



DIIS REPORT

HOW THE LOCAL MATTERS

DEMOCRATIZATION IN LIBYA, PAKISTAN,
YEMEN AND PALESTINE

Edited by Louise Riis Andersen

DIIS REPORT 2013:01

© Copenhagen 2013, the authors and DIIS
Danish Institute for International Studies, DIIS
Strandgade 56, DK-1401 Copenhagen, Denmark
Ph: +45 32 69 87 87
Fax: +45 32 69 87 00
E-mail: diis@diis.dk
Web: www.diis.dk

Cover photo: AP/Manu Brabo. The people of Misrata celebrating the vote Feb. 20, 2012 to elect a new city council. The vote was the first experiment in real democracy anywhere in Libya.

Layout: Allan Lind Jørgensen
Printed in Denmark by Vesterkopi AS
ISBN 978-87-7605-531-8 (print)
ISBN 978-87-7605-532-5 (pdf)
Price: DKK 50.00 (VAT included)
DIIS publications can be downloaded free of charge from www.diis.dk
Hardcopies can be ordered at www.diis.dk

This report was commissioned by the Danish Ministry of Foreign Affairs, but its findings and conclusions are entirely the responsibility of the authors.

Louise Riis Andersen, Senior Analyst
lan@diis.dk

Ulla Holm, Senior Researcher
uho@diis.dk

Mona Kanwal Sheikh, PhD, Postdoc
mosh@diis.dk

Peter Alexander Albrecht, PhD, Project Researcher
paa@diis.dk

Leila Stockmarr, PhD Fellow, Roskilde University
leilast@ruc.dk

Contents

Promoting democratic governance from below <i>Louise Riis Andersen</i>	5
Libya in transition: the fragile and insecure relation between the local, the national and the regional <i>Ulla Holm</i>	26
Bottom-up Pakistan: bringing context and local culture into aid thinking <i>Mona Kanwal Sheikh</i>	46
Yemen's fragile state? Local, national and regional dynamics <i>Peter Alexander Albrecht</i>	65
The fragile 'state' of Palestine. State building under occupation and prospects for local level democratisation <i>Leila Stockmarr</i>	82

Promoting democratic governance from below

Louise Riis Andersen

Introduction

At the request of the Danish Ministry of Foreign Affairs, the Danish Institute for International Studies has conducted a study of the potentials and pitfalls of promoting local level democratic structures in fragile situations. This report presents the findings of that study.

The purpose of the study is to provide an overview of the core questions and dilemmas facing Denmark – and the wider international community – in applying a ‘bottom-up’ approach to democratisation in areas characterised by contested or limited statehood. In order to keep that discussion grounded, the study focuses on four individual cases that are highly different, yet equally complex: Libya, Pakistan, Yemen and Palestine. Each in their own way, they are all ‘fragile’. Their national governments are experiencing severe difficulties in projecting their authority evenly across their territory. The particular circumstances and dynamics, however, differ tremendously: from the militarised fragility of Pakistan to the transitional state of Libya, the collapsing state of Yemen and the stateless state of Palestine. It clearly makes little sense to search for a common approach to reform in these four settings. At the same time, however, the individual cases suggest that the distinct operational challenges are in fact reflections of deeper tensions and dilemmas that stem from the paradox of using outside intervention to foster self-government (Paris and Sisk 2009). Against this shared backdrop, the present chapter summarises the findings of the four case studies and relates them to the generic policy discussion and experiences elsewhere. The chapter thus serves as both the introduction to and the conclusion of the entire study.

The basic argument of the study is twofold.

Firstly, it contends that the problems – and the solutions – are intrinsically political and context-specific. Processes of societal change are driven by political contestations over power, values and norms both within and between societies. The distinct ways in which public authority is understood and constructed depend upon the power relations between actors cutting across formal and informal institutions. In all parts of the world state formation is shaped by a complex interplay between internal and external political dynamics. As a result, the trajectory from fragility to resilience is neither linear nor universal, and therefore cannot be mapped out in advance or

controlled in a technocratic manner (Copestake and Williams 2012: 1). It is thus worth repeating ad nauseam that there is no 'one-size-fits' all approach to the complex challenges of state fragility: each situation is unique and must be addressed on its own terms.

Secondly, and in reflection of this, donor agencies and others that intervene in a fragile situation to promote democratic forms of governance are well advised to be humble, yet persistent. Outsiders cannot – and should not – determine how different societies govern themselves. To the extent that donors have a role to play, it is by supporting local actors that work to promote more democratic forms of governance and the inclusion of marginalized groups. When, however, outsiders choose to intervene then they have to commit themselves for an extended period of time. Firstly, because volatile aid flows have repeatedly been shown to exacerbate the problems of fragility. Secondly, because it takes time, even generations, to move towards more inclusive and responsive forms of governance. Democratisation has rarely, if ever, been achieved within the lifespan of a given donor programme.

To substantiate these claims, this chapter proceeds in four steps. First, it briefly outlines how the study understands 'local level democratic governance'. Second, it provides an account of how and why the state building debate is increasingly 'going local' in its search for sustainable solutions to problems of ineffective and illegitimate governance structures. Third, focus shifts to the case studies and the particular dilemmas and tensions they bring out. Fourth, and last, the concluding section draws out the main policy implications as a supplement to the country-specific recommendations made in each case study.

Local level democratic governance

The term 'local' has several meanings. In this study it relates to two aspects that are key to assessing how public authority functions. First and foremost, it points to the hierarchical relationship between different levels of government. In this sense, the 'local' is subordinate to and distinct from the 'national' or 'central'. This perspective concerns the degree and form of decentralisation: what is the formal and actual division of labour between central and local levels of government in terms of both decision-making processes and service delivery? This sheds light on the relationship between the centre and the periphery of a state and directs attention to conflicts and collusion between actors and institutions that are located in the capital and those who are located in more remote, rural and possibly inaccessible parts of the country.

The term local, however, also has another meaning that is equally important from a democratic governance perspective. The ‘local’ is the site where people encounter public authority in their everyday lives. In this sense, the local is everywhere and questions of local governance extend way beyond different ways of regulating or controlling the hinterland. What matters from a democratic point of view is not whether a particular institution belongs to the central or the peripheral part of a governance system, but whether it functions in a responsive and inclusive manner or not. This perspective reminds us that the local is not just found ‘out there’ in remote rural areas. Local politics and dynamics also play out right in the middle of mega-cities – and anywhere else where public authority is exercised over people.

When local governance is understood in this dual manner, it becomes evident that the ‘fragility’ of a given situation or system depends less on state capacity per se and more on how the different parts of a governance system interact and relate. This underlines that public decision making and service provision are not the exclusive realm of the state. In all societies state agencies have to share their claim to authority with institutions and actors that do not formally belong to the state, yet which hold a significant sway over people’s lives and perceptions. To accentuate this, ‘public authority’ rather than ‘state capacity’ is at the centre of analysis in the present study. As suggested by the Centre for the Future State, public authority is more neutral about the processes involved – inside or outside the formal state and across the public–private divide (IDS 2010: 10). It focuses on functions of governance rather than form and thus acknowledges that in most, if not all countries, the state relies on, competes with and co-exists with a variety of other actors who exercise some form of public authority.

The concepts of *non-state* and *informal* are often used in policy guidelines and other donor documents as a useful way of describing such ‘alternative’ governance actors or institutions. For lack of better terms, they also appear in this report. The dichotomies are, however, problematic because they overlook that ‘non-state’, ‘informal’ ‘traditional’ institutions are often essential to the functioning of the modern formal state. The distinction between ‘the state’ and that which is ‘not-the-state’ is rarely clear-cut. From an analytical point it is therefore more helpful to regard the various governance actors as lying along a spectrum where their authority is derived from a mixture of sources, including legislation, tradition, community norms and brute power (Albrecht and Kyed 2011: 9). This also indicates that it is not possible, or indeed helpful, to automatically equate the state with legitimate authority and the non-state with illegitimate power – or vice-versa, to romanticise informal or ‘localised’ arrangements and see them as inherently more inclusive, participatory or

responsive than more formal systems. Whether a particular governance arrangement or institution is regarded as legitimate or not depends on a contingent mixture of actual performance, underlying norms, individual preferences and popular expectations. The multiple tensions that arise from this are shaping the potentials and pitfalls that donors have to navigate if they seek to promote democratic governance from below in fragile states. As we shall see below, this includes in particular tensions that arise from incongruities between international and local perceptions of legitimacy.

Drawing on a previous DIIS study, the study thus starts from the assumption that in order to understand how ‘ordinary’ people living in fragile states can become more actively engaged in local level public decision making and service delivery it is not enough to explore formal processes of democratisation and/or decentralisation (Engberg-Pedersen et al. 2008). Informal and localised systems of governance play a significant role in determining the nature and outlook of politics in fragile states and must therefore be included in the analysis on equal terms. To allow for that the study defines democratic governance in substantive rather than formal terms: the focus is on the practices, mechanisms and dynamics that provide for or hinder popular participation in political decision-making processes and service delivery, rather than on formal processes of constitutional or electoral reforms, or multiparty electoral processes. Democracy is here understood as “a process of inclusive and equal participation through which individuals exercise ever deepening control over decisions which affect their lives”, and not merely as a set of rules, procedures and institutional designs (UNDP 2011: 19).

With this focus on everyday practices, the study contributes to an emerging policy trend that sees democracy promotion as far more than transferring institutional models from rich to poor countries (IDS 2010: 1). By focusing on the functions, rather than the forms, of democracy, the hope is to avoid building up hollow democracies where regimes have the form but not the substance of democracy. The background for this move is found in the wider debate on state building in fragile states. In order to set the scene for the subsequent discussions of the dilemmas of a bottom-up approach to democratisation, the next section provides a brief overview of this debate.

State-of-the-art statebuilding

From the outset, the fragile states debate has been troubled by definitional problems and conceptual confusion. Despite years of intense policy research, there is still no firm knowledge of the causes, consequences and trajectories of state fragility. Nevertheless, as

the debate has matured, consensus has emerged on a few basic propositions, including in particular the importance of taking both politics and context seriously. Regardless of how state fragility is defined – or indeed labelled – it is now understood that it cannot be reduced to a technical issue of capacity: the roots and dynamics of state fragility are primarily political. They go to the heart of what politics is about: the distribution of power, values and norms within a society. By focusing on the politics rather than the techniques of overcoming state fragility (parts of) the donor community are trying to embrace a more nuanced understanding of the sources of legitimate governance alongside a more contextualised approach to intervening in fragile situations.

Serving as a conceptual home and hothouse for the fragile states agenda, the OECD-DAC has been central in developing guidelines and principles for good international engagement in fragile states. Based on several studies of how donors have engaged in state building, the OECD-DAC recently concluded that:

“International support for statebuilding must change: it should be based on understanding the internal dynamics of a country and aim to enable actors of change rather than transplant Western institutional models. It should moderate and facilitate local processes, going beyond support to projects and technical capacity. International development partners therefore need to take a back-seat and work to enhance local efforts to establish responsive and effective institutions which respond to the demands from their society” (OECD 2011: 1).

This message captures the international donor community’s budding realisation that outsiders cannot ‘fix failed states’; at most they can hope to ‘facilitate change’. This represents a far more humble and – arguably – more realistic approach to the multifaceted problems of state fragility than the technical focus on building state capacity which so far has dominated. It suggests that the somewhat sterile top-down focus on strengthening the institutional capacity of formal state agencies should be supplemented by a bottom-up approach that works through, mobilises and energises existing local resources.

The political economy of fragility

The urge to ‘go local’ is a response to both outside criticism and inward reflection (Miklian, Lidén and Kolås 2011). It represents a welcome move away from crude governance conditionality and ‘best practices’ approaches towards a pragmatic con-

cern with ‘best fit’ as the new approach has aptly been coined by the World Bank (WB 2011). The predicament for the donor community is, however, that discarding idealised (Western) models in favour of contextual pragmatism and realism does not make it easier to design effective interventions. On the contrary, it underlines the need for a thorough understanding of the evolving political dynamics on the ground. And it underlines that while there is only so much donors can do to push things in the right direction, the risk of ‘doing harm’ is significant if programmes and projects are not properly adapted to local conditions.

Against this backdrop, the search for diagnostic tools and guidance that can help donors design and direct their fragile state portfolio is understandable. In the early years of the debate, there was much focus on quantitative measurements of institutional capacity and outputs. Recently, however, such tools are seen as falling short of the analysis that is needed in fragile and post-conflict settings. What is needed instead is a mixture of evidence-based and experience-based knowledge of the situation and the dynamics on the ground (Messineo & Wam 2011). To provide this, donors are increasingly turning towards analysis of the political economy.

A political economy perspective focuses on the interactions between institutions and politics, and economic interests and incentives (Anten et al. 2012: 11). Emphasis is thus placed on understanding the dynamics of the political marketplace in which donors have to engage if they wish to support the emergence of more inclusive, participatory and responsive forms of governance. Instead of asking *what* type of political reforms or change are needed, or *how* these can be promoted in a given situation, a political economy perspective asks *who* gains or loses from different reforms and political changes. The underlying suggestion is that states become fragile if/when elites do not have incentives to create or sustain effective public authority. In terms of donor programming this implies that in order to be effective, programmes must, in some ways, either align with or redirect the interests and/or incentives of the prevailing power holders (Anten et al. 2012: 4). This realisation is accompanied by a wish to “look behind the façade of formal institutions to detect the ‘real’ location of power” (IDS 2010: 6).

Engaging the informal

The desire to understand – and possibly work with and transform – informal governance arrangements is motivated by concerns for both stability and development: informal systems and non-state actors can be a dangerous source of potential or real spoilers. The powerful stakeholders of such systems are likely

to feel threatened by and resist state building if they are not somehow engaged in the process. At the same time, it is increasingly acknowledged that informal and localised arrangements of security and governance are often the only form of governance available to local communities in fragile states (Menkhaus 2010: 184). It is therefore important that they are not inadvertently undermined by formal state building projects.

While both security and development concerns underline that the ‘reality of informality’ should not be ignored when designing programmes and projects, their underlying implications do not necessarily point in the same direction. As a strategy for intervention, it makes a difference whether the main concern is to co-opt powerful individuals into the formal state building process, or to find ways of allowing informal governance systems to (continue to) perform vital functions while the formal state system is gradually being strengthened. The depth of the dilemma is illustrated by the fact that ‘going local’ is not the only way in which donors are attempting to become more contextualised and politically attuned.

The new deal for engagement in fragile states

Conventional state building interventions are frequently criticised by both scholarly observers and recipient states of being overly imposing. In response to this, the OECD/DAC in 2010 established ‘the International Dialogue of Peacebuilding and Statebuilding’. The dialogue brings together OECD donors, non-traditional donors (such as Brazil and China), international and regional organisations (including the UN, the World Bank, the African Union, and the regional development banks), and most importantly representatives of government and civil society in fragile and conflict-affected states. The dialogue is an attempt to improve the international community’s ability to provide aid and support in a manner that complies with the wishes and visions of the recipient society. Among the initial results is a confirmation of the suggestion that in order to reduce fragility, there is a need to overcome the existing fragmentation of efforts and funding and improve coordination among the many actors involved in a specific country (Chade 2012). As such, the dialogue contributes to the search for coherent strategies of transformation that has loomed large in both the scholarly and policy-oriented debate on state building. At the Busan Meeting on Aid Effectiveness in December 2011 this resulted in a ‘New Deal for Engagement in Fragile States’. The deal underlines the need for shared, country-specific frameworks that can outline strategic priorities and ensure that scarce resources – international as well as national – are directed efficiently at addressing precisely those needs that are regarded as most urgent and

important in that particular situation. Such frameworks are now widely referred to as ‘transition compacts’ (IPI 2012).

A compact is “an agreement between a government and its international partners based on consultations with national stakeholders to define joint priorities, targets, measures of progress and ways to manage risks” (IPI 2012: 2). The purpose of a compact is threefold. Firstly, to ensure that the transition process is nationally owned, not donor-driven. Secondly, to identify a shared and coherent strategy that allows for prioritising among different needs and objectives. And thirdly, to ensure that the strategy is based on an assessment of what is most urgent and important in that particular situation, rather than on a general or idealised understanding of transition processes as such. In many ways, compacts are thus intended to address some of the same issues as the trend towards ‘going local’. At the same time, however, there are clear tensions between the two.

Inclusive-enough compacts

A transition compact is top-down. It is an agreement between a government and its international partners. This provides – in theory – for ‘mutual accountability’ that allows both the government and the international partners to hold each other to the promises and pledges made. This is an innovative step which reflects that even though state building is an endogenous process, donors are also political actors in that process as they attempt to alter state–society relations. In practice, however, it has so far proven difficult to ensure that the mutual commitment is genuinely mutual and does not simply reproduce the asymmetrical power relations between local, national and international actors (IPI 2012: 6).

From a democratic governance perspective, it is important to ensure that compacts are founded on an inclusive political process that can provide for a transformation of state–society relations, rather than merely establish an agreement between the government and its international partners. A recent study of UN experiences suggests that in order to achieve that, donors need to broaden their thinking about inclusivity: “taking into account not only ‘civil society’ as it is commonly conceived, but also religious leaders, private sector actors, labour unions and others” (IPI 2012: 3). If this is achieved, the process of designing and entering a compact may thus – ideally – help open up and provide space for local actors to engage in high-level political decision making. As such, compacts may help provide the necessary link between localised projects and processes aimed at fostering more structural changes. In practice, however, this has proven difficult, especially

when the security situation is problematic and the legitimacy of the government is severely contested (IPI 2012).

The tensions between pursuing an inclusive and open-ended process of political dialogue AND establishing a focused strategic framework with clear priorities and directions for reforms illustrate the balancing act that is needed if and when donors try to identify contextualised ways of supporting local level moves towards more inclusive, responsive and accountable governance in fragile states. On the basis of the four case studies, the section below discusses some of the main dilemmas that this balancing act entails.

Country experiences and dilemmas of engagement

If anything, the four cases that make up the larger part of this study illustrate that each fragile situation is unique. The historical dynamics and current conditions of Libya, Pakistan, Yemen and Palestine differ so much that it makes little sense to search for a shared approach. In light of this, the four case studies have not been designed to provide for a systematic comparison. Instead each study focuses on those particular aspects that are deemed significant for the individual country. The purpose is to inform policymakers and others of the specific conditions for engagement in Libya, Pakistan, Yemen and Palestine respectively; not to provide any form of generic assessment of what works, how and why. Undertaking such an analysis would have taken significantly more time than was set aside for this study.¹ Nevertheless, it is clear that many of the aspects that are highlighted in each of the cases are relevant in various forms in all four countries – and possibly beyond. The purpose of this section is – on the basis of these observations – to provide for a broader discussion of the pitfalls and opportunities of different forms of bottom-up engagement in different circumstances.

The four countries that have been selected for particular scrutiny belong to regions that remain highly suspicious of Western motives for intervening. As a result, the room for manoeuvring and exerting political influence via development programming is limited compared to what OECD donor governments may experience in fragile

¹ For a more comprehensive study that seeks to answer those questions, see the Netherlands Institute of International Relations Clingendael's recently concluded multi-country research programme (Anten et al. 2012). The programme lasted for more than two years and involved detailed desk studies and field trips to five countries (Afghanistan, the Democratic Republic of Congo, Guatemala, Kosovo and Pakistan). In comparison, the case studies for this report were conducted in the space of a few weeks and are based on desk studies only.

situations in other parts of the world. This reminds us that ‘taking context seriously’ goes beyond merely understanding the ‘local’ culture and the ‘internal’ dynamics. It must also entail an understanding of how the local/internal level is linked to and affected by events and developments operating at other levels, including regional and global. And it must entail an understanding of how ‘our own’ actions and policies may contribute to the fragility of the situation. In practice, this implies that donor agencies need to be highly self-reflexive, especially when engaging ‘from below’ in situations where there is widespread hostility and resistance towards foreign/Western imposition. As suggested by Mona Sheikh in her analysis of Pakistan, it is difficult to separate local democratisation initiatives under the aegis of foreign donors from those parts of the donor countries’ foreign policies that are contested among the local population. Against this shared backdrop, the following four sections draw out one key dilemma from each of the four cases and relate it to experiences elsewhere.

Libya: security sector reform and non-state armed groups

Both in theory and practice, state building interventions prioritise the establishment of a functioning state monopoly of the legitimate means of violence as a core element in post-conflict reconstruction and peacebuilding. In keeping with this, Ulla Holm’s analysis of post-election Libya identifies security sector reform as pivotal to the establishment of inclusive and responsive governance. At the same time her analysis points to a catch-22 that the Libyan authorities face – and with them, their international partners: they cannot demobilise non-state armed groups until a functioning national security structure is in place, but they cannot establish a functioning national structure until the armed groups are demobilised. At this early stage it remains difficult to assess the nature of the Libyan transition, yet it seems clear that much hinges on whether the new government will be willing to delegate security functions to the local and regional level.

The manner in which Qadhafi’s organised chaos turned into unorganised chaos during the civil war was unique to Libya, but the catch-22 described above is of a general character. In different forms it is found in most, if not all, post-conflict processes of reconstruction. Donors seeking to engage in SSR in Libya may thus learn from experiences elsewhere. The troubled processes of establishing a coherent national security system in Afghanistan illustrate how difficult it is to dismantle militarised networks and establish national structures in situations where weapons are readily available (Danida 2012a: 29). When confronted with the realities in fragile and conflict-affected situations, ambitious SSR models that seek to (re)establish the state as the sole provider of security (and justice) have emerged as ‘laudable, yet ahistorical

and unrealistic' (Egnell and Haldén 2009). In light of this, scholars and practitioners alike are searching for alternative models for promoting lasting security solutions in fragile states. Uniting many of the ideas is the suggestion that instead of focusing on rebuilding state institutions (army and police), effective SSR programming in fragile states should seek to incorporate non-state providers of justice and security services into a progressively stronger and more coherent national system. The OECD/DAC refers to this as a 'multi-layered approach' (OECD 2007). Arguing along similar lines, yet with a shorter time perspective, the UK Stabilisation Unit also suggests that non-state providers can be necessary and constructive partners, especially in the early stages of a transition (UK 2011).

Engaging non-state security providers is thus increasingly seen as a pragmatic and realistic necessity (Scheye 2010). It does, however, also bring to the fore a core dilemma for those who wish to promote inclusive and responsive security in fragile situations: how to assess the legitimacy and efficiency of local partners?

Identifying partners – 'agents of change' – is particularly troublesome in the security sector, where both state and non-state actors alike tend to be associated with human rights abuses, corruption and lack of accountability. This is the case in present-day Libya, as in most other fragile states, where it remains unclear which actors, institutions and structures are part of the problem rather than the solution. A policy that tries to include, rather than dismantle, informal security arrangements in the reconstruction of a coherent national security system does not deny or alter this. What it does is merely to suggest that non-state actors are not a priori 'better' or 'worse' than the state, and that the choice of partner(s) must be based on a realistic assessment of existing forms of security, including how they are locally perceived, rather than on a normative model of how things 'ought' to be.

Pakistan: local culture and legitimacy

Moving to the study of Pakistan, we encounter the same dilemma of identifying local partners, yet in a slightly different form that brings to the fore tensions arising from different cultural norms and expectations. In her analysis of Pakistan, Mona Sheikh argues that the disconnect between national and local levels of governance stems from a mixture of institutional, structural and cultural factors. Zooming in on the latter aspect, she suggests that a high degree of cultural sensitivity is a necessity for initiatives that are designed to strengthen local governance and democratisation. This, she adds, may also serve as a bulwark against widespread suspicions that international development interventions represent yet another chapter in the colonising

history of the West. Navigating between different cultural expressions of legitimacy demands a careful balancing act between competing values and is in the end a political choice. Granting equal status to *sharia*, civil law and the *Jirga* institution is no less a neutral exercise than, for example, sanctioning the collective forms of punishment that correspond with parts of tribal tradition. The choice – political as it is – should, however, be informed and based on a thorough knowledge about the local structures of legitimacy and local perceptions.

In Pakistan, the key to understanding the political culture – and the challenge for western donors of identifying potential ways to facilitate change – are the manifold social fault lines and the impact they have on the formal and informal political structures: fault lines based on ethnic belongings, occupation (landowner or landless), tribe and family and sectarian orientation. It also has to be understood that large segments of Pakistani society are socially and politically excluded due to poverty and lack of education. This provides informal power holders, such as heads of tribes and families, religious figures, landlords etc., with a greater impact on the lives of people than the political institutions and politicians. According to Sheikh, donor agencies that wish to promote more inclusive and responsive forms of governance should acknowledge that these competing sources of authority are seen as legitimate in Pakistan's societal space and that efforts to improve local governance accordingly need to take account of them.

But how? How to engage actors and institutions that are suspicious of your motives for engagement and who do not share your values or notions of legitimacy? In Pakistan, overcoming local suspicions is particularly relevant for a Denmark which, image-wise, is still suffering from the repercussions of the cartoon crisis. According to Sheikh, one concrete way forward is to involve diaspora communities with a 'natural born' cultural empathy and knowledge of the unwritten rules and customs. Mobilising the resources and technical skills of the Pakistani diaspora may allow for stronger local ownership by ensuring cultural sensitivity in the design of projects and through this it may thus provide an avenue for reaching segments of Pakistani society that are otherwise hesitant to be associated with Western-funded projects. Such an approach may solve some of the operational dilemmas of engagement. It does not, however, dissolve the political or ethical dilemmas that arise from trying to work with institutions and actors who do not share your views on e.g. human rights and gender equality. This problematic is neither new, nor limited to the Pakistani case. It touches upon a deeper and more profound dilemma of democracy promotion: how to deal with illiberal voices who are active players in the local democratic processes

you wish to strengthen? As vividly illustrated by the continued evolution of the ‘Arab Spring’, a strong popular desire for political change need not necessarily translate into a strong popular desire for liberal democracy or Western values.

Yemen: corruption and community-driven development

In his study of Yemen, Peter Albrecht refers to the recent change of Yemeni leadership as ‘a political game of musical chairs’ rather than a popular revolution. The system of rule remains so deeply ingrained in the way the society functions that one should not expect it to change overnight. This, Albrecht argues, is shaping the options for external involvement. After more than 30 years as head of state, President Saleh had built a system in which power was concentrated in the Office of the President and where other state institutions were marginalised from decision-making processes. To maintain in power and keep the system running, he relied on a policy of divide and rule and extensive clientelism whereby public resources were exchanged for political loyalty. While Saleh has now lost his personal position, the basic structures – including the networks of patronage – remain in place and continue to serve the interests of Yemeni elite factions.

In relation to promoting local level democratisation or supporting inclusive governance from the bottom up, this underlines that the current opening of a political space for reforms in Yemen should not be overestimated. As long as power remains structured around the tribal leaders, the military and the Saleh family, donors need to maintain a very realistic picture of what can be achieved by working with the government. It may still be necessary to bypass the government and channel most aid through parallel project-implementing institutions such as the Social Fund for Development (SFD), which since its establishment in 1997 has been widely regarded as efficient and transparent in its use of resources.

The SFD is an early instance of a development approach that is increasingly applied in relation to fragile states. Referred to as Community-Driven Development (CDD), the approach was recommended in the 2011 World Development Report as one of two main mechanisms that can provide realistic early measures to improve control over corruption in fragile situations characterised by extensive patronage and elite pacts (WB 2011: 258). The National Solidarity Program (NSP) in Afghanistan is often cited as an example of a successful application of the CDD approach in a fragile situation. The 2012 evaluation study of Danish Support to State building and Improved Livelihoods in Afghanistan thus finds that “NSP has induced changes in village governance by creating village councils and transferring

some authority from village elders to these councils. It improves villagers' access to services and their perceptions of well-being" (Danida 2012a: 44). These findings are of immediate relevance to the aim of promoting more inclusive and responsive governance from below.

The active use of e.g. social accountability mechanisms in which communities make collective decisions on the use of funds, promises to empower poor and marginalised groups. At the same time, however, it should be kept in mind that "as with all development approaches and tools, CDD is not a panacea" (WB 2009: 9). A recent review of the World Bank's experiences of using CDD, suggests that if designed well (reflecting local realities and constraints), CDD projects can support poverty reduction, help build social cohesion at the local level and strengthen local institutions. But, "alone, they cannot transform the economies of conflict-affected and post-conflict areas" (Barron 2010: 26–7). Precisely for this reason, Albrecht in his concluding statement suggests that "while parallel project implementing institutions may be important interim solutions, they cannot overtake the role of state institutions or that of sheikhs who must be engaged in and drive change forward". The tension between bottom-up participatory approaches and high-level political processes of change still needs to be addressed, including by finding ways of connecting the two.

Palestine: administrative capacity and popular legitimacy

The notion of a Palestinian state has a peculiar history and has yet to materialise in the form of a formal state. Today, the Palestinian Authorities (PA) de facto encompass two sources of public authority: the PA in the West Bank ruled by Fatah, and the PA in the Gaza Strip ruled by Hamas. While the Fatah-led rule in the West Bank has built up state-like institutions, it is lacking democratic legitimacy and territorial continuity; and in the Gaza Strip Hamas is struggling to govern under a blockade of land, air and sea. Contact between the two PAs is highly limited and both EU and US diplomats are restrained from dialogue with the PA in Gaza because of the official no-contact policy with Hamas. The conditions for supporting inclusive and responsive governance in Palestine are clearly as convoluted as they are unique. At least in one way, however, the Palestinian predicament bears testament to a problem of a more common nature: How to ensure that externally-aided state building is linked to and engages the general population?

In her analysis, Leila Stockmarr argues that the Palestinian state building project has happened on the basis on external political demands rather than on Palestinian-owned aspirations. State building is occurring outside society rather than as an integral part

of it. It has been depoliticised in a manner that has decoupled the local, public level from the project. State building in its current form has come to be seen as the opposite of national liberation. This reinforces the suggestion that a bottom-up approach is called for, *if* governance arrangements in Palestine are to become more inclusive and responsive. There is a need to revitalise civil society's engagement in the state building process and to reconcile the popular agenda of resistance (against Israeli occupation) with the policies of the authorities. As underlined by Stockmarr, this presents the donor community with a serious dilemma. The political aspirations that would be supported if genuine democratisation took place in Palestine are likely to undermine existing agreements in the Israeli/Palestinian peace process.

Finding a way out of this predicament is clearly beyond the ambitions of the present report and case study. For the current, more limited purpose it is however interesting to note one underlying message of Stockmarr's study: the suggestion that the legitimacy of governance arrangements cannot be reduced to a matter of service delivery and administrative capacity. While access to social services matters to most, if not all, people, it is not the main driver of people's political aspirations. On the surface, this claim may seem self-evident. It is, however, controversial because it challenges the dominant theory of change that informs most aid operations in fragile situations, namely the assumption that improved delivery of socio-economic services will automatically contribute to strengthening the legitimacy of the state.

As noted above, the Palestinian state building process is exceptional for a variety of reasons, including the fact that there is no internationally recognised state of Palestine. Findings from other parts of the world, however, confirm that the linkages between service delivery and state legitimacy may be less direct than tend to be assumed in most aid interventions. This was one of the main messages from a major evaluation of support to conflict prevention and peacebuilding in South Sudan (Bennett et al. 2010). The study even warned that in South Sudan "statebuilding might also reinforce and reward a particular faction in power" and pointed to the need for an inclusive political process that engages "civil society, customary law and 'bridge building' between different ethnic communities and the nascent state" (Bennett et al. 2010: 101). This underlines that the building of inclusive and responsive public authority cannot be reduced to a technical question of improving administrative capacity and service delivery to marginalised groups. In both South Sudan and Palestine, the lack of development or services may be a cause for disaffection, but in neither situation does this imply that popular support for the government will automatically increase as more public services become available.

Implications for Danish development policies

The statebuilding paradox – using outside intervention to foster self-government – is not dissolved by ‘going local’. Tensions between international principles, norms and standards on the one side and local values, perceptions and preferences on the other side remain present even when donors seek to engage from below. The same goes with regard to the mixed and potentially contradictory motives that drive donor engagement. Concerns for the local populations are only one element in the donor equation – and it is not necessarily the most important element. In all four countries included in this study, Western concerns for national security interests play a defining role in shaping the framework for aid. This basic ‘fact of life’ is not altered significantly simply because agencies increasingly try to adapt a bottom-up approach to governance reform. The first message to take away from this study is thus that a bottom-up approach is *not* a panacea to more inclusive and responsive forms of governance: ‘Going local’ does not provide donors with a ‘silver bullet’ that will allow them to engage with clear determination and guaranteed effect in fragile situations. On the contrary, it suggests that very often there will be very little donors can do to produce a lasting change in local conditions. What more is, it underlines the risks of unintended and counterproductive consequences of intervention. Compared to the grandiose statebuilding visions that dominated the policy debate a few years ago, the promises of a bottom-up approach may thus seem somewhat limited and unattractive.

It is, however, precisely in the acceptance of the need for ‘muddling through’ that the appeal of going local resides. Instead of trying to orchestrate and support comprehensive reforms, it suggests that the key to *effective* intervention resides in indirect and incremental strategies that aim at shifting or influencing the incentives and interests of key actors (IDS 2010: 70). This message draws on two basic lessons that have been learned from the past decade’s ambitious attempts at transforming fragile states into stable democracies: Firstly, that reforms take a very long time, and secondly, that function is more important than form. The aim is not to replicate Western institutional models but to support local processes towards inclusive and participatory governance. Building on existing structures does not necessarily imply that donors should give up on the long-term emancipatory and transformative ambitions of promoting democratic governance for all. Even if the engagement becomes more locally attuned – pragmatic and realistic – the long-term aim may still, as suggested by the UNDP, be to ensure that “people’s human rights and fundamental freedoms are respected, promoted and fulfilled, allowing them to live with dignity” (UNDP 2011: 21).

The most recent Strategy for Denmark's Development Cooperation: The Right to a Better Life (Danida 2012b) opens with a statement by the Minister for Development Cooperation in which he underlines that "major changes stem first and foremost from local populations, created as they are from the inside and from the bottom up". This sets the tone for a strategy that holds some openings towards a bottom-up approach to participatory and inclusive forms of governance. In particular, the chapter on 'Stability and Protection' that deals specifically with the challenges of fragile situations seems inspired by some of the arguments discussed above. A few quotes from that chapter illustrate this:

- "Denmark will build on what works in fragile societies"
- "The presence of risks is an inherent aspect of working in fragile and conflict-affected areas"
- "The choice of intervention is based on what works, the extent of local ownership and where our contribution can add most value. A basic premise is the willingness to take risks and pilot new interventions"
- "Interventions in fragile states must be flexible and tailored to the local context as well as to the opportunities that exists for exerting influence on the course of developments" (Danida 2012b: 28-30).

It is beyond the purview of this report to assess whether Denmark should translate these remarks into a much stronger focus on supporting locally embedded forms of democracy in fragile situations, or whether the bulk of Danish democracy support should remain focused on more conventional activities at the national level (elections, constitutional reforms, party development). In the remaining chapters of the report, each of the four case studies draws out its own distinct policy-implications and country-specific recommendations as to how Denmark might engage in Libya, Pakistan, Yemen and Palestine, respectively. A shared message is that although 'going local' is bound to be difficult, it provides a potential avenue for improving everyday governance and reaching 'ordinary' people in fragile states. On the basis of this, and in keeping with experiences from broader studies of democracy promotion in fragile states, the following more general recommendations as to how DANIDA – and other donor agencies – might strengthen their approach to local-level democratization are made:

- Acknowledge that navigating between different cultural expressions of legitimacy involves political dilemmas – and political choices. There are no technical solutions.

- A bottom-up approach can be an important contribution to improving governance in situations where efforts are dominated by top-down interventions. Although programs and projects are ‘small-scale’, they take time and resources to prepare and implement. Going local is not cheap.
- Programming decisions should be based on thorough knowledge of the local structures and perception of legitimacy. Combine analysis of the political economy with in-depth ethnographic knowledge. Recognize the role of alternative (non-state) sources of legitimacy and service delivery.
- Take into account the specific ways in which dynamics at the local level are linked to and affected by events and dynamics at the national and regional levels. Engage where possible regional powers and non-OECD donors.
- Understand that public perceptions of donor support to democracy are shaped by both the colonial history and current Western security policies. The conditions for local democratization and donor agencies’ room for maneuvering can be negatively affected by Western policies and actions (e.g. US drones in Pakistan, support to Israel, Danish cartoon crisis).
- Be realistic about what can be achieved: Moving towards more inclusive forms of local governance takes time and the process is not linear. There will be ‘set-backs’.
- Be reflexive: Donors need to reflect on their own mental models of development and bureaucratic procedures and requirements – and on how these may get in the way of engaging as innovatively, flexibly and context-specific as the situation demands.

Being a seasoned donor with substantial experience in development cooperation, DANIDA has lived through all of the shifting trends in donor policies. Speaking at DANIDA’s 50 years anniversary in March 2012, the current Minister for Development Cooperation, Christian Friis Bach, explained that: “Development is difficult, takes time. We have spent the last 50 years trying to improve our development policies, sometimes with success and sometimes with failure.” His most basic message was that, compared to the early years of optimism, “We know now that it is not so simple”. The case studies in this report provide rich illustrations of how and why promoting democratic governance from below is anything but simple in fragile situations. In all four cases, it is clear that most of the informal and alternative systems that ‘work’ locally and which people tend to trust and rely on, do not respect basic human rights. On the contrary, localized governance systems tend to be illiberal, in the sense that they uphold an order based on inequality between different community members. Romanticizing local culture, tradition or ‘coping mechanisms’ as an easy short-cut

to broad-based, inclusive and participatory forms of governance is clearly a mistake. The basic assumption of a bottom-up approach to democratic governance is, however, that it is equally mistaken to assume that formal systems are necessarily 'better', or that they provide the only way to 'progress'.

References

- Albrecht, Peter and Helene Kyed (2011) "Introduction – Non-state and Customary Actors in Development Programs", in Peter Albrecht et al. (eds) *Perspectives on Involving Non-State and Customary Actors in Justice and Security Reform*, Rome: International Development Law Organization
- Anten, Louise; Ivan Briscoe and Marco Mezzera (2012) *The Political Economy of State-building in Situations of Fragility and Conflict: from Analysis to Strategy*, The Hague: Netherlands Institute of International Relations 'Clingendael'
- Barron, Patrick (2010) "CDD in Post-Conflict and Conflict-Affected Areas: Experiences from East Asia", *World Development Report 2011. Background Paper*, Washington: The World Bank
- Bennett, Jon; Sara Pantuliano, Wendy Fenton, Anthony Vaux, Chris Barnett and Emery Brusset (2010) *Aiding the Peace: A Multi-Donor Evaluation of Support to Conflict Prevention and Peacebuilding Activities in Southern Sudan 2005–2010*, UK: ITAD Ltd
- Chade, Jamil (2012) "The Conflict and Fragility Agenda Post-Busan: Directions, Opportunities, Challenges", *Brief no.2*, Geneva: Geneva Peacebuilding Platform
- Copstake, James and Richard Williams (2012) *The Evolving Art of Political Economy Analysis. Unlocking its Practical Potential through a more Interactive Approach*, Oxford: Oxford Policy Management
- Danida (2012a) "Danish Support to Statebuilding and Improved Livelihoods in Afghanistan", *Evaluation Study 2012/4*, Copenhagen: Ministry of Foreign Affairs of Denmark
- Danida (2012b) *The Right to a Better Life, Strategy for Denmark's Development Cooperation*, Copenhagen: The Danish Government.
- Egnell, R. and P. Haldén (2009) "Laudable, Ahistorical and Overambitious: Security Sector Reform Meets State Formation Theory", *Conflict, Security and Development*, 9(1): 27–54
- Engberg-Pedersen, Lars; Louise Andersen and Finn Stepputat (2008) "Fragile Situations: Current Debates and Dilemmas", *DIIS Report 2008:9*, Copenhagen: Danish Institute for International Studies
- IDS (2010) *An Upside Down View of Governance*, Brighton: Institute of Development Studies
- IPI (2012) *Transition Compacts: Lessons from UN Experiences*, New York: International Peace Institute
- Menkhous, Ken (2010) "Chapter Nine: State Failure and Ungoverned Space", *Adelphi Series*, 50(412-3): 171–188

- Messineo, Carol and Per Egil Wam (2011) *Approaches to Governance in Fragile and Conflict Situations: A Synthesis of Lessons*, Washington: The World Bank
- Miklian, Jason; Kristoffer Lidén and Åshild Kolås (2011) “The Perils of ‘Going Local’: Liberal Peacebuilding Agendas in Nepal”, *Conflict, Security and Development*, 11(3): 285–308
- OECD (2007) *Handbook on Security Sector Reform*, Paris: Organisation for Economic Cooperation and Development
- OECD (2011) *Supporting Statebuilding in Situations of Conflict and Fragility. Key Messages to Policy Makers*, Paris: Organisation for Economic Cooperation and Development
- Paris, Roland and Timothy Sisk (eds) (2009) *The Dilemmas of Statebuilding. Confronting the Contradictions of Postwar Peace Operations*, New York: Routledge
- Scheye, E. (2010) *Realism and Pragmatism in Security Sector Development*, USIP Special Report no. 257, Washington: United States Institute of Peace
- UK (2011) *Stabilisation Issues Note: Security Sector Reform and the Rule of Law*, London: Stabilisation Unit <http://www.stabilisationunit.gov.uk/attachments/article/520/SIN%20Security%20Sector%20and%20Rule%20of%20law%2004102010.pdf> (last accessed 9 October 2012)
- UNDP (2011) *Responding to Trends in Democratic Governance – Towards a New Strategic Vision for DGG*, New York: United Nations Development Programme
- WB (2009) *Community-Driven Development: Delivering the Results People Need*, Washington: The World Bank
- WB (2011) *World Development Report 2011: Conflict, Security and Development*, Washington: The World Bank

Libya in transition: the fragile and insecure relation between the local, the national and the regional

Ulla Holm

Introduction

The Libyan revolt started in the periphery, in the city of Benghazi (Cyrenaica) and spread to the whole of Libya with support of the NATO-led intervention and UN-approved no-fly zone. What united the fragmented peripheral movements with the centre of Tripoli was the desire to get rid of Qadhafi. The Libyan revolutionary social movements all coalesced around the goal of putting an end to the Qadhafi regime. The civil war resulted in total regime collapse contrary to what happened in Egypt and Tunisia.

On 7 July 2012 the Libyan voters cast their votes in the first national elections for around five decades. Both the UN and the EU observers declared the elections pretty fair and transparent in spite of violent incidents. In some cities polling offices were destroyed by militias that protested against the election because it was seen as representation of centralisation of power in Tripoli. Even if no evaluation exists of voters' motivation for voting and for choosing specific candidates it is highly probable that 'localism' played a huge role in designation of candidates and voting. There is one very important reason why Libyans trust local actors over central ones: it was local, non-state armed groups that beat Qadhafi's supporters and provided a minimum of security and social welfare functions in his wake. These groups hold therefore a high degree of local legitimacy.

At this early stage it remains difficult to assess the nature of the transition. Libyans are only at the beginning of setting up new state institutions and establishing non-governmental organisations and parties. We do not know yet whether changes are going to be important systemic and structural changes that bring about a very different order compared to the former. However, 'fundamental changes' are very rare because a revolution is always grafted onto a country's past political culture, changing some elements thereof and safeguarding others.

The political culture of Libya is shaped by a plurality of competing power foci. This comprises parallel structures of tribal, regional, Islamic, civil and urban forms of political organisation and state-like institutions which result in different concep-

tions of power, rule and legitimacy.² These structures are not static. They develop in dynamic internal interactions and are impacted by the civil war. However, the 'deep structure' of the political culture is rather difficult to change. It frames how the process of democratisation is understood and applied.

This analysis will illuminate the extent to which past political institutional culture impacts the present political situation. Secondly, the role of informal actors i.e. armed non-state groups, tribes and regional competing powers with regard to future power-sharing will be scrutinised. Thirdly, the impact of the role of Islam as national identity marker will be analysed. Fourthly, the importance of oil production as a means of distributing wealth is analysed. Finally, the conclusion discusses what Denmark and other external actors may do to push the transition towards more inclusive, responsive and participatory forms of governance in Libya.

The discussion will especially concentrate upon the three main post-election challenges: 1) establishment of state monopoly over the use of violence versus privatisation of violence, 2) the relationship between centre and periphery ('localism') and 3) accountability and transparency with regard to the distribution of the huge amount of oil money

Political culture: the institutional set-up during the Qadhafi regime

The collapse of the Qadhafi regime will certainly result in transformation of what were the existing relations between society and regime. Lacking a constitution, formal institutions, parties and civil society organisations, politicians and NGOs have to create all democratic processes, institutions and procedures almost from scratch. The new institutional process is provoking intense discussions and also violence with regard to power sharing, because the impact of Qadhafi's concept of 'direct democracy' casts a shadow over the present.

This kind of democracy was expressed institutionally by the People's Congress (legislative function) and People's Committees that possessed the executive function.³ The

² Hüskén, Thomas (2012): "*Tribal Political Culture and the Revolution in the Cyrenaica of Libya*". Paper presented at "Libya from Revolution to a State Building: Challenges of the Transitional Period". Conference in Doha. 7-8 January 2012. The Libyan Centre for Studies and Research.

³ The concept of institutions was developed in the so-called *Green Book* that consists of three parts published between 1976 and 1979.

latter should in principle be answerable to the Basic People's Congresses. Its members should be elected every three years by the Basic People's Congresses. This formal direct democracy was thus based on three foundations: the local Basic People's Congresses, the local People's Committees and also on the Professional Organisations which all employees were requested to join.

The ideological element that underlined Qadhafi's new institutions was the revolutionary legitimacy of the leadership, which implied that revolutionary leadership was neither elected nor could it be dismissed. All laws that contradicted the spirit of the revolution were abolished. Libya was 'cleansed' of the counter-revolutionaries while the revolutionary masses were armed.⁴ Consequently, the parties and party pluralism and elections were rejected.

This political system was defined by endless restructuring of hundreds of groups whose function was to ensure that none of the institutional set ups became too powerful. The system was deliberately an organised chaos. This 'permanent revolution' with the constant waves of new directives, new structures and a high level of unpredictability generated constant distrust towards the procedure of decision-making.

The opaque ruling sector was overlaid by the so-called 'revolutionary sector' that consisted of the revolutionary leadership, including Qadhafi, his extended family and tribe and the members of the Revolutionary Command Council. It was supported by a multitude of security forces that reflected Qadhafi's threat perceptions with regard to so-called counter revolutionaries, including in particular the Revolutionary Committees, the Revolutionary Guard and the People's Guard.⁵

The army was the stepchild in this intense system of surveillance. Qadhafi considered the army to be a potential state in the 'state of masses'. The military forces did in fact attempt to assassinate Qadhafi. Result: hanging, exile or replacement of military officers. Qadhafi's suspicions of his army led him to recruit Tuaregs from Chad, Niger and Mali. They were infamous for their extreme brutality and in the wake of the civil war they have been hunted down by the armed groups.

⁴ Libya's historical problem with state authority was resolved in principle under Qadhafi by eliminating the state altogether. The distributive policies based upon the huge oil revenues constituted an effort to weaken the political utility of kinship allegiances.

⁵ In 2002 the Revolutionary Committees were estimated to comprise sixty thousand members (Obeidi, Amal: "Political Elites in Libya since 1969" in Vandewalle, Dirk (ed.) (2008): *Libya since 1969. Qadhafi's Revolution revisited*. New York, Hampshire: Palgrave Macmillan, pp. 105–127, p. 67. Wright, John (2012): *A History of Libya*. London: C. Hurst & Co. p. 208.

The structure of organised chaos turned into pure and simple chaos during the civil war. After the war, the self-appointed National Transitional Council attempted at setting up a centralised locus of power in Tripoli. However, it struggles with myriad armed, non-state actors (see below) and with new and old actors' distrust of any attempts at setting up a centralised system. Centralised power equates to Qadhafi's regime and lack of transparency. If the new General National Congress (see below) insists on concentrating all power in the capital Tripoli, local politicians, tribes and non-state armed groups will contest the power centre. Thus delegation of power to cities and regions has to be a top priority for the General National Congress. However, if the power centre remains weak, the periphery (local councils and armed non-state actors) can strike back by upholding their monopoly of political and military strength which might ultimately lead to fragmentation of the territory (see below).

Armed non-state actors

Since the outbreak of the uprising of 17 February 2011 an increasing number of new actors have emerged in the military and political arena. Power struggles among the new heterogeneous coalition of revolutionary forces have intensified. Numerous, armed, non-state actors are fighting amongst themselves and against centralisation of power in Tripoli.⁶ There exists only a new, small army that is not able to control or integrate these new actors. Moreover, in a thirst for revenge, individuals and armed groups are hunting down supposed or real Qadhafi supporters. The fact that thousands of Libyans were enrolled in the revolutionary committees – either by force or by opportunism – is now resulting in several acts of revenge.

Qadhafi militarised Libya by arming many informal groups in order to protect his revolution. By the irony of history a similar proliferation of armed groups has developed in order to safeguard the 'people's revolution'.

Some reports refer to all non-state armed groups simply as 'militias'.⁷ However, one has to distinguish among the heterogeneous armed groups in order to understand their

⁶ According to International Crisis Group (ICG), "the number of the groups is a mystery: 100 according to some; over 125,000 are said to be armed". ICG (2011): *Holding Libya together: Security Challenges after Qadhafi*. Brussels, 2011, 14 December, p. i

⁷ Amnesty International (2012): *Militias Threaten Hopes for New Libya*. London: Amnesty International.

different roles in Libya. At least four different categories of armed groups are currently active in Libya:⁸

1. *Revolutionary brigades* that exist both in the east and the west – in cities like Misrata, Zintan,⁹ Benghazi and in the western Nafusa Mountains. The revolutionary brigades all started as unorganised street fighting groups but developed into organisations which became capable of attacking tank divisions. These brigades count for 75% to 85% of all experienced fighters and weapons not controlled by the state. They have established local coordinating structures such as military councils and unions of revolutionaries. The organisation and recruitment of the brigades varies from city to city. Some brigades are neighbourhood and workplace brigades. Others are tribal brigades. For example the southern Zuwaya tribe and the Tebu tribes sided with the revolution but they established separate brigades.¹⁰
2. *Unregulated brigades*. They split from the revolutionary brigades and the authority of local military councils. They fulfil the social expectations of the communities from which they originate. They are responsible for a high number of human rights abuses.
3. *Post-revolutionary brigades*. They were created to fill security vacuums left behind by defeated Qadhafi forces. They exist primarily in pro-Qadhafi neighbourhoods such as Bani Walid and Sirte where heavy fighting took place. They are increasing in number because of the extent of loyalist Qadhafi communities. They take part in post-revolution conflicts, such as in the Berber city of Zuwara where Berbers and Arab tribes have been clashing since February 2012.
4. *Militias* are a distinct collection of armed groups that include criminal networks such as smuggling networks and violent extremists, the latter possibly being imbued by Salafist ideology (see below).

According to this categorisation, the revolutionary brigades are by far the most powerful. In many cases the communities and cities have entrusted political functions to the revolutionary brigades because of lack of experienced police forces and of a national

⁸ McQuinn, Brian (2012): *Armed Groups in Libya: Typology and Roles*. Small Arms Survey Research Notes. Number 18. June 2012. Geneva. www.smallarmssurvey.org. The four categories and the description of their content are directly taken from his article.

⁹ The Zintan revolutionary brigade is infamous for having detained four members of the International Court of Justice, ICC, while visiting Saif al-Islam, the son of Qadhafi. Saif al-Islam has been indicted by the ICC for crimes against humanity but Libya has insisted he should be tried by a Libyan court. But the brigade has refused to hand him over either to the Libyan interim government or to the ICC. The ICC members have been released, but they are scheduled to appear before a court in Tripoli on July 23.

¹⁰ Lacher, Wolfram (2012): "Families, Tribes and Cities in the Libyan Revolution" in *Middle East Policy Council*. <http://www.mepc.org/journal/middle-east-policy-archives/families-tribes-and-cities-li...> 04-07-2012.

army. The town of Misrata, the third largest city and recipient of a six-month bombardment by pro-Qadhafi forces and NATO, has the most powerful revolutionary brigades who work closely with the Misrata Military Council. These brigades took part in organising and securitising the Misrata municipal election of February 2012, the first anywhere in Libya for four decades. Like Misrata, Benghazi held its own elections earlier this year, and like Misrata the city council is busy assuming powers for itself at the expense of central government.¹¹

For the time being a power struggle is underway over the rebuilding of the national army. The revolutionary brigades see themselves as guardians of the revolution and in order to protect the ideas of the revolution they have created a national network of revolutionary unions and established the National Shield, a national army-in-waiting.¹² The National Shield has already worked together with other non-state armed groups and with the National Army in order to put down violence, especially in the south. The problem is that the National Shield and the Supreme Security Council under the NTC are organising their own forces, one dependent on the Ministry of Defence and the other on the Ministry of the Interior, and they represent alternatives to the army.¹³

Libya is witnessing the evolution of multiple overlapping informal and formal security entities that work at the local and regional level. Sometimes they work together and at others they attack each other. This competition and overlapping has now reached up to the national level where the informal National Shield challenges but also helps the formal National Army.

When the Europeans, the Americans and the Libyans worry about the impact of armed non-state actors, they should take into account the different functions of the different armed groups. The revolutionary brigades are necessary as security producers

¹¹ Misrata was one of the Libyan cities that suffered the most in the uprising. Accused of collaborating with Qadhafi troops, the Tawargha tribe were expelled by the Misrata revolutionary brigades.

¹² The revolutionary brigades' legitimisation of their existence sounds very like Qadhafi's establishment of his revolutionary committees in 1977. It is not clear whether some revolutionary brigades put pressure upon the then NTC in May 2012 to pass a law which mandated prison sentences for individuals found to have glorified Qadhafi, and for anyone who published news, propaganda or rumours that harmed the February 17 revolution. Just like under the Qadhafi regime, anybody who did not unconditionally support the leaders of the revolution became a traitor and was hunted down. Fortunately, the Supreme Court ruled on 14 June that the law was unconstitutional with regard to the NTC's Constitutional Declaration from August 2011. *Libya's step towards change*. Fair observer. <http://www.fairobserver.com/article/libyas-step-towards-change?18-07-2012>.

¹³ Dabrowska, Karen (2012): *Libyan Elections: What the Analysts Say*, in The Tripoli Post, 13 July 2012. <http://www.tripolipost.com/articledetail.asp?c=1&i=880716-07-2012>. 16

at the regional and local level as long as no efficient national army exists. The question is, of course, whether they develop into an alternative monopoly of violence contesting the national monopoly of violence that is in the making. The future relationship between informal and formal security institutions will depend on whether the new government will be considered legitimate and whether it will be willing to delegate security power to the local and regional level.

The Libyan authorities are facing a Catch-22. They cannot demobilise all the armed groups until they have a functioning national army, but they cannot establish a functioning national army until they demobilise the armed groups.¹⁴

Tribes as informal actors

It is frequently reported that 140 tribes and influential large families exist in Libya though approximately 30 are believed to be more active than others.¹⁵ It has also very often been declared that the Libyan war was a tribal conflict. The tribes indeed played an important role during the civil war, but they were not the only factor. Mobilisations across regions and cities and the establishment of armed non-state actors in the cities played a very important role, too.^{16,17} In fact, as long as no strong governmental centre is constituted in Tripoli, the cities do possess a huge degree of autonomy. Very often there are strong links between tribes and brigades in cities.¹⁸ At any rate, one has to note that these different estimates of the situation on the ground point to the existence of old and new actors who are either using old tribal structures or creating new networks. The similarities between the old and the new ones consist in the fact that they are informal actors.

The tribal dynamics are linked to the Italian colonisation of Libya in 1911. The Italians replaced the former administration with an exclusively Italian one, in which the local

¹⁴ Pack, Jason and Barfi, Barak (2012): *In War's Wake. The Struggle for Post-Qadhafi Libya*. Policy Focus #118. February 2012. The Washington Institute for Near East Policy. p. 19.

¹⁵ *Survival Hinges on Tribal Solidarity*. Spiegel online. 02/23/2011. Interview with a German researcher and expert on Libyan history, Hanspeter Mattes.. <http://www.spiegel.de/international/world/uprising-in-libya-survival-hinges-on-tribal-solidarity-a-747234.html><http://www.spiegel.de/international/world/uprising-in-libya-survival-hinges-on-tribal-solidarity-a-747234.html>

¹⁶ The fact that brigades organised defence of cities and towns and set up local councils (for example in Misrata in February 2012) makes commentators write that Libya is witnessing the appearance of city-states. Maggie, Michael (20012): *Misrata holds first Libyan election post-Gaddafi*. USA Today/News, Associated Press. <http://www.usatoday.com/new/world/story/2012-02-20/libya-misrate-election/53175748/1> 15-05-2012.

¹⁷ Lacher, Wolfram (2012): "Families, Tribes and Cities in the Libyan Revolution" in *Middle East Policy Council*. <http://www.mepc.org/journal/middle-east-policy-archives/families-tribes-and-cities-li...> 04-07-2012.

¹⁸ McQueen, Brian (2012). *Armed Groups in Libya: Typology and Roles*. Small Arms Survey Research Notes. Number 18. June 2012. Geneva. www.smallarmssurvey.org.

population was not permitted to participate.¹⁹ When, after the Second World War, Libya was granted independence (1952), it had no nationwide political organisation or political authority. The attempt at state formation under King Idriss' monarchy (1952–1969) was imbued by family, tribal, and parochial interests, as networks of kinship, locally powerful families and clan provided the organisational structure for competition.²⁰ In the wake of the oil boom new kinds of economic patronage networks, partially independent of kinship, developed. New centres of power were created alongside the existing, old, tribal and extended family structure.

Qadhafi was profoundly ambivalent about tribes.²¹ Originally he saw tribalism as a structure that undermines collective nationalism (Arabism). Ideologically, Qadhafi rejected any political role for tribes. However he did not deny the tribe a function as contributor to social security and source of social values.

Even if tribal influence diminished in the 1970s the tribes continued to informally play an important role because it was important for Qadhafi to protect the revolution by creating new tribal alliances, especially against the large tribes in Cyrenaica which had supported King Idriss. Qadhafi's early modernisation strategy was gradually abandoned, and a tribal focus of power emerged.

From the early 1990s when yet more Islamist groups contested the regime and the international sanctions started,²² the tribes were used as a tool of pressure to get rid of opposition. Most tribes were encouraged to issue statements denouncing those in the tribes who had betrayed the country. In 1993 the regime made the tribes play a formal part in the political scene. A new institution was established entitled the Popular Social Leaderships. Its members were the respected natural leaders of the local communities. The duties of leadership were countering corruption and treason, spreading revolutionary culture, resolving local conflicts and mobilising people to ensure that production increased. An interaction between the dictatorship and local, regional tribes took form. Therefore tribal politicians – with few exceptions – were

¹⁹ Anderson, Lisa (1991): "Tribe and State: Libyan Anomalies" in Khoury, S. Philip and Kostiner, Joseph (eds.): *Tribes and State Formation in the Middle East*. London, New York: I.B. Tauris & Co Ltd. Publishers.

²⁰ Ibid. p. 294.

²¹ The revolutionary leadership, with Qadhafi at its centre, came mostly from tribes originating in the Sahara. He came from the Qaddadfa tribe/Sirte region. The Maqaarha tribe/Fezzan and numerous members of the Warfalla tribe/south-east of Tripolitania were co-opted.

²² Resistance to the regime from tribal, urban, civic and Islamist opposition from mid 1980 until the 1990s began in Cyrenaica. Pargeter, Alison (2008): "Qadhafi and Political Islam in Libya". In Vandewalle, Dirk (ed.): *Libya since 1969. Qadhafi's Revolution Revisited*. New York, Palgrave Macmillan. pp. 83–104.

not at the forefront of the revolution. However, “after the first weeks of the revolution they have shaped and organised a great deal of the transitional order. They have gained a significant empowerment because of the tribal influence in the former NTC”.²³

The tribes of the northeast in Cyrenaica were the first to revolt. The Berber tribes of the Western Mountains united quickly and played a decisive military role in the revolution just as did the Tebu minority in the south. Some of the most important tribes were somewhat split in their positions towards the revolution – such as the Warfalla tribe which was one of the three tribes that constituted the backbone of the security forces. Nevertheless, one of its important leaders quickly dissociated himself from the regime. Hence, tribes are not monolithic entities. Tribal identity depends on the context and the situation of people. There are for example differences between some extended families in the big cities of Cyrenaica i.e. Benghazi and Tobruk. “The former city is marked by anti-tribal bourgeois identity, the latter by tribal ethics of honor and obligations. Every tribe is segmented into sub-tribes, lineages and extended families. Political leadership within the tribes is not automatically handed over. Leadership rests upon competition between individuals, families and faction”.²⁴

The tribes play a very important role with regard to conflict resolution within and across tribes. “The negotiators are producers of order and conflict mediators and the main focus of the local leaders is an enhanced political and economic participation combined with the advantages of an intermediary position between the central state and the regional and local arena”.²⁵ As mentioned above, the attempt at producing local order has – during the war and in the aftermath – very often resulted in the establishment of armed tribal groups. However, there is a risk that the established tribal local order might challenge other, newer, local order producers thereby leading to disorder.

The discovery of oil at the end of the 1950s (see below) transformed the economic structure of Libya and led to a significant urbanisation and the emergence of new or transformed social, political and economic actors.²⁶ The cities are home to 78% of the population and the youth (15–24 years) constitute about 37% of the urban

²³ Hüsken, Thomas (2012): *Tribal Political Culture and the Revolution in the Cyrenaica of Libya*. Paper presented at “Libya from Revolution to a State Building: Challenges of the Transitional Period”. Conference in Doha. 7–8 January 2012. The Libyan Centre for Studies and Research. p. 6

²⁴ Ibid. p. 6.

²⁵ Ibid. p. 7.

²⁶ Anderson, Lisa (1991): “Tribe and State: Libyan Anomalies” in Khoury, S. Philip and Kostiner, Joseph (eds.): *Tribes and State Formation in the Middle East*. London, New York: I.B. Tauris & Co Ltd.

population.²⁷ In the cities, economic and social support for the neighbourhood and of the workplace plays a huge role because it compensates for either the lack of state institutions or for the arbitrary and corrupt state bureaucracy. Workplace and neighbourhood solidarity structured, to a large extent, the youth's armed struggle against Qadhafi.

Has this high degree of coastal youth urbanisation resulted in individualisation that opposes the authority of the tribes? Has the youth gained so much autonomy by being fighters in the war that they put into question the power of family and tribe? If so, a generational conflict will be manifest whose consequences are difficult to evaluate for the time being.

Centralisation, decentralisation or federalism?

Libya's different informal power loci are not only a question of tribes and institutional setups. They are also formed by geography, culture and transnational links.

Since Roman times, Libya has been divided into three separate entities (provinces): Tripolitania in the west, Cyrenaica in the east and Fezzan in the south. This split was, in large part, a product of the geography of the region. Tripolitania is separated from Cyrenaica both by the Gulf of Sirte and a vast sand sea coming down between the two areas. Fezzan, composed of a series of oases, is separated from the other regions by another sand sea. Libya's population was and still is concentrated in the northern part of the country, distributed between Cyrenaica and Tripolitania.

Cyrenaica in particular has been and still is the region which has been most opposed both to foreign invaders such as the Ottomans (1515–1911),²⁸ and the Italians (1911–1943) as well as to Qadhafi who marginalised and punished severely any kind of revolt in Cyrenaica. Cyrenaica was the stronghold of the Senussi monarchy, which from 1951 to 1963 was a federal kingdom, based upon the structure of the three old provinces. For the first time in the history of the three regions they were brought together under the king's unified leadership. However, federalism was abolished in 1963.²⁹

²⁷ United Nations Population Division (2011): *World Population Prospects: The 2010 Revision*. New York: United Nations.

²⁸ In Cyrenaica, the Libyans sided with the Ottoman caliphate in opposition to the cruel Italian colonisation.

²⁹ Two explanations exist for the abolition of federalism. One reason is that the administrative costs were too high. The other reason is that foreign oil companies did not want to pay for the oil production to both the central and the federal government.

Each of the three parts of Libya is still marked by strong regional feelings. Revolutionary fighters from Cyrenaica are asking for autonomy – even for a federal Libyan state.³⁰ The Cyrenaican mistrust towards Tripoli as *the* centre was evident during spring 2012 and before the national election of July 7. In March, tribal and political leaders in Benghazi declared the eastern region of Cyrenaica as autonomous but recognised the then ruling NTC as Libya's legitimate representative in foreign affairs. Just before the elections, the Benghazi office of the Libyan High Election Commission was attacked by armed groups who requested an equality of the distribution of the General National Congress's seats instead of the distribution of 106 seats to Western Libya, 60 seats to Eastern Libya and 34 to Fezzan.³¹ This distribution of seats was based upon the size of the population of each region and city.³² The Cyrenaica Libyans used arguments that underlined the political and cultural marginalisation of Cyrenaica under Qadhafi to oppose it.³³

The then NTC did not give in to the request for equal distribution of the seats, but it made a compromise by stating that all three regions would be equally represented in the future 60-member Constituent Assembly charged with drafting the future constitution.

Nevertheless, on 1 July 2012 armed men ransacked election offices in several eastern cities, including Benghazi. They called on the eastern potential voters to boycott elections, because in their opinion the NTC neglected both the economical and political importance of Cyrenaica.³⁴

At the time of writing, the preliminary result of the elections demonstrates that there was no support for federalist claims. Instead, the National Forces Alliance – a

³⁰ In the wake of the national elections, Benghazi supporters of federalism have formed a political party entitled Libyan Unionist Party whose aim is the foundation of a federalist Libya based upon the country's three regions. The new party will campaign against political, financial and administrative centralisation. It will also fight for the principle of equal opportunity between the Libyan people as well as an end to tribal, linguistic and ethnic discrimination.

³¹ Salem, Paul and Kadlec, Amanda (2012): *Libya's Troubled Transition*. The Carnegie Papers, June 2012. p. 13.

³² Tripoli has about 1.6 million inhabitants, Benghazi about 650,000. Tripolitania is home to roughly two-thirds of the Libyan population. The bulk of Libya's population and registered voters are concentrated in Tripoli and in Benghazi.

³³ Cyrenaica and Fezzan thus successfully persuaded the UN Commissioner overseeing Libya's transition to independence that the three regions should be equally represented. However, in the new Constituent Assembly a two-thirds majority of its members plus one member must pass all decisions, effectively preventing any two regions from overruling the third.

³⁴ http://www.pbs.org/newshour/updates/world/july-dec12/libya_07-06.html

coalition of about 60 parties headed by Mahmoud Jibril, the former wartime Prime Minister of the National Transitional Council (NTC) prevailed across the electoral scene. The NFA even took the lead with 70% of the ballot.

Jibril is known for his absolute opposition to a federal Libya. Nevertheless, the majority of Cyrenaica voted for his coalition. There might be at least three reasons:

1. The coalition had nominated candidates who were well known at local level
2. Localism is the most important issue not federalism.
3. Opposition to centralisation is an issue because of Qadhafi's informal centralised power centre in Tripoli. Decentralisation is therefore an issue rather than federalism.

A recent report noted that “despite aversion for federalism, Libyans are equally wary of a strong central government ... Libyans complain against officials who are tainted by their association with the Qadhafi regime and that they monopolise authority rather than devolving it to localities, midlevel officials and citizenry”.³⁵ Other researchers who have recently been doing field research also share this estimation.³⁶

There is no doubt that the content and definition of decentralisation will be a very important issue when the new General National Congress has to debate the future constitution.³⁷ Furthermore, the Berber identity will be on the political agenda. Berbers represent roughly around 5% of the population and they require recognition of their cultural specificity after years of brutal Qadhafi repression. Furthermore, the Tebu – a non-Arab oasis farming tribe living along the border of southern Libya and northern Chad – frequently clash violently with Arab tribes and threaten a separatist bid, decrying that an ‘ethnic cleansing’ against Tebu is

³⁵ Pack, Jason and Barfi, Barak (2012): *In War's Wake. The Struggle for Post-Qadhafi Libya*. The Washington Institute for Near East Policy. Policy Focus #118. February 2012. p. 11.

³⁶ For example, Salem, Paul and Kadlec, Amanda (2012): *Libya's Troubled Transition*. The Carnegie Papers, June 2012; Hüskén, Thomas (2012): “*Tribal Political Culture and the Revolution in the Cyrenaica of Libya*”. Paper presented at “Libya from Revolution to a State Building: Challenges of the Transitional Period”. Conference in Doha. 7–8 January 2012. The Libyan Centre for Studies and Research. p. 6.

³⁷ The last law approved by the NTC was a law on decentralisation. It puts a structure of local governance in place, as there was no working law of local governance in Libya earlier. It divides the cities into smaller localities, districts and municipalities that will have their own representatives working within their jurisdiction. The central government will provide them with funds to invest and develop their own areas according to the requirements of the residents. The councils have the power to take independent decisions on security, administration, local economy and urban development etc. The councils will be elected for four years and will have complete authority over the city.

developing. Tuaregs who are a nomadic and pastoralist people in the south are despised and threatened by the revolutionary brigades who accuse them of having supported Qadhafi, who hosted Tuaregs from Mali and Niger and absorbed large numbers of Tuaregs into his armed forces.

Even if Libya is a very homogenous society with regard to ethnicity and religion (see below), Qadhafi's repression of Tebu and Berbers is going to have consequences for how to deal with the claim for autonomy and cultural diversity. The role of the Tuaregs with regard to decentralisation is a question of transnational links to Tuareg revolts in Mali, Niger and Chad. Do their transnational links prevail over belonging to the Libyan territory? This is rather probable, both because of general Libyan suspicion of the Tuaregs and the Tuaregs' backing up of other Tuaregs' revolts against their fragile regimes.

The first article of the Constitutional Declaration of August 2011 guarantees "cultural rights for all components of the Libyan society" and deems all languages national ones. The state building political actors have declared that they support inclusion of all parts of the population. However, the Qadhafi legacy of racial discrimination in the name of a unified Arab nation targeted black African ethnic groups, Berbers and Tuaregs. Therefore, it remains to be seen whether the above-mentioned article will figure in the future constitution and, if so, how the Tuaregs, Tebus and Berbers are to be protected from racial discrimination at the local level.

Islam is an identity marker

Libya has a homogenous Muslim society. Roughly 97% of the population is Sunni Muslim. Islam has been and is still a strong Libyan identity marker. That is not to say that tensions between different variations of interpretation of Islam will not emerge in the new Libya. There have already been ideological and violent clashes between Salafists and the Libyan Muslim Brotherhood – as in Tunisia and Egypt.

On 18 June 2012, a group of armed gunmen stormed the Tunisian consulate in Benghazi to protest against an art exhibition in Tunisia which they said insulted Islam. There have been a series of attacks on embassies and international buildings and convoys in 2012 and gunmen have broken into a mosque in Tripoli where a Sufi imam is buried and Sufi schools have been destroyed. All these violent actions point to salafist activity. They protest against what they call pagan rites – i.e. veneration of shrines of saints – and an international presence in Libya. Like in Tunisia and Egypt,

salafism is developing in Libya but it remains unknown to what extent salafism is attractive to the Libyan population.

The constitution of King Idriss' monarchy stipulated that Islam was the religion of the state and both civil and sharia courts functioned throughout this period. King Idriss hosted members of the Egyptian brotherhood who fled a crackdown in Cairo in the 1950s. They took refuge especially in Benghazi.

Qadhafi replaced the king's constitution with a constitutional proclamation which also declared Islam to be the religion of the state and sharia to be the source of all legislation. He 'Islamicised' his pan-Arab socialist revolution by, for example, banning alcohol and prostitution. In the mid-1970s, having consolidated his power, Qadhafi decided to limit the role of the ulema who criticised Qadhafi's socialist ideology. He confiscated the religious properties (waqf), thereby alienating the ulema definitively from the regime.

Qadhafi brutally suppressed the Muslim Brotherhood during the 1980s and 1990s. The repression produced a violent Islamist group entitled The Libyan Islamic Fighting Group (LIFG) which operated in Cyrenaica. Many of these fighters had been in Afghanistan and Iraq. They were totally crushed in 1998. However, a dialogue with the regime began in 2005 and the LIFG promised to stop any armed insurgency and advocated furthermore for tolerance of other ideologies. The LIFG took part in the revolution and even became important players in the liberation of Tripoli. They have formed a party named the Libyan Islamic Movement for Change.³⁸

Qadhafi lost legitimacy in the realm of Islam. Instead, religion became the ideology of the opposition.³⁹ However, with the exception of LIFG, Islam was used as a *national* non-violent identity marker by the Islamist actors against the Qadhafi who, in their eyes, had distorted Islam.

First national elections

Islam is an integral part of Libyan identity. It is therefore not surprising that all parties in the newly elected General National Congress have declared that Islam is the

³⁸ For a substantive interpretation of the new Libyan Islamist parties, see Ashour, Omar (2012): *Libyan Islamists Unpacked: Rise, Transformation, and Future*. May 2012. Brookings Doha center.

³⁹ Burgat, Francois, Laronde, André (1996): *La Libye*. Paris : PUF, Que sais-je ?

religion of the state and the principal source of legislation is Islamic jurisprudence (sharia).⁴⁰

The underlining of Islam as important to governmental values, the existence of the Muslim Brotherhood and the election of Islamist supported governments in Tunisia and Egypt, made commentators believe that the Libyan Justice and Construction party (JCP), which is the political arm of Libya's branch of the Muslim Brotherhood, would win the elections. But the party turned out to be in the second position far behind Jibril's so-called centralist coalition NFA. Even in Benghazi, which is represented as a Muslim Brotherhood stronghold, the NFA took the lead with 70% of the ballot. In the city of Derna in Cyrenaica, long seen as an Islamist fighters' stronghold, the NFA was surprisingly the winner.

Out of 80 seats reserved for the parties the Islamists only got 17. At the time of writing we do not know how many seats they got out of the 120 seats reserved for individual candidates.⁴¹

There are many reasons for the JCP not being the most important party:

Its leaders and its candidates are not well known. Having being thoroughly crushed by Qadhafi, they did not benefit from the vast charitable networks that served their Egyptian counterparts so well at the ballot. The JCP is perceived as having strong ties with Egypt's Muslim Brotherhood which clashes with a strong local sense of national sovereignty.⁴²

The electoral law of February 2012 stipulated that elections must not be funded by foreign capital. Using foreign media channels for propaganda purposes was also prohibited. Distrustfulness of foreign influence on the elections was evident, especially of Qatar – funding was not welcomed because Qatar has been involved in funding Islamist armed groups and the Libyan Muslim Brotherhood. Foreign

⁴⁰ In April 2012 the NTC passed a law banning political parties formed on the basis of religious, ethnic or tribal affiliations. Because of widespread Islamist protests, the ban was lifted in May.

⁴¹ Much of the debate over the electoral law concerned whether to utilise a party-based system or an individual-based system of elections. The result was a hybrid system in order to take into account criticism of a party system which to some was seen as giving too much power to groups such as the Muslim Brotherhood. Those who were sympathetic to a party system feared that an individual electoral system would exacerbate regional divisions by empowering local elites rather than nationally-oriented candidates.

⁴² *Libya's Jibril extends vote lead with Benghazi rout*. Reuters. http://www.swissinfo.ch/eng/news/international/Libyas_Jibril_eztends_vote_lead_wit... 13-07-2012

cultural intervention is disliked because Libyans consider their revolution to be a *national* revolution. It does not have to be influenced by imported religion. Furthermore there is a secular layer which is deeply distrustful of the influence of the conservative Gulf states.

Many Libyans voted along tribal and familial lines and for publicly known personalities rather than according to ideological alliances. Moreover, the Libyan Islamists were divided into several parties that were headed by more or less unknown persons. In contrast to this, Jibril's broad coalition benefited from including well-known personalities and parties that span the country's tribes and cities. Furthermore, Jibril has declared together with other non-Islamist party leaders that Islamic law (sharia) should remain an important source of legislation in the new Libya. So why vote for an Islamist party when the coalition represents Islamist ideas? Lastly, very often Islamists are represented as being linked to violent Islamist actions with which a large part of the population takes sharp issue.

Because of the civil war and the contested legitimacy of the self-appointed NTC, not everybody was allowed to stand for elections. The High National Election Commission (HNEC) ruled that members of the NTC, former members of the executive office (the government of the NTC) or chairpersons of local councils were not eligible to be candidates. Moreover, an independent commission determined the eligibility of candidates based on past involvement with Qadhafi's government. The commission, known as the National Integrity Commission was tasked with determining the suitability of those who held offices of national importance, such as congress members, ambassadors, ministers, and their deputies. Some former members of the regime – such as ministers, ambassadors, security and military officers and popular leaders were eligible if their allegiance to the revolution could be established. Other members – such as revolutionary guard officers, revolutionary committee members, those who glorify the ideology of the former regime and the Green Book, former regime business partners, and those implicated in torture in prisons were forbidden from holding office.

The criteria for disqualification of candidates have been criticised for being vague. The process for establishing whether a person pledged allegiance to the revolution was unclear and the extent to which one must have joined the revolution was not established. However, the HNEC tried to cut the Gordian knot by excluding the 'worst cases' and including persons who were needed in the future construction of Libyan administration and politics.

Elections were conducted in a fairly transparent way. The UN, EU and NATO were satisfied with the outcome. But elections are 'only' a question of procedure. The real question is about the process of representation of different actors at the local, regional or national levels. It remains to be seen how the drafting of the new constitution will take into account these different actors.

Oil and corruption

Libya has a population of only about six million. Libya is abundantly rich because of its huge oil and gas production that can support a high level welfare system provided oil and gas revenues are distributed in a fair way and there is an open political discussion about Libyan economic priorities.

Since the discovery of oil at the end of 1950s, the purpose of the distribution of oil money has been to pacify social and political contest. Furthermore, the oil production has been a means to enrich political leaders and the extended family and tribes linked to Qadhafi. Like other oil rich countries such as, for example, Saudi Arabia, the mechanism of what is called a 'rentier economy' is premised on the inflow of massive amounts of external rent.

Libya is the eight largest oil producer in the world and its oil is attractive due to its low cost of oil recovery and high oil quality. Libya holds the largest proven oil reserves in Africa and among the ten largest globally. Close to 80% of Libya's proven oil reserves are located in the eastern Sirte basin which also accounts for most of Libya's oil output. Prior to the civil war Libyan oil production was about 1.65 million barrels per day. Defying all expectations, Libya's oil industry is beginning to boom again after the civil war. About 1.4 million barrels are produced per day.⁴³

Because of Qadhafi's opaque decision-making process it is very difficult to identify who has profited from the oil and gas sector. However, there is no doubt that Libya's oil industry has been subject to kleptocratic raids by the Qadhafi family and allied clans as well as subject to ad hoc haggling from the state-owned National Oil Company. From autumn 2011 up until the election, the then NTC held its own corruption probes into Qadhafi-era oil contracts. It has declared that an independent committee be set up in order to examine the old contracts with foreign companies such as the Italian ENI which has been the largest single foreign oil producer since 1959.

⁴³ US Energy Information Administration (EIA). <http://205.254.135.7/countries/cab.cfm?fips=LY>. 16-07-2012

The rebuilding of Libya after the civil war is going to be paid by oil money. If the new General National Congress (GNC) requests transparency with regard to contracts and maybe also requests amendments – or even wholesale renegotiations of the oil contracts between Libya and NOC, foreign companies will hesitate to invest in Libya. Libya needs foreign producers for example for equipment and explorations. Thus the GNC finds itself in a catch–22 situation. It needs foreign companies which, up till now, have operated in total obscurity. At the same time the GNC has to meet the demands of the population with regard to transparency and equal distribution of oil money. Cyrenaica in particular, where a substantial part of the oil is extracted and produced, is demanding transparency with regard to the earnings.

The pipelines keep Libya together. They crisscross all regions. All regions are dependent on each other as for a functioning oil system. This fact makes the case against federalism, because malign competition between the regional federal entities would liberate both political and economic tensions around the distribution of oil earnings. A centralised oil centre in Tripoli based on transparency and accountability might be the best solution for all regions.

What to do in the future Libya?

Denmark has rather good standing in Libya because of its participation in the NATO-led intervention. However, Denmark has to be cautious about imposing its own perception of what democracy and democratisation are about. In general, foreign intervention in Libyan power struggles is a dangerous path, even if external powers have certain technocratic and governance skills that Libya needs. Libyans consider the revolution as *their own* revolution in spite of the decisive NATO-led intervention. There are therefore limits to foreign intervention both with regard to improvement of the security situation and to democratisation at the local level.

At the time of writing we do not know how the new General National Congress (GNC) will react to foreign support and how it is going to define the political and economic relationship between Tripolitania, Cyrenaica and Fezzan. Furthermore, the political status of the big cities' local councils is not yet clarified. The most important problem is, of course, the existence of the many armed non-state groups, most of which are not willing to give in their arms because of the lack of a central monopoly over the use of violence. They therefore provide for the security of local places.

It is far from evident that GNC will allow foreign involvement in disarmament and demobilisation, because GNC has no security authority in many cities and towns. If foreign actors propose their help in disarmament it has to happen at the local level in direct contact with the leading armed non-state groups. However foreign actors will not be able to compensate the loss of status and weapons. Hence, the only way of dealing with security problems is to support GNC's attempt at incorporating young fighters in the creation of an army and police.

The Libyan population has high expectations of the future. They want functioning educational, health and social welfare systems that take into consideration the different local needs. It is therefore of utmost importance that the oil industry, which finances the welfare system, will be subject to transparent decision making and accountability to GNC, and that oil money will be distributed to the three regions relative to their needs. If the old system of patronage and corruption continues to ravage oil production, the fulfilment of the expectations will not be met which will result in disappointment and possible violent struggles between 'haves' and 'have nots'.

Until now Denmark has, via the Arab Initiative, especially concentrated upon media training of Libyan journalists/NGOs and Danish NGOs, and promotion of human rights. Danish and Libyan NGOs have together decided to establish a Libyan Centre for Democracy and Rule of Law. Its structure is democratic and participative and the leadership is a rotating post and activities are carried out by the Libyan and Danish NGOs. The Danish RCT (Research Centre for Torture Victims) has the intention of establishing a Libyan Centre for Development and Human Rights together with Libyan lawyers.

All these initiatives are promising and stick to the principles of inclusion, responsiveness and participation of different layers of the Libyan population.

Recommendations

On the basis of the analysis set out above, the following recommendations are made:

- Understand the consequences of providing support in the current political climate and security situation. The multi-faceted problems – security, fair distribution of wealth, devolution of power to regions and city councils – make prioritising of tasks and support difficult.

- A multi-level strategy is needed that addresses regional, national and local level actors. As for assessment of the need for social welfare and democratisation of local power, Denmark and other foreign actors should focus on other cities than Benghazi and Tripoli.
- Seeking out local organisations demands an in-depth knowledge of the ground. Libya has no experience of building parties, trade unions and NGOs. A multitude of parties and NGOs have been created during the civil war without having any experience of democratic organisation. It is therefore difficult to judge whether or not they are only instruments for private enrichment and political promotion. Hence, Danish NGOs have to spend a long time in Libya in order to establish that their partners are working for the common best. The Danish Institute for Parties and Democracy works in Egypt in order to promote democracy and contribute to the elaboration of parties' programmes. The focus of this work is on how to incorporate everyday life problems in the programmes. It might be a good idea to involve this Institute into Libyan local democracy building.
- To work together with the UN support Mission (UNSMIL) and other international stakeholders, including Arab countries, the EU and the US in order to undertake assessments of security with regard to police training and security force professionalisation. This is only possible if the GNC and the local military councils allow it. All decisions relating to disarmament, demobilisation and reintegration (DDR) should be taken in close consultation with local, armed, non-state groups and local councils.
- Any strategy of engagement should be taken together with the EU and the other EU member states in order to eliminate any duplication of focus areas and in order to avoid fragmentation of the various ways of understanding the situation in Libya.
- Economic democratisation of the oil industry should be a matter for the EU and the local councils which enable communities to voice their knowledge about corruption and patronage.

Bottom-up Pakistan: bringing context and local culture into aid thinking

Mona Kanwal Sheikh

Introduction: Pakistan on the fragility barometer⁴⁴

Pakistan's political history as a federal democratic republic is relatively recent. Although the country emerged as an independent state following the partition of British India in 1947, the first democratic general elections were not held until December 1970. Today Pakistan has developed a formal institutional makeup designed to ensure the balance of powers: a multiparty system that includes a wide spectrum of political opinion ranging from secular nationalism to religious conservatism and reserved seats for women and for (some) religious minorities in its national and provincial assemblies. But, more importantly, Pakistan is also a nuclear power with a visibly dominant army. In fact, Pakistan has been under military rule for more than half of its history as an independent state. Since Partition the strong army has played a pivotal role in defending Pakistan against its arch-rival India to the east, but has also helped secure Pakistan's western border, where the presence of the 'cross-border' ethnic *Pashtun* and the *Baluch* communities have posed an ongoing challenge for the legitimacy of Pakistan's boundaries.

However, despite its constitutional setup, burgeoning democratic discourse and the presence of a strong army, Pakistan still figures as a prototype example of a fragile state in a number of surveys and benchmark analyses. A recent 'failed state index' collaboratively published by the Fund for Peace and the journal *Foreign Policy* rates Pakistan among the five worst performers in the world, when it comes to the state's ability to respond to group grievances and tensions in civil society (Fund for Peace 2012). The index also points out that the formal security apparatus lacks a "monopoly on the use of legitimate force". This is reflected in the high number of internal conflicts and insurgencies which, as in the case of the Pakistani Taliban, have extended their remit to take on a policing role in some of Pakistan's frontier regions.⁴⁵ These challenges to the legitimacy of state institutions are linked to a weakness in the area of civil service, where there is widespread inefficiency and corruption. A final element in this picture

⁴⁴ I want to thank Farzana Shaikh, Associate Fellow at Chatham House for her helpful comments on an earlier draft of this analysis.

⁴⁵ For example Baitullah Mehsud (accused of being behind the assassination of former Prime Minister Benazir Bhutto in December 2007) began his 'talibanisation' project in South Waziristan in 2005 by establishing the 'Taliban Commandos' to enforce the Taliban version of public morality and order.

of Pakistan in 2012 is, as the index illustrates, a high level of foreign dependence. This implies among other things, that when it comes to dependence on foreign assistance (since 1948 the United States alone has pledged more than \$30 billion in direct aid, about half for military assistance)⁴⁶ or the countries' credit rating, the picture looks particularly depressing from Pakistan's point of view.

The present analysis summarises major factors that explain the causes of Pakistan's fragility and particularly the reasons for the disconnect between national and local levels when it comes to security, welfare and representation. Hence the analysis will first address the *institutional* reasons behind the disconnect between national and local levels of governance and society by describing Pakistan's ongoing struggle to develop healthy political institutions, uphold the rule of law and ensure the separation of powers. It will then address the *structural* deficiencies, characteristics and circumstances that have moulded Pakistan from its inception and that have been fundamental to its development: the colonial legacy, fragile borders, the regional milieu, and Pakistan's geography. To a large extent these structural conditions determine the potential to build a strong Pakistani state with a stable civilian government as its centre of gravity, but also to strengthen local democracy.

A third, and equally important set of considerations behind this disconnect between national and local levels of governance in Pakistan, are *cultural*. This implies that competing sources of authority are seen as legitimate in the 'societal space' – here the religious, ethnic and demographic composition has a large role to play. Cultural, in the sense applied here, covers aspects of political culture that characterise the formal and informal structures of political organisation besides customs. It is, for example, important to consider the significance of informal power holders in the Pakistani context that have a greater impact on the lives of people than the formal political institutions and politicians.

The final section of this report will draw out the policy implications for external donor communities aiming to empower the local levels of Pakistani society.

A recent report *More Money, More Problems* (Birdsall, Vaishnav and Cutherell 2012) evaluating US aid to Pakistan has been criticised because of its lack of contextual analysis. As the reviewer argues, the report "more or less repeats verbatim what could

⁴⁶ Two-thirds of this total was appropriated in the post-9/11 era from FY2002 to FY2011. See Epstein and Kronstadt 2012.

be said about US aid to almost any developing country. There is no context” (Kaplan 2012). This is an important point, since understanding politics and context, especially in fragile situations, is paramount for the effectiveness of aid efforts. Added to this, a top-down approach to development interventions (e.g. supporting federal and provincial levels of government, tax policy, trade policy etc.) makes sense for a large player like the US, whereas small states like Denmark can contribute to the picture by taking a bottom-up approach to democratisation, and focusing on particular areas. Hence, the overall aim of the present analysis is to provide the context in which local level democratisation of Pakistan can be considered and to take account of the importance of the local political culture in thinking about aid.

It is initially worth noting that due to developments connected to the War on Terror since 2001, Pakistan has become more vulnerable to moving towards the status of ‘fragile state’. Numerous militant factions, namely those affiliated to the Pakistani Taliban, proliferated in Pakistan after the invasion of Afghanistan by US-led forces. They succeeded in challenging not only the writ of the state but also in inflaming sectarian violence across the country. At the same time, Pakistan has witnessed an exponential rise in the number of suicide attacks in the country’s heartlands – a phenomenon that largely did not exist on Pakistani soil prior to these events. In the overall context of this analysis this means not only that understanding the fragility of Pakistan demands consideration of the effects of external events, but also that ‘fixing’ the problems of Pakistan might demand a considerable element of ‘fixing’ the policies and interventions we carry out in and around Pakistan. Moreover, although this point appears paraphrased in the section on policy implications, it is nevertheless initially worth noting that the success of local democratisation initiatives can in turn have a global dimension that might carry weight. The success of local democratisation initiatives under the aegis of foreign donors cannot be separated from those parts of the donor countries’ foreign policies that are contested among the local population in Pakistan.

Institutional factors

This part illuminates the formal set-up and political organisation of the Pakistani system and the weaknesses that can be registered in the political and democratic practices. As already indicated, Pakistan is a constitutional democracy (based on the British model) that in principle ensures the rule of law and the separation of executive, legislative and judicial powers. Nevertheless, the country still faces great difficulties when it comes to upholding the rule of law, the separation of powers and inclusive democratic politics.

The political-administrative set-up

Pakistan has a parliamentary system with the president as a ceremonial head of the state. While the president is elected by an electoral college, which consists of both houses of parliament (the Senate and the National Assembly) together with the provincial assemblies, it is the National Assembly that elects the prime minister. Each province has a similar system of government, with a directly elected Provincial Assembly in which the leader of the largest party or alliance becomes chief minister. Beside the federal capital territory (Islamabad), the administrative units of Pakistan consist of four provinces (Punjab, Sindh, Khyber–Pakhtunkwa and Baluchistan), two autonomous territories (Azad Kashmir and Gilgit–Baltistan) and a group of Federally Administered Tribal Areas (FATA). Local government follows a three-tier system of more than one hundred districts (*zillas*), more than four hundred sub-districts (*tehsils*, municipal administrations), and several thousand union councils (*sherwan*), also known as the village councils. In some places there is a fourth tier between the district level and the provincial level, namely the ‘divisions’ (these were abolished in 2000 by General Musharraf’s military regime, but revived in some places after a newly elected government took office in 2008). Hence there are 5–6 tiers of government with the lowest levels having the least resources.

The constitution distributes legislative power between Islamabad and the provinces, though the provincial governments remain dependent on federal grants. This is in spite of the 18th amendment of the Constitution of Pakistan (passed in April 2010) that transferred further administrative and legislative responsibilities to the provinces of Pakistan. In 2009 the changes introduced under the 7th National Finance Commission Award (NFC), which distributes financial resources among the provinces of Pakistan, were a step towards the process of fiscal decentralisation in the country. It meant that the Federal Government agreed to transfer substantially more resources to the provinces.⁴⁷ Another recent attempt to decentralise was made under the Musharraf regime through the Local Government Ordinance, which aimed to increase decentralisation by transferring power, funds and service delivery to the district level. However recent reports suggest that the results of this remain yet to be seen, and that the local government dynamics reflect the same problems that are visible on the national and provincial levels: non-merit-based recruitment of staff, corruption, nepotism and a budget that is still not sufficient to provide the services transferred to them (Mezzera and Aftab 2009: 26). Hence decentralisation depends not only on a formal transfer of power and resources but needs also to factor in a political culture that actively encourages

⁴⁷ For a backgrounder see the PILDAT report: <http://www.pildat.org/Publications/publication/PAP/Impactofthe18thConstitutionalAmendmentonFederalProvincesRelations-BriefingPaper.pdf>

the empowerment of the weak. It is also important to note that most decentralisation attempts have taken place under military regimes and have as such been part of the ongoing power game between the civil government and the military establishment (see below). Hence, these initiatives have not been locally anchored or owned, but are seen as a temporary in nature due to the short-lived and frequently changing political regimes in Pakistan (the present PPP-led government will, in 2013, be the only elected government in Pakistan's history to have completed a full electoral term).

Obviously the two autonomous areas (Azad Kashmir and Gilgit–Baltistan) and FATA represent a political organisation where the central state has weak or very limited control and influence. The central government exercises de facto jurisdiction over the western parts of the disputed Kashmir region, organised as two separate political entities, namely Azad Jammu and Kashmir and Gilgit–Baltistan. A Gilgit–Baltistan Empowerment and Self-Governance Order of 2009 assigned a high degree of autonomy to the latter. Gilgit–Baltistan thus gained de facto province-like status without constitutionally being recognised as such. Azad Kashmir also has its own elected president, prime minister, legislature, high court and official flag while under the de facto control of Pakistan's central government.

The special case of FATA

FATA, the north-western tribal area bordering Afghanistan, is comprised of seven tribal agencies (Khyber, Kurram, Orakzai, Mohmand, Bajaur, North Waziristan and South Waziristan) and six smaller frontier regions. It has retained a very specific nature of governance. According to the Pakistani constitution, no laws passed in the parliament apply to the tribal areas, and only the president of the country has the power to issue ordinances or amend laws for the areas (though the tribal areas do have representatives in the National Assembly). The Frontier Crimes Regulation (FCR), which dates from the colonial era, is the main set of laws applicable to the Tribal Areas. Its strongly punitive nature suggests that controlling crime rather than extending service delivery has been the main priority, which also accounts for the central government's generally low levels of regulation in these areas. In each agency the FCR is administered by a Political Agent who is a civil bureaucrat from the provincial government of Khyber Pakhtunkwa (KP). Mainstream Pakistani courts cannot challenge judgments made by the FCR.

A recent report issued by Pakistan-based *Benazir Democracy Foundation*, following a workshop with tribal leaders from FATA, points to a local demand for constitutional changes. It suggests dissolving the FCR and implementing the jurisdiction of the high

courts while retaining some local customs of mediation such as the *Jirga* – councils of tribal elders that function as brokers and authorities in conflicts between tribes.⁴⁸ At the same time, tribal leaders have called for an overhaul of the political administration system currently centred on the Political Agents, to be replaced by representative government accountable to the people, thereby extending the Political Parties Act to FATA. Among the recommendations from the workshop was that reforms should be made by taking into consideration the local traditions and values (*riwaj*):

“the traditional institution of the *Jirga* should be revived, respected, and further strengthened through codification and legal protection. Elected Agency Councils should nominate members of a *Jirga* court and should maintain such lists of eligible members among whom the disputant parties would choose. The disputant parties should have the right to either choose among *Riwaj*, *Shariah*, or civil laws as the basis for settlement of their disputes” (BDI report 2009).

The suggested multiple-choice solution is very interesting (though full of challenges), and serves to illuminate the presence of strong competing sources of legitimacy in Pakistani society, especially evident in the case of FATA.

Pakistan’s alliance with the US in the War on Terror led to the 2003 Pakistani army raids against Al-Qaeda related activists in FATA. According to observers the number of casualties among tribal leaders led to the collapse of the informal political systems of the tribal areas, which in turn hastened the spread of Taliban influence (Rana and Gunaratna 2007: 120–121). This process of ‘talibanisation’ resulted in the enforcement of a harsh system of justice, where those who were regarded as criminals according to Taliban readings of divine law, were executed publicly. In some places it implied the enforcement of a parallel administrative system. The success of the Taliban campaigns, judging from the increased ‘talibanisation’ of Pakistani border areas, is linked to the absence of civil service, and particularly the lack of justice infrastructure. By providing an un-bureaucratic punishment system of speedy justice and swift dispute resolution (and in some places by functioning as a surrogate government offering judicial, financial, and social services), the Taliban have had relative success winning local support in large parts of the tribal areas and the KP.⁴⁹

⁴⁸ See BDI report 2009.

⁴⁹ Community-based analysis shows that one of the largest grievances among the local population in FATA is the lack of viable justice-infrastructure. At the same time financial incentives i.e. funds offered to the families of martyrs also have some explanatory power when it comes to the legitimacy of militant movements in a climate characterised by poor socioeconomic conditions. See CAMP report 2012.

The imbalance of powers

The strongest power holder in Pakistan is the military apparatus – not least due to its access to state resources. Approximately 20% of the annual federal budget goes to the military compared to just 0.3% allocated for social protection. Military led governments, following military coups, have presided over the country from 1958–1971, 1977–1988 and 1999–2008, which together represent a period amounting to almost half of Pakistan’s political history. There have been widespread tendencies both among military leaders and civil governments to pack the civil service and judiciary with their supporters and to dismiss those who are critical of their policies. In terms of legitimacy, the Pakistani population is not univocally supportive of the civil governments in this ongoing strife, since the image of the civil governments is tied in to the countless corruption scandals.

Rivalry over power has also been characteristic of the relationship between the judiciary and the civil government. Recent events in 2012 provide a good picture: the Chief Justice of the Supreme Court demanded the then Prime Minister (2008–2012), Yusuf Raza Gilani, to initiate a process aimed at reopening an old corruption case against current President, Asif Ali Zardari. Rejecting court orders, Gilani was first convicted for contempt of court, and subsequently – a few months later in June 2012 – disqualified from holding public office by the Supreme Court. The case has triggered controversies over the interpretation of the constitution (especially regarding provisions relating to presidential immunity, and the court’s power to dismiss the prime minister).

The judiciary has historically not acted independently, but functioned as an extension of the interests of either the political or the military regime. In many circumstances the judiciary has accommodated constitutional changes or unconstitutional manoeuvres (arguably to ensure their own survival). On three occasions – since the first military coup by Ayub Khan in 1958 – when military coups ousted democratically elected governments in the country, “the judiciary not only failed to check extra-constitutional regime change, but also endorsed and abetted the consolidation of illegally gained power” (Bajoria 2008). There are signs that this has been changing from 2007, where the Supreme Court was among the loudest critics of the former military-dictator-turned-president, Pervez Musharraf.

As indicated in the section on FATA, there are *parallel justice systems* in Pakistan that include *jirgas* and sharia courts that were established after 1980 by

the military regime of Zia ul Haq.⁵⁰ The ‘Hudood Ordinance’ issued in 1979, which these courts were empowered to administer, prescribed sharia-based punishment for theft, adultery and the use of liquor. Practically, these parallel systems of justice have posed many challenges owing especially to the contradictions between the interpretation of sharia and civil law (both enshrined in the constitution), not least in matters pertaining to family or personal law (Mezzera and Aftab 2009). Still, when it comes to the local population, the bureaucracy and corruption associated with the civil courts makes ‘justice through the system’ an upper-class phenomenon i.e. poorer segments of Pakistani society do not find it accessible.

Structural factors

Structural factors are those that have foundational impact on the political institutions and political culture on all levels. They are, as such, also harder to adjust or influence than the institutional or cultural dimensions of fragility. In the case of Pakistan, the country’s colonial legacy, its regional power imbalance and the constraints of its geography pose considerable challenges.

Colonial imprints

The colonial legacy of the British Raj between 1858 and 1947 is among the ‘foundational’ explanations of the democratic challenges in Pakistan, and particularly the challenges in terms of nationhood.⁵¹ The tribal areas were created as a buffer zone between India and Central Asia and kept their autonomy from the central colonial rule. The empowerment of the tribal chiefs (the *sardars*) has always been a challenge to the central authorities in Islamabad. Tribal-based social structures are not only persistent in the FATA but also in the settled areas of Baluchistan and the KP. The present uprising in Baluchistan is yet another example of the troubled legitimacy of Pakistan’s borders. *The Frontier Crimes Regulation*, mentioned above, is a concrete colonial legacy that is still governing parts of the justice infrastructure in the frontier districts – most notably it contains provisions that allow for collective punishment for crimes committed within a given tribe’s territory.

⁵⁰ Formally the court system of Pakistan is organised as an hierarchy, with the Supreme Court at the top, then the High Courts, Federal Sharia Courts (one in each province and one in the federal capital), District Courts (one in each district), Judicial Magistrate Courts (in every town and city), Executive Magistrate Courts and Civil Courts.

⁵¹ See Talbot 2009 and 2012 for this argument.

Another area where the colonial legacy still haunts is the *nature of the civil service*. As the section on FATA also illustrates, the notion of civil service is mainly structured on an “emphasis on law and order, rather than on the provision of services,” which also characterises the general status quo of Pakistan’s political system (Mezzera and Aftab 2009: 16).

The troubled border to the west as a third area – particularly *the Durand Line* demarcated in 1893 – reflects the heritage from the British colonial adventures and the ‘inbuilt’ fragility of Pakistan. The line was drawn regardless of the violation this represented of communities and tribes who were separated in spite of their kinship and linkages through common ethnicity, language and culture. Pakistan inherited the 1893 Durand Line Agreement after its partition from India but Afghanistan has always refused to ratify the agreement claiming that the territories lying on the Pakistani side of the Line were illegally seized by Britain and should be restored to Afghanistan. Living with this uncertainty, Pakistan has been dependent on friendly governments in Kabul, which explains Pakistan’s high stakes in the question of who will govern Afghanistan when the NATO forces pull out in 2014.

Regional rivalry and spillover

There have been great *repercussions of the War on Terror* for Pakistan. A sharp escalation in militant activity throughout the country is one of the most obvious destabilising effects, reflecting an extension of the war in Afghanistan, which happened the very moment the original Taliban and Al-Qaeda militants escaped into Pakistan in 2001. The US drone attacks carried out since 2004, and which have intensified under the Obama administration, are another illustration of how Pakistan’s tribal areas have become a de facto war zone. In the past decade the Pakistan army has carried out a couple of large-scale offensives against the Pakistani Taliban and Al-Qaeda (the 2003 and 2009 ones being the largest in scale). The ‘Swat raids’ of 2009 in particular led to a huge humanitarian crisis – with more than two million displaced Pakistanis.⁵²

Another destabilising factor in this context – a factor that has historical roots and relates to *Pakistan’s interest in Afghanistan* – are the military’s alliances with jihadi groups to meet the ‘existential’ threat posed to Pakistan’s borders.⁵³ Concretely this means empowering some groups over others (those who e.g. have the ability to reorient the attention of the Pakistani Taliban towards Afghanistan). This mullah–military

⁵² For the background see ICG Pakistan 2009.

⁵³ For Pakistan’s interests in Afghanistan see Siddique 2011.

alliance between the military–bureaucratic complex and the web of Islamist parties and militant groups was, historically, cultivated during the Cold War jihad against the Red Army.⁵⁴

Evident in the Afghan conflict (where India supports some ethnic groups and Pakistan others) is the most *troubling relationship between Pakistan and India*. Mistrust has characterised India–Pakistan relations since the partition of British India and the amount of resources allocated to the Pakistani military and the use of proxy warriors are some of the symptoms of the deep tensions between the two neighbours. Since Partition three wars have been fought between India and Pakistan over the disputed territories of Kashmir (that are today split between Indian, Pakistani and Chinese control). The controversy over territory is related to conflicts over water sharing (from the Indus River), that in turn reflects the shortage of water in these countries.

The high degree of *rivalry across the region*, especially between Pakistan and its four bordering countries (besides Afghanistan and India, also Iran and China) also explains the military's role in Pakistan. Pakistan's relations to Iran have historically been tense due to the different strategies in relation to Afghanistan and in handling Baluch secessionism (Bjerre 2011). Regional rivalry also explains the high degree of external interventions – for example the heavy Saudi (and Wahhabi) involvement in Pakistan and Afghanistan to counter the influence of Shiite Iran. At the same time rivalry between the superpowers of India and China also has spillover effects in Pakistan, and the steady involvement and interest of the US in the region has always meant that Pakistan (like Afghanistan) has been a centre stage for regional and global power plays, compounding the conflicts on the local levels (Sheikh, Shaik and Price 2012).

Geography and nature

Geographical *terrain* is a structural condition that poses a challenge in linking local needs to the central government. FATA, Baluchistan and the KP all have large mountainous terrains, while there are large desert areas in Punjab (the southern part), Sindh (the eastern part) and in Baluchistan. The demanding nature of this terrain has posed logistical challenges for the state, and service delivery (including communication, transport, administration and provision of security) has been very sparse (Anten et al. 2012). These challenges reinforce the skewed distribution of wealth and resources (thus also power).

⁵⁴ See White 2008.

Related to geography is the *scarcity of water* that remains a central source of conflict between India and Pakistan (over control of headwaters from the Indus River), the provincial governments (over water rights) and among farmers and landowners on the local level (over canal irrigation) (Mezzera and Aftab 2009).

A third factor is the occurrence of *natural disasters* that have led to increased fragility – not only because of the destruction of infrastructure but also because of their co-relation with increased radicalisation. The 2005 earthquake was massive and parts of Azad Jammu and Kashmir, KP and Punjab were severely affected by the tremors and aftershocks that continued for months. Reports indicate that more than 82,000 people were killed and more than 3.3 million people were left injured or homeless. Earlier, in 2002, a smaller-scale earthquake hit the northern part of Pakistan (the Gilgit region) and in 2008 another earthquake struck in the province of Baluchistan. Then in 2010, unparalleled as the worst natural disaster in Pakistan's history, devastating floods across the north-west of the country left 1,600 dead, 3 million homeless, and over 20 million people severely affected. The impact of the flood will be felt for years to come throughout the impoverished country of 180 million. The World Bank's evaluation was that crops worth \$1 billion were wiped out, raising the spectre of short- and long-term food shortages because damage was also inflicted on the system of irrigation canals in many areas.

When the disastrous earthquake struck northern Pakistan in 2005, Taliban forces quickly exploited the disaster, preaching that the earthquake was God's punishment for the people's misdeeds and un-Islamic behaviour. Taliban-affiliated groups also exploited relief efforts in order to advance their agenda among the affected and displaced communities. In this context it is important to note that many of the local relief organisations are offshoots of religio-political parties and Islamist movements critical of the US and the 'West' in general, and relief work and services provided by them increases the support for them among the affected people (this, conversely, is also true for those who receive aid from western charity organisations).

Cultural factors

Cultural factors cover the informal norms and customs that condition the context in which strengthening local governance need to be considered. Overall, competing norms and customs should not necessarily be seen as a problem for developing healthy political institutions but also as potential building blocks for strengthening locally-anchored forms of democracy and participation.

From the above sections, it is important to draw out that *competing sources of authority* are seen as legitimate in the societal space of Pakistan – here the diverse religious, tribal and ethnic composition and their affiliated sources of authority and legitimacy – have a large role to play. Custom (*riwaj*) is generally a strong source of legitimacy, especially in the rural Pakistan. That the tribes in FATA have a strong tradition of regulating their own affairs based on unwritten codes, and informal authority structures are a good example of this. The FCR has been in line with some strands of the tradition by prescribing collective responsibility for the actions of the individual. Tribal conflicts being decided by the *jirga* institution is yet another example of existing structures that need to be considered in efforts to enhance local level democratisation.

Parties, legitimacy and interests

Though Pakistan houses more than ninety registered political parties from across a broad ideological spectrum, parliamentary democracy remains an elite phenomenon that is heavily dominated by the rural and industrial elites (Bajoria 2008). *Nepotism, money and informal power* are widely used to influence election results.

The major parties are divided along provincial, ethnic or sectarian lines. It is remarkable that Jamaate Islami (JI) – carrying the legacy of one of the world’s chief Islamist ideologues, Abul Ala Mawdudi, is one of the few parties whose leadership is elected. Most parties display very little internal democracy; the ruling Pakistan Peoples Party (PPP) is led by the Bhutto family, and many parties are, similarly, extended family dynasties.⁵⁵ This also means that there is *no univocal relationship between secular/religious movements and openness towards democracy*. The Pakistan Tehrike Insaf (PTI) is a new influential player that has been able to mobilise segments of the Pakistani society – especially among the urban population that has grown increasingly disenchanted with politics, which is perceived as a corrupt business.

The major religious parties, namely the JI and the JUI run networks of religious seminaries (madrassas).⁵⁶ Though the religious seminaries are object of frequent criticism, especially when it comes to their curricula, these still perform a social task by providing free shelter, food and religious education for poorer segments of Pakistani society who couldn’t otherwise afford them. The fact that these political parties – in

⁵⁵ When Benazir Bhutto was assassinated – allegedly by the Pakistani Taliban – her husband (the present president Asif Zardari) took over the leadership of the party. The party had the choice to insert either Bhutto’s teenage son, Bilawal, or Bhutto’s husband.

⁵⁶ There are five types of organised religious seminaries in Pakistan: Among them are Wafaq ul Madaris al Arabia (affiliated to Jamaate Ulamae Islam), and Rabita ul Madaris al Islamia (affiliated to Jamaate Islami).

a more direct sense – are social welfare providers gives a very good picture of the driving dynamics of Pakistani politics. Those who elect politicians expect concrete services in return, rather than representation in a social system based on a vertical, *personalised and patron–client centric approach to politics and service delivery* (Mezzera and Aftab 2009: 7).

Political culture

When evaluating the political culture in Pakistan, it is paramount to take into consideration the proportionality of those who are active through the formal structures. First, there is a high degree of *mistrust with regard to the provisions of the federal and provincial governments*. The frequent corruption scandals have influenced the perceptions of ordinary Pakistanis and their trust in ‘the system’. Second, large segments of Pakistani society are *socially and politically excluded* due to their lack of education and poverty. The literacy rate is generally very low but varies regionally, particularly by gender. In the tribal areas female literacy is approximately 7.5%. Added to this, approx. 75% of the Pakistani population lives on less than 2 dollars per day (and only one per cent pay income tax) (Mezzera and Aftab 2009: 19). The ‘political game’ is largely led by the military, rural and industrial elites. Though female participation in politics is very visible on the federal level (Pakistan having had a female head of state, and presently a female foreign minister), local level participation by women is extremely modest. Third, there are *informal power holders*, e.g. heads of tribes and families, religious figures, landlords etc. that have a greater impact on the lives of people than the political institutions and politicians.

In Pakistan’s case the power of the landlords and the structure of Pakistan’s feudal system are significant. Twenty-five per cent of the Pakistani households own all land and there are very few social movements representing informal sector workers, agricultural labourers, tenants or the landless, making them dependant on the goodwill of the landlords. Thus the tendency to buy the goodwill of the feudal lords through votes is widespread. Additionally there are informal service providers, especially the religio-political movements, which with their combined infrastructure (acting both as political parties, school administrators and providing shelters and emergency aid) have a strong legitimacy, especially among the poorer segments of Pakistani society.⁵⁷

⁵⁷ It should be noted that the ‘holistic’ approach of these movements/parties in some cases and historical periods has led to the support for particular jihadi movements that are sometimes referred to as their ‘military wings’. See e.g. White 2008.

Societal entities

Politics in Pakistan takes a *less individualised* form than in Europe. Membership of kin, tribe and family (*baradri* and *zaat*) dominates the customs and political culture and many votes are determined by this relation, i.e. loyalty towards the heads of families/tribes rather than the ideology or opinions that the given person represents. This both explains the *patrimonial character of Pakistani politics*, but also points to the fact that – in the absence of a state structure that reaches the local level – ‘services and goods’ are received through kinship (Lieven 2012:13).

Ethnic affiliation and regional identity also underscore the political culture. One of the challenges of state building in Pakistan is closely linked to the challenges in terms of nation building in a demographic environment with (at least) four strong and competing ethnic identities related to the four provinces (Punjab, Sindh, Baluchistan and KP).⁵⁸ Both in Baluchistan and Sindh, separatist movements have challenged the cohesiveness of the Pakistani nation (while Pashto nationalism has been more successfully neutralised by the army). The traumatic secession of Bangladesh (formerly East Pakistan) in 1971 stands as a constant reminder of the potential challenges of governing cross border communities that might share a deeper sense of belonging with their fellow ethnic communities in Afghanistan, Iran or India than with the project of Pakistan.

Sectarian divisions also play a role in defining informal schism in society. Sectarian clashes, especially between Sunni and Shia groups, have escalated during the past decade (with external influences and money flows being a part of the explanation for this). The state building project in Pakistan has, from the very beginning, been caught in a controversy about the role of religion (the question of what the Islamic identity – being the main *raison d'être* for the project of Pakistan – implies for the state), which in turn also reflects deep controversies about the authentic interpretation of religion (Shaikh 2009).

Finally there is an age factor that arguably explains the status quo of the formal and informal political structures of Pakistan. Approximately 60% of Pakistan’s population is below the age of twenty-five. In this lies also the future potential for change. The younger generation can be expected to be more reform-willing when it comes to the political process, and the effects on the country’s economy of this large youth generation might potentially prove to be significant in the years to come.

⁵⁸ The Punjabis make up approx. 45% of the population, Pashtuns 15%, Sindhis 14% and the Balochis, 4%. The remaining 22% are the Seraikis (from south-eastern Pakistan) and the Muhajirs (mainly from Sindh and Punjab). See Brookings Pakistan Index at <http://www.brookings.edu/about/programs/foreign-policy/pakistan-index>.

Policy implications: bringing in context, culture and ‘the local’

Designing initiatives to strengthen local level democratisation in Pakistan demands an understanding of the political institutional practice and the structural factors, because they condition the disconnect between the central government and ‘people on the ground’. This brief survey has displayed that the case of Pakistan is full of structural and institutional challenges that limit the space for external donor activities. At the same time a ‘one size fits all’ approach to strengthening local level democratisation will not prove efficient in a context where demographic composition, internal and regional conflicts, informal power holders and strong customs impact the formal state setup. The key to understanding the political culture of countries like Pakistan – and the challenge for western donor countries to understand potential ways to facilitate change – is to locate the manifold societal fault lines and the impact they have on the formal and informal political structures: fault lines based on ethnic belongings, occupation (landowner or landless), tribe and family (*baradri*), and sectarian orientation. The following are the eight central implications of the present analysis for external donors, Denmark in particular:

- A bottom-up approach to democratisation is an important contribution to aid efforts in a Pakistan which is presently dominated by top-down efforts. As the case of Pakistan has displayed, issuing an ordinance to transfer resources and services to the local level is not sufficient. Strengthening the lowest tiers of political administration, i.e. the municipal administration and the village councils, also demands supporting anti-corruption and anti-nepotism campaigns and transferring technical/administrative expertise directly to these levels.
- Displaying a high degree of cultural sensitivity remains an important ingredient for initiatives designed to strengthen local governance and democratisation, and a bulwark against the widespread ‘local’ suspicion that international development interventions represent yet another chapter in the colonial history of the West.
- A higher degree of recognition of locally anchored legitimacy and political practice is not a neutral exercise but involves political dilemmas. Granting equal status to *sharia*, civil law and the *jirga* institution implies an ethical choice that amounts to sanctioning the collective forms of punishment that correspond to parts of tribal culture. Navigating between different cultural expressions of legitimacy demands a careful act of balancing between values and is, in the end, a political choice. In any case, such choices should be based on thorough knowledge of the local structures of legitimacy and local perceptions.
- Local ownership is the keyword for any development/democratisation project to have long-term effects in Pakistan. The colonial history of India/Pakistan together

with the Pakistani population's anger against the invasion of the neighbouring country – and in relation to Denmark, the repercussions of the Cartoon Crisis, all call for a high degree of cultural empathy and sensitivity in the process of designing projects. Involvement of diaspora communities with their 'natural born' cultural empathy and knowledge of unwritten rules and customs can be one way of pursuing small-scale projects and at the same time 'repairing' the image of Denmark in Pakistan. One such mechanism can be the establishment of a diaspora fund to mobilise resources and the technical skills of the Pakistani diaspora in development projects in Pakistan.⁵⁹

- Development initiatives cannot be clearly separated from security policy – at least at the level of public perceptions, even if this is less so when it comes to disaster relief. Policies pursued by western countries have a direct impact on the conditions for local democratisation. The intensification of American drone attacks in FATA has fuelled widespread anger, and is now actively used in the recruitment campaigns of militant movements across the country. Increased militancy, among other factors, means more resources allocated to the Pakistani army and the cultivation of a less bottom-up political culture. Hence, we see how security policies of Western countries can narrow down prospects for local level democratisation in Pakistan.
- Due to the complexity of FATA and the wars playing out in the area, initiatives to establish the writ of law and to establish a viable justice infrastructure must come from within. The changes needed there demand institutional and constitutional adjustments, and a gradual integration with the rest of Pakistan. The lack of 'accessible justice' haunts Pakistan on the ground level and the initial success of the Pakistani Taliban and related movements has also been explained by this deficiency in the Pakistani system. An independent and accessible judiciary for all – including those who do not have the resources – is a paramount institutional requirement that donor countries should push for.
- Two areas for donor activities appear to be central in promoting local level democratisation. First supporting the large youth generation to develop democratic engagement. This can be a way to impact the challengeable aspects of the prevalent political culture and institutional practices. Another – related – area that can have a positive impact on the project of increasing local level democratisation is education. The low level of education is presently keeping the Pakistani system

⁵⁹ Kleist and Vammen 2012 is a 'lessons-learned report' on the involvement of diaspora groups in development projects in fragile situations, and its survey can prove helpful for the design and organisation of a potential diaspora fund for Danes with Pakistani roots.

locked into the status quo of a situation where there is disconnect between the formal and informal, the centre and the local. If conducted with sensitivity toward the question of local ownership, supporting initiatives to increase the literacy rate and the quality of education on all levels is an area where external donors can still make a foundational difference.

References

- Anten, Louise, Ivan Briscoe and Marco Mezzera (2012) *The Political Economy of State-building in Situations of Fragility and Conflict: from Analysis to Strategy*. Conflict Research Unit, Netherlands Institute of International Relations 'Clingendael.'
- Bajoria, Jayshree (2008) *Pakistan's Institutions and Civil Society*. Council on Foreign Relations. <http://www.cfr.org/pakistan/pakistans-institutions-civil-society/p14731>
- BDI report (2009) *Mainstreaming FATA – Defining, Democratizing and Developing*. Benazir Democracy Institute. Shaheed Bhutto Foundation. <http://www.sbf.org.pk/pdf/Report%20FATA%20final.pdf>
- Bjerre, Janne (2011) *Strained Alliances – Iran's troubled Relations to Afghanistan and Pakistan*. Copenhagen: Danish Institute for International Studies.
- Birdsall, Nancy, Milan Vaishnav and Daniel Cutherell (2012) *More Money, More Problems – A 2012 Assessment of the US Approach to Development in Pakistan*. Staff update of the 2011 report *Beyond Bullets and Bombs: Fixing the US Approach to Development in Pakistan*. Center for Global Development. <http://www.cgdev.org/content/publications/detail/1426361/>
- CAMP report (2012) *Understanding FATA – Attitudes towards Governance, Religion and Society in Pakistan's Federally Administered tribal Areas*. Vol. 5. Community Appraisal and Motivation Programme (CAMP), Islamabad. <http://www.understandingfata.org/en/>
- Epstein, Susan B. and K. Alan Kronstadt (2012) *Pakistan: U.S. Foreign Assistance*. CRS Report for Congress. <http://www.fas.org/sgp/crs/row/R41856.pdf>
- Fund for Peace (2012) *Failed States Index. Foreign Policy and Fund for Peace*. Washington DC <http://www.fundforpeace.org/global/library/cfsir1210-failed-statesindex2012-06p.pdf>
- ICG Pakistan (2009) *Pakistan's IDP crisis*. Policy Brief. International Crisis Group. Islamabad. [http://www.crisisgroup.org/~media/Files/asia/southasia/pakistan/b93_pakistans_idp_crisis___challenges_and_opportunities.ashx](http://www.crisisgroup.org/~/media/Files/asia/southasia/pakistan/b93_pakistans_idp_crisis___challenges_and_opportunities.ashx)
- Kaplan, Seth (2012) *What's Wrong with CGD's Pakistan Initiative?* Global Dashboard. <http://www.globaldashboard.org/2012/01/16/whats-wrong-with-cgds-pakistan-initiative/>
- Kleist, Nauja and Ida Vammen (2012) *Diaspora Groups and Development in Fragile Situations – Lessons Learnt*. Copenhagen: Danish Institute for International Studies
- Mezzera, Marco and Safiya Aftab (2009) *Pakistan State-Society Analysis. Initiative*

- for Peacebuilding*. Clingendael Institute. http://www.clingendael.nl/publications/2009/20090300_cru_pakistan_mezzera.pdf
- Rana, Muhammad A. and Rohan Gunaratna (2007) *Al-Qaeda Fights Back: Inside Pakistani Tribal Areas*. Islamabad: Pak Institute for Peace Studies.
- Shaikh, Farzana (2009) *Making Sense of Pakistan*. Hurst/Columbia University Press.
- Sheikh, Mona, Farzana Shaikh and Gareth Price (2012). *Pakistan: Regional Rivalries, Local Impacts*. Copenhagen: Danish Institute for International Studies/Chatham House.
- Siddique, Qandeel (2011) *Pakistan's Future Policy Towards Afghanistan: A Look at Strategic Depth, Militant Movements and the Role of India and the US*. Copenhagen: Danish Institute for International Studies.
- Talbot, Ian (2012) *Pakistan: A New History*. London, United Kingdom: Hurst.
- Talbot, Ian (2009) *Pakistan: a modern history*, London, GB, Hurst.
- White, Joshua T. (2008) *Pakistan's Islamist Frontier: Islamic Politics and US Policy in Pakistan's North-West Frontier*. Religion and Security Monograph Series 1. Arlington, VA: Center on Faith and International Affairs.

Yemen's fragile state? Local, national and regional dynamics

Peter Alexander Albrecht

Introduction

On an in-country visit by the author in 2010, Yemen was described in the following way by one Yemeni analyst close to the political elite:

“In the absence of competition from other substantial actors, a dying state can hold on to power for a long time, and the process of dying can take many years. However, when collapse happens, the deterioration will be rapid. Yemen has in a way transformed itself into a political system that is similar to an empire; once the first crack starts, it will fall apart. That is because the institutions are dying – *patronage is what is holding the system together*”.

Much has changed since 2010, but many of the challenges that existed then also exist now in 2012.

On 21 February 2012 presidential elections were held in Yemen after a year of political unrest in the wake of what the BBC has referred to as a “popular youth-led revolution” (BBC, 19.09.11; see ICG 2011). As the only candidate running, Abd Rabbuh Mansur al-Hadi won and was sworn into office on 25 February at the Presidential Palace. Al-Hadi's ascendance to power after President Ali Abdullah Saleh stepped down following 33 years of rule did not constitute a fundamental break with the past political system. Al-Hadi was appointed as Saleh's Vice-President in 1994, and prior to that briefly served as Minister of Defence. In this regard, the change of Yemen's political leader is to be considered a ‘minor adjustment’ rather than a ‘popular revolution’, “a political game of musical chairs” with “one elite faction swapping places with the other” (ICG 2012: see also Schmitz 2012: 3).

What appeared to be a popular uprising during 2011 was considered to offer a new opportunity for broader collective action and, indeed, it partly led to Saleh's resignation and al-Hadi's subsequent election. In January 2011 a group of young activists from Sana'a and Taiz began protests that aimed to transform what they considered to be an unaccountable and undemocratic state. With the fall of Egypt's Hosni Mubarak in February protests gained momentum and by March the formal opposition, the

Joint Meeting Parties, were joined by military and political defectors. Saleh made al-Hadi Acting President after an attempt on his life in June 2011, which may have been a consequence of his crackdown on unarmed protesters in Sana'a on 18 March 2011 (see Phillips 2011: 11).

This report outlines the context in which changes have been unfolding in Yemen. It sets out the framework within which reform efforts must necessarily be supported and points to locally embedded entry points for democratisation efforts in the country. It is, however, important to point out that no local programming is likely to lead to significant change without equally strong engagement at the national and regional level, particularly vis-à-vis Saudi Arabia (Albrecht 2010: 3).

Yemen at a glance

Oil and water

Recent political developments in Yemen may give reason for hope that a democratisation process is firmly under way. However, hope cannot be allowed to do no more than touch the surface of the deep-seated structural challenges that Yemen faces. As a point of departure, in the United Nations Development Program's (UNDP's) index of human development in 2011 Yemen is ranked 154th out of 187 countries, placing it in the category of countries with the lowest human development. This does not mean that progress has not been made in Yemen. As Schmitz (2012: 3) has noted, oil exports during the 1990s and 2000s "enabled the Yemeni economy to achieve substantial growth over the last two decades". Schmitz goes on to argue that, relatively speaking, Yemen has made significant progress vis-à-vis health, education and income in the face of significant population growth (ibid.).

The problem remains that progress has been based on oil revenues, which represent 70% of the state budget (accounting for nearly all of Yemen's export revenue). In turn, this means that the income generated from oil remains a crucial source of the country's system of patronage. An 'effective and capable' state may therefore be a key factor in the country's future economy, as Schmitz (2012:4) suggests. However, turning Yemen away from dependence on oil exports remains a considerable challenge and since oil industry experts do not expect major new finds it is urgent that alternative sources of sustainable revenue are found (Schmitz 2012: 6). Oil reserves are estimated to run out within the next decade.

In addition, water resources are rapidly diminishing and a crisis is therefore imminent if the Yemeni government does not prioritise how and by what means water is used in the broader economy. This means that the state will need to put together and manage a national water plan which has, among other things, to direct more water to urban consumption in the future.

Houthis, the South and al-Qaeda

Apart from the political changes in Yemen, diminishing oil and water reserves, there is also a considerable potential for conflict in the country that could, if push comes to shove, lead to its break-up. In sum, these separate yet interlinked conflicts threaten the very survival of the state (Boucek 2009: 14). There is ongoing conflict with the Houthi tribe in the north, secessionist groups in the southern part of the country and al-Qaeda elements operate within Yemeni territory (Boucek 2009: 2; Chatham House 2010: 1; Phillips 2007: 17). These three factions constitute an immediate challenge to the cohesion and legitimacy of the Yemeni state, one that may not be overcome by state building measures, in particular if they are externally driven. In turn, the legitimacy of the Yemeni state is low, a condition that is not simply turned around overnight.

The Houthi uprising started in the Sa'dah region in the northern mountains of Yemen in 2004. Like the vast majority of the northern highlands population, including former President Saleh, Houthis are Zaydis. The Zaydis are revivalists, who believe that Zaydi identity is threatened by a dominant Sunni or Wahhabi identity (the Houthis are part of the larger Zaydi religious tradition, a branch of Shi'a Islam which comprises about one third of the Yemeni population). The conflict has further increased sectarian tension.

The unification of North and South Yemen in 1990 and the 1994 civil war in which the south attempted to secede have presented major challenges for the central government in Sana'a (Day 2010: 4). The southern opposition movement, Hiraak, has its roots in this civil war.⁶⁰ Throughout the 2000s, protests biased towards secessionist sentiments have occurred. Central to the southern disaffection are economic grievances. Oil is located mostly in the south, but the region has seen little economic development and there has been a strong popular perception there that their region has been excluded from its fair share of oil revenue. Like the war in Sa'dah, conditions

⁶⁰ A southern opposition movement was accentuated during 2007 when forcibly retired military officers demanded full payment of their promised pensions. These demands in turn expanded into a larger protest against unemployment and poor social service delivery (Day 2008).

in the south pose an existential threat to Yemen as a unified country, albeit with a greater and broader appeal than the Houthis and recalling previous crises, including unification and the civil war.

Even if progress has been made in service delivery, the lack of government responsiveness to the needs of its citizens is considered one of the main drivers of radicalisation in Yemen (Pursue Ltd. 2010; see Carnegie Endowment 2009). Al-Qaeda in the Arabian Peninsula (AQAP), the third threat to Yemeni stability and cohesion discussed here, gathered momentum in January 2009 when al-Qaeda's branches in Yemen and Saudi Arabia merged into one organisation (Hill 2010: 2). In AQAP's narrative the global oppression of Muslims encompasses Yemen and the theft of oil by governments in the region – and, by extension, foreign companies.

Together the Houthis, secessionist factions in the south and al-Qaeda pose considerable challenges to the Yemeni government and the cohesion of the country. I now turn to an exploration of the structural pressure on the Yemeni state, which in part explains why the forces that are fighting Sana'a have emerged.

Yemeni politics: outlining the contours

Atiaf Alwazir, a blogger and activist, recently noted that the fall of the Saleh regime was “a great first step” of political change in Yemen (Chatham House 2012: 4). At the same time he was careful to point out, “the actual system [of rule] has not changed and will not change overnight. We need to remember that this system really is engrossed in every aspect of society” (ibid). Rafat Al Akhali, executive director of *Resonate! Yemen*, added that powers remain concentrated in tribal leaders, the armed forces and the Saleh family, the latter a loosely defined and inclusive concept in Yemen. Indeed, also under al-Hadi are Saleh's brother managing the air force, his son the Republican Guard, one of his nephews the presidential guard, and another nephew the internal security service and counter-terrorism unit (BBC 2012).

Policies may be negotiated and ratified, “but in terms of implementing them”, Akhali notes, “someone, somewhere will stop them because it will be against their economic interest and it will all stop” (Chatham House 2012: 19). Despite recent changes and in order to understand the *modus operandi* of the Yemeni state, a closer look at the rule under Saleh is therefore crucial because it shapes options for external involvement.

After more than 30 years in power, President Saleh managed to create a system that has concentrated all significant powers of authority in the Office of the President. Decentralisation of power in a politically and economically divided country was considered an outright threat to the regime (Phillips 2007: 17). No executive decisions could be made without his blessing, and therefore cabinet, parliament and other state institutions were marginalised from relevant decision-making processes. They were underdeveloped, as it were. By extension this means that institutions of the state that might help reduce the strength of the patronage system that dominates governing structures in Yemen do not exist. Indeed, it could be argued, the state is built to serve this system. In 2007, Phillips noted: “The president has built his regime’s political survival on the same system that undermines its future” (2007: 17). In brief, not only Saleh had an interest in maintaining the status quo.

The concentration of power in the Office of the President and in networks of patronage means that the power base of the state is extremely narrow. As a consequence it is vulnerable to state capture by sheikhs as well as the military. The sheikhs and – to a degree – the military did not have *power* over Saleh; they had *leverage*. Indeed, the point can be taken one step further in that the sheikhs, constituting a tribal elite, are what Phillips calls “critically though not necessarily individually important” in how President Saleh made decisions (2011: 100).

This configuration of power is unlikely to be fundamentally different under al-Hadi. The distinction between power and leverage is important. It denominates the continued ability of tribal leaders to make change, not because of the power they hold, but because of the integral role they play vis-à-vis state institutions. With respect to sheikhs and religious leaders, they are therefore *not* to be considered non-state *per se*. At the same time they draw on local sources of social capital that are not in any direct sense related to ‘the state’. The power of the sheikhs stems from the authority they generate in the communities they rule and the informal power networks they are members of, and not necessarily from legislation passed in parliament in Sana’a.

Centralisation – A weakness and strength

Centralisation of power in Yemen meant that towards the end of Saleh’s rule, he increasingly shied away from a collaborative approach to governing the country. To external observers he appeared to become more and more paranoid. This led many of them to conclude that the president was making decisions haphazardly and with little reference to others and that the executive’s approach was inconsistent and erratic.

However, from the perspective of sustaining networks of patronage, their actions may in fact have been quite logical.⁶¹

However, while Saleh's autocratic powers have been considered one of the greatest shortcomings of the state – unaccountable and undemocratic – the system that was established under his rule could potentially be an asset to his successors. The way that power is currently structured around tribal leaders, the military and the Saleh family means that it is in these three interlinked groups that the drive for change is to be found. What is lacking in Yemen is the political will to fundamentally alter how power is structured, and what is not known is whether the networks of power could be used as drivers of positive change.

If the *status quo* is maintained decline will continue, further elements of the security sector are likely to fall apart or fracture, and warlords will emerge and compete for power. It should therefore come as no surprise if the leadership of the new government is inherently weak and therefore unable to make significant change. Indeed, it may be weak to the degree that addressing its structural challenges is not possible and conflict prevention is not an option.

President Saleh, patrimonial networks and the sheikhs

As is the case for many other states that are defined as 'weak' or 'fragile', in the context of this report it is worth pointing out that the history of Yemen is not one of a trajectory from a 'functioning' to a 'failing state'. Analysing the domestic politics of Yemen from the point of view that it is a 'fragile' state tends to ignore the actual way in which networks of power are organised. Saleh sought to centralise relevant powers in Sana'a and pursued a policy of divide-and-rule among the sheikhs (Hill 2010: 3). A number of social forces structure the field of political power at any given moment, including business classes, the intellectual elite, religious and tribal leaders and the military.

Saleh targeted these forces, some of which are both religious and traditional. However, the collateral damage of this approach has been significant since moderate forces within 'traditional society', including the middle class, have been suppressed in fa-

⁶¹ In talking about 'networks of patronage' I draw on Bratton and Van de Walle's (1997: 62–66) conception of neo-patrimonialism, which has three primary characteristics. These include, first, the concentration of power in the hands of the president, the systematic recourse to clientelism, and the selective distribution of state resources such as public sector employment, government licenses, contracts and projects in exchange for political loyalty.

vous of the Houthis and Salafists of Yemen, the latter of whom are now in charge of the northern part of Yemen and fighting the government. Historically, the business class has been concentrated around Aden, but covered the entire regions of Ibb and Ta'izz, which happen to coincide with sectarian lines of division between the Sunni and the Shi'a.

As Saleh came to power and strengthened his control over the central government, he replaced the business class with tribal leaders. State regulation has been deliberately weakened by putting severe restrictions on the formal sector through legislation, thereby allowing non-state regulated business to flourish and thus blurring any clear line of demarcation between the state and the non-state. The President's networks of patronage were built and consolidated over a period that spanned more than 30 years. Paying tribal leaders off or paying one tribe to attack another tribe, thereby weakening both, a policy of divide-and-rule, has been the norm during this period.

The generational shift that Yemen is currently undergoing was initiated by the death in December 2007 of Sheikh Abdullah ibn Husayn al-Ahmar, former leader of the Hashid tribal federation (the second largest and the most powerful tribal federation in Yemen). Al-Ahmar's son, Sadiq, was chosen to replace him, but resigned from his position in the Yemeni General People's Congress in February 2011 as the popular uprising against Saleh was gathering momentum. Indeed, Sadiq hardened his position against Saleh during the spring of 2011, issuing a statement asking him to respond to protesters' demands and to leave office peacefully. The statement was co-signed by several religious leaders.⁶²

The tension between Sadiq and Saleh – between the Hashid Tribal Federation and the regime in Sana'a – came to a head on 24 May 2011, when violence broke out between forces loyal to Sadiq and government troops. The outbreak led to days of fighting, during which Sadiq's forces launched attacks on government targets, including the Ministry of Interior which governs the majority of security forces in the country. Saleh issued arrest warrants for Sadiq and his nine brothers on that day, on charges of rebelling against the government.

Saleh, however, had spent considerable resources on raising the profile of Sadiq's younger brother Hamid al-Ahmar, with whom Sadiq had had severe clashes in the

⁶² The statement came as Major General Ali Mohsen Saleh, head of the country's north-western military zone, also declared his support for the protesters.

past. The way that Saleh had dealt with the al-Ahmar family in the past was by continuing to buy their loyalty and thereby overtaxing the state budget. While systemic changes have occurred which appear to have stabilised the political system, numerous suicide bombings have taken place in Sana'a in recent months. Furthermore, there is little doubt that the entire state structure and beyond has been built up around, and continues to be governed according to, the rules of patronage.

Oil fuelled Saleh's networks of patronage, particularly his inner circle, and he handed over significant oil subsidies to family members or key tribal leaders and sold them abroad. It is a general perception that a lot of tribal sheikhs in remote areas have left their communities to be close to the primary source of patronage, the leadership in Sana'a. Because of the *modus operandi* of buying off tribes and playing them off one against another, Saleh sought to strengthen their base in the South, which was dominated first by the British and then by the Soviet Union. Any international support will in part play into and thus contribute to the consolidation of these networks.

The authority of the position of the sheikh was traditionally derived from his ability to arbitrate and settle disputes. The importance of the Sheikh in this role continues to be evident given that Yemen continues to be riven by tribal quarrels and blood feuds that revolve around land, water, women and questions of honour. A shift in emphasis in the role of the Sheikh to being someone who accesses and distributes resources is a somewhat more recent phenomenon.

Conflict sensitivity and the mediation role of sheikhs

Conflict sensitivity is thus necessary in whatever approach donors choose. While the development of local infrastructure, service provision and poverty alleviation can lead to a lessening of tensions, the obscure processes of allocating funding for development projects often exacerbate local rivalries, leading to increased conflict over site selection, staffing and recipients. Working with locally embedded organisations such as Islamic Relief Yemen is thus crucial, as is liaising with donor agencies that have a proven track record and long-term presence in the country, including Germany's GTZ, UK's DFID and USAID.

Organisations such as the Social Fund for Development (see below) have in the past decade proven effective in delivering development programs nationwide in a way that seeks to avoid exacerbating uneven development. GTZ has thoroughly evaluated local stakeholders for a vocational training centre in Marib over several months

involving over 800 quantitative questionnaires and 100 qualitative interviews. The GTZ approach constitutes an example of a conflict-sensitive approach (Pursue Ltd. 2010: 13).

Islamic Relief Yemen tested the idea of building ‘impact networks’ of dedicated professionals and community leaders. In theory, the collective strength of these networks could create alternative power structures that are able to influence intransigent local stakeholders and provide voice to marginalised and disenfranchised communities, as well as identify opportunities for community-level conflict transformation. Such programming targeting the youth and the relationship between youth, communities, tribal and religious authorities, local and national government, security agencies and development and humanitarian actors touches on a number of the root causes of continued conflict and instability in Yemen (ibid).

The ability to mediate conflicts is still at the core of the sheikhs’ legitimacy (NDI 2007: 5). As community leaders, together with religious leaders, they must therefore be engaged in any attempt to alter local power dynamics. The fact that they are integral to networks of patronage is considered by many to undermine their authority, causing these leaders increased difficulty in controlling violent tribal conflict and revenge disputes. As the distancing of traditional leaders from their communities continues, more information is needed to understand to what extent extremist groups such as AQAP are competing to fill this vacuum and to what extent violence emanating from tribal or personal dispute is linked to extremist violence.

The position of ‘tribal sheikh’ became a lucrative career during the years of rule under Saleh due to government as well as foreign, especially Saudi, funding. This indicates two main issues. First, sheikhs cannot simply be considered ‘non-state’. They are part and parcel of how Yemen is governed, including in the north and the south, where Sana’a’s reach is limited. Second, Saudi Arabia’s dominance at almost every level in Yemen; its political, historical and financial presence and influence in the country, means that other international actors operating in the country must liaise with and try to understand Saudi motivations.

The key regional player: Saudi Arabia

Regionally (and internationally), Saudi Arabia is by far Yemen’s most important partner, but it remains unclear, first what Saudi intentions vis-à-vis Yemen are and, second, who in Saudi Arabia is in charge of the Yemen portfolio. There is reason to

believe that observers from outside the region have overestimated the consistency of Saudi Arabia's Yemen policy. Indeed, it is unclear whether one existed at all (Albrecht 2010).

In its current form, the policy seems to be one of short-term management and containment rather than one of seeking a long-term solution. Before Prince Nayef's death in June 2012, it appeared that he and his sons competed over the Yemen portfolio. Given Nayef's recent death, there continues to be uncertainty about who defines Saudi policies towards Yemen.

The history of North and South Arabia is one of antagonism and interdependence. Saleh was targeted for many years by the Saudis who during the 1980s and 1990s financed attacks on the regime. Yemen is the homeland of 1/3 of the Saudi labour force and 40% of the Saudi population can trace their ancestry back to Yemen (these are partly perceptions rather than verified facts, but as perceptions they are important in shaping practice).

The leverage of Saudi Arabia over Yemen is therefore substantial and the most important element of external support in terms of reaching stability in the country. Saleh talked about the UN as if he dictated their policies, and he spoke of the US and Europe as if they were minor partners, a trend that may have been adjusted, but not fundamentally changed under al-Hadi. With respect to Saudi Arabia, however, Yemen's leadership is painstakingly aware of its own junior position. Indeed, it was on the basis of a Gulf Cooperation Council initiative with a Saudi lead that Saleh stepped down.⁶³

For a long time, the Saudi policy towards Yemen was simple: to keep it 'unstable enough', on the brink, but not to push the country over the edge into conflict. An event that played a major role in changing the Saudi approach was the al-Qaeda attack on the Saudi Deputy Interior Minister in charge of counter-terrorism, Muhammad Bin Nayef. It is the alternative Yemen that is now coming to haunt the Saudis. In latter years, as the power of Saleh waned, a political power vacuum emerged which was not filled by Saudi-supported groups.

The recent popular uprising, AQAP activities and the Houthis in the north were not, and have not been orchestrated and dictated by the Saudis (although the Houthis

⁶³ Other key supporters of the GCC initiative included the US, the UK and the EU. A UN-backed implementation document provided detail on the mechanics and timetable of the transition roadmap.

were initially supported by the Saudis). Prior to recent political changes, and al-Hadi's ascent to power, the Saudi princes started to change their approach to Yemen, reflected in their substantial financial support to the country, estimated to be around US\$2–3 billion (apart from support to the central government, Saudi involvement also continues through their financial support of numerous Yemeni tribal sheikhs) (Albrecht 2011).

Saudi leverage in Yemen is incomparable to the leverage of any other external actor and, in addition to this, the US is extremely sensitive to Saudi concerns. At the same time the governments of Western Europe and the US among others confirmed their commitment to Yemen at a Friends of Yemen meeting in Riyadh on 23 May (it was the first meeting in nearly two years) (Foreign and Commonwealth Office 2012).

Although involved in every step of Saleh's handover of power, the Saudis have not played a strong role in the promotion of stability in Yemen, at least not openly. With recent developments, even though familiar faces are in power, Saudi Arabia may have been forced to rethink their policy towards Yemen. However, that they will fundamentally alter their approach and support a process of democratisation is unlikely.

Civil society, faith-based organisations and religious leaders

Traditionally, donors have bypassed government by channelling funds through CSOs, international NGOs and UN agencies (the Social Fund for Development described below being a token thereof). This is not least the case because the effectiveness of the government has been deemed one of the weakest in the world (World Bank 2010). The evident concern with respect to working through CSOs is the lack of coordination of activities and oversight of who does what. This is compounded by the absence of central planning, resulting in dispersed, un-coordinated pockets of projects in separate areas with no systematic approach to nationwide or sector-wide resource allocation.

There are, however, a number of barriers to civil society countering the Yemeni regime, even when taking developments during 2011 into account. First, civil society has tended to rearticulate the same system of patrimonialism that drives the ruling elite (the effectiveness of actors in the civil sphere is derived largely from their proximity to the leadership). Without personal connections to regime figures, political activists, advocacy groups, newspapers and professional syndicates are unlikely to stay solvent or to have their interests heard.

Second, and this is the most important point, the way in which the concept of civil society has been applied to the Middle East by Western scholars and democracy promoters often presupposes an American lobby-group style of politics, where organised groups are empowered to bargain with the state to achieve specific goals. This assumes the rule of law and respect for the sovereign of the state by those bargaining with it, neither of which are consistently apparent in Yemen. In short, if civil society is to counteract the state, it must be clear where and what the state is, but Yemen's overlapping networks of patron–client relationships makes this identification difficult (Phillips 2008: 242).

Third, obvious gains by civil society in Yemen, including protests by activists during 2011, but also the growing number of organisations and slightly more liberal regulatory laws, have not corresponded to fundamental transformations in how regime power is structured (*ibid.*). Finally, stability and progress do not merely relate to actions of the executive or sheikhs or religious leaders; Houthis in the north, secessionist groups in the south and AQAP constitute organisational responses that must be dealt with by the central government, because they have formed partly in opposition to the state.

Numerous faith-based organisations operate in the country, and apart from relief and health services, education is one of the most popular activities, both substituting and complementing state-led education. Education, in particular, provides a critical opportunity for ideological diffusion. It offers a channel for sustained relationship building between members and recipients of services, as opposed to health services or handouts, which often involve only brief encounters (Tadros 2010: 20).

In Yemen, the Islah Charitable Society is one of the largest and most renowned Islamic NGOs providing extensive service delivery networks in education, health and relief nationwide (as are other, non-faith-based, NGOs such as Oxfam that delivers water, sanitation and hygiene services to more than 60,000 people living in camps and host communities in the north).

Following on from this, for most Yemenis religious leaders such as Imams are a primary source of guidance and advice. Given that religious leaders are close to the people in their communities and because they are sought out to lead on secular issues, the government has relied on them, for instance to remedy tribal violence and revenge killings. USAID's Extending Service Delivery project thus partnered with

one of its other projects, Basic Health Services, to engage Muslim religious leaders as champions of reproductive health and family planning, thereby seeking to foster social change and development (Freij 2010).

Agals

One of the institutions that establish a link between state institutions and society are the Agals. They formally belong under the Ministry of Interior, but also entertain strong links with the sheikhs and, therefore, tribal structures. They solve crime and conflict at community level including, for example, assassinations as a consequence of extra-marital affairs.

The function of the Agals is vital, particularly because violence associated with revenge killings is argued to have been on the rise up through the 2000s (NDI 2007: 5). The tradition of revenge killings strengthens the determination of tribes to control their members since in tribal culture revenge can be wreaked on the tribe of the perpetrator as well as on the perpetrator of the crime himself. In the absence of state security and judicial systems in tribal areas, the tradition of revenge killings provides the only deterrent to interpersonal and inter-tribe crime. However, it can also lead to a widening spiral of violence as the families and tribes of tribesmen killed or wounded seek their own revenge (ibid.).

Working with the Agals could be seen as an important step towards establishing community networks and support of security and justice delivery at community level. The Agals are the first people to know that something is wrong in the community, because they know all families living within a given area. The role of Agals becomes all the more important because ordinary people often only have limited, if any, communication with the police. This means that the Agals often end up being the policemen, judges and executors. The Agals' role is, therefore, broader than a quasi police function, and they are a potential entry point to integrate locally-embedded early warning mechanisms into programming.

Traditionally, the Agals were subordinate to the governor or the mayor and would verify the identity of community members (this was before the advent of ID cards for which the Agals still receive 3000 riyals to issue). The role and responsibilities of the Agals have developed according to the tribal make-up of the country and they may therefore be considered by external advisers to be an 'alternative' dispute resolution mechanism.

The Social Fund for Development (SFD)

Parallel project implementing institutions such as the Social Fund for Development (SFD) are the exception to the poor performance of service ministries. The SFD has largely been considered efficient and transparent in its use of resources, as well as pro-poor and community-based in its approaches to health, education, water, roads and micro-enterprise development. As such the SFD has been much appreciated by donors, not least DFID (Bennett et al. 2010: 31).

It is an autonomous Yemeni agency established in 1997, and has had the Deputy Prime Minister and the Minister of Planning and International Cooperation as its directors. Originally supported by the World Bank to help mitigate the impact of structural adjustment, it evolved into an organisation focusing on poverty reduction and community development.

It is an independently funded quasi-governmental institution that works across Yemen with local communities to identify and respond to their development priorities. Its stated objectives are: 1. To finance, directly or indirectly, products and services projects carried out by individuals, households, micro-enterprises and other beneficiary groups; 2. To provide the required finance for social development activities such as health, educational and environmental and other services; 3. Assist local institutions in developing their capacities and upgrading their efficiency in providing services; 4. To generate new employment opportunities for the beneficiaries through projects or by assisting productive projects to improve standards of life of the rural poor and urban inhabitants and to increase their income level; 5. Implement high-density employment projects, including roads improvement, water and sanitation, and maintenance for public utilities and foundations financed directly by the Fund and; 6. To support training and rehabilitation centres and enhance skills in relevant vocations (Bennett et al. 2010: 33).

On the one hand, the FSD may demonstrate what is possible. On the other hand, it can be criticised for undermining the legitimacy and capacity of line ministries. The participatory methodology that underpins the SFD's community development approach is laying the foundation for communities to become active partners alongside districts and governorates, and encouraging greater transparency, equity in access to services, and increased accountability. A parallel structure such as FSD may be and continue to be necessary in a context such as Yemen, but its impact on how state institutions develop must be seriously considered in parallel. To state the obvious, while parallel project implementing institutions may be important interim

solutions, they cannot overtake the role of state institutions or that of sheikhs who must be engaged in and drive change forward.

Recommendations

On the basis of the analysis set out above, the following recommendations are made:

- Understand the implications and consequences of providing support in the current political climate in Yemen, and be realistic about what can be achieved.
- A multi-level strategy is needed that addresses regional, national and local level actors. Large-scale change is unlikely without Saudi involvement and support.
- Seeking out locally embedded organisations, such as Islamic Relief Yemen, combined with working closely with donors that have a long-term presence in Yemen (DFID, USAID, GTZ) is crucial.
- Any strategy of engagement in Yemen must clearly articulate how sheikhs and religious leaders are to be engaged in reform efforts.
- Influence of Saudi Arabia through the Gulf Cooperation Council must be pursued and maintained.
- In tandem with recommendation 4, support the empowerment of local governance processes, particularly those related to the effectiveness and responsiveness of local district councils which enable communities to voice their needs. Support of these institutions is the only way in which corruption may be reduced, and the relationship between the government and its citizens improved.

References

- Albrecht, Peter (2010), “Think Twice Before Engaging in Yemen”, *DIIS Policy Brief*, May 2010.
- BBC (19 September 2011), “Yemen Unrest: A Deadly Game of Elite Brinkmanship”, <http://www.bbc.co.uk/news/world-middle-east-14969207>, accessed 23 July 2012.
- BBC (21 February 2012), “Yemen’s New President Faces Multiple Challenges”, <http://www.bbc.co.uk/news/world-middle-east-17112797>, accessed 23 July 2012.
- Bennett, Jon, Debi Duncan, Ines Rothmann, Sushila Zeitlyn and Ginny Hill (2010), “Evaluation of DFID Country Programmes: Yemen”, *Evaluation Report EV706*, London: Department for International Development.
- Boucek, Christopher (2009), “Yemen: Avoiding a Downward Spiral”, *Carnegie Papers*, No. 102, September 2009, Washington DC: Carnegie Endowment.
- Bratton, Michael and Nicolas van de Walle (1997), “Democratic Experiments in Africa: Regime Transitions in Comparative Perspective”, Cambridge: Cambridge University Press.
- Carnegie Endowment (2009), “Al-Qaeda in Yemen”, Transcript by Federal New Service, 7 July 2009, Washington DC: Carnegie Endowment for International Peace.
- Chatham House (2012), “Yemen: The Way Forward” (transcript of public event with Atiaf Alwazir, Husam al Sharjabi, Maysaa Shuja al Deen, Rafat Al Akhali), 7 March 2012, accessed 23 July 2012.
- Day, Stephen (2008), “Updating Yemeni National Unity: Could Lingering Regional Division Bring Down the Regime?” in *The Middle East Journal*, vol. 62, no. 3, pp. 417–437.
- Day, Stephen (2010), “The Political Challenges of Yemen’s Southern Movement”, *Carnegie Papers*, No. 108, March 2010, Washington DC: Carnegie Endowment.
- ICG (2011), “Popular Protest in North Africa and the Middle East (II): Yemen Between Reform and Revolution”, *Middle East/North Africa Report* No. 102, 10 March 2011.
- ICG (2012), “Yemen: Enduring Conflicts, Threatened Transition”, *Middle East Report* No. 125, 3 July 2012.
- Foreign and Commonwealth Office (2012), “Friends of Yemen Meeting a “Critical Moment”, 23 May 2012, website: <http://www.fco.gov.uk/en/news/latest-news/?view=News&cid=768143182>, accessed 31 August 2012.
- Freij, Leah Sawalha (2010), “‘Safe Age of Marriage’ in Yemen: Fostering Change

- in Social Norms – A Case Study”, USAID, Extending Service Delivery (ESD), website: http://www.pathfind.org/site/DocServer/ESD_Legacy_Child_Marriage.pdf?docID=18744, accessed 31 August 2012.
- Hill, Ginny (2010), “Yemen: Fear of Failure”, *Chatham House Briefing Paper*, January 2010.
- NDI (2007), “Yemen: Tribal Conflict Management Program – Research Report”, March 2007.
- Phillips, Sarah (2007), “Evaluating Political Reform in Yemen”, *Carnegie Papers*, Middle East Series, No. 80, February 2007, Washington DC: Carnegie Endowment.
- Phillips, Sarah (2008), “Yemen: The Centrality of Process”, in *Beyond the Facade: Political Reform in the Arab World*, Marina Ottaway and Julia Choucair-Vizoso (eds.), Washington DC: Carnegie Endowment for International Peace.
- Phillips, Sarah (2011), “Yemen and the Politics of Permanent Crisis”, London: The International Institute for Strategic Studies and Routledge.
- Pursue Ltd. (2010), “Drivers of Radicalisation Study – Yemen,” not publicly available.
- Tadros, Mariz (2010), “Faith-Based Organizations and Service Delivery. Some Gender Conundrums”, Gender and Development Programme Paper Number 11, September 2010, United Nations Research Institute for Social Development.
- Schmitz, Charles (2012), “Building a Better Yemen”, *The Carnegie Papers*, April 2012, Washington DC: Carnegie Endowment.

The fragile ‘state’ of Palestine

State building under occupation and prospects for local level democratisation

Leila Stockmarr

Introduction

The case of Palestine revolves around the national aspirations of a stateless people in dispossession living through a century-long prolonged crisis. Rather than exploring the fragility of the state of Palestine, this study discusses the fragile nature of Palestine.⁶⁴ This is first and foremost because a Palestinian state yet has to be established, and secondly because of the tendency of the Palestinian state building project to take place *outside* society, rather than as an integral part of it. Indeed the fragility of Palestine depends not primarily on the ability of the authority in power to deliver basic services to its public; while the Palestinian Authority (PA) in both the Gaza Strip and the West Bank is on the brink of an unprecedented financial crisis, the issue of service delivery does not make up the core root of fragility on a long-term basis but rather has roots that are inherently political and structural: the sources of fragility are to be found in the absence of political, economic and territorial sovereignty (often framed as the denial of the right to self-determination), an asymmetric framework for cooperation with Israel and its associated structural dependency on international aid and, as a result, a growing split between the endeavours of state building and peace building. Consequently, rather than pointing to technical measures adopted on a more detailed policy level this analysis focuses on the implications of a detected tension between administrative capacity building and democratisation as it has played out in the occupied Palestinian territory (oPt).

In the Palestinian context state building has happened on the basis of external political demands rather than on Palestinian-owned aspirations. This has led to a bypassing of efforts of national liberation and popular resistance; key drivers of Palestinian collectivism. In moving from a state of dispossession, Palestinians in the oPt have moved to a state of ‘embeddedness’ in aid and economic deprivation that remains deeply entrenched in regional and international power structures.

⁶⁴ ‘Palestine’ refers to the Gaza Strip, the West Bank and East Jerusalem as demarcated by the 1949 armistice line or the ‘Green Line’.

Many detailed studies have been done on economic development within the oPt and the compliance of the Palestinian Authority (PA) with its pledges.⁶⁵ The World Bank and the International Monetary Fund monitor developments closely and the former publish in cooperation with the donor community on a regular basis, detailed reports on the performance and fiscal situation of the PA. However, reflections on the societal dynamics behind this, and the long-term impact on democratisation and local level participation are seldom taken into account. The notion of 'state building under occupation' has promoted a tendency among international organisations, including the World Bank, to treat the PA similarly to the way one approaches a company or a massively staffed NGO. This contribution seeks to shed light on the linkages between institutional instability/stability and the public/local level. This implies that the analysis will prioritise the question of participation over the issue of service delivery. However, the core argument is that the two are inherently connected as the increased dependency on the authorities for basic services has in itself had an impact on the form of participation within Palestinian society. Due to space considerations East Jerusalem will not be analysed as a case in its own right.⁶⁶

Contested statehood

In a protracted conflict such as the Israeli–Palestinian one, the issue of democratisation cannot be studied independently from the conflict itself (Hovdenak 2009). Palestinian statehood has persistently been contested, and has yet to materialise in the form of a formal state. To begin with, the notion of 'Palestine as a state' has a peculiar history. Before the establishment of the state of Israel in 1948 Palestinians lived first under Ottoman rule and, from the 1920s onwards, under British colonial rule. Since 1948 Palestinians have been subjugated to Jordanian, Egyptian and, since 1967, Israeli military rule and occupation. The 1993 Oslo Accords, as well as several subsequent Israeli–Palestinian agreements, delineated the basic framework for the new central Palestinian 'self-rule' and paved the way for the Palestinian elections and self-government (Sayigh and Shikaki 1999). The Palestinian Authority is the

⁶⁵ The notion of Palestinian state building most commonly refers to the reform and development agenda under Prime Minister Fayyad (of the 'Third Way' party) and President Abbas (Fatah). This accelerated with the USD 6 billion aid pledge from the international community at the Paris Donor Conference in 2007 and resulted in the following programmes: Palestinian Reform and Development Plan (2008–2010), *Palestine: Ending Occupation, Establishing the State* (2009) and; *Establishing the State, Building the Future* (2011–13). However, since 2007 the Gaza Strip under Hamas rule has been subject to a mix of policies drawing on both the PRDP but also on Hamas' more pragmatic local policies often based on a 'trial and error' basis.

⁶⁶ East Jerusalem is physically separated from the West Bank and has, since 1967, been annexed by Israel i.e. under complete Israeli control and jurisdiction. However, this is contrary to international law and most references to the WB implicitly include East Jerusalem.

government's executive, while the Palestinian Legislative Council (PLC) is meant to function as the legislative branch. Yet with regard to one of the defining features of a state, it is important to note that still today, the formal monopoly of violence does not lie with the Palestinian Authority but ultimately with the Israeli authorities (Parsons 2011). The size of the territory is another point of contention. While the existence of a Palestinian national sentiment of belonging to the notion of 'Historic Palestine' has been a constant, Palestinians have, over the course of history and the ongoing Israeli state building project, reconfigured their national aspirations to fit the current territorial reality or, to the contrary, led a political struggle based on demands exceeding the territorial status quo. This sense of irredentism – the gap between popular sentiments and reality 'on the ground' – has in turn been a major source of instability and fragility.

To this it is also crucial to include the fact that more than half of the Palestinian people have been displaced outside the oPt and now reside in the Arab region or global Palestinian Diaspora – a major source of social and political instability.¹ First and foremost their lack of integration (reluctance of the host countries and their insistence on 'Right of Return' and the lack of its implementation) has meant that Palestinians have become part of the politics of their host states playing back into the predicament of the conflict.² Moreover, in the absence of rule of law the camps have in and of themselves often become hotbeds of foreign fighters and organised crime.³ The politics of the diaspora impact the balance of political opinions inside the oPt. The PA is mainly dependent on the support of the people in the oPt while the PLO officially includes all Palestinians. Therefore the PA's merger or even co-optation of the PLO's political role in the West Bank has isolated Palestinians in exile, creating a grave split between Palestinians in exile and those living under occupation.

Administrative state building

Defining the authority

Today the PA de facto encompasses two sources of public authority: the PA in the West Bank ruled by Fatah and the PA in the Gaza Strip ruled by Hamas. While the Fatah-led rule in the West Bank has built up state-like political institutions, it lacks both democratic legitimacy (except for the President, whose term has ended, the members of the current authority in the West Bank have not been democratically elected) and the fundamental attributes of a state: territorial continuity, political and territorial sovereignty, monopoly of violence and widespread public support. Differently Hamas

(in principle democratically elected but its four year mandate expired in 2010) has taken over the Fatah-led institution building and is struggling to govern Gaza under a land, air and sea blockade (UNOCHA 2011b). Unlike in the West Bank, the PA in the Gaza Strip enjoys unbroken territorial control over the strip, which allows a degree of policy coherence and continuity let alone an effective monopoly of violence within the small enclave. The contact between the two Palestinian authorities is highly limited, and both EU and US diplomats are restrained from dialoguing with the PA in Gaza because of the official no contact policy with Hamas.

Inherent contradictions of governance and democratisation: the philosophy behind the PA's governance

Based on the philosophy of creating a *de facto* rather than a *de jure* state, the overall state building project has brought about a range of contradictory results. From its outset the project entailed the building of an administrative basis for a state without the actual recognition of Palestine as a state through international diplomacy (Brown, 2010). Moreover, democratic credentials have, by design, been downplayed as the political elites in charge foresaw that public resistance to the political compromises made to realise its goals would spark too much tension and potential conflict.

Besides securing funds for basic expenses and allocating these to the governorate and municipal levels, the key idea behind the institutional and political setup after the Oslo Accords in the 1990s was that through its performance the PA would be able to capitalise on international support that would encourage Israel to engage in more substantive negotiations over a two-state solution. Regrettably, the effect has rather been the achievement of short-term capacity building goals but it is far from rooted in civil society. Credible surveys show that Palestinians display low levels of trust in Palestinian national institutions: in 2011 thirty per cent of Gazans had 'quite a lot' or 'a great deal' of confidence in the authorities, while in the West Bank it was 41% (Tiltnes et. al 2011: 6). On the Palestinian side the main result of this quite hollow strategy has been a depoliticisation of the process of state building. Certainly, the creation of institutions, procedures and technical provisions for good governance has meant a greater experience in governance and the spread of respect for rules and institutions. However the lack of political progress in terms of securing the Palestinians a state has together with its undemocratic method and output meant that the process has decoupled the local, public level from the project. Essential rights-based values such as freedom of speech are lacking and people in both territorial enclaves are fearful of criticising their respective authorities and, in general, a majority holds 'democracy' to be "poor or very poor" (Tiltnes et al. 2011: 1).

Public discontent

In the West Bank another major source of public discontent stems from the persistent corruption which has haunted the PLO and then the PA since its inception. In the case of Hamas, differently, there has traditionally been a smaller gap between the steadfastness on resistance and the securing of basic service delivery through informal networks and charities that have provided a higher degree of consistency. Hamas' entry into the PA and the Gaza 'takeover' has left Hamas with major legitimacy problems, as it is perceived to have sold out on its resistance efforts while adopting more authoritarian measures of governing.

Relevant to both enclaves in the absence of the PA's ability to bring about results through negotiations with Israel, public satisfaction with services provided by the authorities has entered into hard competition with people's political preferences and outlooks that tend to take less compromising and more ideological forms. This is especially the case, as the state building project has come to be perceived by many Palestinians as the opposite of national liberation. In fact, people are often critical of the administrative state building project and aspire politically to a revival of the national liberation movement and, in quite overt terms, a replacement of administration with liberation. This slow breakdown of public backing for the authorities questions the logic of promoting democracy within the existing structures. While there is an awareness that dismantling the current PA structure in both the Gaza Strip and the West Bank would come at a heavy price in the form of socio-economic deterioration and chaos, on a long-term basis the public awareness of the interconnectedness between some level of fiscal stability and compromising on the political substance/resistance is a source of instability and discontent is a 'ticking time bomb'.

'Asymmetrical containment' and economic integration*Economic development under occupation*

"The prevailing reality in the West Bank and Gaza is unique in the world. The economy is profoundly influenced by its dependence on international aid and on Israel, the regime of man-made internal and external barriers to mobility and its limited say over economic policies and trade" (World Bank 2011a: 9).

A major point of disagreement among specialists is whether economic development charged with democratisation can take place under the conditions of occupation. The

major international financial institutions (IMF and the World Bank) advocate an 'economic peace', where peace dividends together with investment and quick impact projects are expected to spill over and promote political progress. On the other hand, critics and opponents of this strategy, argue that the structural constraints imposed on the Palestinian economy do not create the basis for a viable Palestinian economy. In fact, the argument goes; the premises for PA governance perpetuate the structural asymmetries created by the occupation, and as such contribute to the crippling of political organisation and national unity. Following this line of argumentation, it remains crucial to address the structural constraints as a political matter which is not determined on a local, municipal level, but rather as part of the overall structure of agreements with Israel.

The terms for economic cooperation and integration between the PA and Israel are outlined in the 1994 Paris Protocol.⁶⁷ The structural impediments of the agreements have made the formation of a viable independent economy impossible. The Palestinian population in both Gaza and the West has no sovereign control over basic services such as water, electricity and telephone access, as well as all import and export (the PA controls no international borders). Utilities are supplied by Israel, albeit often through Palestinian intermediaries. Private sector growth is highly limited and prevents local entrepreneurs from initiating start-ups. The legal and regulatory environment is highly opaque (a mix of overlapping legal regimes – Israeli, Jordanian, Egyptian, British, Ottoman and Palestinian) and far from conducive to investment. Secondly, due to the highly centralised nature of the authority, the gap between the local governorate and municipality level is wide. Tax revenues collected from the local level are mainly derived from the utility of social services rather than from tax on labour or private property. This distorts the social contract between public and authority, which has further deteriorated with the stalling of local elections.⁶⁸ Still, the PA's huge bureaucratic structure (including security forces) employs more than 100,000 Palestinians.

According to the World Bank tax clearance revenues collected by the Government of Israel (GOI) and transferred on a monthly basis to the PA constitute the largest

⁶⁷ The protocol establishes the economic relations of the interim period between Israel and the Palestinian Authority. These structural arrangements are widely known as a 'customs union' marked by the absence of economic borders. It sets the rules for Israel's collection of Palestinian taxes and Israel's monthly transfer of revenues to the PA.

More generally it was set out to ensure continuation of the pre-Oslo economic structure in effect perpetuating the Palestinians' economic dependence on Israel.

⁶⁸ Local elections in 2005 were held in four stages, but were never finalised. The last stage was held on 23 December 2005. Over a quarter of the Palestinian population was not included in these elections.

source of income for the PA (2011a: 9). In 2011 seventy per cent of income and 40% of PA spending came from revenues transferred by the GOI,⁶⁹ while the collection of income VAT and income tax for which the PA is responsible constituted only 5% of GDP. However in the advent of unexpected political ‘events’ the GOI chooses to put transfers of revenues on hold. This, in the short term, paralyses the economy and social security, inhibits economic planning and creates a cycle of *de-development* on a long-term basis which, as Roy has argued, undermines or weakens the ability of the economy to grow and expand beyond a specific structural level (Roy 2007: 79-84). This suggests that the public have to choose between making political concessions and agreeing to Israeli conditions or withdrawing from the overall venture. Moreover in terms of economic development the World Bank posits Israeli restrictions as “the biggest constraint facing Palestinian private sector growth” (The World Bank 2010, 2011b). Transfer of money, Israeli Shekels, requires coordination with Israel. The PA has not been able to transfer money to Gaza since October 2010. In addition, the Israeli authorities have banned any trade between Gaza, the West Bank and Jerusalem, de facto creating separate economic entities. Both the productive sectors and households are hurt by the growing list of ‘dual-use’ items (such as fertilisers, machinery and technical products) that cannot be imported because they are perceived as a potential security threat by Israel (The World Bank 2011a: 20).

As a consequence of the economy, Palestinians’ social expectations in relation to service delivery have been low with people being aware of the restraints and political implications of the integrated economic structure. The social expectations Palestinians have of the Authority (mainly the PA in the West Bank) have thus been formed not as an outcome of political inclusion and participation but rather in order to compensate for their absence. In fact the political elites behind the state building project have done very little to include a broad variety of social and political actors in the oPt. In relation to the agenda of promoting local level participation the decoupling of social and political expectations remains a major point of concern that should be addressed as a core element in retrieving a stronger coherence between the authorities and the public level.

⁶⁹ Palestine has no independent Central Bank, and no means to reduce interest rates in support of export-led economic growth.

Territorial insecurity and fragmentation

A chief source of fragility is the impact of living in an ‘undefined territorial reality’ that is increasingly fragmenting.⁷⁰ Today very few Palestinians envisage the internationally accepted 1967 lines as a realistic future Palestinian border. This is clearly a source of political disillusionment and increased disaffection with political authorities both on the Palestinian and the Israeli side, which leads Palestinians to question the state building project as time, especially in the face of the ongoing expansion of the Israeli settlement enterprise, seems to be working against its realisation.

The competing sources of authority play into the almost consolidated territorial division.⁷¹ The three-way fragmentation of Gaza, the West Bank and East Jerusalem (under international law Palestinian territory) makes it very difficult to deal with ‘Palestine’ as one entity, both in terms of political authority, economic development and also to some extent political identity and framing of interests, as major internal conflicts both of interests and over ideology and strategy vis-à-vis Israel have grown. Within the West Bank, the zoning system implemented after Oslo is also causing massive challenges to Palestinian mobility and livelihoods, while the ‘Separation Barrier’ presents a major cause of territorial fragmentation (UNOCHA 2011a).

While Palestinians experience insufficient support from their own representatives, rightful claims under International Humanitarian Law and Human Rights Law are also not heard, creating major gaps in people’s sense of justice and the broad public experience of Israeli impunity in the face of the international community (i.e. donors and the ‘Quartet’ body involved in mediating the Peace Process). This is a major source of frustration for people this is slowly but surely eroding public backing for internationally sponsored negotiations with Israel.

NGOs and civil society

Paradoxically, it is an international organisation – UNRWA mandated to protect and support Palestinian refugees – which enjoys the highest level of public trust inside the oPt.⁷² Affected by the state of the authorities in both the West Bank

⁷⁰ While the 1967 lines are considered a point of international consensus and have in principle been accepted by the parties involved, today both representatives of some Israeli right-wing parties and some cadres within Hamas, as well as other Islamist fractions and small secular groups at the very left challenge this designation.

⁷¹ According to the World Bank: ‘the West Bank a fragmented archipelago; and Gaza an increasingly isolated island’ The World Bank 2011a: 1).

⁷² Since 1950 more than 4.3 million Palestinian refugees have been registered with UNRWA.

and the Gaza Strip the huge NGO sector in the oPt has been increasingly professionalised and de-politicised, in part because of donor conditions, in part because of increased constraints on free speech and political organisation. NGOs have continuously been engaged in competition with the authorities over funding while some NGOs have challenged concrete PA policy and practice. This has led to either political isolation (in the form of harassment and lack of access to public files) or to the co-option of the organisation's programs by the authority in place. In both the Gaza Strip and the West Bank the authority has taken repressive measures against NGOs voicing criticism of internal affairs. Particularly in the West Bank the PA has cracked down on Islamic charities (affiliated both with Hamas and with other Islamist groupings) providing essential welfare, while in Gaza several 'secular' NGOs have been closed. In the West Bank Israel has also closed down NGOs through the use of brute force. The oppression of Islamic associations in particular may represent a major obstacle to democratic progress, as these have, on a long-term basis, been the social backbone of local society – especially in poor and more conservative areas such as Hebron, Jenin and Nablus. In parallel many Palestinian NGOs dealing with questions of democracy, rights, gender and youth have become highly professionalised in order to meet donor standards. The organisations are staffed with young, English-speaking professionals, pursuing high salaries (compared to public sector staff), which distances the NGOs from their social bases (see for example Hammami 2000). Local initiatives thus often have to manage without funding or seek support from other actors regionally or through remittances from abroad (11% of GDP in 2010) (The World Bank 2011a: 117). This suggests that there are many groups to potentially partner with and help implement projects determined by local Palestinian people. The main task is to provide them with funding not primarily dependant on the authorities' preferences, while on a long-term basis working to secure a more fruitful relationship between authority and civil society.

Clans and other sources of power

The clandestine tunnel economy securing the incoming of goods from Egypt after the Israeli blockade since 2006–7, has created a new sense of clientalism, where the *hamulas* or leaders of powerful Gazan families have allied with the authorities in the highly profitable smuggling economy and created a new powerful economic elite displaying intensifying signs of autarky and rent seeking in their managing of the tunnel economy (Khalidi and Samour 2011: 11). This has in turn altered the economic disposition of the Hamas authority, formed an even more isolated and internally focused economy and blurred the hierarchy of decision making from the point of view

of the public. Informal networks and alliances are blurring the distinction between both state and non-state actors and civil–military lines of division.

While the clan structure has consistently been a powerful informal force through mediation (in relation to intercommunal feuds and business organisation), the clan families today have engaged in party politics, either by choosing sides or by challenging the authorities in power. The clans have a major role in political dispositions, and can be critical to the success of the authorities. Their potential to secure the stability of the authority can, however, also distort processes of democratisation (Ze'evi 2008). In Gaza this has taken on an overtly military character as excluded clan leaders and their local loyalists or economically dependent supporters have either joined opposition groups or the authority around the illicit tunnel economy. Having said this, the clans and powerful families should not be bypassed in efforts at democratisation, but should rather be dealt with as the part and parcel of both the contradictions of the state building system and as central components in the centuries old structures of Palestinian society and economy.

Democratisation and ‘de-democratisation’

Elections and decay

In relation to the agenda of democratisation (locally in villages and municipalities and on a national level) two overarching trends have been influential: firstly, political actors have often de-emphasised the promotion of democratic structures and prioritised national liberation and self-determination as the overarching goal. Secondly, electoral politics have taken the form of an increased orientation towards Islamist factions culminating with Hamas’ victory in the 2006 Palestinian Legislative Council (PLC) elections. This can be ascribed to the failure of secular parties to deliver within the Oslo framework seen against the backdrop of Hamas’ broad network of charities and its more uncompromising agenda of resistance. The 2006 elections gave the Hamas-led ‘Change and Reform Bloc’ a majority of seats in the PLC. While democratic structures at the local level were given new impetus and the official assessment of the electoral process of the 2006 PLC elections was positive and found that the results represented the genuine will of Palestinian voters, these outcomes were not accepted by EU and US.⁷³ The EU along with the US renewed

⁷³ The PLC has not met in full session since 2007 because of Israeli imprisonment of its members, the Hamas–Fatah divide, and the consistent split.

its ban of Hamas.⁷⁴ The nascent democratic system built after Oslo was blown into the air with the PLC elections in 2006, which today have not just stalled democratic processes within the official electoral system, but also more profoundly eroded the Palestinians' belief in democracy as an important component in achieving statehood. The denial of Hamas' influence has in turn contributed to the radicalisation of the inter-Palestinian relations (Hovdenak 2009; Stockmarr 2011).

Local level participation

Dependency on basic service delivery and salaries from the public sector dissuades people from engaging in politics related to the authorities. While the PLO, in the person of PM Fayyad has argued that democratic inclusion and popular resistance are integral to the efforts of state building, a characterising feature has rather been their absence. Currently, at the civil level the rift in politics is ambiguous: local level democratisation is clearly dependent on national reconciliation and a clear and more coherent strategy for popular resistance accepted by the authorities. At the same time the size of the public sector and the authority's and UNRWA's delivery of services means that the population is completely dependent on the imposed setup. In the West Bank alternative sources of support have been diminished and in Gaza, Hamas has sought to co-opt powerful clan leaders, while at the same time trying to preserve its grassroots network through the running of popular organisations such as women's organisations, trade unions and welfare and charity organisations Hovdenak 2010: 16). At the same time, popular resistance (grassroots organisations, advocacy against occupation and non-violent demonstrations) are broadly perceived among Palestinians as the most viable long-term strategy to engage in. This is owing to the way that they can function both as important ways of channelling frustration and potential violence into productive political expressions, and how they seek to avoid harmful gaps between varying sources of formal and informal authority. These strings of public need and public preference carry with them inherent contradictions:

The core dilemmas arising from the administrative state building project all relate to the question of how to build up democratic institutions under occupation. So far, the most successful participatory initiatives have been of an activist nature such as the case of political mobilisation of villages against the 'Separation Barrier', public calls for national reconciliation and the recent public mobilisation in support of the some 2000 hunger striking Palestinian prisoners in Israeli prisons. While these are short-term initiatives around specific causes, they do display the energy for long-term

⁷⁴ Hamas is classified as a terrorist group by the EU (in 2003) and US (in 1995).

organisation and do attempt to restructure the state of affairs at the local level. Long term organisational steps are constrained by the absence of local elections and the general unpredictability of the situation which discourages building up sustainable structures, especially when the lessons learned from Hamas' victory are still this fresh in public awareness. In order to avoid conflict and a further undermining of democratic forces, the questions needing to be asked are: how to revert the exclusionary mechanisms of the PA? And what are the options of the international community when democratic outcomes present a violent agenda?

For too long the challenges have been silenced and further complicated the linkages between national politics and administration and local level aspirations. In order to build trust between donors, political elites and at the public level it is crucial not to ignore the contradictions of the state building project. One way of doing this is by striving to reconcile engagement and support to local initiatives with the provisions of international legal standards.

Security and policing

The PA is mandated to provide the only legitimate armed force in the territory. While more than 60,000 Palestinians were on the security forces payroll in 2010, Israel retains effective control of all borders and settlements, and in practice the PA polices only area A (The World Bank 2011a: 14). A recent comprehensive survey of Palestinian public opinion shows that WB residents are moderately content with Prime Minister Fayyad's security improvements (Tiltnes 2011: 15). However, the security sector reform remains a dubious process with contradictory effects. The grave 'side effects' of policing do in fact induce a failed state, where collaboration with donors as well as Israel around security and concrete policing measures in the oPt undermine and break down the social and political fabric of the governed people as it limits their outlet for social and political activism (Sayigh 2007; 2010; 2011).

The long term impact of the PA's policing on the ground may undermine the legitimacy of the force in the eyes of the public due to its record of human rights violations and its cooperation with Israeli forces. In practice, the Palestinian policing has come to represent a disciplinary mechanism for regulating political opponents and resistance to Israel (Parsons 2011). As the security forces have become involved in the partisan infighting between the factions, law enforcement has consolidated the Palestinian division further. The western backed security sector cracks down on Hamas supporters in the West Bank, while the Hamas police in Gaza (the Tanfithiya) have been

pursuing harsh policies towards Fatah loyalists and have been attributed with the task of moral policing (Hovdenak 2010: 14).

Upholding security while governing under occupation touches upon a delicate dilemma; how to legitimately police a people while insisting on their right to resist and all in cooperation with the authorities of occupation? This may indeed be an impossible undertaking. It seems clear that the security sector donors need to come to terms with this tension, and ensure that the policing does not eradicate political organisation and hence democratisation at the grassroots level. The difference between what is seen as terrorist political organisation by the international community and resistance in the name of social justice by Palestinians remains hard to reconcile.

Recommendations for donor engagement in democratisation and participation

Formulating guidelines for engagement in local level democratisation is challenging, as the political aspirations that would be supported if genuine democratisation took place would bypass existing agreements and /or contravene the implicit politics of donor states. The dilemma of donor states reveals the gap between commitments to international law and the agenda of *realpolitik* prevailing in the Israeli/Palestinian conflict. National liberation remains the overarching goal for Palestinians, and as it is developed in practice in the eyes of the public this is not per se achieved through democratisation. However, in order to promote an agenda of governance at the local level, donors and international policymakers face dilemmas, which despite their difficulties need to be addressed:

- The Israeli occupation impedes substantive internal reform and donors must not disregard or downplay this highly particular context when seeking to enhance democratisation in the oPt. The potential contradictions enshrined in 'democratisation under occupation' must be thoroughly scrutinised, and donors must be clear that democracy is not an apolitical process. Outcomes of democratic conditions might undermine the agenda of external parties and Israel and change the underpinning of the structure in place. With this lies the realisation that what might be perceived as critical or controversial (excluding overtly violent strategies) is not per se antidemocratic but reflects the sociopolitical effects of the conditions of the occupation expressed through a democratic channel.
- Boosting the local economy of Palestinians by including them in planning proc-

esses around development, production and export is pivotal. Possible measures for donors to take could be to include support to local businesses, for example through the creation of agricultural cooperatives and locally-based chambers of commerce. Other initiatives might include inducing measures to refrain Palestinians from taking up work in Israeli settlements, as well as work to support Palestinians to refrain from selling and buying settlement product. This would be in line with the new Danish policy of labelling products produced in the oPt. This might show as a tangible and useful way of supporting local Palestinian producers, and a way of building trust between donors and local actors.

- When it comes to support for civil society engagement the disillusionment within the NGO sector is worrying. On a short-term basis, a constructive way of addressing this is for donors to increase the pressure on the authorities to conduct a more liberal policy towards NGOs as a way of enhancing freedom of speech and sparking new energy at the grassroots level. Long term, the issue of freedom of speech needs to be addressed through a more overall rethinking of the PA's contractual structure which produces these tensions.
- The EU and Denmark should encourage the authorities to grant more autonomy to the local level of governance, and to stall repressive measures against civil initiatives that voice criticism towards the PA or Israel. In the long term, seen from a donor perspective, it would be highly constructive to push for national reconciliation, and thereby kick-start a national and local level electoral process. One fruitful way might be to support local, ad hoc grassroots initiatives calling for national reconciliation. Such networks are already in place yet need to be reactivated and could benefit from support to develop and consolidate into a suitable structure.
- To ensure a greater level of accountability, the donor community could assist in expanding and fine tuning the tax system. In Gaza this type of support remains highly complex as the EU still has its no contact policy with the authorities. In the absence of major policy changes on that point, an alternative mechanism for diplomatic consultations should be considered to allow for some form of engagement.
- The Palestinian focus on popular resistance as the core of political organisation is difficult and risky to ignore, as it might spark further detachment of civil and political life from the state building project. It is crucial to reconcile the agenda of non-violent popular resistance with the policies of the authorities. Without space for non-violent public resistance, popular backing and hence democratisation will remain highly limited. Furthermore, donor reluctance to confront this issue is not viable in the long term. Dialogue on equal terms is key; in terms of upholding a level of credibility, in the formation of more radical political actors, and in order

not to be bypassed by alternative funding sources. The EU and Denmark need to consider ways of reconciling support to capacity building with political activists pursuing a critical non-violent agenda.

- The EU and Denmark need to ensure a higher degree of inclusion of local level demands and aspirations in the development of programmes. This entails the recognition of the role of alternative sources of legitimacy and service delivery such as clans and Islamic charities. Rather than engaging in competition over the support of the public base, means of supporting these structures and engaging in dialogue should be developed.
- The donors must be careful in supporting joint Israeli-Palestinian projects. These are often considered elitist and with an inbuilt aim of normalising relations between 'occupied and occupier' in the midst of a violent conflict. In order to push forward democratisation locally, the ownership needs to lie entirely with the Palestinian people. A push for ill-adapted initiatives might trigger unwanted consequences; in this case further internal fragmentation, and depoliticisation, and deepen the frustration with the donor community. In order to build bridges between the parties the political substance of the conflict needs to be addressed. Support to Israeli initiatives advocating for progress on the basis of international law should be welcomed.

Conclusion

In its current form, the Palestinian 'state' is unable to be an agent of instability or stability. It has not been given the authority or the sovereignty to make decisions or to fail to deliver services as a result of its own processes as the resources and operating environment are all imposed explicitly or implicitly through the power dynamics of the contradictions of the state building project. Hence the lack of legitimacy is inherently political in that it derives from lack of recognition of a Palestinian state. Governing the oPt has largely meant that political parties have modified their political agenda in order to be part of the internationally accepted PA rather than responsive to their people.

A large part of local level political organisation seeks to strike a balance between displaying support to the state building project (on which they depend financially) and engaging and supporting popular resistance (against occupation and local authoritarianism) as a means of empowerment and as a political strategy. This remains a core predicament. The 'rentier state' character of the PA erodes democratic participation and limits the freedom of expression and political organisation at the local level in

a manner that ultimately sparks political orientations which stand in stark contrast to official PA policies (in both territories).

The international community needs to re-couple the public level with the PA. This is done by repoliticising the PA, integrating public demands for public resistance and, if possible, opening up a discussion of how to ensure a more symmetrical framework of cooperation with Israel. Ultimately, an end to the occupation is the single most important step to a reinstallation of Palestinian democracy and to provide Palestinians with a sense of political ownership.

References

- Brown, Nathan, J. (2011), *Are the Palestinians Building a State?* Carnegie Commentary, June 2010. FAFO paper 2011: 9.
- Hammami, Rema (2000), "Palestinian NGOs since Oslo: From NGO Politics to Social Movements?", in *Middle East Reports* no. 214, spring, pp. 16–19, 27–48.
- Hovdenak, Are (2009), " Hamas in Transition: the failure of sanctions", in *Democratization* Vol. 16, No 1.
- Hovdenak, Are (ed.) (2010), *The Public Services under Hamas in Gaza: Islamic Revolution or Crisis Management?*, PRIO Report No. 3.
- Khalidi, Khalid and Samour, Sami (2011), "Neoliberalism vs. Liberation: The Statehood Programme and the Remaking of the Palestinian National Movement", in *Journal of Palestine Studies*, Vol. 40, No. 2. pp. 6–25.
- Parsons, Nigel (2011), Israeli Biopolitics, Palestinian Policing, in Laleh Khalili and Jillian Schwedler (eds), *Policing and Prisons in the Middle East: Formations of Coercion*. London: Hurst and Company.
- Roy, Sara (2007), *The Gaza Strip; "A Case of Economic De-Development"*, in *Journal of Palestine Studies*, Vol. 49, No. 3, pp. 56-88.
- Sayigh, Yezid (2007), "Inducing a Failed State in Palestine", in *Survival*, Vol. 49 No. 3, pp. 7–40.
- Sayigh, Yezid (2010), *Hamas Rule in Gaza: Three Years On*, Middle East Brief, Crown Center for Middle East Studies, March, No. 41.
- Sayigh, Yezid (2011), *'We Serve the People' – Hamas Policing in Gaza*, Brandeis University Crown Center for Middle East Studies, Crown Paper No. 5.
- Sayigh, Yezid and Shikaki, Khalil (1999), *Strengthening Palestinian Public Institutions*, Independent Task Force Report, Washington DC: Council on Foreign Relations.
- Stockmarr, Leila (2011), *Gaza's New Islamists: the Atomization of Palestinian Politics since 2006*, DIIS Report No. 11, Copenhagen: Danish Institute for International Studies.
- Tiltnes, Pedersen et al. (2011), *Palestinian Opinions about Governance, Institutions and Political Leaders*, FAFO paper No. 9.
- United Nations, Office for the Coordination of Humanitarian Affairs, *Palestinian Communities Affected by the Barrier*, Key Facts, December 2011 (2011a): http://www.ochaopt.org/documents/ochaopt_atlas_barrier_affecting_palestinians_december2011.pdf (accessed May 2012)
- United Nations, Office for the Coordination of Humanitarian Affairs, *The Humanitarian Situation in the Gaza Strip*, October 2011 (2011b): http://unispal.un.org/pdfs/OCHA_Gaza-HumSituation.pdf (accessed May 2012).

- The World Bank (2010), *Towards a Palestinian State, Reforms for Fiscal Strengthening – Economic Monitoring Report to the Ad Hoc Liaison Committee*: <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/WorldBankReportAHLCApril2010Final.pdf> (accessed 25 April 2012)
- The World Bank (2011a), *Coping with Conflict: Poverty and Inclusion in the West Bank and Gaza*.
<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ME-NAEXT/WESTBANKGAZAEXTN/0,,contentMDK:23024461~menuPK:294370~pagePK:2865066~piPK:2865079~theSitePK:294365,00.html> (accessed May 2012)
- The World Bank (2011b), *Sustaining Achievements in Palestinian Institution-Building and Economic Growth – Economic monitoring report to the Ad Hoc Liaison Committee*: <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/WorldBankAHLCApril2011.pdf> (accessed 25 April 2012)
- Ze'evi, Dror (2008), *Clans and Militias in Palestinian Politics*, Middle East Brief, Brandeis University.

