Addressing state fragility in Africa

A need to challenge the established 'wisdom'?

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Executive summary

Western donor policies directed towards 'peace as state-building' in Africa have not had the desired effect in terms of creating stability, development and human prosperity. It is evident that the gap between donor rhetoric and empirical realities is widening. Hence, there is a need for critically rethinking approaches to peace and state-building.

This report starts from the premise that in order to direct external support to fragile states with the aim of advancing constructive change and development, it is necessary to start focusing on *what is there* rather than clinging to the notion of *what ought to be there* – from a liberal-democracy perspective. The report first discusses how the interaction between donors – pursuing state-building as the 'cure' for political instability and stagnated development – and domestic state-labelled elites – pursuing regime survival and power consolidation in an environment with strong informal forces – takes on a logic of its own. A logic that tends to undermine the declared objectives of development and ownership, and firmly challenges the framing of externally led state-building as a genuinely 'common project' (implying an Africa that wishes and consents to the liberal-democratic solution). This section draws upon the well-established literature on neo-patrimonialism and organized disorder in post-colonial Africa. The report then discusses how so-called 'fragile states' also feature innovative locally devised systems of non-state and hybrid governance and various grounded capacities for peace and order that are typically left out of the dominating reconstruction discourse. Discussions of 'what is there' should not only further the understanding of malign domestic dynamics that undermine participation, socio-economic development and state accountability, but also draw attention to the significance of the local forces that provide protection, predictability and survival for the population in settings with limited statehood. Such locally grounded non-state agency and mechanisms of recovery and order have been less extensively addressed in the literature on political science and International Relations theory – which appears to be too narrowly preoccupied with the theme of the problematic nature of politics and governance in Africa – but are of great significance for understanding the empirical conditions for political order and peace. Bearing in

mind the positive as well as the not so positive dimensions of 'what is there', the report subsequently concludes with policy suggestions, directed to encourage external actors to achieve a more grounded understanding of the settings in which they engage, to in this way get a better basis for developing suitable policies.

Introduction

State-building has come to be seen as a crucial means of tackling many of the current challenges facing post-conflict regions in Africa (and more broadly in the Global South), including creating sustainable peace, promoting development, security, and economic growth, as well as encouraging the spread of international standards of rule of law, human rights and good governance.

Moreover, the preoccupation with state effectiveness, institutional reconstruction and good governance is intimately tied to the perception that stability and development in the Global South is not only beneficial for the countries in these regions, but is also critical to the security of the Global North.

The centrality of the security-development nexus and the re-emphasis of the role of the state must be understood both in the context of the global political changes following 9/11, and against the backdrop of the unsuccessful free-market policies which inadvertently exacerbated poverty and social decay in the late 80s and early 90s (Observatoire de l'Afrique. 2008).

The efforts to 'bring the state back in' are, in other words, being justified with reference both to global security concerns and to a range of developmentalist objectives directed towards the national and local levels. Against this backdrop, the schemes of post-conflict state-building introduced by key international institutions in recent years have been ambitious and comprehensive in their formulations.

Moreover, alongside Africa's rising geo-strategic importance, and with its new status as a 'partner' rather than an aid recipient[1], 'African ownership' has become a buzzword in most key domains of international engagement in post-conflict settings (including the domains of state-building and state reform, peace-building, security and development) (Franke & Esmenjaud 2009). This adds yet another dimension to the promise of state-building, namely the anticipation of empowerment and even African emancipation. In terms of concrete policy implications, this has mostly translated into technical and financial support to governments as a means for donors to strengthen the partner countries' capacity to appropriate their own political and developmental programmes.

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[1] Strongly emphasized in, for example, the joint Africa-EU Strategic Partnership.

Yet, while this presumably holistic discourse, operating on the assumption of interdependence between global security on the one hand, and state-building, capacity-building and development in Africa on the other, is theoretically compelling, its translation into workable policies has revealed a number of ambiguities. Largely, the liberal policies directed towards 'peace as state-building' (Richmond 2009) have not had the desired effect, and there is a widening gap between donor rhetoric and empirical realities.

Some policymakers and scholars argue that better results can be obtained if external agencies make a greater effort and are more 'hands on' in their support for state-building (Chandler 2009). From this perspective, the approach briefly outlined above is viable, and simply requires more time and effort to have the desired effects. Challenges are mainly seen through the prism of state failure or state fragility, implying that attention is drawn, firstly, to what is (from a Western normative perspective) lacking or absent in the post-conflict setting – namely an effective and democratic state – and secondly, how to overcome this deficiency through building capacity and institutions.

Others question the very viability of the key prescriptions of this dominating state-building formula and, in particular, the normative bias towards the ideal of a strong liberal-democratic state model. From this perspective, rather than doing more of what has not worked, there is a need to rethink the very basis of external involvement in state-building. Empirical realities do lend credence to this assessment. Consider, for example, the disintegration and political illegitimacy in DRC, the miserably failed external attempts of 'state-building' and meddling in Somalia and – beyond Africa – not only much debated cases such as Afghanistan and Iraq, but also cases like Cambodia, East Timor and BiH[2], where heavy external involvement may have contributed to peace but also to the disconnection between the state and 'its' society. These are just a few examples that add weight to the call for a critical rethink of state-building strategies.

One of the key criticisms of the 'failed state' discourse is that while it does reveal much about the normative undercurrents of Western state-building interventions, it says little about the political dynamics operating on the ground within the so-called failed states.

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[2] Bosnia and Herzegovina.

Inevitably, the self-referential criteria for 'success' or 'failure' result in standardized policies and blueprints, since 'after all, everyone and everything looks the same when you see only yourself in the mirror' (Bøås and Jennings 2005:388).

A key argument running through several (related) critical positions in the literature on Africa is precisely that the international institutions engaged in external state-building and reconstruction largely fail to recognize that politics and governance in many African countries operate according to very different principles than those underpinning the Western ideal type[3] democratic state (see for example Taylor 2009; Bøås and Jennings 2005; Darby 2009; Boege et al. 2009; 2009a; Chabal 2005; Mehler 2009). In other words, according to a number of scholars and observers of African politics, a major limitation to external involvement in post-conflict settings pertains to the donors' reliance on state- building blueprints that are drawn from an idea of the state and its role that is far removed from reality for most post-colonial Africa settings.

This report will firstly provide a brief review of how patterns of neo-patrimonialism and instrumentalized disorder in post-colonial Africa have resulted in types of political organization – and interaction with external actors – that are at odds with the Western idealization of the state and, more specifically, the conception that technical, economic and institutional support for state agencies is the cure for conflicts and underdevelopment. Yet, while the critical and well-established literature on principally 'malign' dynamics of post-colonial political elites that undermine sustainable order and development points to a number of very real challenges, this only accounts for one part of the picture. Hence, secondly, drawing on the emerging frameworks of the mediated state and Hybrid Political Orders, the report shows how the more uncharted positive features, such as flexible adaptation, resilience and the capacity for self-organization, have constructive potential when it comes to fostering peace and political community.

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[3] That is, first and foremost an *ideal conception* rather than an actual representation of any empirical and given reality of 'statehood in the West'.

1. Looking at 'what is there', part one –opportunistic and exclusive politics

Some of the key prescriptions for how to reconfigure and re-build the state along liberal democratic lines are premised on 'normative pretensions' and the construction of a 'mythical Africa' ready for – that is to say, both desiring and needing – the liberal solutions provided by external donors (von Trotha 2009; Taylor 2009).

A different framework, aspiring to better explain empirical realities, is offered in accounts of neo-patrimonial rule in post-colonial Africa.

Neo-patrimonialism can be understood as a form of rule that combines two modes of governance, namely legal-rational bureaucracy and personalized authoritarian rule (Engel & Rye Olsen 2005).[4] The patrimonial aspects are manifest in the personalized patron-client relations between the state authorities and fractions of society and the corresponding informal decision-making processes partly determining the distribution of resources. Yet, this is played out 'within the framework of, and with claim to, legal-rational bureaucracy and 'modern' stateness' (Erdman & Engel 2006: 18). This organization of governance arrangements has dual – and somewhat contradictory – effects; namely, the expansion of state structures and agencies alongside the decline of the effectiveness of these agencies (Chazan et al 1999:54).

In other words, the neopatrimonial state is both *substantial* – given the existence of formal bureaucratic structures and given the fact that state funds are the main source of power – and *futile* – since de facto distributive politics operate informally for the most part, and the state has little implementation capacity within the domain of public policies. Within such systems, state leaders use their formal positions to fulfil their informal obligations vis-à-vis their clients, so as to meet the expectations and demands on which their powers as rulers rest (Chabal 2005; Andersen 2007). This personalized exchange within clientelistic networks that evolve around access to state resources is

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[4] For an in-depth discussion and conceptual elaboration of neopatrimonialism, see Erdman and Engel 2006.

oftentimes accepted, routinized and legitimized within the political sphere. Generally, however, neo-patrimonial rule operates according to logics that marginalize the majority of the population, and create deep lines of socio-economic inclusion and exclusion.

Neo-patrimonialism constitutes one particular aspect of how political power is organized – i.e. the 'creative mix' of bureaucratic legal-rational domination and patrimonial domination (Erdman & Engel 2006) – and this form of rule is typically described as one of several modalities of power and governance that co-exist, overlap and intertwine in the spheres of the 'informal' as well as in the interfaces of the 'formal' and the 'informal'. For example, ineffective state institutions also create opportunities for various 'strongmen' consolidating their power through control over shadow economies rather than state resources – a phenomenon that has become known as warlordism (see for example Reno 1998). In some cases, warlord politics have taken over – or are in competition with – the neo-patrimonial regimes. In other cases, especially where neo-patrimonial rule has come under pressures or broken down due to imposed reforms and lack of support, state rulers embark on the exact same strategies as the warlords by transforming their political power 'into an effective means of controlling markets without the prior reliance on formal state institutions' (Andersen 2007: 26).

The plural and intertwining structures of opportunistic politics, cutting across the domains of the public and the private – and also tying in with both local bases of ethnic and tribal loyalty and resistance as well as global-scale economic networks – in many settings make it difficult to make any clear and meaningful distinctions between state rulers and various local and national strongmen.

Under these complex conditions – including the lack of an observable distinction between formal and informal patron-client relations between state and society, the privatization of the public sphere and even the instrumentalization of disorder – the premises for state-building are qualitatively different from what is often assumed by donors.

In the following, the report reviews a few of the critical challenges to the established state-centric 'building' and developmental activities, and points to how these activities inadvertently become part of the configuration of neo-patrimonial elite consolidation.

- *Declared objectives ≠ de facto commitment and capacity*

Neo-patrimonial systems tend to result in a significant discrepancy between the declared objectives of 'development' and 'good governance' and the actual commitment and ability to implement these reforms (Taylor 2009).

The rhetorical commitment to reform objectives, on the part of the political elites, helps to attract aid, which is critical for regime survival (a key objective of most political elites). However, the implementation of any reforms that undermine the possibilities of maintaining clientelistic networks is oftentimes simultaneously resisted.

In other words, the alleged consensus between donors and partner countries on how to address fragility and 'failure' (and how to define 'failure' in the first place) is often superficial if not downright illusionary. As argued by Bøås, and Jennings (2005: 386), when we speak of 'failed states', 'we are in actual fact usually referring to states in which power primarily takes place outside the state's institutions'. However, they continue, 'for those in power this is not necessarily a failure; in fact, it may be their objective, by improving the security of the regime and consolidating networks of power and enrichment for elites'.

What occurs against this backdrop is the 'partial reform syndrome' (Taylor 2009), whereby aid-recipient rulers redirect the reform process enough to protect their patron-client relations, but not more than what the donors – whose declared policies are often at great variance also with their own capacity and political will to implement these policies – can silently accept or ignore.

- Lack of hegemony on the local level (issues of representation and ownership)

According to Taylor (2009: 68), the problem of implementing and advancing the liberal democratic order and peace in Africa, 'despite the hegemonic support it may enjoy at the global level, is massively compounded by the general absence of hegemony locally'. Hegemony is here understood in an ethico-political sense[5], indicating that a

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[5] Corresponding to the Gramscian notion of hegemony.

hegemonic project needs 'a politics of support as well as a politics of power' (Taylor 2009: 68). More often than not, the African ruling elites, in their particular role as state leaders, lack the former – a politics of broad-based public support and legitimation. In these cases, the rulers' dominance rests instead on the governance modalities of violence and threat, on the one hand, and rewards (protection and material benefits) for supporters, on the other. While this does confer legitimacy to their positions as patrons, it does not confer the type of legitimacy and authority that derives from representation and protection of the broader population – i.e. the type of authority that would be necessary if these rulers were to spearhead the project of liberal-democratic transformation.

In settings where the government is largely disconnected from the greater part of society, it is highly problematic to assume that the state constitutes the sole basis on which 'ownership' of political reforms and developments should rest (and ideally trickle down to local levels). For one thing – and on a practical note – the broad disengagement with, if not direct rejection of, the state by large parts of the population significantly reduces the state's capacity to implement reforms within the domain of public policies.

Yet, when working with the 'state-labelled' national partners, tight deadlines and demands for quick results often lead international donors to leave aside the complex questions of who these partners actually represent, what incentives they have and what type and extent of legitimacy they can claim (Mehler 2009).

Against this backdrop, there is, in fact, a considerable risk that international donors will 'prop up' 'elites engaged in partial reform whilst alienating the masses' (Taylor 2009:73). This is a reminder of the highly political nature of external engagements in state-building and reconstruction in post-conflict settings and of the deeply contested nature of what constitutes political legitimacy.

- Regime-survival and 'machine-survival'

External engagements in peace and state-building often take on the appearance of technical and problem-solving activities based on proven knowledge. Yet, this apolitical guise is profoundly misleading. Rather, the various 'building activities' (state-building, peace-building, capacity-building) are products of deep underlying political

forces and knowledge derived from the historical experiences of Europe.

The critique against the de-politicization of external support and intervention in Africa has been particularly forcefully presented by Ferguson, whose book *The Anti-Politics Machine* is one of the earliest prominent examples of a critical re-assessment of the neo-liberal discourse. By 'anti-politics', Ferguson (1990) refers to the development industry's application of technical solutions to political problems such as conflict, poverty and suffering. The machine – namely the developmentalist discourse, the inventory of established solutions, and the configurations of actors involved – renders the politics of intervention in 'underdeveloped' settings into a series of technical problem-solving undertakings. In this way, he argues, the developmentalist discourse became politically privileged by its appearance of being apolitical. Rather than focusing on the failure of the developmental discourse to produce its intended results, Ferguson focuses on *what it does produce*, even if largely unintended. Through this focus on the partly unintended yet significant results of external actors' involvement in development activities and state- building, Ferguson shows how the obstacles to development and inclusive political orders do not simply derive from internal deficiencies inherent in the local setting, but must be explained with reference to the nexus of international powers and national (and local) political dynamics.

Ferguson convincingly demonstrates how the interaction between the international donor community and the political elites in the 'fragile' settings frequently takes on its own logic, which may not produce the planned outcomes but nevertheless creates the conditions for a configuration of mutual reinforcement between the politics of regime-survival (critical to national political elites), and the politics of 'machine'-survival (critical to the international donor community). This, in turn, leads to the disconnection of the state from its history, culture and society, the expansion of bureaucratic structures and an alignment between the donors and the political elite, often marginalizing the governed (Quinn 2009). As noted by Quinn, with this analysis of the early neo-liberal development discourse, Ferguson captured the dynamics – including the external dimension – of what has been dubbed neo-patrimonialism. Moreover, Ferguson's account sounds very contemporary when turning to

prominent critiques of the *Liberal Peace* echoing the warning against the paternalism, and even structural violence, of self-referential and universalizing discourses of 'doing good' (Duffield 2007; Darby 2009; Richmond 2009; Boege 2009; Gould 2007).

A key conclusion to be drawn from the above review is that the harmonious image – commonly projected within the official reconstruction discourse – of state-building as a collective and agreed-upon pursuit of uniformly positive objectives, such as development, global security and political order, does not reflect reality.

The form of consensus permitting the logics of 'machine-survival' and regime-survival to reinforce each other is premised on profound global power inequalities, and is not something to be celebrated from a democratic or 'ownership' point of view.

As noted by Taylor (2005:162), 'no longer is the state leader necessarily interested or dedicated to a project that is devoted to establishing control over a specific recognized territory, with all the bureaucratic encumbrances and requirements to maintain some form of consensual balance'.

This is not to denounce the entire vision of the usefulness of the external promotion of and support for peace and state reconstruction in the Global South. Rather, it is to argue that the international institutions and actors that provide external support for reconstruction and recovery must come to terms with the undetermined and deeply political nature of these efforts, and that – in order to avoid contributing further to the structural and systemic obstacles to inclusive political order and peace – there is a need to critically reconsider the state-centred strategies currently employed.

Yet, the question remains: What might constitute more constructive forms of external engagements in post-conflict state and peace-building? Critical accounts rightly stress the importance of developing greater openness to alternatives to the straitjacket liberal reconstruction framework. However, concrete suggestions as to what these alternatives might look like, what steps could be taken to encourage more viable and participatory practices of peace and state-building, and how to 'practice the post-colonial' (Darby 2009) are limited.

While the literature on the predicaments of post-colonial politics in Africa alerts us to some very real challenges, the primary focus on

malign forces and dynamics leaves us with a rather gloomy picture of how 'Africa works' (Chabal & Daloz 1999). Indeed, the accounts of neo-patrimonialism, corruption, warlordism and instrumentalized disorder are all variations on the theme of the problematic nature of politics and governance in Africa. Standing alone, this focus does not provide the best point of departure for thinking about new alternatives, but rather risks leading to "the defeatist attitude that either nothing will work in some parts of Africa or that the status quo is the best that can be hoped for" (Herbst 1996:132). In fact, an exclusive focus on the negative predicaments of the post-colonial state could even inadvertently reinforce the idea that solutions must be sought from without since they are unlikely to emerge from within.

Against this backdrop, it is crucial to stress that what needs to be accounted for is not simply the difference, and mismatch, between the African context structured by the politics of corruption and informalization on the one hand, and the Western imaginaries of liberal-democratic institution-building on the other. Rather, a key characteristic of contemporary Africa is the *variety of patterns and trajectories of governance and development* that are taking the continent in many different directions. There is, in other words, a *multiplicity of pathways for change*. And undoubtedly, not all of them are negative.

The following section will review and discuss the frameworks of Hybrid Political Orders and the mediated state, which offer an alternative perspective on so-called fragile settings.

2. Looking at 'what is there', part two – exploring potentials and resiliency

In recent years, a number of scholars and political observers have argued that the contested nature of governance and the crisis of the state in post-conflict settings must be discussed not only within the grammar of disintegration, corruption and decay, but also in the light of opportunity (Menkhaus 2005, 2006, 2009; Boege et al. 2009, 2009a; Hagman & Peclard forthcoming). Or, as Villalon put it in 1998, as a 'critical juncture' that is opening up new possibilities for the reconfiguration of order and power relations, which may result in new political systems succeeding better in engaging people and attaining popular support.

Hence, through this lens, the conventional 'peace as state-building' reconstruction framework is not only unhelpful because it is being circumvented by informal and corrupted elite politics in the local settings, but also because it prevents its adherents from seeing creative and synergetic developments of 'non-conforming' orders. As noted by Taylor (2009: 66), the liberal discourses often 'silence discussions of other alternatives and place the option elevated by the capitalist core at the heart of the discussion. In Africa this has meant that African input into the construction of peace has often been subsumed or ignored with the imposition of Western notions of what constitutes 'real' peace'.

Similarly, a focus on 'what is there' should not only further the understanding of the micro-dynamics that *undermine* socio-economic development and state accountability, but also draw attention to signs of resilience and strengths and to the significance of the various localized forces that provide protection and survival for the population in settings with 'limited statehood' (SFB 700 2010).

To facilitate such re-focusing, beyond the deficiencies and limitations of non-conforming political orders and the attendant idea of a liberal-democratic 'cure', Boege et al. (2009: 599, italics added) argue that 'rather than thinking in terms of fragile states, it might be theoretically more fruitful to think in terms of *hybrid political orders*'. This re-conceptualization 'opens new options for peace building and

for state formation as building political community', in that the focus on 'what is there' is expanded to include institutions, procedures and authorities that have potential for order, peace and predictability, but that are left out of conventional state-focused reconstruction discourses (and that are typically also not given attention in the type of analysis reviewed in 'part one').

One of the advantages of the concept of Hybrid Political Orders is that it is sufficiently broad to encompass various aspects and manifestations of authority, governance and political order. While not neglecting the negative aspects of hybrid political orders, Boege et al. (2009b:88), in their own words, also 'want to raise awareness of their positive potentials, identify their workable elements and try to make proposals for the realization of those potentials'.

The research on hybrid political orders, which has thus far focused primarily on South East Asia and the South Pacific, shows that while the interaction and co-existence of multiple (state and non-state) logics of authority and governance – what they term 'political hybridity' – does imply contradicting logics and even violent confrontations, 'political hybridity' has also manifested itself in workable systems of governance, coupling non-state authority, including customary institutions, with 'modern' government.

Along very similar lines, the recent work of Ken Menkhaus, focusing on Africa, has documented that in settings where the state is unwilling or unable to undertake core governance functions, alternative non-state systems of governance – merging elements of tradition, religion, civic leadership and other forms of 'modern' risk management – can provide impressive levels of security, stability and predictability for local people (Menkhaus 2005; 2006; 2009).

In some regions, these non-state governance arrangements have been drawn into, and coupled with, formal structures of government, in what Menkhuas describes as 'mediated state' arrangements, where the different level policies are "nested together in a negotiated division of labour" (Menkhaus 2006:103). 'Mediated state' suggests an alternative approach to governance-building, and accounts for the empirical cases in which new arrangements between state and non-state authorities regarding provisions of local security, services and development have emerged (Menkhaus 2006).

The key characteristic of a 'mediated state' is that 'it lacks the capacity to project authority into peripheral areas, but possesses

the desire to at least indirectly promote stability and rule of law (and, eventually, taxation) there' (Menkhaus 2009: 15). 'Shared' sovereignty can under these conditions (where the state does not have the capacity to exercise full sovereign political authority) become an alternative way of enhancing governance and the rule of law. Mediated State arrangements are likely to vary significantly, depending on the interests and strength of local actors and the power configurations characterizing the particular context. While noting that the model of 'mediated state' may in some cases work as nothing more than 'the best of bad options' (Menkhaus 2006) – in other words, not a choice of policy but the *only* possibility to regain stability – Menkhaus simultaneously stresses the creativity, mobility and flexibility of these different forms of 'governance in interaction'.

An emerging branch of scholarship has started documenting occurrences of 'mediated' and 'hybrid' political arrangements, and analyzing the challenges these pose to conventional and established knowledge of fragile states and state-building both in Africa and beyond (Boege et al. 2009, 2009a; 2009b; Clements et al. 2007; Debiel & Pechlard 2009; Menkhaus 2005, 2006, 2009; Wiuff Moe 2009). In Africa, mediated and hybrid governance arrangements have been rather systematically researched, for example in the Somali inhabited regions in East Africa, including northern Kenya, Eastern Ethiopia and the sub-national administrations of Puntland and Somaliland (Menkhaus 2005, 2006,2009; Hoehne & Hagman 2007; Hoehne 2006; Wiuff Moe 2009).

These regions all feature localized forms of governance grounded in assertive local agency and authority operating outside the formal structures of the state, but in different ways and to different degrees accepted, encouraged and even sanctioned by the official government agencies that do not have the capacity to exercise effective control over their territories themselves. These alternative, locally devised arrangements include, for example, community policing, locally developed but eventually officially sanctioned peace committees – based on coalitions of businessmen, elders, civic actors, clerics and others – as well as customary institutions and actors playing a mediating role between the state and society (Menkhaus 2009). The notion of the 'capacity for self-organization' or, more to the point, 'self-securing' (Darby 2009) comes to mind. As noted by Darby (2009: 709), the idea of self-securing 'dovetails nicely with postcolonial

thought, since it unsettles the understanding that security is best handled from 'above' [and] (...) challenges hierarchy, centralization, linearity and separation (borders)'.[6]

- The case of Somaliland

This notion of the capacity for 'self-organization' fits well in the case of Somaliland[7], an unrecognized de facto state[8] situated in the north east of Somalia. Somaliland is a particularly noteworthy example of non-conforming political order, since here the 'capacity for self-organization' has actually added up to de facto statehood. Somaliland declared independence from Somalia in 1991, and has since followed its own self-reliant path to recovery. Due to its unrecognized status, Somaliland has received very limited external support for the processes of peace and state-building.

Reconciliation and the regaining of stability took place as *preconditions* for – rather than as a result of – state-building. Specifically, the localized mobilization for peace, led by Somalis and drawing extensively on traditional authorities and their conflict-management capacities, paved the way for a number of large-scale clan conferences where Somaliland-wide peace agreements were made and where the institutional framework for the state was created. From being the driving forces behind the peace and reconciliation processes and demobilization, traditional authorities have subsequently become part of the everyday functioning of the state of Somaliland. They play key roles in governance, both as official members of parliament

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[6] Notably, there has been a growing awareness and recognition on the part of the donor community of the fact that societal non-state structures of authority are playing a key role in undertaking core governance roles. However, this is not yet adequately reflected in the policy-making and work done within the donor community. 'Building' and engaging with 'civil society' have become central donor priorities, and key measures for improving state-society relations. Yet, many non-state actors, structures and types of associative behaviour do not fit neatly into the category of what donors conceive of as 'civil society', and are thus left outside the dominating reconstruction discourse.

[7] For more insights into developments (including historical ones) in Somaliland, see for example: APD 2002, 1999; Jhazbhay 2009, Bradbury 2008.

[8] For a distinction between de jure and de facto states, and 'quasi-states', see Jackson (1990).

and on the local level where they undertake key functions of local security, such as mediating and settling communal conflicts as well as arresting those suspected of murder and other crimes. The latter takes place in collaboration with state actors and as a complement to state governance, but also builds on the resources and initiatives of various actors from the communities. This is, for example, apparent in projects of community policing that have the dual function of enhancing security through local mobilization law and order and providing forums for negotiating the relations between the state police and local communities[9] (personal interviews, Hargeisa, spring 2008).

Developments in Somaliland have incurred their own setbacks, and the merging of traditional leadership and state government has reshaped the basis of legitimacy for both, and introduced new challenges and ambiguities. Nevertheless, Somaliland's approach of utilizing localized systems of governance and mechanisms for conflict management as building blocks for the emerging institutions of government has resulted in an unrecognized political unit that has become known as more stable and peaceful than many of its recognized neighbours. Moreover, the relative stability and peace has allowed new bonds of cooperation to evolve around various public projects, directed at meeting common needs (Bryden 1999; Samatar 2001).

The case strongly supports the argument put forward by Boege et al. that 'political hybridity' is not exclusively negative per se, and that structures of non-state agency and leadership, including customary authority, could instead be viewed as 'assets and sources of solutions that can be drawn on in order to forge constructive relationships between communities and governments' (Boege et al.2009a: 30).

More broadly, Somaliland, as well as other less extensively developed sub-national political orders within Somali-inhabited areas, challenges the view of 'failed states' –Somalia being known as the most extreme case – as settings of generalized anarchy and social regression (see for example Bradbury 2008). On closer inspection,

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[9] This relationship had to be fundamentally re-negotiated, since the security forces, including the institution of the police, stood behind grave atrocities during the dictatorship of Syiad Barre. The institution of the police, as well as more broadly the central structure of state, were not previously sources of legitimacy.

the consequences and responses to state collapse have been highly diverse within the territory of Somalia. And unambiguously, the Somali-led rebuilding bottom-up processes in the north have been far more successful than the externally led top-down attempts to establish a central state in the South.

The key lesson is not that adopting a general 'hands off policy' (Andersen 2007) is the way to go about things.[10] Rather, and following the thrust of the frameworks of the 'mediated state' and 'hybrid political orders', what must be recognized is that even within the most difficult cases of so-called state failure, capacities for peace and order do exist, and although these capacities and sources of governance do not necessarily present themselves 'in our own likeness' (Menkhaus 2009), they cannot be ignored.

In particular, in the not so rare cases where the state has never been a source of legitimacy, an unhurried 'building block' approach which draws on, rather than attempts to replace, non-state structures of governance and authority is likely to yield a considerably better result than more conventional top-down approaches.

To sharpen the understanding of evolving ideas of approaching and thinking about peace and state-building in new ways, the following section looks into how the frameworks discussed in this section resonate with some other contemporary debates and arguments within the fields of governance and authority.

2.1. Mediated and hybrid governance arrangements in context: Central themes and broader debates

- Different faces of hybridity in Africa: bringing together 'part one' and 'part two'

Some scholars who focus on documenting uncharted sources of resilience and local strength have occasionally positioned themselves against the 'pathological descriptions' of the analysis 'on the crisis of

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[10] As argued by Andersen (2007: 38), given 'the critical claim that the neoliberal world order is producing state failure' it is difficult to see how hands-off policies would be ethically superior, since 'how should inhabitants of failed states escape the global structural conditions on their own? Something apparently needs to be done by 'outsiders''.

the state or civil society of Africa' (Raeymaekers et al. 2009; see also Hagman and Peclard forthcoming; Hoehne & Hagman 2007).

Unquestionably, the predominant focus on post-colonial Africa has, as argued above, been profoundly biased towards negative dynamics and characteristics, thus saying little about what can be hoped for in the future. Moreover, the concept of state 'failure', with its implicit reference point to the liberal-democratic ideal as the criterion for 'success', can rightly be criticized for being 'pathologizing'.

Yet, it is important to remain alert to the pitfall of creating an artificial dichotomy between 'pathologizing' analysis and 'affirmative' analysis. The complex and ever-changing ways that components of authority, legitimacy and governance intertwine and merge, render such a dichotomy analytically unbeneficial.[11] The logic is usually 'both and' rather than 'either or'.

To be sure, there is a great need for further analysis of the variety of emerging (hybrid, mediated, and so on) orders; how different elements of authority, legitimacy and governance, originating from different political and societal spheres enter into interpenetrative relationships; and what this means for local communities. This is an extensive research agenda, where different types of analysis must inform each other.

For example, debates on and analysis of warlordism, instrumentalized disorder and neo-patrimonialism (namely the type of analysis briefly reviewed in 'part one') can help to inform external actors that are trying to 'sort out how to support hybrid political orders without strengthening the wrong actors' (Schmeidl 2009).

To elaborate; on the one hand, building on, rather than fighting or ignoring political hybridity, in order to duly support constructive interaction, is critical to promoting sustainable peace and political order. On the other hand, political hybridity or 'mediated' governance

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[11] It appears that there is, in fact, great awareness of this. Hence, the discussion in this section merely stresses the importance of continuous dialogue between different forms of analysis. The different accounts presented in 'part one' and 'part two' of this paper *have important 'common grounds': the predominant Western and state-centric reconstruction discourses can, as shown, be challenged both by pointing to the malign dynamics of warlordism and neo-patrimonialism and by drawing attention to the assertive local forces and various forms of self-organization that provide local populations with security.*

arrangements are not *per se* benign in the eyes of local people. For example, in the African context, fostering 'hybrid solutions' could, as argued by Mehler (2009: 57), be in danger of 'bringing more of the same – neopatrimonial instability and inefficiency – unless they are carefully monitored'. Neo-patrimonialism is, as noted by Boege et. al. (2009), one specific form of political hybridity – namely a hybrid of patrimonialism and legal-rational bureaucracy (see first section). As shown, this system of governance is typically not beneficial or inclusive for the majority of the population. Along similar lines, the forms of political hybridity brought about by external forces helping warlords to power, for instance in Afghanistan (see for example Schmeidl 2009) and previously in Somalia[12], illustrate that extreme care must also be taken when promoting 'hybrid solutions' – indeed the principle of 'do no harm' is as important with regard to this as much as to any other approach.

Furthermore, in cases where non-state actors who do enjoy substantial broad-based local support are drawn into the structures of state governance, this profoundly reshapes – and has the risk of undermining – their basis of legitimacy. These risks have in particular been considered in analyses of the resurgence of traditional leadership and the wave of formal state recognition of traditional authorities in various parts of Africa (see for example Buur et al. 2007, Hoehne 2006).

Hence, building constructively on hybridity as part of the efforts to create viable and legitimate institutions, is not simply about institutionalizing or putting together different forms of legitimate authority. Rather, a key challenge is to ensure that the transformations of state-society relations and the new emergent power constellations take on forms that enjoy legitimacy and support in the population.

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[12] The case of Somalia after the collapse in 1991 aptly illustrates the logic of the international community working with those who are best at mimicking the type of 'state actors' with which the West is comfortable. Inadvertently, international involvement supported corporate-suit warlords to seize power, while actors that have enjoyed considerably more popular support have been marginalized (in the case of community leaders and traditional leaders) or combated (in the case of the UIC) (see for example Menkhaus 2000 & 2009; Samatar 2006 & 2007).

- Multilevel governance and political hybridity beyond Africa

Issues surrounding political hybridization and multi-sited governance, in its many forms, are not confined to so-called fragile settings in Africa.

On a much broader scale, increasing attention has been drawn – particularly in recent years – to 'the reallocation of political power and authority upwards, downwards and sideways from the central level of the state'. This development has found expression in the concept of Multilevel Governance (Hooge & Marks 2003).[13]

The issues pertaining to the reconfiguration of governance practices and structures, and the increasing fluidity, plurality and the multi-level nature (from the local to the global) of political power and authority, have become central in several domains of International Relations.

In the context of EU studies, the question of how authority should be organized has been particularly salient. The several 'multi-level governance designs' which have been on offer range from suggestions of 'a coherent system of nested governments, stretching up to a unified and encompassing European level' to advocacy for a system in which 'authority is spliced into multiple, functionally-specific policy regimes' and 'overlapping and even competing jurisdictions' (Hooge & Marks 2003: 2).

Within debates and studies related to democratization, it can be observed that the conception of multi-level governance is being advanced along with advocacy of greater tolerance for plurality. There is, for example, an increasing recognition that institutional arrangements for participation and democratic processes include both formal procedures for voting and decision-making and more informal deliberative and communicative techniques and practices.

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[13] On a critical note, multi-level governance – as a governance practice – is not a new phenomenon. Notably, multi-level practices of governance underpinned colonial indirect rule, and contemporary practices of multi-level governance also produce new patterns of domination and sub-ordination. An in-depth and critical discussion of the risks and potentials of multi-level governance is, however, beyond the scope of this report. The discussion in this section merely takes issue with the idea that hybridity and mediated governance are features of weak or failed states only, and points to some of the merits of allowing room for flexibility in the efforts to make governance work.

In a sense, the conception of multi-level governance both gives expression to something that is *there* (given increasing interdependence, globalization, and so forth) and advances an idea, or a potential *to be realized* – an idea which is very different from the idea of governance as a central authority, exercised within clear boundaries and hierarchies (as presupposed in the Westphalian ideal of world order).

Focusing on the issue of external engagement in so-called fragile settings, in the light of these prominent debates on multi-level governance and globalization, the questions become: 'Why the unquestioned emphasis on state-building?' and 'Why is the victory of the state the best or even the only solution to overcome political disorder and peacelessness?' (Wulf 2007: 6).

As pointed to by frameworks like 'hybrid political orders' and 'mediated state', state agencies and donors are not the only actors who have the capacities to provide and promote security, protection and peace. In fact, in conflict and post-conflict situations the governance and security tasks are often far too complex to be handled solely by the state, and actors and institutions from other levels and spheres consequently need to be meaningfully involved (Wulf 2007).

While multi-level governance challenges the centrality of the state and top-down state *building*, the flexibility, bargaining and pragmatism associated with the concept are critical in processes of state *formation.* Successful state formation hinges upon a concerted development of state and societal structures, and it is critical, against this backdrop, to allow for complexity, hybridity and flexibility – the inevitable features of the political processes of state-society bargains, permitting the gradual strengthening and legitimation of the state (see below).

Furthermore, political 'hybridity' is not simply a 'necessary evil' in the process of state formation, nor merely a feature of Africa's fragile settings, but also a means of maintaining the right to difference and of negotiating the balance between the general and the particular within established states – an issue which has been discussed in the literature on multi-level governance in the context of federalism. Consider, for example, how in a federated state like the USA, the common law system is characterized by substantial sympathy for local variations in custom. Specifically, 'under conditions of contemporary globalization, the common law offers the tools for

recognizing difference (…) and its open-ended features invite ongoing contestation and responsiveness' (Sullivan 2006:1).

All in all, the various 'multi-level governance debates' serve to partly deconstruct the alleged 'otherness' of African 'hybrid' political orders. Moreover, in contemporary debates on multi-level governance, flexibility and plurality are commonly framed as positive features of modern governance, whereas 'centralized authority – command and control – has few advocates' (Hooge & Marks 2003: 1).

If some of this willingness to protect flexibility – and to build on governance resources on multiple levels, including non-state levels – could also be allowed for within the field of peace and state-building, this would offer new opportunities for international powers and actors that have the potential to contribute to post-conflict recovery through means other than those adopted by traditional state-based actors.

- State-building in the context of state formation

An important contribution of interactive frameworks like Hybrid Political Orders and the Mediated State, is that they help to re-anchor state-building within the context of state formation, in that they emphasize the long-term and contested nature of these processes. As described in a recent OECD report, state formation is 'the dynamic, historically informed, often contingent process by which states emerge *in relation to societies*' (OECD 2008: 13, my italics).

Viewing state-building in the context of state formation thus implies a shift in focus beyond the *technicalities* of building effective institutions on the central level towards *the politics* of bargaining and contestation in the 'context of competing political orders' (von Trotha 2009). In other words, a context characterized by diverse, rapidly changing structures of governance and authority, and competing claims to power and legitimacy, where the appeal of rights and obligations associated with being a citizen coexists with other, often considerably stronger ties of loyalty vis-à-vis non-state groups and institutions (which in many areas remain the central providers of security and social safety for local people).[14] Under such conditions, rational-legal and liberal principles are unlikely to yield lasting and

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[14] These are all features that are typically regarded simply as signs of 'fragility'.

constructive results if simply imposed on local institutions. What is more, they are not (in and of themselves) sufficient to guarantee state legitimacy. Rather, they need to be approved of and socially validated through interaction (contestation, negotiation, adaptation) with other existing sources of legitimacy (Bellina et. al. 2009; Boege et al. 2009).

When the setting is viewed as a failed or fragile state rather than a 'state in formation' (as in the frameworks of hybrid political orders and the mediated state), there is a great risk that institutional effectiveness and capacity are being prioritized at the expense of improving state-society relations. Yet, viewing state-building in the context of 'state formation' rather than through the lens of 'fragility' alerts us to the fact that typically 'the main problem is not the fragility of the state institutions as such, but the lack of constructive linkages between the institutions of the state and society (...)' (Clements et al. 2007: 51). In other words, as long as the state is disconnected from its society, fragility will remain. Against this backdrop, frameworks like hybrid political orders and the mediated state, which recognize contestation and negotiation as basic and necessary characteristics of processes of state formation, and which emphasize the need for expanding the space for state-society bargains in so-called fragile settings, provide for a useful refocus.

3. Concluding remarks

External actors engaged in peace and state-building need to pay greater attention to contextual *empirical conditions* for sustainable political order and peace. Despite an increasing focus on state-society relations within the field of peace and state-building, there are many non-state actors and institutions that are currently left outside the dominating reconstruction discourse, even though they significantly influence, or have the potential to influence, state- and peace-building processes (positively as well as negatively).

Greater awareness of 'what is there' can help prevent the situation where donors affiliate themselves with political elites and strongmen who are willing and able to mimic Western conceptions of 'political order', but who do not represent or promote the interests of the broader population. Additionally, a better understanding of the dynamics, politics and agency within so-called fragile settings can open the eyes of external actors to new alternative pathways for constructive change beyond the liberal institutional model.

Scaling down ambitions in terms of quantity and speed (of projects and involvements) would be a constructive step on the part of external actors engaged in peace and state- building. Instead, greater and, in fact, more ambitious priority should be given to developing approaches to state- and governance-building that are targeted at the long-term promotion of mutually reinforcing relations between state and society, and which are flexible enough to build on local resources and capacities, and which work with the actual forces at play on the ground.

The report concludes with a number of policy recommendations that are directed towards encouraging donor and external actors to achieve a more grounded understanding of issues of legitimacy and of the existing capacities (state and non-state) within the settings in which they engage. This focus is chosen so as to enable the translation of the key arguments in the report into concrete and workable recommendations.

While building and strengthening the capacity of state institutions and state officials are long-term key priorities in donor programmes, there is a growing consensus that in addition to the focus on capacity, issues of legitimacy require more attention in state-building endeavours. The increased attention to the question of legitimacy

could lead, more broadly, to greater recognition of the political and contested side of state-building.

Taking as a point of departure the intimate connection between capacity (for peace, order and governance) and legitimacy, the following recommendations advocate that donors substantially broaden their perspective on, and understanding of both, so as to develop a better basis for formulating suitable and effective state- and governance-building policies.

It is, needless to say, a formidable challenge to understand the sources and contested nature of legitimacy and grounded capacities in fragile settings. This report and the following recommendations are therefore intended as a starting point for further conceptual and empirical work on these issues.

4. Policy suggestions

Capacities

1. Prioritize capacity-*identification* as a pre-exercise to *'building'* endeavours

The concepts of *'building'* (capacity-building, institution-building, state-building etc.) and 'managing' (for example conflicts) are common currency amongst donors. In addition, *needs-assessments* are common practice. Typically, however, there is not sufficient focus on *identifying and building upon* already existing capacities and agency.

The emphasis on 'building and managing' is liable to reinforce a narrow technical orientation and a strong agenda-setting role for external actors. Moreover, what counts as 'relevant' capacity is often taken for granted – as, for example, in many of the 'mapping exercises' which are carried out.

- An emphasis on *capacity-identification* would re-orient policies towards uncovering, discovering, re-investing in, and building *upon* existing capacities for peace and order. The examples above (that is, customary institutions of order and conflict management; community-based self-securing; the emergence of hybrid sub-national administrations against the backdrop of failed top-down state- building) provide but a few illustrations of such local capacities for recovery, peace and order. Yet, the particular bases and (sometimes competing) types of capacity and resiliency must be explored in each specific context.

- State- and peace-building programmes and policies that have been designed on the basis of prior attempts to identify and explore what types of capacities (to provide security, to govern, to manage conflicts, and so on) structure everyday life and interaction, have a much better chance of gaining local support and approval. Recognition tends to go two ways: if external support is to be recognized, those who provide this support must start by recognizing existing structures of governance and authority that enjoy local support.

- The advocacy of capacity identification should not be taken to mean that there is a 'given set' of capacities that can simply be identified. Efforts to strengthen and identify capacity remain very political, and entail complex questions of representation. Hence, the recommendation of prioritizing capacity-identification comes with a call for donors adopting a clearer and more realistic understanding of the contested spaces they are engaging in and let such understanding inform their choices of how –and whether- to engage.

- In order to avoid encouraging the consolidation of centralized political power that does not enjoy support and legitimacy within the broader population, external actors must also become better at identifying the domestic elites' capacities for circumventing developmental and state-building agendas. Bear in mind that it is possible to recognize the existence of, and seek to work with and influence actors with counter-democratic capacities and agendas, without approving and sanctioning these actors.

2. Move beyond dualistic approaches to capacity-building

Through the lens of fragility or failure, non-state sources of authority and governance tend to be seen as competitors for formal power or as backward systems to be replaced as rapidly as possible by expanding modern state structures. However, an approach that puts state-building in the context of state formation, and thus recognizes that states are not external to, but deeply embedded in societies, implies a re-focus.

- Move beyond dualistic approaches (that is, approaches supporting and strengthening *either* state *or* non-state capacities) and instead aim at facilitating constructive interaction between different state and non-state actors holding different forms of authority.

- Focusing on processes of formation and transformation of the state *in relation to society* can help to avoid creating the types of power vacuums that result when existing systems of governance and social organization are sidelined or 'overcome' while new state structures have not yet consolidated and gained popular support.

3. Recognize that several forms of capacities lie with the social rather than with the technical and economic

Institutional, technical and economic capacities are all important types of capacity in the state-building process. Yet, the conceptualization of 'capacity' is typically too narrow.

- There is a need for greater recognition of non-technical capacities that are critical for recovery and constructive transformation. A few of these are listed below:

    Conflict-management capacities
    Local conflict-management capacities and mechanisms can be extremely important for security – and hence for the possibilities of state-formation – even if these capacities rest on cultural norms and traditions rather than on military or other forms of 'hard power'.

    Collaborative capacity
    Collaborative capacity is one of the most important capacities for furthering peace, development and statehood. Building trust and collaboration on the central level is critical for effective government. And creating collaborative local projects for the common good of society is key to the emergence of a civic space and a shared sense of purpose, which, in turn, is the basis for the successful development of democracy.

    Capacity to handle change
    The adaptive capacity of the state to handle and adjust to pressures for change – in particular the changing expectations of the society vis-à-vis the state (coexisting loyalties, identities, and so on) is critical for successful state formation. This implies a need to start to *protect flexibility* (even if this sometimes means accepting a very high level of complexity).

    Flexibility as a capacity
    In processes of transformation, flexibility is a valuable capacity. Consider for example: The ability to adapt to a rapidly changing socio-political environment; the flexibility to re-invent and re-invest in cultural and traditional resources in new ways; and the ability and willingness to enter into new types of cooperation and

relationships. Such capacities are, in fact, not uncommon within the populations of 'fragile states'. On the part of the international community, including donors, greater institutional flexibility could allow for more constructive engagements with 'non-conforming' political orders and improve the ability to support internally driven developments (which admittedly tend to be more 'messy' and involve higher degrees of complexity than externally designed state-building templates).

Legitimacies[15]

1. Recognize the significance of issues of legitimacy in state-building processes

Issues of political legitimacy are all too often ignored or the significance of these issues is underestimated. Yet, the long-term viability of political institutions and structures –whether conventional state institutions or new types of hybrid and mediated governance arrangements – firmly depends on whether or not they enjoy, or over time attain, broad public support, and whether they can continuously legitimize themselves.

- Reaching a good understanding of local processes of legitimation and de-legitimation has specific policy relevance and is directly related to the discussion of state capacity since the relative engagement or disengagement of the population with the state has a profound impact on the latter's ability to reconstitute itself.

2. Focus on legitima<u>cies</u> rather than legitimacy

Political legitimacy is still primarily assessed with reference to particular normative standards derived from a liberal-democratic state model. Yet, in many settings such a state has never existed. In particular, when states are in the making their institutions co-exist with various other sites of governance and authority that often

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[15] For elaborate discussions on issues of political legitimacy in fragile settings, see for example Clements 2008 & Bellina et al. 2009. These authors offer practical proposals for how and why external actors involved in state-building assistance can and should achieve more encompassing and empirically grounded understandings of legitimacy.

have a history of greater efficiency and legitimacy than the state. Hence, there are various sources and types of legitimacy and bonds of loyalty.

- Recognize that rational–legal authority is just one source of political legitimacy, and seek to further the understanding of how *different types* of legitimate authority – state and non-state – impact on processes of state- and peace-building.

- Conditions of multiple, sometimes contradictory, domestic claims to authority are not 'overcome' by external actors promoting the 'victory' of just one form of authority as legitimate, justifiable and recognizable. On the contrary, it is through internal processes of interaction and contestation between different forms of authority that legitimation takes place. Therefore:

3. Aim at expanding the space for 'negotiating legitimacy' (processes of legitimation through contestation and 'negotiation' of authority)

Legitimacy must be seen in the light of complex institutional change, and as something involving the *contestation* of power between state and society. Legitimacy is negotiated in relationships of authority, and while externally granted international legitimacy and recognition is critical for consolidating statehood, it does not secure internal legitimation. The latter is by definition an internal process, and the role for external actors boils down to facilitating and supporting such processes.

- Be aware that new institutions of governance and government (if they are to be viable over time) need to be validated and made recognizable and acceptable through processes of negotiation, contestation and accommodation with existing societal norms and structures of legitimate authority.

- External actors can support processes of state formation (namely the development and institutionalization of the state in relation to society) by facilitating and supporting systematic and peaceful interaction, 'negotiation' and accommodation between different types and levels of authority, norms and power.

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Addressing state fragility in Africa

A need to challenge the established 'wisdom'?

Louise Wiuff Moe

The problem of so-called 'fragile' and 'failed' states occupies a central position on the agenda of the international donor community. State fragility is seen as a threat not only to local safety and development, but also to global security. Yet, while ambitions have been high, external state-building programmes introduced in Africa's fragile setting have, in the main, not succeeded in meeting the goals of effective institutions and 'good governance'. Hence, there is a need to rethink conventional approaches to addressing state fragility.

This report proposes that instead of basing both the 'diagnosis' and the proposed 'cure' on an idea of *what ought to be there*, from an external perspective, there is a need to look more into *what is there*, in actual fact, and how best to work with that in constructive and responsible ways.

By offering a critical yet encouraging outlook, as well as a number of pragmatic policy recommendations, the report adds momentum to an ongoing debate of great practical and political significance in the field of international affairs.