversial) affirmative action.**

### 2.3.3 Conditional cash transfer programmes

Other policies can reduce exclusion based on differentiated education opportunities, such as social protection programmes. **The Bolsa Escola programme is often mentioned as an example of a successful conditional cash programme**, though a recent study challenges this assessment and argues for further investments in the quality of education.

The *Bolsa Escola* programme was first created in 1994 in the Federal District, under the governorship of the Workers Party. This minimum guaranteed income programme involves families receiving monthly cash benefits in exchange for children attending school. The assumption is that poor children do not go to school because they work. By 1998, it was estimated that, with less than 1% of the municipal budget, it had lifted 10,000 families out of acute poverty, expanded the redistributive impact of social spending, and reduced drop-out rates to zero amongst beneficiaries. The programme was then extended to more municipalities, but not always successfully. In 1998, the Ministry of Education made it a national programme in a partnership between the federal government and municipalities. In 1999, more than 1 million children were reportedly enrolled in the programme which was mostly effective in rural areas (Levinas *et al*, 2001).

In Recife, the programme was introduced in 1997 and initially benefited 1600 families. An ILO study in 2001 concluded that the **Recife programme had been successful. It was well targeted in terms of criteria to select applicants and its focus on the neediest families. It was well received by teachers and school principals. It contributed to a breakdown in mechanisms that have tended to exclude poor children** as it commits families to maintaining children in schools and schools to keep students that might otherwise drop-out. Two thirds of families that benefited from the programme were able to rise over the poverty line. However, impacts on child labour were not as effective (Levinas *et al*, 2001). Additional studies, in particular for the World Bank, noted positive impacts (such as Bourguignon *et al*, 2003a) and recommended rolling out.

In 2001, the *Bolsa Escola* programmes were unified at the federal level (covering children aged between 6 and 15). It was introduced by President Cardoso through a presidential measure which ensured that more than five

million beneficiary households were reached within a year. It has been argued that this was a result of the right-centre government's need to strengthen its position in the run up to a general election scheduled for 2002 (Britto, 2005:10).

The *Bosla Escola* programme did not require that the transfers targeted excluded groups. There was some scope, due to decentralised fiscal arrangements, for each state or municipality to combine the programme with local ones (which could make it more targeted) or add more to the budget. Leaving the targeting arrangements to individual municipalities resulted in a great deal of variation including targeting by schools, queuing as a self-targeting mechanism, geographical targeting and household visits (Britto, 2005:11). Many of these worked well but without a national requirement to target the programme to specifically tackle exclusion, it is not possible to assess its success in terms of including excluded children into formal schooling.

In 2004 various income guarantee programmes benefiting families were unified into a comprehensive *Bosla Familia* under the Presidency, to be managed by a special inter-ministerial council. According to the government, 5.3 million families were receiving the new benefit, corresponding to \$26 per family per month. Schwartzman estimates that 10 to 15 million children are in families benefiting from the programme, which had in 2004 a total budget of approximately US\$2 billion. *Bolsa Familia* is becoming larger than all education programmes outside of higher education (Schwartzman, 2005:3). **However, Schwartzman cautions the widely shared view that this is the best use of resources to improve education outcomes for socially deprived groups.**

Criticisms have included the fact that it is not possible to check if children are attending school as well as patronage in the allocation benefiting middle-class families. The Ministry of Social Development responsible for the programme did not initially prioritise monitoring beneficiaries' compliance with the programme's conditionalities, seeing the cash transfer as a citizenship right.<sup>3</sup> However, when the general public found out that the government was not monitoring families' adherence to its conditions, the government was considered to have introduced a paternalistic hand-out programme (Britto, 2005: 15). In addition, **there has been an absence of systematic study of the programme's impacts, in particular on learning – and a danger that rhetoric, rather than empirical research, is used to adjust public policies.**

Schwartzman's own analysis, based on 2003 household data survey, suggests that the programme was reasonably well targeted on the poorest family (though there was an anti-urban bias) but that it is not well focused as an education instrument: children would have probably stayed in school without the benefits; it excludes the older group that have more likely to leave school and those that are not in the mainstream system. The need to work is not the main reason why children might drop out. Schools need to focus on what is

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<sup>3</sup> This coincided with the government passing legislation at the beginning of 2004 on the right to a guaranteed basic income to cover basic citizenship rights (food, education and health).

required for children from economically and culturally deprived families given the correlation between socio-economic conditions and student achievements (ibid:21-24). As in the Barrios *et al* (2003) recommendations, **there is a need to invest in the quality of the school system and remedial programmes for deprived children.** He concludes that *Bolsa Familia* has value as a minimum income social programme, but might be better **provided as an unconditional grant**, free of social behaviour control.

### 3. South Africa

#### 3.1 Social exclusion in South Africa

**Inequality in South Africa is very high:** households in the top decile receive half of the total income in society, about ten times the median household income and about one hundred times the average household income in the bottom decile (Nattrass and Seekings, 2001:472). **Race is a significant determinant of both poverty and inequality:** in 1999, 52% of the African population was poor while 95% of poor people were African, though Africans were only 79% of the population as a whole. It is estimated that 40% of total inequality in 1995 was a consequence of between-race inequality across the four racial groups. Inequality between races has declined significantly but inequality within racial groups (except Indians) has risen. For example, the percentage of Africans in the top decile has risen from 2% in 1975 to 22% in 1996, and that of whites declined from 95% to 65% in the same period (Whiteford & van Seventer, 1999:14 quoted in Gelb, 2003).

**Employment is a major contributor to inequality:** when household income is decomposed into different components, wages account for 66% of inequality across all households. Unemployment affects racial groups differently: 47.8% of Africans were unemployed in 2003 compared with only 9.9% of whites (Gelb, 2003:4). Other dimensions of social exclusion recognised by South African public policies include gender disparities, as well as location (urban/rural divide), disability and HIV/AIDS status.

**Policies to tackle inequalities were adopted from the late 1970s onwards, as the apartheid regime started to face economic decline and pressures from social movements, including trade unions.** Since the negotiated political transition leading to the first free multi-racial elections in 1994 and rule by the African National Congress (ANC), a wider range of public policies have been adopted to provide for substantive equality amongst all citizens. There have been some positive impacts: in particular, the Gini coefficient has been declining, from 0.67 in 1991, to 0.56 in 1995 and 0.57 in 2000 (Anderson *et al*, 2004). In this section, we focus principally on policies aimed at tackling racial inequalities and **highlight some of the constraints to achieving positive impacts over the last 10 years even when the political context seems overwhelmingly favourable.**

#### 3.2 Affirmative action policies

##### 3.2.1 Constitutional framework and affirmative action in the public service

**One of the most important responses to dealing with the legacy of apartheid has been the adoption of a progressive constitution in 1996, making provision for substantive equality amongst citizens and providing protection for economic and social rights.** The Constitutional Court has played an important role in promoting this new agenda (see Piron, 2004, for examples), as have other accountability bodies, such as the National Human Rights Commission.

The constitution starts from the premise that everyone is equal before the law: the state may not discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

The constitution calls for legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination and provides for affirmative action: section 8(3)(a) states that 'society will regard any measure designed to achieve adequate protection and the advancement of people who were disadvantaged by past discrimination as legitimate'. Those wishing to use affirmative action are required to prove that the person has been discriminated against in the past, the discrimination was unfair, and the main aim of the action is to promote equality. A white applicant may experience discrimination but it could not be seen as *unfair* because of South African's apartheid past (de Jaarsveld, 2000:18). This provision in the constitution is further strengthened by the emphasis given to gender equality and democratic participation.

Since 1994, the ANC government has promoted the introduction of affirmative action policies in public service employment in order to redress past discrimination and aiming to achieve broad representation. This is entrenched in the 1996 Constitution, with a 1998 White Paper providing more detailed provisions.

**Affirmative action policies have been criticised for over-emphasising numbers and lowering standards**, including the accusation that government is pushing for quantity over quality given the shortage of black civil servants able to fill positions of seniority. This has resulted in management positions being passed to black persons who are not civil servants. Low workforce morale and productivity is perceived to be the result of black managers being appointed without the necessary skills and knowledge for the position. There is a perception that the main beneficiaries of affirmative action in the employment field are the black middle-class and professional women of all ages. This causes tension among the white population and the poorer sections of the black population. Indians and mixed-race persons also consider themselves disadvantaged by comparison to African applicants (de Jaarsveld, 2000).

While the use of affirmative action is compulsory in filling government positions, the private sector is freer to choose its own policies. The 1995 Labour Relations Act entitles employers to design their own affirmative action policies. The 1998 Employment Equity Act makes discrimination illegal and enforces the use of remedial programmes. It attempts to 'redress' access to the economy for those who were effectively excluded from participating in labour markets. However, the Act and its associated codes have been described as 'honoured more in the breach than in implementation', with weak enforcement by the Department of Labour. In addition to grey areas and gaps, such as an absence of a clear positive duty on employers and an enforceable

right for employees, as well as the absence of class action lawsuits (though they are allowed for other aspects of discrimination), **government underestimated the degree of skills and resources needed to enforce compliance** (Mbabane, 2004).

The South African model includes two features which are important and may tackle some of the criticisms. **First, the judiciary is playing a role to ensure the fair application of the policy**, assessing whether the same result can be achieved through less damaging options, examining the level of skills of applicants and the existence of affirmative action policies in the work place and has on occasion ruled that white persons had been discriminated against (de Jaarsveld, 2000;21-22). **Second, attention is being placed on skills development and training** in order to address concerns about the lack of competence.

Further research would be required to assess the overall impacts of employment affirmative action policies to date and the degree of public support or opposition. Overall, since the 1970s, the nature of inequality in South Africa has changed: there has been a steady decline in wage and job discrimination, upward mobility in occupations and increased bargaining power through trade unions over wage levels, leading to increases in real wages for working African people (Nattrass and Seeking, 2001:473).

### *3.2.2 Quotas for women in politics*

Affirmative action policies have also benefited women. Instead of constitutionally guaranteed 'reserved seats' as found in Uganda (see Annex 1), South Africa has a multi-party liberal democratic system which has introduced informal mechanisms for increasing women's participation, with women parliamentarians representing parties rather than women's interests (Goetz and Hassim, 2003:2). **This voluntary affirmative action mechanism at the party level has been strongly supported by the ANC (in its guidelines for nominations of public representatives). This policy has resulted in women making up about 30% of all parliamentarians (27.7% in 1994 and 29.5% in 1999, Hassim, 2003:105)** when prior to 1994, there had never been more than 4% representation in parliament. The increase in women MPs was due to the choice of an electoral system – a PR party list – that has been successful in a number of countries to increase women's political participation.

**The importance of a strong women's movement explains why quotas for women were adopted.** Within the ANC, the internal women's wing gained recognition and obtained commitments for women's rights from the whole party (Goetz and Hassim, 2003:13). Women came together across party lines to constitute the Women's National Coalition, which helped strengthen the ANC's Women's League during constitutional negotiations. Initial efforts to push for ANC quotas in 1991 failed because there had been insufficient consultation with ANC branches and the ANC's Women League learnt the importance of getting male members on board. In the 1994 elections, a quota system was used to place women on lists for national and provincial

legislatures, and in 1999 women were placed in every third position on the national list, which led to 33% representation of women (Myakayaka-Manzini, 2003).

**The numbers of women in parliament are not significant unless women have leverage within the broader political system and decision-making positions.** In 1994, the Cabinet had women at 15% (4 out of 27) of ministers and 56% (8 out of 14) of deputy ministers. Although a significant number of the 'social' minister positions were given to women (Health, Housing, Welfare), some women deputy ministers held 'hard' portfolios of Finance and Trade and Industry in 1994-8 (Hassim, 2003:89). Furthermore, studies have shown that women MPs had managed to overcome some of the cultural and institutional constraints on their participation and reported greater confidence, support and commitment as a result of experience with the technical processes. (Hassim, 2003:100). However, women's effectiveness in Parliament was constrained by external political conditions and internal cultural and institutional blockages. Notably, there was no consensus in government or society to the significance of women's issues over other empowerment – especially race – issues. Furthermore, stereotypes of women as ineffectual leaders persist, reinforced by both men and women, despite women's growing visibility in politics (Hassim, 2003:95-6).

### *3.2.3 Affirmative action and economic empowerment*

'Black Economic Empowerment' (BEE) is another government objective, combining the goals of promoting growth and social cohesion. The BEE is a joint effort by the government and private companies to restructure control over the economy and resources that had been shaped by the apartheid era. Given the highly unequal distribution in income, wealth and assets, the goal of this programme is to 'promote faster economic growth and enhanced political stability, and to pre-empt the perceived potential for populist redistribution that Zimbabwe's land reform tinged by racial divisions took since 2000' (Moyo, 2003:64). This has included favouring historically disadvantaged persons in the granting of government tenders, procurement contracts, licences and increasing black involvement in senior economic positions. Voluntary objectives were set for racial transformation such as the plan by the National African Chambers of Commerce that corporations listed on the Johannesburg Stock Exchange (JSE) should have 30% black directors; 40% black share ownership; 50% black suppliers for production inputs; and 60% black management, which was 4% in 1990 (Gelb, 2003:34).

**There have been a number of criticisms of this programme, including that its regulations may jeopardise the economy and future investment and that the BEE enriches a few black people rather than the poor masses.** Controversial features have included transferring white assets to a small group of established black entrepreneurs. By 1998, black-controlled companies accounted for about 7% of the JSE's market capitalisation but this had dropped to only 2.2% in 2002. The process was criticised as too narrow: 'there were only 260 previously disadvantaged individuals holding 367 directorships in 387 JSE-listed companies in September 2002' and these

were mostly operating management portfolios rather than controlling productive assets (ibid). The BEE was also considered unpopular. In a study conducted to collect South African's attitudes to inequality, while 87% of people surveyed agreed that 'in South Africa, incomes are too unequal' and 90% believed it was the role of the government to ensure everyone was provided for, only 60% supported black economic empowerment with preferential contracts and tax breaks to black businesses (Roberts, 2004:12).

Aiming to correct some of the failures of past policies, the (2003) Broad Based Black Economic Empowerment Act has now become operational. It has been informed by the work of the Black Economic Empowerment Commission. The goal remains similar - to enable meaningful participation of black people in the economy, change the racial composition of ownership and management, provide access to finance, promote investment programmes that encourage meaningful black participation and empower rural and local communities to access economic activities, land, ownership and skills. In order to redress some of the perceived weaknesses of the Employment Equity Act, designated groups refer to 'blacks' – including black women and black disabled persons. Under the Act, 'black' refers to Africans, Coloured and Indians and 'broad-based' to the inclusion of additional dimensions – women, disability or rural areas. Another benefit of the new approach is that it focuses on a broader range of enterprises, not just large ones.

**One of the omissions of the 1998 Economic Equity Act was that it did not provide guidelines on how to achieve the goals.** The Commission for Employment Equity had been mandated to research and set norms and benchmarks but had failed to do so. A sectoral 'scorecard' approach is now being developed to assess businesses, and various sector-specific charters have already set goals for transformation (e.g. 40% of participation of disadvantaged persons in management within 5 years in the mining sector). **Though compliance with the targets is not compulsory, the process is now reportedly being driven at the highest levels of companies; incentives include the desire to access government contracts and retain licences** (Mbabane,2004:3). This also includes relationships with other businesses which have already been 'empowered' and are in receipt of contracts with government and state-owned entities.

Concerns continue to include the complexity of the legislation and the need for greater clarity. Elements of the Codes of Good Practice for Broad-based Black Economic Empowerment have been released for comments and the Black Economic Empowerment Council will then be appointed. More fundamentally, however, **there are still questions as to the appropriateness of the funding model: it is principally shareholders who are paying the costs for the transformation of companies, and the BEE has been criticised for 'transferring rents to the black middle-classes'**. It does not feedback adequately into a growth strategy which would fund wider social objectives (Gelb, 2004:34).

### ***3.3 Inequality and public expenditure***

### 3.3.1 Taxation and public expenditure

Social exclusion can also be addressed through redistributive policies – including higher social spending and progressive taxation. According to Lieberman (2003), the scope for progressive taxes is shaped by the level of class division or cohesion, and its relation to historically constructed notions of citizenship. Equally important is the political and institutional framework that influences how different groups are included into the tax system. **In South Africa, the end of apartheid era had already seen the adoption of progressive taxes and redistributive policies, but this was strengthened by the ANC government.**

South Africa's tax structure is progressive compared with other middle income countries mainly because income taxes (which are typically progressive) are a higher proportion of all taxes than in other countries. Furthermore, there is significant redistribution from richer to poorer households through tax policies by the very fact that the top quintiles pay more in income tax, and social spending as a proportion of income is higher for the poor than the rich (Nattrass and Seekings, 2001:477). The case of South Africa shows that the combined impact of taxation and public expenditure has reduced the (pre-tax) Gini coefficient from 68% to 44%. Although this was mainly due to public spending (e.g. providing health, education and other services on a subsidised or free basis), **taxation still reduced the Gini coefficient from 68% to 64% which has made a significant impact on poverty reduction objectives** (Anderson *et al* 2004:6). Given the difficulty in reducing Gini coefficient, this is a major achievement.

**The evidence regarding the impact of the ANC's social spending priorities is mixed.** There was redistribution through the budget in the later years of the apartheid era, including on de-racialised non-contributory old-age pensions, primary and secondary school and public health (Nattrass and Seekings, 2001:480). Since 1995, spending distribution has remained stable, with priority given to social services, education, and health. Social assistance programmes have a wide coverage and in 2000 a universal free basic water policy was introduced (Gelb, 2003:34-35). The government's ten-year review (1994-2004) highlighted some significant progress due to public spending: 1.9 million housing subsidies and 1.6 million houses built for the poor; more than 70% of households electrified; an additional 9 million people with access to clean water; and 63% of households with access to sanitation. (quoted in Daniel *et al*, 2004).

Government has claimed that social spending shifts have benefited the more disadvantaged members of society, yet this has been challenged: some of the categories of spending do not seem to have directly benefited the poorest and changes in welfare spending have been regressive (Nattrass and Seekings, 2001:480-1). Gelb (2004:35) argues that policies in the areas of education, land reform and housing have not been able to sufficiently build assets.

The initial strategy for South Africa's post-apartheid development was the *Reconstruction and Development Programme* (RDP). In 1996, this was

replaced by the *Growth, Employment and Redistribution Strategy* (GEAR) which focused to a greater extent on structural issues of debt reduction, inflation control, privatisation, deregulation of financial controls, export promotion and labour market flexibility in order to get an internationally competitive market. The government's argument was that only by tackling these issues could the social issues in the RDP be addressed (Daniel *et al*, 2004). However, a report by the Taylor Commission for the Department of Social Development (set up to examine the need and potential for a comprehensive system of social security) and a Human Development Report by UNDP were both very critical of the government's interventions to reduce poverty and inequality.

The UNDP report highlights that many of the government's policies have not worked, stating that the 'current strategy and policies for achieving growth are objectively anti-poor' (UNDP, 2003:6). The gap between economic growth and employment growth is widening and the poor are not able to participate in the current strategies for economic expansion. Furthermore, the current social assistance system of grants is not managing to reach the poor. Another key issue has been the quality of services, as is illustrated below with education.

These reports contributed to the government's re-examination of its strategy. 2004 saw a 9% growth in government expenditure, including a large-scale public works programme, and an increase in welfare and social spending of 14% over the following three years (Daniel *et al*, 2004).

### *3.3.2 Education*

The National Education Policy Act (NEP Act) of 1996, the South African Schools Act (SAS Act) of 1996 and Curriculum 2005 are the foundations of the ANC government's attempt to create an inclusive schooling system. Drawing on the constitution, the NEP act outlines the framework for the new education and training system in South Africa, defining it as one 'that integrates education and training, promotes learner-centredness and an outcomes-based education, establishes a curriculum that is inclusivist, and democratic arrangements for teaching and learning and school governance' (Carrim, 2003:24).

**Although South Africa has undertaken significant reforms to tackle exclusion since 1994, there remains a mismatch between policy and practice and emerging evidence that various forms of exclusion still remain.** Education policies have explicitly focused on historical exclusion based on race. Yet experience in desegregating schools shows that there are still forms of racism in the education system: high incidences of racial tension, no use of African languages, not necessarily an inclusive curriculum, and not always black representation at all levels of the school governing bodies. Similarly, in 1997, the Gender Equity Task Team released a report that indicated that schools were an unsafe place for girls (including high levels of rape), despite the antisexist content of educational policies. While the curriculum was intended to be inclusive, in practice teachers lacked the support and training to put this into action. Training for teachers and learning

support material has been minimal, leading to disparities between policies and practice (Carrim, 2003:25). Overall, there has been a rise in education spending, which has resulted in a narrowing of pupil-teacher ratios across races. However, outcomes have deteriorated, with a decline in students passing the school-leaving exam. Almost half of schools are without adequate classrooms, electricity or textbooks. This affects service delivery and the development of human capital, and is seen as a serious failure on the part of government to tackle a key aspect of the 'apartheid backlog' (Gelb, 2003).

Carrim concludes that South African laws and policies 'lack on the level of being pragmatic. They are laudable on the dimensions of the moral and ethical and the political, but they have yet to be proven to be efficient and pragmatically implementable' (Carrim, *ibid*). **Increased spending in education has thus not been able to be translated into more appropriate, quality service delivery for excluded groups: institutional constraints may be greater than financial resources.** In his recent annual state of the Union address, President Mbeki recognised some of delays in implementing transformative programmes – acknowledged constraints included the complexities of the tasks and the capacity of implementing agents even when financial resources were provided (Mbeki, 2005).

### **3.4 Democracy and social exclusion**

Overall, South Africa demonstrates a political commitment to tackling the barriers to equality resulting from the legacy of apartheid. The 2005 state of the union address confirms that tackling the 'second economy' and promoting 'social cohesion' remain on the government's agenda (*ibid*). There is a commitment to make use of research findings with regards to social cohesion and strengthen policies in this area. Yet, in a number of dimensions, available evidence indicates a mixed record.

**Studies by Gelb (2003) and Nattrass and Seekings (2001) both indicate structural political characteristics that will continue to slow achievements.** At one level, the scale of social engineering required to deal with a racist economic, political and social structure is such that 10 years would seem a relatively short period to achieve massive, sustainable changes. However, the literature points to two additional constraints.

Gelb highlights the priority given to export-led growth in the 'first economy', which resulted from the need for the ANC to accommodate business interests and international investors, also a feature of the negotiated mode of the political transition. According to him, **this approach paid insufficient attention to the need for 'shared growth' and building a pro-poor coalition within the business sector.** The shift from the ANC 1994 election manifesto *Reconstruction and Development Programme* to the 1996 *Growth, Employment and Redistribution* programme illustrated the transition to a more orthodox approach, based on fiscal conservatism, which has resulted in disappointing growth and a decline in employment (Nattrass and Seekings, 2001:483).

Nattrass and Seekings suggest a political explanation for the failure to adopt more redistributive policies that would tackle unemployment – which they argue constitute the most important dimension of inequality. Interest groups that constrain the re-allocation of public spending and prefer higher wages include public sector workers and trade unions, powerful ANC supporters. Job creation was seen as an important electoral issue on which the ANC had not fully delivered, but **the political system is such that the ANC is more responsive to the interests of business and organised labour, and less to the demands of the rural poor though they are an important political constituency.** They argue that this results from strong political identification with the ANC (regardless of its ability to deliver on all its commitments), the absence of credible opposition parties, political patronage power, and the closed list proportional representation electoral system.

A finding of the South Africa case study, which echoes some of the lessons from Brazil and India, is thus that **democratisation can contribute to the introduction of policies to tackle social exclusion, but representative democracy does not automatically lead to redistributive policies that can tackle exclusion effectively.** The nature of the party system and the role of social movements are also important factors that can determine the nature and success of policies implemented to tackle exclusion.

## 4. India

### 4.1 Social exclusion in India

The caste system in South Asia is seen as the root of patterns of exclusion and as contributing to continuing high levels of poverty in some groups. In this section we examine public policies that have been adopted to deal with exclusion (principally one based on basis of caste and ethnicity). **Given the range and longevity of anti-exclusion policies in India in the face of continued exclusion, the focus of this section is on understanding constraints to successful policy implementation.**

Scheduled Castes (SCs) constituted 20% of the rural population but 38% of the poor in 2000. Scheduled Tribes (STs) constituted 11% of the population, but 38% of the poor. Poverty was around 30% for religious minorities (mainly Muslims) (Kabeer, 2004). *Dalits* are at the bottom of the caste hierarchy, described as 'untouchables', and suffer not just from poverty but also discrimination, violence and exclusion from economic, social and political life. *Adivasis* belong to tribal communities. *Dalits* and *Adivasis* come from all religious groups (Hinduism, Islam and other faiths) A third category of 'Other Backward Classes' (OBCs), who have also suffered from ritual and social discrimination, is the most heterogeneous and constitute a numerical majority in many states in India. In total, SCs, STs and OBCs constitute about 65% of India's population (Seth, 2004:39). There is evidence to suggest that there is persistent inter-group disparity between SCs/STs and the rest of the population. A study using the last four National Sample Surveys (1983-2000) to analyse the monthly per capita expenditure of various sections of the population showed that all groups have seen a rise in their monthly per capita expenditure over the past two decades but it has been much greater for the 'Others' groups than it has for the SCs/STs (Deshpande, 2005).

### 4.2 Public policies to tackle exclusion

A range of policies have been adopted in India to deal with exclusion which have had some positive impacts. Affirmative action policies in the domain of political representation, government jobs and educational bodies have been in place for over 50 years and aim at ending social segregation and ritual exclusion. Legislation also provides for protective and promotional schemes and programmes. Protective laws include: ending forced labour, preventing the alienation of land owned by tribals to non-tribals, or regulating money-land. In addition to preferential treatment through affirmative action, promotional measures include land allotments, housing, scholarships, debt-relief, subsidies and self-rule arrangements for tribals in specific territories (Seth, 2004).

**India provides an example of a longstanding political willingness to recognise different forms of exclusion and use constitutional and legislative measures to deal with them.** In many countries, identity-based discriminations are not even acknowledged, which then prevents developing appropriate policies to respond to them (such as in the case study of Brazil in

section 2). In India, the *Dalit* and *Adivasis* populations have had nominal legal protection in India since the 1950 Constitution. The 'reservation policy', which was enshrined in Article 16(4) of the Indian constitution, stipulates the quota of *Dalit* and *Adivasis* and OBCs in government, higher education and employment (mainly government appointments at union and state level and also to organisations that are substantially funded by the government). The constitution reserves 22.5% of seats in federal government jobs, state legislatures, the Lower House of parliament and educational institutions for scheduled castes and scheduled tribes with the aim of increasing the proportional representation in certain state and federal institutions (Das Gupta, 1999:4). There are also quotas in the village councils, or *Panchayats*.

The reservation policies were rooted in the post-Independence constitution, as an outcome of Constituent Assembly discussion on the goal of greater social equality and in response to colonial manipulation of caste (Zwart, 2000). An administrative approach has been used to define categories. Special Commissions have been tasked with listing communities into the different categories, in particular for the OBCs: this shows how **distinctions have been not only socially but also administratively created.**

**The policy has had a number of positive impacts. Caste-based quotas have been met in the electoral field.** 'Reserved constituencies' (where only SC/ST can be elected) have led to the emergence of political parties supported by these groups, such as *Dalits* political parties (Deshpande, 2004:13), challenging upper-caste, English educated elites. For example, the dalit-based Bahujan Samaj Party of the north of India was born out of an association between dalit trade unions and backward class government employees (Sheth, 2004:48). The affirmative action policies taken together have also enabled these groups to gain political power beyond the protection provided by quotas: in the state of Gujarat for example, ST have become Ministers and Chief Ministers (Sheth, 2004:52). India's first-ever *Dalit* chief minister Mayawati came to power in the state of Uttar Pradesh and India has also had a *Dalit* President, K.R. Narayanan in 1997.

As a result of the reservation policies, **the middle-class has become more inclusive.** A 1996 study by the Centre for the Study of Developing Societies shows that a sizeable proportion comes from second/third generation beneficiaries of the reservation policies (Sheth, 2004:47). This is associated with changed patterns of social mobility, where middle-class status is no longer associated with ritual status terms. It is argued that the reservation policy has tapped the potential of previously excluded groups and, by opening up new positions to lower castes, has increased interaction between groups and started to dismantle the links between caste and occupation. It has also created a new, non-upper-caste elite who is able to operate as a lobby for lower caste interests in the legislature (Mitra, 1990 cited in O'Neil and Piron, 2003:14).

There have also been positive impacts from the educational reservations. Firstly, a higher value has been ascribed to education, associated with the possibility of individuals improving their economic opportunities. It is reported

that in the Southern and Western states, the reservation policy has been more efficiently implemented and SCs and OBCs have shown greater educational and occupational improvements (Seth, 2004:52). Secondly, the reservation policy has also contributed to rising levels of literacy and increased enrolments in primary schools. In 1961, literacy level among the general population was 24%, but only 10% for SCs. In 1991, the general population's literacy level had risen to 52% whereas the level for SCs had increased substantially more to 37% (Alexander, 2003:11). While the links between the rise of literacy rates and the reservation programmes are not direct, the programmes are considered to have contributed to establishing the importance of basic education (ibid).

**However, the affirmative action policies have not always achieved their intended results.** For example, quotas remained unfilled in higher levels of government jobs because the minimum educational achievements have not been attained. It also seems not to have had a significant impact on the social status and material well-being of many *Dalits* and *Adivasis* people. It has been argued that these policies have enabled a small section of the least disadvantaged to improve their economic and social status but they have left the vast majority with a 'false sense of social advancement' (Alexander, 2003:1). The reservation policy only directly benefits a small number within each group, even if it is argued that 'role models' and wider social transformation can then result. In addition, there has been disagreement over whether caste-based distinction have been weakened as a result of the policy, or whether caste has, in fact, been strengthened by reinforcing the sense of separate identities between members of different castes (Beteille, 2002:1) and competition for valued resources, such as access to higher education institutions.

Additional constraints associated specifically with the reservation policy which has undermined its effectiveness have included:

- **The absence of effective implementation and monitoring mechanisms able to enforce provisions.** The Commission for SCs and STs, which has now been separated into two commissions, does not possess the requisite powers. There is a lack of transparency and accountability in how the quotas are filled and no penalties when quotas are avoided (Deshpande, 2004:19).
- **The schemes have not ended when social and economic conditions have improved.** For example, a number of OBCs are no longer economically and socially disadvantaged – such as dominant agriculturalists castes under the OBCs category (Seth, 2004:45) and an exit policy is needed for some groups, in line with the theoretical 'temporary' nature of such compensatory measures.

### **4.3 Understanding policy failures**

#### *4.1.1 The need for complementary measures*

An example of targeted promotional policies is provided by efforts to improve access to education for *Dalit* people, especially women. In 1991, only 19% of

rural *Dalit* women were literate, compared to 46% of *Dalit* men and 64% of the population as a whole (Justino and Litchfield, 2003:11). The Indian constitution mandates that government schools provide free, compulsory and universal education for all children with special attention to the educational progress of *Dalit* and *Adivasis* children (Narula and Macwan, 2001:6). The results have not been fully positive. The illiteracy gap between *Dalits* and the rest of the population only fell by 0.39% between 1961 and 1991 (ibid) and the drop out rate of *Dalit* children is very high. According to the reports of the National Commission for Scheduled Castes and Scheduled Tribes in 1996-96 and 1997-98, the national drop-out rate for *Dalits* was 49.35% for primary level, 67.77% for middle school and 77.65% for secondary school (ibid).

As already noted in the Brazil and South Africa case studies, **additional barriers to education need to be better addressed**. An analysis of education policies highlights specific constraints faced by *Dalit and Adivasi* children which need to be addressed by complementary measures. *Dalit* children may be required to supplement family income through wage labour. In addition, they continue to suffer from abusive and discriminatory treatment by teachers (Narula and Macwan, 2001:6). Upper-caste teachers tend to be the dominant majority in primary schools and may bring with them cultural assumptions that affect the appropriateness of teaching. For example, they may expect that children benefit from academic help at home and make no special efforts to target their teaching to first-generation *dalit* or *adivasi* learners (Balagopalan and Subrahmanian, 2003). The same study finds that there 'is a total lack of any "system" or institutionalised mechanism to deal with social difference, that can help teachers to navigate, mediate or address forms of discrimination that they encounter, even if between children, between other school staff, or other teachers and their students' (ibid:49).

#### 4.3.2 Overcoming barriers to claiming entitlements

**In addition to putting the issue on the policy agenda, initiating constitutional and legal provisions and funding social programmes, how policies and programmes get implemented is key to understanding policy failures.** The range of constraints is illustrated by an examination of India's 1995 Persons with Disabilities Act which makes discrimination on the grounds of disability illegal. Legislation states that 3% of all rural development programme expenditure must benefit the disabled. As a result of this legislation, India has increased its expenditure on disability issues, mainly through NGOs, but there is currently no data to see if targets have been achieved. The government has also set up treatment centres for people with (physical) disabilities. While these have been useful for some people, they have mainly been located in urban areas, making access difficult for people from rural areas. Furthermore, the lack of targeting of this service means that they are particularly difficult to access for people likely to be excluded because of gender, ethnicity or caste. Also within the Disability Act were a set of additional rights for disabled people including access to specialised services. However, only 61% of the disabled people attending government treatment centres had been issued with disability certificates which confirm

their entitlement to various benefits and concessions. Of those with disability certificates, only half had secured their rights (Bird *et al*, 2004:22)

**Technical constraints can thus include administrative barriers to claiming entitlements and accessing rights.** HelpAge India has undertaken research into pension administration in the Indian state of Uttar Pradesh, including consultation with 1,105 older people and government officials responsible for service delivery. Their findings reveal that there was a need for more transparency and accountability so that benefits could be accessed (Seneja and Heslop, 200 and HAI, 2003):

- While awareness of the old age pension scheme was high, understanding of eligibility criteria and application procedures was poor, including among implementing officials.
- People in positions of power within the local community could act as a gateway to access to pensions.
- The requirement for written applications forms and supporting documents created an obstacle owing to low levels of literacy among older people.
- There was evidence of corruption at various stages of the application process.
- There was a need for more transparency regarding eligibility, including information about failed applications, particularly as the financial ceiling limits the number of available pensions.
- Despite problems associated with the scheme, support among poor people was high and they felt that it should be expanded.

#### *4.3.3 Institutionalised discrimination*

**Technical constraints are of course often sustained by a lack of genuine commitment to the policy objectives by those charged with implementation.** The Employments of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act in 1993 provides an example, while similar failings can be found in relation to bonded labourers under the Bonded Labour System (Abolition) Act, 1976.

The Manual Scavengers Act has financial and custodial penalties and can result in prosecution under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Despite this legislation, government statistics show that one million *Dalits* are manual scavengers who clear faeces from public and private latrines and dispose of dead animals (Narula and Macwan, 2001:3). Discrimination against scavengers is very strong and poverty levels are very high, illustrated by the interview in 1998 of one woman working as a scavenger who earned Rs.10 (US\$0.21) a month for each house she cleaned (Narula and Macwan, 2001:4). In 1992, the government launched a national scheme that called for the identification, training and rehabilitation of cleaning workers and US\$992.3 million was allocated to this scheme under the government's Eighth Five-Year Plan. However, state governments, when confronted with the existence of manual scavengers and dry latrines, often deny their existence or claim that the water supply would not allow for flush latrines allowing this form of labour to continue. Human rights organisations

were recently concerns that state officials were using *Dalits* to deal with the aftermath of natural disasters and recover bodies.

**Institutionalised discrimination within the agencies charged with protecting excluded groups prevents effective policy implementation.**

Violence against dalits is reported to have increased significantly in the 1990s, in response to a growing rights movement, with almost 91,000 cases reported between 1995 and 1997. There is legislation in place to protect *Dalits* and *Adivasis* against such violence: the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989). However, **continuing caste bias and corruption within the police and judiciary prevent the application of these measures** (Narula and Macwan, 2001:7-8 and HRW, 1999). The Act was introduced following public debate to strengthen the provisions of the Protection of Civil Rights Act (1955), as a recognition that SC/STs were subjected not just to discrimination but also violence. The Act is considered stringent and atrocities can be punished by up to 5 years in prison and a fine and are non-bailable. The implementation of the Act is being hampered by a number of factors: police ignorance of the Act itself, a lack of willingness to register offences, community pressures on the police not to apply the act (including through police corruption), poor investigation, prejudice amongst the judiciary itself, a lack of special courts to deal with the cases (provided for under the law), a lack of witnesses and tendency to accept evidence only from non SC/ST persons, leading to low rates of conviction. There is even opposition to the legislative framework: in the State of Maharashtra, for example, a central part of the Shiv Sena party election campaign in 1995 consisted in a promise to repeal the Act, combined with attempts to withdraw cases from the courts. (Human Rights Watch, 1999). One conclusion is the need for **educational programmes to change the attitudes of those working within the state machinery** (Kabeer, 2002) but deeper institutional transformation would be required within society and the political system at large in order to motivate such a transformation.

#### *4.3.4 Social discrimination and violence*

Those tasked with implementing policies often reflect wider socially held beliefs, especially given the preponderance of high-caste officials within the public administration. 'Social boycotts' and increased violence against *Dalits*, especially in the 1990s show that **constitutional provisions, legal measures and targeted programmes have not been able to overcome socially discriminatory values** amongst the population at large. For example, in response to Prime Minister Vishwanath Pratap Singh's efforts in the 1980s to enforce affirmative action, some students immolated themselves. Boycotts include violence and economic retaliation against *Dalits* that refuse to carry-out caste-based tasks (e.g. demand land, increased wages or try to alter local customs). Examples from Tamil Nadu, Karnataka or Maharashtra states include the levying of fines against those refusing to participate in boycotts (Narula and Macwan, 2001:7).

Responses by excluded groups have included the formation of human rights organisations to document abuses, including at the international level, which

has further contributed to social boycotts. Left-wing guerrilla organisations ('Naxalite' groups) active in West Bengal, Bihar and Andhra Pradesh have been demanding land reform and higher wages – in Bihar, guerrillas enjoy *Dalit* support (ibid:5). In response, the police have targeted *Dalit* villages and high-caste landlords have organised private militias responsible for massacres (HRW, 1999). **The political empowerment of sub-ordinate groups in India has triggered social responses and violent repression which may heighten tensions rather than promote inclusion.** Stewart (2004) and accompanying case studies examine in more depth the links between exclusion and violent conflict, which can at times lead to positive policy responses.

#### *4.3.5 Politico-institutional constraints*

These examples thus show the **tension between policies and practice, with elite interests side-lining policies and stunting their implementation.** A case study on India carried out by the International Institute of Labour Standard argued that politics in India is influenced by long standing democratic principles which advocate for creating a fully inclusive society where all citizens are able to participate in the country's economy. However, Indian politics can also be describes as 'short-run "pork-barrel politics" [which] has fuelled an extensive network of patronage and inter-elite struggle over the share of the national economic pie, at the expense of the welfare claims of the majority' (IILS, 1996:7).

As with Brazil and South Africa, the question can be asked why a democratic political system has not delivered more for excluded groups and why political affirmative action measures have not delivered more inclusive politics. Comparing Brazil with India, Weyland (1996) argues that **politico-institutional variables play an important role** in addition to continued hierarchical religious/social values and explain the absence of successful equity-enhancing policies. Inequality has been accentuated by the sharp divide between pockets of industrialisation and rural areas. Clientelism in the dominant Congress Party allied to rural elites has been combined with an ideology of industrialisation to promote state interest (military might). There has been an absence of effective social mobilisation by the poor and the bureaucracy has been constrained in its ability to implement programmes.

While affirmative action policies have had a positive role on political representation, the impact on the political system should not be over-emphasised: those with reserved seats may belong to dominant political parties, have to appeal to wider constituencies, and may not use their position to redistribute resources to the people they seek to represent (Deshpande, 2004:14). Further research would be required to examine the most recent period, and understand whether there has been progress at combining social movements representing excluded groups within broad-based political parties, in particular within the dominant Congress Party, and the impact of a period of sectarian rule by the BJP on national level commitments to tackling exclusion.

## 5. Conclusion

While Brazil illustrates preconditions for the emergence of a strong political commitment to tackling exclusion, South Africa and India show how this is not sufficient. Politico-institutional factors combine with strong social resistance to change, even in countries with nominally democratic political structures and where poor and excluded groups constitute a majority.

The examination of the three case studies cannot claim to provide a comprehensive list of critical success factors for effective public policy responses to exclusion. However, the following key issues emerge from the 'story lines' in terms of 'preconditions' for policy adoption:

- **Recognising that exclusion exists and is not acceptable as part of the 'social contract'**. This may require a change of regime / government, such as independence in India, the end of Apartheid in South Africa or the emergence of a broad-based political party following democratisation in Brazil.
- **The importance of social movements** has emerged from all three case studies (e.g. women's movement in South Africa, black consciousness in Brazil, trade unions in both countries) to raise awareness and inform the development of policies. But they need to interact with a favourable political system.
- **The availability and use of data is key** to both publicly recognise the problem and inform appropriate responses, in particular disaggregated data which can allow an identification of inequalities across and within groups. Such data are not always available, and efforts are needed to develop domestic collection and analysis capacities. As some fear in the case of *Bolsa Escola* in Brazil, programmes need to be properly monitored and policy objectives need to be clear.
- **International pressure can play a positive role**. This is both in the form of international human rights commitments (e.g. Durban Conference on Racism) but also donor interventions (see Booth and Curran, 2005).
- **Crises can drive change** such as economic decline in apartheid South Africa, fiscal pressure in the early period of democratisation in Brazil and in response to the use of violence as documented in Stewart (2004).

Looking at technical responses, a number of options are available:

- **Constitutional guarantees and an appropriate legal framework** are pre-conditions for effective measures, but the biggest challenge is one of implementation. South African courts illustrate the positive role that the judiciary can play, while the failure of the Indian police and judiciary to deal with atrocities against *Dalits* demonstrates institutional limitations.
- **Affirmative action policies have a mixed record** but would seem a key strategy in many countries that decide to recognise that respecting equality may require (temporarily) treating citizens differently. They have for example increased the level of political participation of

excluded groups and individuals (e.g. in India) or in the economic sector (e.g. South Africa) and are also symbolic policies to demonstrate the need for change (e.g. university quotas in Brazil as spearheading other policies). However, governments must be aware of the possibility of (violent) backlash as well as the difficulty in suspending temporary entitlements as in India.

- **Side effects of mainstream policies also need to be examined.** For example, there seems to be a key choice to be made with regards to the growth strategy in South Africa. As shown in the Pakistan example (Annex 1), public service reforms should also be sensitive to differentiated impacts on social groups. Retrenchment policies may disproportionately affect minority or excluded groups, and undermine inclusive recruitment policies aimed at enhancing the stake of women or ethnic groups in the state.
- **Combining policy instruments would seem to be the best strategy.** This is the overwhelming message of the examination of education reforms in all three countries, where quality, as well as quotas, needs to be addressed.
- **A centrally-managed, coordinated programme across a range of sectors** is the approach being attempted in Brazil. It remains to be seen whether this will be more effective than the South Africa and Indian models, where there has been a lack of effective and powerful implementation and monitoring bodies, beyond the role played by courts.
- **Institutional reforms are needed at the meso-level.** Strategies to combat institutionalised discrimination include building awareness amongst public servants, and putting systems and incentives structures in place. Gaps between good policies and the technical ability to implement, even where there is adequate funding, needs to be addressed (e.g. South Africa inclusive education).

Yet even when preconditions seem to be in place and policies seem technically appropriate, they may not get effectively implemented. As noted in another ODI study on inequality in middle income countries: '[w]hether or not these policies are pursued is fundamentally an issue of political economy: that is, policy and budget decisions reflect the influence of political incentives and the differences that exist between groups within society in terms of the power they exercise over political processes' (Anderson *et al* 2004:8). Political ideology matters and all three case studies have democratic political systems which facilitate mobilisation, accountability and responsiveness, but this is not enough. **Political constraints include the nature of the party system, patronage structures – including between the administration and elite groups – and the need for broad-based coalitions.**

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## Annex 1 Additional Case Studies

### ***Bolivia: bureaucratic constraints to accessing entitlements***

The following case study complements evidence from India found in the main report and shows **the importance of removing administrative constraints that prevent excluded groups from accessing entitlements provided for under the law and public policies**. Civil society organisations have a key role to play to monitor, advocate and help implement changes to remove such barriers.

In Bolivia, the Human Rights Ombudsman has estimated that only 37% of those entitled to free healthcare (those over 65 years) are receiving their benefits. Similar problems exist in relation to the pension scheme. This **low uptake has been ascribed partly to the requirement that applicants produce a birth certificate**, because most elderly people in rural areas do not have these and find it difficult to acquire them owing to, for example, the cost and the complexity of the processes involved. The Social-Legal Centre (an NGO) was established to provide a solution for the healthcare problem and, as **a result of its advocacy, the rules have been changed** so that a witness can be used to verify the age of the applicant rather than documentation. However, a third of Bolivia's municipalities have no systems or registers to check eligibility and also lack means of disbursement (based on Piron, 2004 drawing from HAI, 2003).

### ***Brazil: participatory healthcare management***

In Brazil, the Health Organic Bill (Lei Orgânica da Saúde) that has regulated the Unified Health System (SUS) since 1990 endorses universality, integrality and equity as fundamental principles of the SUS (DFID 2004b:12). In order to operationalise this policy, **Management Councils were provided for in the Constitution. They are meant to enhance the democratic links between the state and citizens and improve health, education and social assistance programmes by including citizens in decision making processes**. This commitment to strengthen the participation of civil society in health policy-making was reinforced by the present government when it established a new Department for Participatory Management. The Management Councils and the new Department act as important entry points to ensure that the specific health needs of the Afro-Brazilian population influence health policy-making (DFID et al, 2003:39).

Management councils are particularly prominent within the health sector: there are now 5,000 health councils (nearly one for every municipality in Brazil) involving almost 100,000 individuals and large numbers of associations. **One notable factor that supported the introduction of the Management Councils is the Brazilian 'health movement' which pushed for citizens rights to healthcare**. Representatives of the movement are heavily represented in the councils together with other members of civil society organisations. However, the political and social dynamics that are

apparent in wider society are reflected within these councils. **There are still issues of exclusion with some people still denied access to the Councils or the legitimacy to effectively participate and influence the process** (Grant and Hulme, 2004:22).

### ***Indigenous peoples' land rights in the Commonwealth***

A study by the Commonwealth Policy Studies Unit provides numerous examples of 'attempts to recognise Indigenous land rights, to recover Indigenous territories, and to build in the effective Indigenous management of environmental resources on a sustainable basis' (Bourne, nd). These examples illustrate **the range of institutional mechanisms to protect excluded groups. They often need to be complemented by civil society engagement, and can also contribute to more appropriate management of natural resources.**

They include:

- The 1992 Mabo decision by the Australian High Court which acknowledged by **treaty** and in other ways that Indigenous inhabitants had rights over their traditional lands (catching up with similar jurisprudence in North America).
- The Indian **constitution** is regularly appealed to when the land rights of Scheduled Tribes are threatened.
- The San peoples in southern Africa have been losers of land reform, including 'in Zimbabwe [with] losses sustained by ethnic groups which are unquestionably African, whose land has been taken by more powerful African groups, both black and white.' However, 'while the Botswana government is still seeking to remove San from the Central Kalahari Game Reserve, recovery of land has recently taken place for the =Khomani San, in the context of post-apartheid South Africa. This group was finally dispersed from the Kalahari Gemsbok National Park (now renamed the Kgalagadi Transfrontier Park ) in 1956. Its language was almost lost, its people demoralised. However **after an activist campaign the South African government in 1999 accepted the =Khomani San land claim.** It awarded 40,000 hectares outside the park for the resettlement and development of the community and also "an area of 25,000 hectares on the southern boundary of the Kgalagadi Park, as well as commercial and symbolic rights in and to the remainder of the park."
- 'The value of **Indigenous monitoring of fragile ecosystems** has been demonstrated in the north of Canada where Inuit and Cree have been collecting both impressions and data on climate change. In 1999 the Winnipeg-based International Institute for Sustainable Development and the Inuvialuit community of Sachs Harbour, Banks Island, Northwest Territories initiated a project to record community observations of climate change. They noted melting permafrost, longer ice-free seasons in the seas, new species of birds and fish, and a decline in the lemming population among other aspects of global warming. A detailed account of changes in the eastern Hudson Bay area – including more open water in winter, and changing flyways for

Canada and snow geese – emerged from by the Canadian Arctic Resources Committee and the Inuit municipality of Sanikiluaq on the Belcher Islands [...] In Canada, federal statutes such as the 1997 Canada Oceans Act **mandate federal agencies to use such knowledge in decision-making, and resource-management institutions established through northern land claim agreements do so as a matter of course.**'

- 'There is evidence that involvement of Indigenous peoples in the care of regions set aside for conservation is growing. A study in 2000 by the World Commission on Protected [...] concluded that most of the eleven parks were declared without the consent of the traditional inhabitants – contrary to the principle of "prior, informed consent" which is now deemed to be international best practice for any development where Indigenous peoples have an interest. The study did however find an **increasing involvement of Indigenous peoples in the management of these parks**, but cautioned that "in reality the involvement of Indigenous and traditional peoples in the planning and decision-making processes, and empowerment of local groups, often falls short of the ideal."
- 'The Commonwealth, with the government of Guyana, is promoting a major project in sustainable development, conservation and education which aims to be exemplary, not least in the involvement of Amerindians. This is the Iwokrama scheme, launched in 1989 by the offer of a million acres of tropical forest land by the then president, Desmond Hoyte, in central Guyana. Amerindian groups had collected from, fished in and hunted over this rainforest for centuries, though their principal villages, Annai and Kurupakari, are at the edge of the project area. ... In the early 1990s, after a change of government in Guyana, several measures were put in train **to protect Amerindian interests in Iwokrama. These have included arrangements for consultation, support for advanced education and, crucially and on a significant scale, employment.**

### ***Eritrea: women affirmative action***

**Eritrea has an affirmative action policy for women to participate in politics. Affirmative action can be traced back to the national liberation struggle** during which women made up almost one-third of the 95,000-strong Eritrean People's Liberation Front (EPLF) and 13% of front-line fighters. Women's position in Eritrean society was radically changed during the decades of conflict. During the independence war, women started to be involved in the politics of their country through public assemblies on the basis of a quota ranging from 15-30% and supported by a political education programme. In the current post-liberation era, affirmative action policies are set out in law which allocates 30% of the total seats in the national and regional assemblies for women. The elections for the women involved in the affirmative action are, in many ways, integrated into the existing electoral system; elections are held on the same day as the mainstream elections and women are not excluded from standing as mainstream candidates. The only significant difference is that the constituencies are drawn up separately for

affirmative action women and are larger than mainstream constituencies (Ward, 2003:11).

**The main achievement of this policy is the increase of women's participation in regional councils** following the elections in 1997. According to the National Union of Eritrean Women (NUEW), women's participation prior to the election in 1997 was 20% across six council districts. This increased to just over 30% region-wide in 1997 (Ward, 2003:12). Although women have not always had the opportunity for high levels of education, there is strong evidence of women participating effectively in the regional assemblies and having influence over their constituency. Many of the women elected into the regional assemblies through affirmative action saw this as a temporary measure and as a spring-board for them to move into mainstream politics (ibid).

However, a study on women involved in politics through affirmative action (Ward, 2003), shows that **cultural attitudes remain a major constraint on women's participation in Eritrean politics**. In focus groups, many women identified that attitudes within society had not been fully transformed by the conflict and there remained dominant traditional values whereby women's status is determined by their relationship to a man and male leadership is supported and revered. Another issue that has constrained the implementation of this policy is the post-conflict status of Eritrea. Here, the **politics of national reconstruction and state building supports policies that discourage group-based interests** – i.e. women's participation in politics - and call for national unity (Ward, 2003:14). Essential to overcoming these constraints are educational policies that increase girls' and women's participation and also promote attitudinal changes across society (Ward, 2003:17).

### ***Latin America: land rights for indigenous peoples***

Land and tenancy reform can create a more equitable distribution of power, strengthen collective action and create the knock on effect of a more favourable environment for other reforms. A wide body of evidence on the experiences of land reform shows a mixed record. **The land redistribution policies in Kenya, South Korea, Taiwan and Vietnam have been largely successful: they have raised the incomes of the rural poor without harming agricultural productivity**. Other cases have been less successful and have been vulnerable to state capture, biased against the poorest and inadequately accompanied by supporting services (Anderson et al, 2003:14).

Whilst there are few explicit policies to reduce the levels of poverty among Afro-descendants, most countries in the region now recognise that land tenure is essential for ensuring their economic rights. Most land occupied by these communities tend either to be the areas where, historically, their ancestors settled or it is land that was acquired through general land reforms, subsequently divided as a result of inheritance. In both these cases, Afro-descendant populations did not have titles for this land causing uncertainty and a level of vulnerability. However, **as a result of multilateral donor (IDB,**

**World Bank and UN) funded land-titling programmes, many countries have now granted land tenure to many communities.** Examples include:

- in Brazil, the 1988 Constitution includes a Transitory Article 68 which recognised the land claims of historical communities of descendants of liberated slaves known as *quilombos*;
- in Colombia, the land rights of afro-descendant communities on the Pacific coast were recognised in Law 70 approved in 1993;
- in Ecuador, the collective rights for the ancestral lands of Afro-Ecuadorians were granted in Article 83 of the Constitution in 1998 (Sanchez et al, 2003:11).

Positive lessons learned include the following (Thorne, nd):

- **constitutional reform was important** in extending governmental recognition of Afro-descendant land rights and created a focus for mobilisation;
- **the political mobilization of indigenous groups benefited Afro-descendants**
- **international support** assisted Afro-descendants to push governments into titling lands.

However, these mechanisms for land tenure tend only to include the land used for domestic living. They rarely include the land used by these groups for agricultural production and other economic activities. Also, many communities have found it difficult claiming the titles for their land as the requirements set by governments for proving ancestral rights are often overly complicated and stringent (ibid).

### ***Malaysia: successful economic affirmative action***

Malaysia is a multiethnic society with Malays, Chinese and Indians forming the major ethnic groups. In 1996, Malays accounted for 61% of the population, Chinese for 30%, Indians for 8% and other minority groups making up the remaining 1% (Roslan, nd:3). The inequalities between these groups, in particular between the Malay and the non-Malay, became apparent after independence from British rule in 1959 and grew steadily in the 1960s. **Along with the economic inequalities came increased ethnic tension** (with race riots in 1969). **In response, the Government introduced the New Economic Policy (NEP) in 1970 which gave preferences to the Malay population with the aim of correcting the imbalances between groups.** The NDP was replaced by the New Development Policy (NDP) in 1990 which, while setting out different strategies and objectives, remained a pro-Malay policy.

Prior to the NEP, the economic policy still produced rapid economic growth but the anticipated trickle down process was not achieved and the Malay population had disproportionate high rates of poverty. In 1970, 65.9% of the Malay population were poor compared to only 27.5% and 40.2% respectively of the Chinese and Indians (Roslan, nd:5). There were also significant differences between ethnic groups in terms of levels of wealth ownership. By 1970, Malays owned about 2.4% of the ownership of share capital while the

Chinese owned 27.2%. Similarly, by 1970, there were differences in employment status and in terms of occupation with professional, technical, sales and managerial jobs being predominantly held by the Chinese population while two thirds of the Malay population were occupied in small, subsistence farming and fishing activities (Roslan, nd:6).

**The NEP's aim was to achieve national unity and nation building by removing ethnic inequalities through policies giving preferential treatment to the Malay population and other indigenous peoples.** The objectives of the NEP were to eradicate poverty by raising income levels for all Malaysians and removing all ethnic-based associations to occupations. For the poverty reduction objective, strategies included improving the provision of social services, improving productivity, education and training to increase employment opportunities. For broadening the employment opportunities, strategies included restructuring the employment pattern, ownership of share capital in the private sector and the creation of a commercial and industrial community (BCIC) which assisted the Malay population to participate in the modern sector of the economy.

During the implementation of the NEP and NDP, Malaysia achieved very rapid economic growth (an average of 8.0% annually from 1987) and reduced poverty levels across the country. In 1970, the level of poverty was 49.3% and this fell to 15% in 1990 and the level of poverty among the Malay population fell from 65.9% to 20.8% in the same time period. The rapid structural transformation of the economy was accompanied by an increase in per capita income and improvements in other human development indicators (health and education) (Roslan, nd:16)

Most significantly, **the NEP managed to bring the Malay population into mainstream economic activities.** The percentage of Malays in technical and professional occupations increased from 46.7% in 1970 to 64.3% in 1995. **However, there is now some concern that the explicit ethnic dimension in the economic policy is gradually becoming obsolete with the emergence of intra-ethnic inequalities.** It may be that an economic policy is required that can address inequalities within ethnic groups.

### ***New Zealand: policies towards the Maori***

The following extended quotation illustrates the **importance of adopting a mix of policies to tackle exclusion. Key success factors include: not expecting change to happen in a few years, adopting a more joined-up approach, community-driven processes and self-help, a focus on outcomes, and continuing research.**

'New Zealand was rated third in the world in the UNDP Human Development Index ranking for 2001. Although settlers arrived in New Zealand from the early nineteenth century, reducing the Maori Indigenous proportion to 14.7 per cent today (2001 Census), Maori status was entrenched by the Treaty of Waitangi of 1840 with the British Crown.

Nonetheless there are still disparities in socioeconomic indicators between Maori and non-Maori and, in a statement to the UN Committee which monitors the Convention for the Elimination of Racial Discrimination, the New Zealand Government argued (2002), “**Disparities across virtually all sectors cannot be significantly reduced in a few short years.**” While some disparities have been closing, others have widened. The government has responded to these differences with a Reducing Social Inequalities strategy, which aims to build Maori capacity. Since March 2001 the Prime Minister and other Ministers have engaged with Maori in a series of regional workshops. The message they heard was that there **should be a more holistic or joined-up approach to government policy-making and programme delivery, and that development should be community-driven.**

Although the median income for Maori adults in the year ending March 2001 was NZ\$14,800, Maori were still three times more likely to be unemployed than non-Maori, and the disparity was greater than in 1991<sup>4</sup>. There were high levels of teenage and long-term unemployment and three factors were diagnosed to explain the lower income levels among Maori:

- lower levels of labour force participation
- under-representation in higher paying occupations
- higher rates of unemployment

It is recognised that Maori and Pacific peoples are over-represented amongst the most disadvantaged individuals and families. The government is seeking to increase their capacity to develop their own goals and pathways; **social services, for instance, “are likely to be more effective when the cultural preferences of Maori and Pacific peoples are reflected in their design and delivery”** (evidence to CERD Committee). There has been encouragement for “bottom-up” regional development initiatives, the government is requiring agencies to achieve improved social outcomes from their efforts to reduce inequalities, and social research has to observe disparities between groups and monitor how they change.

What emerges from the New Zealand picture is that **a recognised self-determination, based on treaty rights, has value. But it does not guarantee equity to a minority Indigenous people** in the poverty/wealth distribution of a modern state. Cultural differences remain significant. The prospects for a greater equity rest on a recognition of difference by the government which is backed **by effective support, Maori self-help, determined focus on outcomes, and continuing research.**<sup>5</sup>

### ***Nicaragua: conditional cash transfers to the rural poor***

**The following example illustrates the positive impacts for socially excluded groups that can be derived through conditional cash transfers that aim to improve human capital.** The *Red de Protección Social* (RPS) or ‘Social Safety Net’ in Nicaragua was designed to address current and future

<sup>4</sup> Ministry of Maori Development website, Statistics New Zealand.

<sup>5</sup> Direct quotation from Bourne (nd:18-19).

poverty through **cash transfers to poor household in rural areas**. Although the RPS is a universal programme, it is targeted at rural areas where more Afro-descendants live (Sanchez and Bryan, 2003:3). The cash transfers are conditional and households are monitored to ensure that they are carrying out the required actions to improve the human capital of the children in the household. The targeting of poor households for cash transfers is an attempt to alleviate short-term poverty while the linking of the cash transfer to improving the human capital of the children is an attempt to achieve long-term poverty reduction. By supplementing household incomes for up to three years, RPS seeks to increase expenditures on: food; primary school attendance; health care and general improved nutritional status of children under the age of 5 (Maluccio and Flores, 2004:1-3).

**The pilot phase of RPS has had a positive impact on the households.** On average, RPS supplemented per capita annual total household expenditures by 18%. Most of the increase in expenditures was spent on food which resulted in an improved diet for those households. Expenditure also increased in education which produced an average net increase on enrolment of 18% and attendance of pupils already enrolled increased by 23%. The number of children that went through two grades at primary school (Grades 1-4) between 2000-2002 increased by 6.5% and at the same time, the percentage of children aged between 7-13 years that were working declined by 5%. In terms of health, RPS allowed for an 11% increase of children under the age of 3 participating in the health care programme. The nutritional status of children was improved and there was a 5% decrease in the number of children categorised as stunted; a decline 1.5 times faster than the rate between 1998-2001 (Maluccio and Flores, 2004:63-64).

An evaluation of the pilot phase of the RPS showed that it had improved a number of the indicators included in the Nicaraguan national poverty reduction strategy, during a time in which many of them were not on track to achieve the goals set out in the plan. **The evaluation concludes that if the programme was expanded elsewhere in poor rural areas of Nicaragua, it would be equally successful** (Maluccio and Flores, 2004:65).

### ***Pakistan: inclusion and occupational status***<sup>6</sup>

The people who collect and dispose of the waste in Faisalabad are perhaps the most stigmatised and marginalised people in the city. Historically, they were part of the Hindu caste called *Churcha* associated with 'polluting' work. To try and escape the stigma of their caste, they converted to Christianity in the 19<sup>th</sup> Century but this did not change the occupational status associated with their caste. **These Punjabi Christians form a cohesive social group and many work as municipal sweepers for the Faisalabad Municipal Corporation.** Sweepers comprise the largest single group of the municipal workforce.

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<sup>6</sup> This case is taken from Beall, 2002:7-10

Although they continue to be regarded as carrying out 'polluting' work and are socially excluded, **their position as members of the municipal workforce has allowed them to be economically integrated and benefit from secure and pensionable employment in the public sector.** Their economic inclusion has allowed the sweepers and their children to gain an education and to have a degree of financial security. As they are denied other employment opportunities, Punjabi Christians are fiercely protective over their jobs and tend to pass them from one generation to the next. '[B]y utilising the prejudices associated with their ancestral occupation and caste origins, they have achieved and retained for themselves access to a secure form of livelihood at the expense of other groups of higher social status' (Beall, 1997 quoted in Beall, 2002:9).

However, pressure from the central State and donors to improve waste management and reduce the size of the large municipal workforce is threatening the economic security of this group. They have few employment opportunities outside their role as sweepers. **This example shows how public expenditure and public sector reforms need to take into account the social characteristics of public workers, and need to devise appropriate strategies.** It also shows the vulnerability of socially excluded groups who need to be able to diversify their livelihood strategies in the face of political and economic changes.

### ***Uganda political affirmative action***

Political representation of excluded groups is provided for in Uganda's 1995 Constitution. Article 78(1) requires Parliament to include **members directly elected to represent specific constituencies.** This includes one woman representative for every district, as well as representatives of the army, youth, workers, persons with disabilities as determined by the Parliament. Affirmative action in parliamentary politics started in 1989 with the National Resistance Council's Election Statute requiring a woman representation in parliament for every district. In subsequent years, this was expanded to include representatives of youth and workers. The current Constitution requires that the affirmative action policy is reviewed periodically to ensure that it remains necessary and effective.

**The affirmative action policy has been successful in terms of the number of women and women's interests it has brought into parliamentary politics.** Before affirmative action was introduced, the number of women in parliament ranged from none to two. After 1989, the number rose to 41, of which 34 were for the reserved seats for women, making up 17% of the total. This percentage has steadily increased to 24.4% in the current parliament (2001-06). This has been attributed to a gradual breakdown of the barriers for women to enter into politics (Tanzam, 2003:31). Although this increase in women's representation has not been reflected in the number of policies aimed at improving the lives of women, it has helped to legitimise women's rights in legislation.

There have been some constraints on the impact of the policy on the lives of women and people with disabilities. **There is a perception that many of the affirmative action members of Parliament do not have the capacity to do the job.** This has led to a 'deputy/vice syndrome' where, in particular women, tend to hold positions as deputies in decision making processes, such as deputy speakers, commissioners, chairpersons. This has caught on and is rapidly becoming the norm (Tanzarn, 2003:36). **There has also been a limited budget, and lack of political interest, to undertake local level work to raise awareness and implement targeted interventions.** Furthermore, in the case of disabled people, there remains a lack of enforceable laws to protect disabled people and limited actions to combat discrimination (Bird et al, 2004: 22).