



# AFRICA CENTRE FOR DISPUTE SETTLEMENT

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## **Building municipal capacity: Lessons from ‘top down’ and ‘bottom up’ state building**

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*As companies engage to help build municipal capacity in South Africa, it may be useful to situate these efforts within the experience of international attempts to drive good governance and development through ‘state building’. Analysis provides warnings about an exclusive focus on the institutions and capacities of the formal government, with attendant risks of failed projects or even perverse effects that reinforce division and increase resistance to change. It suggests that a broader lens on the society and the political economy may be necessary to conceptualize and mobilize sufficient coalitions for positive change. And it provides some guidance to companies to the specific risks and opportunities they face as change agents. The discussion below draws substantially from studies of particularly conflict-prone environments, both because of the availability of evidence, and because of the relevance to the South African municipal context.*

### **The default approach to development is to build government institutions**

The received wisdom of the past decades of international development policy is that ‘state building’ – helping ‘reformers to build effective, legitimate, and resilient state institutions, capable of engaging productively with their people to promote sustained development’ (OECD 2007) – is at the

heart of 'development, peace and stability' (OECD 2008). Under this thinking, 'Regressed economies and societies need a form of assistance that is directly related to rebuilding social, economic and state institutions' (Wohlmuth 1998, p. 42). The 2013 Report of the High-Level Panel

of Eminent Persons on the Post-2015 Development Agenda, commissioned by the UN Secretary General, calls for more attention to 'effective, open and accountable institutions for all' (UN 2013, p. 9). Or the words of the African Development Bank, 'Building legitimate and capable political and justice institutions, as well as resilient economic institutions, is at the heart of overcoming fragility and building resilient states' (AfDB 2014, p. 9). The evidence of a broad correlation between sound institutions and accelerated development – in the mid-1990s, many development agencies recognised that the effect of aid on economic growth and poverty reduction was greater in countries with 'good' policies and institutions (Burnside & Dollar 1998), and Japan's state-led development approach, as well as the restructuring of the economies of Eastern Europe, also emphasised that the state can be an important development catalyst (Wade 1996) – had ushered in an era of what Harvard professor Dani Rodrik calls 'institutions fundamentalism' (Rodrik 2006, p. 979). The hypothesis (at least implicitly) is that, 'if we get the institutions right, we get development right.' Such thinking is echoed in the municipal reform debate in South Africa: as states the Local Government Turnaround Strategy, 'The aims of democratizing our society and growing our economy inclusively can only be realized through a responsive, accountable, effective and efficient Local Government system that is part of a Developmental State' (DCGTA 2009).

### **Focus on institutions may all the same be a weak lever for reform**

International state building interventions are typically designed to fill institutional gaps identified using a fragility framework (such as that of the OECD) that assesses, for example, deficiencies in rule of law and control of corruption; government effectiveness and regulatory quality; ease of doing business; or healthcare capabilities (OECD 2015, p. 42). Similarly, in the South African municipal context, the key objective is 'to rebuild and improve the basic requirements for a functional, responsive, effective, efficient, and accountable developmental local government' (DCGTA 2009, p. 19). Officials are sent on courses; regulatory reforms are promoted; or investments in healthcare delivery are made. Yet in the aggregate, attempts at international state building – particularly those based on the construction of an idealised liberal state model encompassing a working and accountable bureaucracy, a monopoly over the legitimate use of violence, and the capacity to

deliver on basic services to individuals within the state's territory (Schwarz 2005) – have little to show (Boege, Brown, Clemens & Nola 2009). This seems to be because state building is at its heart not about filling institutional gaps; authentic state-building

evolves from new power relationships negotiated between the different actors that make up the social and political order (OECD 2010, p. 9). Without these underlying political transitions, officials return from their courses to the same dysfunctional system, unable to change it. Infrastructure projects are be subject to the same corrupt influences or political rivalries that inhibited inclusive economic growth before. Since 'the evolution of a state's relationship with society is at the heart of state-building' (OECD 2011, p. 11), new laws and institutions need to emerge from socio-political consensus over their purpose and goals.

### **Attempts at government reform often have perverse impacts**

Thus, even at best, 'state-building is not a quick process,' (Ibid., p. 60) and is predictably contentious. At worst, prematurely focusing on the laws and institutions prioritized by outside reformers can have perverse impacts. The imposition of economic models, laws or institutions on societies in which there is no underlying consensus about their desirability, or appropriate mechanisms for their implementation, often 'tests these institutions and the societies that depend on them, sometimes to breaking point'. (Ibid.) Indeed, where there are unresolved tensions – between national and regional authorities over the control of private-sector activities, as in Peru, between traditional and state authorities over the allocation of land, as in Uganda, or between those who promote and those who oppose a free-market capitalist system, as in India – legal and institutional reforms become 'a weapon in social conflict' (Turk 1976, p. 276) wielded by the powerful. It is a long-standing postulate of law and development that, absent sufficient consensus, such attempted reforms therefore 'generate and exacerbate conflicts rather than resolving or softening them' (Ibid.). The degree to which the Municipal Systems Amendment Act's provision that office-bearers of political parties be barred from occupying managerial positions is flouted, or the evident resistance to municipal reform when it threatens local political or business interests (Lund 2014), suggest that there is a long road before the social consensus is in place that will enable effective municipal institutional reform.

It must also be acknowledged that some governments in power may be 'statist and illiberal' – as have been characterized, for example, the ruling parties of Rwanda, Ethiopia, and Sudan – with

violence borne of revolutionary roots playing a central role 'in their political praxis and vision' (Jones & Soares de Oliveira 2013, p. 5). In the absence of some underlying commitment to sharing

power and access to resources, institutional reforms promoted from the outside may be predictably subverted to ensure that 'institutions enabling and protecting rents extraction' are 'protected and buttressed', while the 'institutions of power and revenue sharing' are 'side-lined and impaired', with the result that attempted reforms contribute to further 'monopolization, elite predation, and usurpation' (Amundsen 2014). The currency of the 'state capture' debate in South Africa, as well the persistent use of organised violence to advance local political agendas, suggest that these dynamics obtain at least to some extent in South Africa.

Finally, failed reforms themselves can lead to a downward cycle of conflict and institutional ossification. A study of conflict in the extractives industries – that might well have been written in the context of South African municipal service delivery – concluded that, 'When governments fail to deliver and there are allegations of corruption, this increases the chances of populist movements or new governments calling for radical redistribution of wealth' (Stevens, Kooroshy, Lahn & Lee 2013, p. 93). In turn, the checks and balances of the liberal system, including political protests, are increasingly seen by governments in power 'not as a basic form of democratic political action but rather as a threat that must be controlled' (Branch & Mampilly 2015). These reinforcing dynamics close the space for reflection on, or commitment to, genuine reform.

### **Efforts at change must acknowledge the political economy reinforcing weak institutions**

This analysis should make clear that it is insufficient to pursue a laundry list of desired municipal capabilities and institutional improvements, lest efforts be wasted or even reinforce local fragility. Reformers must first understand why undesirable causes and conditions are present in a particular context before trying to fix them. In particular:

- What are the power relationships or institutional arrangements that reinforce rather than address political fragmentation, mistrust, exclusion and grievance?
- Given that no community chooses poverty, insecurity, or poor service delivery, what has inhibited a sufficient coalition for positive change from forming?

Asking these questions, reformers will be reminded that a municipality is more than its government; they may more usefully come to think of it as ‘a community under municipal government jurisdiction.’ This introduces a normative component: the goal of analysis and intervention becomes the lives of citizens, not the government *per se*. But it also has an analytic component – a healthy municipality is comprised of much more than a capable and functioning government, requiring us to understand the entire system – and a programmatic component – It is unlikely that we can achieve positive reform within a community system by concentrating efforts on the government, which is after all only one node. Analysis will inevitably lead to understanding of the municipality as a ‘hybrid political order’ (OECD 2011) in which the municipal government is only one source of authority among others (and often not a dominant one) within the community, competing with political parties, neighbourhood and business associations, religious organisations, and even criminal gangs for resources and political power. This perspective helps reformers usefully move from measuring ‘gaps’ and what is not there – for example, jobs, security, or municipal service delivery – to assessing what is there – powerful dynamics inhibiting change. They become more conscious of how the very dynamics of political fragmentation, mistrust, exclusion and grievance that make a context fragile in the first place also undermine programmes meant to address it.

### **The building blocks for effective change can increasingly be considered mainstream**

Turning this perspective into positive reform efforts requires a shift in thinking from the end state or desired outcomes of municipal capability-building towards the ‘art of the possible’ of broad-based reforms: how those so inclined – whether they are within government, members of the broader society, or those trying to support positive change from outside – can gain traction on positive changes despite complex socio-political dynamics. Qualitative analysis performed by knowledgeable parties on the ground needs to address, in peacebuilding parlance, what divides people and what connects them, as well as the dynamics by which divisions are reinforced and connections inhibited. Through this analysis domains in which it may be possible for a sufficient coalition for change to emerge, as well as the kinds of interventions that might help them do so, can be identified. Success is achieved by combining an understanding of the entire conflict system – defined by the particular social, political and economic dynamics among a specific set of actors in a certain time and place – with a pragmatic focus on the available levers of action on those issues that are most important to them.

A toolbox of approaches can help reformers move towards this 'bottom up' rather than 'top down' perspective on state building and institutional reform, focusing on transition pacts among multiple stakeholders (Wennmann 2010). These approaches are well enough established in peacebuilding and development to broadly be considered mainstream. They are underpinned by reasonably well-understood principles and mechanisms of action at the municipal level. These approaches can in general terms be described as a set of interconnected building blocks (Ganson & Wennmann 2016, ch. 5):

*Institutionalised mechanisms or networks for monitoring the local context*

Making sense of the local context is challenging in rumour-rich and information-poor environments. This is in part because data generation does not occur in a political vacuum; controlling information is an expression of political power that in turn favours or disfavors different interest groups. Additionally, stakeholders will often not trust information that they have not themselves had a hand in collecting, due to legacies of mistrust. Increasingly, these interrelated barriers to insight and analysis in complex and dynamic environments are overcome through the use of 'observatories' that function to generate data, provide analysis or give advice to decision-makers to strengthen policymaking (Gilgen & Tracey 2011). They may make use of a community-based monitoring systems (CBMS) to reduce disputes over data and analysis as different actors understand the assessments that underlie them (Ibid.)

*Dialogue that builds sufficient consensus for action*

Here the goal is to progressively enlarge the circle of actors aligned around a concrete vision for the future, ensuring that it be consensual, that it be as broadly owned as possible, and there be no major gap between the vision and the capacities of ... stakeholders to deliver that vision (Simpson 2010). Dialogue processes often need to compensate for mechanisms of the formal government that lack sufficient legitimacy, nurturing 'a shared understanding among key political actors on principles' (Papagianni 2014, p. 11). Their success rests at least in part on rigorous stakeholder mapping (which can be supported by the observatory function), as well as on an expanded understanding of 'who counts' in efforts towards stability and peaceful development. As a major study on legitimacy and peace processes concluded, what is critical for a process to be legitimate is popular consent – that is, that social and political agreements be accepted in the broadest possible way (Wennman & Ramsbotham 2014).

### *Proactive conflict prevention and resolution interventions*

‘Fragile contexts don’t take surprises well. Reactions are much stronger. There is no button to press to calm down an angry population that feels betrayed’ (Ganson 2013, p. 119). Systems capable of preventing the escalation of conflict or violence are therefore often required to keep reform efforts from being undermined by broader conflict dynamics. These may take a variety of innovative forms. In Kenya, for example, a group of technologists and civic activists built the Ushahidi platform – since deployed in hundreds of places around the world – in response to election violence, allowing the public to report in real time and enable swifter responses (Puig Larrauri, Davies, Ledesma & Welch 2015). Initiatives increasingly draw inspiration from the insight of public health experts that violence spreads like a disease, and that it is therefore amenable to strategic interruption points. Programmes deploy trusted members of a local community – from ex-drug runners or gang leaders to religious figures or elders – as ‘violence interrupters’. The fact that these local leaders acting as mediators are connected to, and trusted by, important local constituencies has been found to build trust in processes and outcomes (Mason 2009).

### *A backbone support organisation that facilitates expert and neutral assistance*

These interdependent facets of local change efforts will often require professional and institutionalized support to coordinate and sustain them; as the G20 High Level Panel on Infrastructure reminded us, partnerships that bring diverse actors together ‘require their own infrastructure’ (HLPI 2014, p. 3). Ad hoc processes convened directly by stakeholders can die from the exhaustion of planning and managing complex collaborative initiatives that are outside the core mandate or expertise of any participant; they may also fall prey to wrangling among the players as one or another is perceived to be manipulating the process to achieve its preferred outcome. A ‘backbone support organization’ that provides services such as neutral facilitation or mediation, technology and communication, data collection and reporting, and administrative support is therefore increasingly seen as a critical enabler of complex collaborative efforts (Kania & Kramer 2011, p. 40).

When strategically combined, these deceptively simple building blocks – trustworthy data, collaborative analysis, progressively expanded coalitions for change, interventions to address corrosive conflict risks, and sustained institutional support by an honest broker – have proven

remarkably effective in the municipal context, for example, in the reduction of severe urban violence. One key success factor appears to be the relentless prioritization that follows from these combined approaches. In Colombia in the mid-1990s, for example, the mayors of Medellín and Bogotá represented new political coalitions for anti-violence with a degree of political independence from traditional parties. A broad coalition across left and right, the media and a large part of the business community enabled policies for solving critical problems to take priority over the partisan interests of certain economic elites or municipal bureaucracies (Gutierrez, Pinto, Arenas, Guzman & Gutierrez 2013). These combined approaches also appear to help build will and capacity for more integrated approaches. In the Dominican Republic, for example, a programme to address crime and drug trafficking in the Capotillo neighbourhood of Santo Domingo in 2005 simultaneously increased the number of patrols by specially trained police in high-crime areas; provided new street lighting and new public recreational areas; invested in young people by providing new classrooms in schools, cultural workshops and sports clinics; and reached out to the general public with literacy and civic education initiatives. The programme recorded an 85% decline in assaults and robberies during its first two months, and a 70% reduction in homicides over eight months (UNODC & World Bank 2007, p. 124).

### **Tailored approaches can be effective despite local fragility**

Just as importantly, these approaches succeed in the face of social division, legacies of grievance, weak institutions, lack of trust in government, pressing socio-economic challenges, and the presence of spoilers content to exploit conflict to meet their narrowly defined interests – that is to say, the very conditions that define the fragility requiring intervention in the first place. As noted above, contexts are typically fragile at least in part because the dominant political structures contribute to problems rather than to their solutions. Yet because these systems are functioning to achieve some purpose – protecting the power and authority of a particular elite, for example – they are highly resistant to change. Responses to poor municipal governance and service delivery may therefore fail because they proffer advice or prioritise regulatory or institutional reforms against an idealized model even in the absence of any underlying socio-political consensus for their implementation.

Successful approaches, on the other hand, work around, and where possible even with, prevailing socio-political dynamics (Ganson & Wennmann 2016, ch. 5):

*Party engagement on the basis of their partisan interests*

Powerful actors may need to be engaged on the basis of their own agendas. In Kenya, for example, the business community remained peripheral to efforts to contain widespread and brutal election violence up through 2007. But as it became apparent how this had contributed to a 24% reduction in flower exports at least a 40% decline in tourism, and US\$2m per day in export losses from the tea industry (Rukavina de Vidovgrad 2015, p. 5), the business community made an affirmative choice to contribute to conflict prevention initiatives in the run up to the 2013 elections.

*Vertical linkages to influential actors at regional or national levels*

When a local councillor belonging to the ANC was implicated in fomenting xenophobic violence for partisan political purposes in the Breede River Municipality of South Africa, the mediator was able to convince party leaders to intervene in the interest of maintaining national control over local structures (Koetze 2015). Although such problems present locally, their resolution requires relationships and channels of communication between local, regional and national levels of the system. When institutionalized, these linkages may be characterized as 'infrastructures for peace' (Kumar & De la Haye 2011, p. 5). They often draw inspiration from the experience of South Africa's National Peace Secretariat, which established 11 regional and more than 260 local peace committees, allowing issues around the implementation of the National Peace Accord to be managed locally if possible but also enabling them to be quickly escalated to another level of influence if necessary (Spies 2002).

*Building from existing social and political capital and functioning institutions*

Reformers typically begin with a gap analysis of local municipalities, leading to the familiar litany of corrupt governments, divided communities and failed institutions. Yet the absence of functioning government institutions should not be mistaken for the absence of governance mechanisms or public service delivery, especially at sub-national levels. In an urban township where the police are unwilling or unable to act, neighbourhood committees may arrest suspects, try them in informal

courts and mete out punishment; churches and mosques may provide literacy training. These locally legitimate structures and institutions represent ‘a different and genuine political order’ (Boege et al. 2009, p. 606) from which development efforts can build. Conversely, failure to acknowledge and support local capacities for development can damage mutual support networks and patterns of trust, undermining communities’ resilience and allowing conflicts to fester (Bardouille-Crema, Chigas, & Miller 2013).

### *Moving beyond stereotypes and typical actors*

Finding and nurturing local capacities for positive change may require looking past stereotypes in to where real interests and capacities may lie. In Sierra Leone, for example, the Bo Bike Riders’ Association is a local motorcycle taxi cooperative made up of thousands of young men who for the most part previously belonged to one of the world’s most brutal insurgencies, the Revolutionary United Front. Ex-combatants are at a high risk of returning to violence, and are often counted among those perceived to welcome conflict as a tool to pursue money, power, revenge or self-aggrandisement – and thus as difficult or impossible to engage. Yet the Bike Riders’ Association was a critical partner in the 2007 Campaign for Violence-Free Elections, using its members’ ubiquitous presence across the region to raise the alarm when violence threatened and, having defined itself as ‘a peaceful, non-political organization’, to ‘move into the community to resolve conflicts and prevent violence’ (Ganson & Svensson 2010).

### *Intervention in the more acceptable forms of expertise and advice*

Many actors in difficult places are not necessarily indisposed to outside intervention, particularly when it comes in the form of expertise and advice rather than a pre-packaged plan or solution.

Particularly when parties become ‘unable to communicate with each other, unable to think of a solution that could be attractive to the other side as well as themselves, unable to ... turn the zero-sum conflict into a positive-sum solution, and unable to turn from commitment and a winning mentality to problem solving and solutions to grievances’ (Zartman 1995, p. 20), facilitating learning from one context to another may be a role of particular importance, as when South African experience was able to inspire the participants in the Northern Ireland peace process to break through deadlocks. Additionally, offering only advice and experience that the parties themselves will filter and apply in light of their superior understanding of local dynamics helps to protect against the

all-too common failure of interventions that are disconnected from local social and political realities (See, e.g., Anderson, Brown & Jean 2013).

Taken together, these approaches to catalysing positive change despite complex and often self-defeating socio-political dynamics suggest the utility of structured, compensatory mechanisms within fragile systems. In some quarters, there is a ‘paradigm shift from the “good governance” agenda of neo-liberal state building to a focus on “arrangements that work”’ (Meagher, De Herdt & Titeca 2014, p. 2). State builders may be adopting the perspective that ‘what matters is the function, rather than the form of institutions’ – a principle that is broadly accepted by development practitioners (Centre for the Future of the State 2010, p. 21) – such that the legitimate needs of stakeholders can be met even in the absence of a legitimate, uncontested state. Tending to operate in socio-political ‘grey’ spaces that are neither apart from nor fully part of the fragile state structures (Ganson & Wennmann 2012, p. 4), informal institutions can build more inclusive forums as they analyse issues, interrupt conflict, find solutions and resolve grievances. The actions of ‘the other’ become more knowable and more predictable, opening doors to new possibilities for action that cuts across pre-existing conflict divides. Furthermore, the evidence suggests that the relationship and trust-building achieved through such efforts can allow for local progress, even if national fragility persists (Hohe 2004; Anderson & Wallace 2013).

### **Companies face a balancing act in state building efforts**

As powerful political and economic actors, corporations as advocates for, or participants in, municipal ‘state building’ efforts face risks from both action and inaction. To maintain internal support within the company for municipal engagement, change agents within the corporation may be pressed to pursue municipal reforms that address company interests, such as increased technical capacity or regulatory reform. They may be susceptible to the elite perspective that ‘bureaucratic enclaves of excellence and huge infrastructure projects can qualitatively reconfigure domestic political-economic systems’ (Jones and Soares de Oliveira 2013, p. 6). Interventions that focus solely on the government in power may in fact be ‘effective’ in that they create new capabilities or provide new resources. Yet if these efforts proceed ‘without any fundamental political restructuring’ and avoid addressing broader domestic concerns over the distribution of benefits and the legitimacy of government in the eyes of the population (Englebert & Portelance 2015), they risk – in addition to the perverse effects discussed above – civil society complaints that that companies are merely taking

action that 'aligns national policies to corporate interests' (See, e.g., Obenland 2014). On the other hand, failing to respond to pressing needs for jobs, security and justice will lead to further division and conflict within already stressed communities.

Companies that do aspire to roles as catalysts for positive change may find that they are themselves facing capabilities gaps that make those of the municipality they seek to assist pale in comparison. Mary Anderson, an authority on intervention in conflict-prone environments, noted that 'peace is not an area for amateurs' (Anderson 2008, p. 125). For companies to effectively engage in complex socio-political environments, they must 'perform accurate and up-to-date conflict analysis; establish comfortable, trusting, and transparent relationships with diverse people who may not share their values; use specialized mediation skills to identify common concerns that can unite antagonists while also respecting fundamental differences and opposing positions; and have the ability to be calm and comfortable in situations of danger, threat, and emotional and physical stress'. In what is perhaps a pronounced understatement, she concludes that these 'are not common, everyday skills found among corporate managers' (Ibid.) Furthermore, attempts to outsource these functions may result in a kind of corporate dyspraxia, in which companies fail to act effectively even on known risks to themselves or others, due to governance and management systems failures (Ganson 2014).

The starting point seems to be for company leaders to admit that business is part and parcel of the fragile municipal context, including its complex socio-political dynamics. Investments, operations, government and stakeholder relations and civic engagement are all part of a political economy, and inherently political. This remains difficult to accept for many actors, whether in government, civil society forums or corporate boardrooms. As one executive put it, 'Weren't they telling me just a few decades ago to get *out* of politics?' (Ganson 2014, p. 129). Yet to make sense of and address dysfunctional municipal dynamics, corporate leaders must both admit, and claim the legitimacy to assert, business interests in 'political' matters. By advocating and providing opportunities for the broadest possible coalition to 'participate in, influence, and share control over development initiatives, decisions, and resources' (EIR 2003, p. 18), companies can support the hard work of identifying the players, issues, and dynamics that present opportunities to build sufficient coalitions that can unblock positive change.

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