

**Comments prepared by Alina Rocha  
Menocal in response to presentations  
by Derek Evans and Rahul Chandran**

Workshop on HR and SB,  
Copenhagen, 21 April 2008

# Derek's paper/presentation

- Good genesis of how the HR and development discourses/agendas, which had been kept separate (and maybe artificially so), have begun to engage with and influence one another much more actively since the turn of the century.
- Useful to think about state fragility along different dimensions / areas.
- This allows us to appreciate how and why a particular state may be fragile in a more nuanced manner. This is something that Frances Stewart is likely to elaborate further later on today.
- Derek also builds a solid case as to why a HR approach is essential to any state-building project from a **NORMATIVE** perspective, and I don't think any of us would query with what he is arguing in terms of ideals and principles.

# Derek's paper/presentation

- But the normative approach also imposes an extremely high standard on what the state *ought to be*:
- Here the role and function of the state are defined in terms of the state's ability to promote and protect the civil, political, social, economic and cultural rights of members of society.
- The devil of course is in the details and on how that normative framework translates into practice and on what empirical experiences can tell us about that –
- and this hopefully will be one of the challenging issues that we attempt to tackle during the course of the day.

# Rahul's paper/presentation

- The paper's understanding of state-building as an essentially domestically-driven process, and one that focuses on the dynamic interaction between state and society, especially in terms of negotiating mutual demands (and presumably rights and obligations), is very useful.
- So state-building is much more than constructing the formal edifice of the state. It is about bargaining and about the process through which mutual expectations are shaped.
- Also the idea that FS represent not only immense challenges but also potential opportunities for reconstituting the nature of the 'social contract' binding state and society, especially in (post-)conflict settings.

# Complementarities and tensions between the two approaches

- At a normative level, a human rights perspective can make a considerable contribution to a state-building agenda in fragile states, and there are significant complementarities between the two.
- Reconfiguring state-society relations and the nature of the social compact between rulers and ruled is an essential component of state-building.
- As Derek discussed, human rights provide a set of normative standards about the nature of this link that has strong international legitimacy.
- And the international human rights framework is also often reflected at the regional and the national levels (eg constitutions).

# Complementarities and tensions between the two approaches

- BUT it is also important to recognise that these two agendas have not always gone hand in hand in actual practice.
- The current vision of the OECD DAC on state-building seems to be based on the assumption that the process can be very consensual, inclusive, bottom-up, participatory and democratic.
- However, historical experiences with state formation and state-building suggest otherwise.
- State formation and state-building have emerged as long-term, non-linear, tumultuous, inherently violent and conflict-ridden processes,

# Complementarities and tensions between the two approaches

- And they have historically been top-down, heavily driven and controlled by (national) elites.
- Civil society has played more of a limited role.
- Historical cases of states that have been democratic and based on the respect of human rights since the moment they were founded are exceptional.

# Complementarities and tensions between the two approaches

- Clearly, contemporary state-building efforts are qualitatively and contextually different from earlier state formation processes.
- Whereas historically such processes have been driven predominantly by internal actors, in current parlance, state-building is more often used to refer to efforts with various and sometimes far-reaching degrees of external involvement, especially since the 1990s.
- As leading actors in contemporary state-building attempts, international players (and for the purposes of this workshop especially donors) assume particular responsibilities,
- and they confront the difficult task of constructing a *domestic* basis of legitimacy for the interventions they undertake in different fragile settings.

# Complementarities and tensions between the two approaches

- As such, it is perhaps not surprising that the vision of state-building that donors have come to espouse in the new millennium (most recently captured in the DAC Principles) is based on the establishment of a functioning and effective democratic state that is representative, upholds human rights, and has the capacity to address the needs/demands of its population and to provide social services.
- Again, the ideal is laudable – and in particular it is difficult to imagine that the international community could legitimately advocate an alternative model.
- But the challenge lies in how to get there.

# Complementarities and tensions between the two approaches

- It is possible to imagine that the current context in which fragile states are being (re)built and transformed itself offers opportunities for ‘a new beginning’, one based on more inclusive and non-discriminatory state-building efforts grounded on a human rights approach – especially in post-conflict and other settings where new political settlements are emerging.
- Yet one should be cautious not to assume that ‘all good things’ automatically go together, and key tensions that emerge contextually (for eg between justice and peace and the compromises reconciliation may entail) need to be recognised.
- Hopefully we can deepen the conversation about these tensions during the workshop discussions.

# FS and democratic legitimacy

- Both Derek and Rahul emphasise the importance of building legitimacy as the basis for state-building and as a primary requirement for state resilience over the long term.
- For the purposes of this workshop, it is essential to explore whether and how a human rights focus can contribute to the building of more legitimate states:
- What is the relationship between human rights, accountability mechanisms and legitimacy in state-building processes?

# FS and democratic legitimacy

- Since the 1990s, with the global triumph of democracy, the form of legitimacy that has tended to be emphasised is that based on democratic representation and accountability.
- Human rights are of essential importance in this conception of state legitimacy,
- So, again, from a normative perspective, it seems imperative to link a fundamental respect for human rights and democratic accountability to any contemporary notion of state legitimacy.
- Yet, in practice, it is also important to recognise that, historically, states have relied on a combination of one or more methods to establish their legitimacy and authority over those they rule, and some have been much more democratic and inclusive than others.

# FS and democratic legitimacy

- Some of these different methods include:
  - Provision of public goods and services, including social security (e.g. the modern welfare state).
  - Economic performance (e.g. the so-called East Asian Tigers – South Korea, Taiwan, Singapore and Hong Kong – as well as China and Vietnam).
  - Ideology and/or nationalism (e.g. Cuba and Iran).
  - Populism (e.g. Perón in Argentina and, more recently, Chávez in Venezuela).
  - Liberal democratic representation, which includes respect for fundamental civil and political rights, and accountability (namely, advanced/highly developed industrial countries, but also Costa Rica and India).
- Since the late 1980s, many countries in Africa, Asia, Latin America and elsewhere in the developing world have attempted to strengthen this form of legitimacy, but this remains a considerable uphill battle in many settings.

# FS and the fulfilment of basic state functions as a source of legitimacy

- Human rights lie at the heart of many fundamental state functions, and as such a focus on human rights seems particularly useful to the task of building state legitimacy in fragile states.
- For example, issues related to security, the rule of law, access to justice, and the provision of basic services are intimately related to a human rights agenda. The fulfilment of different human rights – including civil, political, social, economic and cultural – cannot be achieved if the state lacks the institutions necessary to meet its obligations as duty-bearer and protect those rights.
- At its core, then, **a human rights agenda is an institution-building agenda**, emphasising the need to build strong, effective, and responsive state institutions from a long-term perspective.

# FS and the fulfilment of basic state functions as a source of legitimacy

- But here again, it may be useful to think about the fulfilment of such state functions in more disaggregated terms.
- It is essential to realise that not all basic needs can be met and all human rights fulfilled at once.  
  
→ Best fit vs best practice? Should approaches be based on moral absolutes? How can they better respond to particular contexts and circumstances?

# FS and the fulfilment of basic state functions as a source of legitimacy

- This may indeed be one of the starkest challenges confronting fragile states and the international community:
- What basic state functions should be prioritised in settings where everything is a priority, and what entities or actors are best suited to carry them out?
- To what extent can a HR edifice help address some of the very complex trade-offs and compromises that state-building may require?