NOTE NO 7

Engaging with national counterparts in situations of conflict and fragility

Topic overview

This topic is concerned with the issues and options that arise when national counterparts are weak. Weak counterparts are often the norm in states with situations of conflict and fragility within their borders. The Paris Declaration with its focus on aligning with the policies, plans and actions of national counterparts becomes very difficult, if not impossible, to implement in many fragile and conflict-affected states. In many cases, it is not at all clear who the relevant counterparts are. It is not easy to identify which counterparts have the security, capacity and legitimacy to rebuild the state. But it is not a solution to disengage with national counterparts or only work outside them, because ultimately it is those counterparts that will need to implement solutions in the medium and long term.

The OECD's Principles for Good International Engagement in Fragile States and Situations focus on staying engaged even where counterparts are weak. Key principles related to this topic are:

SUMMARY

- Especially where national counterparts are weak, EU support needs to provide concerted and sustained support to building the relationship between society and the state.

- Using the security-capacity-legitimacy model can help in knowing how to engage with national counterparts and with whom to engage.

- Local authorities are often relevant as partners where central authorities are weak or lack authority and legitimacy.

- CSOs have a role to play in the state-building process, usually as a temporary measure.

- CSOs can inform policy and decision-making by using their on-the-ground experience and information.

- Principle 2: Do no harm.
- Principle 3: Focus on state-building as the central objective.
- Principle 9: Act fast... but stay engaged long enough to give success a chance.

To fulfil these principles, the EU and its international partners need to provide concerted and sustained support that focuses on building the relationship between state and society. When political conditions deteriorate and partnerships become difficult, the donor's resolve to maintain a long-term engagement is severely tested.

As an illustration of how to work in these contexts, cases are presented on experience in working with local authorities (Yemen) and civil society (Kyrgyzstan).

Key issues

There are many issues and dilemmas in supporting state-building and engaging with national counterparts when the situation is deteriorating. Some recommendations gathered from EU experience in supporting local authorities are given in Box 1. Key dilemmas that arise include the following.

- **How to identify the right counterparts in heavily contested national processes?** It can be helpful to distinguish three types of fragile situations, each calling for a different set of responses. There are many ways to distinguish such types, but one of the most useful is the security-capacity-legitimacy model outlined in Part I of this handbook:

BOX 1   Some recommendations arising from experience in supporting local authorities

1. Foster the downward accountability of all local authorities to scale up and institutionalise popular participation by:

    •   choosing to work with and build on elected local governments where they exist (in Yemen, the Delegation found working at the local level to be an effective way of supporting improved health services);

    •   insisting on and encouraging their creation elsewhere;

    •   encouraging electoral processes that are open to independent candidates;

    •   avoiding direct financial support to grassroots organisations for infrastructure and services that local governments should provide and where they have a potential to provide these, even if they are not doing so at present, as this undermines downward accountability from local authorities towards their constituencies;

    •   exploring other interim solutions, such as supporting NGOs, with an exit strategy in mind where local government is dysfunctional and beyond the reach of support;

    •   promoting multiple accountability measures to all institutions making public decisions.

2. Insist that non-government and traditional institutions must be accountable to representative local authorities on public decision-making matters.

    •   Engagement of local communities/grassroots organisations with resources should take place within, rather that outside, the local authorities' planning and financing process.

3. Support local civil education.

    •   Inform people of their rights, write laws in clear and accessible language and translate legal text into local languages. Educate local authorities on their rights and responsibilities.

Source: Jorge Rodriguez Bilbao, DEVCO.

→ **Security issues.** Some states have capacity and legitimacy, but the state has limited reach and suffers from illegal trafficking and/or chronic violence. In these cases, the state often does not have a monopoly on the use of force and has to share its authority.

→ **Capacity issues.** Some countries have legitimacy (e.g. through regular elections), but low capacity to deliver services. In these cases, local authorities or sub-national bodies might be relevant to engage with because they are able to focus on a smaller area and to coordinate better with others.

→ **Legitimacy issues.** Some countries have some capacity to deliver services, but suffer from weak legitimacy. Weak legitimacy may result from the violation of agreed rules, poor public service delivery, beliefs shaped by tradition and religion, or international action undermining national sovereignty.

Some countries have low levels on all three dimensions. It is easier to focus on capacity than legitimacy and security, as donors can often more easily find entry points within their resource skill sets that are capacity related than being able to provide support to legitimacy and security. The three elements are interlinked — a balance of support to the three elements is needed; this may vary over time depending on when opportunities arise.

•   **How to stay engaged but also do no harm and not support partners that might worsen the situation?** In some cases, it will be determined that engagement should be with local authorities or civil society rather than with central state bodies. For example, engagement with the health sector in Yemen was at the local authority level, reflecting perceptions regarding its legitimacy, security and even capacity. In other cases, it will be determined that support is best channelled through NGOs; the IcSP is a potentially powerful and efficient instrument for such circumstances. In other cases, support to civil society can strongly complement support to government and thus help build the relationship between state and society from both sides. This is illustrated in the Kyrgyzstan case study.

- **How to advance policy dialogue and provide support that builds on values that are shared rather than imposed by donors and external culture?** It is not a straightforward matter to interpret where legitimacy and security lie. In ethnically divided societies or societies shaped by historical divisions, legitimacy and security might be much more local and complicated than in a stable and cohesive Western society, fragmented among different actors. In the Yemen case study, the choice of national counterparts recognised that security is rooted in tribal loyalties rather than at the national level. In some cases, it is necessary to work with the grain and not against it. In other cases, working against the grain might be the only way of doing no harm. The issues are often ethical in nature and deeply influenced by culture. For example, an issue in providing maternal health care in Yemen was determining to what extent the rights of women should be advanced in the face of local practices that appear to deny full rights.

- **How to promote interaction between CSOs and local authorities?** Where the national counterparts that are mandated to deliver basic services are very weak or entirely absent, it is challenging to define criteria as to when others such as civil society should be supported in providing basic services. The dilemma is that, on the one hand, such organisations may be the only practical means of providing services; but on the other, it is highly problematic and distorting in the long term to support organisations in providing basic services that they are not mandated to provide — in some cases, it can undermine the future legitimacy of the state. This was the case in Timor-Leste where, at one stage on the development pathway, NGOs and not the government became associated with service delivery. Support to CSOs should be addressed as part of a broader effort to reconstruct the local political space and the local political process. Where possible, other institutions involved in providing services of a public nature should be accountable to the public through the local representative authorities.

- **How to avoid the capacity trap?** Lack of capacity is seldom a good reason for bypassing local authorities, as it eliminates the opportunity for learning by doing. Beyond the capacity issues, there is the challenge in a weak context of using service delivery as an entry point to build the legitimacy of the state from below. A constructive way forward is to strengthen the capacity of local authorities as managers and facilitators of actions involving community groups and the private sector, as well as the capacity of citizens to demand to be part of the public policy-making process at the local level.

Case studies

Yemen: engaging with local authorities in the health sector

SOURCE

Sarah Bernhardt, EU Delegation to Yemen; Andrea Pavel, DEVCO

CONTEXT

Yemen, located at the southern tip of the Arabian peninsula, has a rich past and a troubled recent history. South and North Yemen were unified politically in 1990, but differences still persist.

The Arab Spring of 2011 saw a great mobilisation which lead to the resignation of the president and the start of a transition process entailing a National Dialogue Conference (concluded in January 2014), redrafting of the constitution (ongoing) and new presidential elections now scheduled for 2015. The unstable area of the north (Sa'ada) and the governorates where the state traditionally had limited penetration (Shabwa, Marib, Al-Jawf) have long been insecure. Insecurity is spreading to other governorates in the centre and south (Al Bayda', Lahj, Abyan) where a war against Al-Qaeda sanctuaries is ongoing.

The economy is largely based on oil and natural gas, though resources will probably run dry in the next decade. Agriculture is mainly in the Tihama plain (along the Red Sea coast), and resources such as fisheries have not been effectively tapped. Yemen is a net food importer, and water is one of its most precious commodities. Main urban centres are few, and most people (70 %) are scattered in small rural hamlets. As tensions rise, roads are becoming increasingly insecure. The recent crisis has seen a severe decline in the Yemeni economy, which has increased poverty and hunger and generated additional humanitarian needs, as well as an additional caseload of Internally displaced persons. Many areas suffer from acute and chronic malnutrition.

CHALLENGES AND OPPORTUNITIES

The health system in Yemen is a baroque construction with elements modelled on Gulf State, Egyptian, Soviet Union and British systems. Over time, the Yemeni system has accommodated donations from various governments of structures, infrastructures, epidemiological priorities and human resource development that have not necessarily corresponded with the real needs of the country. For instance, despite the very high toll that malnutrition has taken in Yemen over the past 30 years (the country has the world's second-largest chronic malnutrition crisis), nutrition is not taught in universities or included in medical curricula.

Health outcomes sadly reflect the overall organisation. The habit of patronage introduced decades ago also applies to the health system where, for instance, the global number of civil servants is very high, but the category of administrative staff outweighs by far the core health professionals. A deep feeling of disempowerment from colleagues working both at national and sub-national levels is what most strikes newcomers.

At the same time, the combined impact of the Arab Spring, the national dialogue, a strengthening of local EU presence and learning from past experience has led to opportunities to work with national counterparts at both the central and sub-national levels and to engage in a different way with civil society.

ACTIONS
TAKEN

The EU has been contributing to the Yemeni health system since the late 1990s, but implementation of agreements has been chronically delayed by many factors, including a lack of capacities in the Yemeni health system, but also the fact that programmes have been followed remotely for over 10 years.

For the first decade, the EU contributed to major reforms in the health sector, but always from afar, without expertise on the ground. Though this period is still remembered as a very fertile and challenging one, very little remains of that phase. For instance, the Essential Service Package, a product of the health sector reform, has never really been rolled out, and many governorate health directors do not even know of its existence.

Since 2007–08, with expertise present in Yemen, the EU has been engaging in more policy dialogue and is expanding the service delivery component, allocating money to the central level for disbursement at the sub-national level. This decision, which seems wise when measured against parameters of good donorship, ignores an essential feature of the Yemeni administration. Since the introduction of the 2000 law on local authorities, the budget does not go to central ministries for distribution to sub-national levels, but instead goes directly from the treasury to the point of expenditure, with a consistent share directly distributed to governorates and districts. In some ways, the EU funding inadvertently gave power to the central level on issues that were a local responsibility. In 2010, the EU decided to fund in accordance with the way in which the government disbursed its budget, engaging with a number of governorates directly (six, so far, representing approximately 40 % of the Yemeni population) through the health development councils. This decision, along with training and assistance to local authorities, became the single most important factor in continuity during the Arab Spring, when the central ministry shut down for about eight months. At the periphery, although the work slowed, it did not stop: services have continued to be delivered at a rate comparable to normal times, and the health development councils have slowly but steadily increased speed and capacity.

The councils work on the basis of agreed-upon governorate health plans. The EU funds a series of activities taken from the plans that are strategically important to the improvement of health indicators, but severely underfunded by the Yemeni government budget. The underfunding that the EU is addressing covers a wide variety of areas, including life-saving drugs, the shortage of qualified midwives, transportation for emergency cases, much-needed family planning opportunities, and a means for local authorities to target areas not considered a priority by the general system. All relevant stakeholders in the governorate participate in the health development council mechanism; this includes civil society along with the private health sector and civil servants.

This approach has been conditioned by the absence of a vibrant NGO community, independent of the government and capable of demonstrating results. For the EU, this is a demanding mechanism that needs to be monitored and steered — and which ultimately needs expertise on the ground. At the same time, EU support for the central health ministry mainly addresses gaps in stewardship and governance so as to promote growth of both ends of the spectrum (the central as well as the sub-national levels). This compounds lessons from the past where the EU has alternatively supported the central or sub-national level, missing the opportunity to create consensus around reforms and changes. The failure of the 2000 health sector reform shows, among other things, that major reforms cannot be imposed anymore, but need to come from a critical mass of managers and colleagues already working in the sector.

LESSONS LEARNED

- **Institutional reform needs consistent long-term support.** It is important to follow up and support momentum and consolidate success (e.g. the promising health reform process stalled because it was not supported for long enough, for instance by addressing a critical mass of staff). In response, the EU's new support provides more energetic and long-term support to institutional capacity building.

- **Donors need to harmonise resources effectively around reforms**, rather than follow a bilateral approach. If not, there is overlap and congestion, and the absorption capacity of central authorities is swamped, leading to long delays. Ironically, the absorption capacity at the local level can be higher. Donors should not underestimate the tendency of the central level to address issues bilaterally with each donor without sufficient coordination. Ultimately, they should invest in nurturing a culture of wide coordination in the institutions.

- **Both national and local levels need support.** In Yemen, because of the highly regional nature of legitimacy and authority, simultaneously targeting national as well as sub-national levels was found to be crucial in maintaining services through a succession of crisis events. The local level was particularly important given the absence of strong NGOs and organised civil society.

- **In-country Delegation presence strengthens the ability and quality of engagement** in meaningful policy dialogue and work with a range of national counterparts.

- **Prolonged fragility at the state level and low resilience within civil society complicates the process of building the relationship between the state and society.** After years of conflict and chaos, decision-making skills are weak. Confidence is shaken, and decision makers are disempowered by their inability to shape events. The focus is on survival rather than on the long-term planning implied by the OECD principles.

- **Evaluations are needed. Lessons from an evaluation carried out in 2011 were useful in shaping future support.** The findings from this evaluation included the following: (i) there are not enough data to evaluate in depth; (ii) the capacity of both central ministry officials and health care providers appears to have increased; (iii) utilisation of outpatient services (mother and child care) increased; (iv) effective community participation is taking root in the targeted governorates; (v) little residual impact was found, however, for the institutional component.

FURTHER INFORMATION

- MED/2010/254-619. Final evaluation of 2 Financing agreements in support of Yemeni health sector

- DCI-MED/2010/254-063. Evaluation Study — Health Development Councils (HDC) Yemen

- MED/2013/317-722. Evaluation of the EU support to Reproductive Health services in Taiz, Lahij Al Hudaydah, and accompanying measures in view of its continuation

- DCI-MED/2014/339-106. 'Evaluation of the EU support to Yemen: Reproductive Health and Population Programme phase 2

Civil society engagement in police reform in Kyrgyzstan with support from the European Instrument for Democracy and Human Rights

SOURCE	Samara Papieva and Sebastien Babaud, Saferworld
CONTEXT	In Kyrgyzstan, a police reform process started in 1998, managed by the Ministry of Internal Affairs in partnership with the Organization for Security and Co-operation in Europe (OSCE) and other international partners. While two concepts were adopted in 1998 and 2005, it is widely recognised that these processes, focusing on technical capacities rather than on changing attitudes and behaviours, were not successful in generating change in police performance and improving the public's perception of the police. The 2010 overthrow of the president following public unrest and consequent inter-ethnic clashes in the South, and the behaviour of the police against the civilian population, have further deepened public mistrust in the police, making it imperative to change the dynamic of the reform process.
CHALLENGES AND OPPORTUNITIES	There had been no meaningful experience of CSOs in the police reform process — or, more broadly, in debates on security issues in the country. Civil society involvement into policymaking in Kyrgyzstan generally has been limited; consequently, there is not much experience in constructive collaboration between the state and civil society on which to build.

CSOs lacked expertise on policing and other security sector reform issues, which limited their ability to contribute meaningfully to policy discussions and decision-making processes. Although some CSOs were trying to influence policing and other security-related issues — for example, human rights–focused CSOs able to document and publicise abuses by the police — they struggled to agree on a clear and shared strategy on how to influence the process and provide meaningful recommendations for improvement.

For these reasons, the Ministry of Internal Affairs and the government were generally reluctant to involve civil society in the police reform process and not interested in their potential role and inputs.

The European Instrument for Democracy and Human Rights (EIDHR) Call for Proposal provided an opportunity to address this shortcoming and ensure that civil society could have a say in this key democratisation process. The objective of the call for proposals was to 'assist civil society in developing greater cohesion in working on human rights (political, civil, economic, social and cultural), political pluralism and democratic political participation and representation'. |

ACTIONS TAKEN

With support from the EU through the EIDHR, Saferworld has supported the establishment of the Civic Union for Reforms and Results, a network of 25 NGOs, including women, youth, ethnic minorities and other marginalised groups in Kyrgyzstan, to become involved in the police reform process. Capacity building for network members has focused on:

- improving their understanding of democratic and community policing to enhance their ability to provide relevant expertise in the process;

- research and development of a series of evidence-based recommendations, reflecting the views of the public from across Kyrgyzstan;

- strategic development of an advocacy campaign to identify the most effective approaches to influence the process.

As a result of these efforts, the Civic Union for Reforms and Results has become a well-functioning network, continuing to undertake activities and to provide inputs into the police reform process beyond the terms of EU support.

The union is now recognised as a credible and valuable actor in the police reform process in Kyrgyzstan — to the point that it now has access to and regularly meets with officials from the Ministry of Internal Affairs, as well as with its international partners. Its briefings are shared broadly among all key actors involved in the process.

Thanks to the involvement of the Civic Union for Reforms and Results, the police reform process has been able to take into account the needs and expectations of the public for improved security provision — including such issues as police-public cooperation and accountability, which now feature in official policy (Government Decree on Police Reform Measures from 2013; Order on Accountability of Neighbourhood Police Officers; Law on Interaction of Police and Civil Society from 2014).

LESSONS LEARNED

- **CSOs have a role to play in policymaking on sensitive issues such as security**, which is a key challenge in fragile and conflict-affected contexts. It is also an important area of engagement for international actors supporting reforms or processes in various security and justice sectors. While security is traditionally seen as a prerogative of the state in which civil society is not considered a relevant stakeholder, this case study shows that, despite initial reluctance, a genuine collaboration was put in place which benefits the orientation of the police reform.

- **CSOs can play roles beyond serving as implementing partners of development projects, including the provision of expertise to inform policy- and decision-making.** It is important to acknowledge these other roles, especially in terms of policy- and decision-making and especially in contexts where state institutional capacity is weak. The purpose and successful outcome of this project shows that when capacity building is effectively orientated, civil society actors can become experts on an equal footing with governmental actors, making the collaboration even more meaningful.

- **Constructive engagement is a factor in success.** In tense political situations, civil society can be associated with opposition; similarly, CSOs sometimes have confrontational relationships with the institutions they are willing to change or influence. This case study shows that evidence-based analysis/recommendations and careful analysis of the advocacy context suggested that a constructive approach would be more effective than the initially envisaged confrontational one. It enabled the civil society network to become a partner rather than an opponent and to win the trust of government representatives.

- **The important role of international NGOs.** It is often challenging to identify the relevant CSOs and networks in contexts affected by conflict and fragility, or even to assess the potential of actors to achieve positive change. International NGOs that are aware of a country's CSO institutional culture and capacities, challenges and opportunities — and at the same time familiar with donor requirements — can play a useful role in bridging a serious gap. Another important aspect of the partnership between Saferworld and the civic union has been the provision and building of expertise to a high standard in order to become a trustworthy interlocutor for national and international actors.

- **EIDHR is an effective instrument in supporting civil society participation in police reform processes.** People-centred police reform is a key condition to building democracy and respecting human rights. Especially in conflict-affected and fragile contexts where the police can sometimes be abusive, it is critical that reform processes take into account people's views and concerns about police behaviour and how the police can better serve them. This case study shows that the EIDHR has been a key vehicle in achieving this approach and should be considered more frequently to support civil society engagement in security and justice sector reforms.

FURTHER INFORMATION	• http://www.saferworld.org.uk/resources/view-resource/791-trust-through-public-accountability
	• http://www.saferworld.org.uk/resources/view-resource/792-the-population-and-the-police-partnership-through-dialogue
	• www.reforma.kg