

Post-Secession State-Building and Reconstruction

Somaliland, Somalia, South Sudan and Sudan

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State-building refers to the processes undertaken by new states, while reconstitution refers to the rearrangement of an existing state following either secession or collapse. Somaliland and South Sudan are involved in process of state-building, while Sudan and Somalia are engaged in state reconstitution. Three distinctive models of state-building are taking place in the four countries. This Policy Note analyses the interlinked yet distinct process of state building.

Introduction

With the popular plebiscite of January 2012, South Sudan became the latest secessionist state, and its independence was immediately recognised by the international community. Somaliland declared its independence following the collapse of the Somali state in 1991, yet has failed to secure international recognition for its sovereignty.

Both Somaliland and South Sudan are involved in the arduous process of state-building, the former by combining modern and traditional institutions and authorities and the latter by pursuing a unitary project based on modern institutions, but with the devolution of power to regional states and local governments. Somalia itself is also undergoing state resuscitation following the end of the long transitional period in August 2012, a process that includes determining its relationship with Somaliland. It is pursuing a federal option. Sudan is likewise endeavouring to reconstitute itself as a post-secession state. Formally, the state structure in Sudan is federal, with its 16 states supposedly the core components of the federation. However, state reconstruction is mired in contestation, conflict and war, especially in four periphery states, namely Kassala, Darfur, South Kordofan and Blue Nile.

Thus, three distinctive models of state-building are taking place in the four countries. In addition, the cases highlight the theoretical distinction between state-building and state reconstitution. State-building refers to the processes undertaken by new states, while reconstitution refers to the rearrangement of an existing state following either secession or collapse.

Studies of state-building and state reconstitution demonstrate a direct link between the nature of the state and festering conflicts. Rigorous examination of the nature and modalities of state-building and state reconstitution is therefore required. We need to take stock of the three modalities of state-building and state reconstitution to be found in the general literature to identify the model most likely to achieve peace, stability and development following secession and state collapse.

It was with this aim that the Nordic Africa Institute collaborated with the Institute of Peace and Conflict Studies, Hargeisa University by convening a conference on Post-secession State-building: Somaliland, Somalia, South Sudan and Sudan, 17-18 June 2013, in Hargeisa, Somaliland. This Policy Note is based on the conference.

Conceptualising State-building & State Reconstitution

As noted above, state-building and state reconstitution are two distinct yet interlinked processes. Specifically state-building applies to the emergent cases of Somaliland and South Sudan, while state reconstitution refers to the ailing states of Somalia and Sudan.

Three basic conceptual genres loom large in modern state-building discourse, namely the institutionalisation, bureaucratisation and democratisation of the state. These three notions are the benchmark for appraising modern states arising out of the Peace of Westphalia. A modern state, it is argued, should partly or wholly display these features. Institutionalisation refers to effective enforce-

ment of state authority over society through specially created and sustainable political structures and organs. In this sense, political institutionalisation is understood as a state-building process par excellence. It is taken to mean the evolution of a functioning and enduring state and societal institutions that lead to coherence and harmony.

Broadly, institutionalisation entails social, political and economic institutions such as legislatures, the executive, the judiciary and civil society associations. It also includes functional, accountable and transparent banking systems and transaction regimes that coalesce to underpin the state. In the African setting, however, different aspects of institutionalisation need to be considered. On one hand there is the inheritance from the precolonial period, those formal institutions relegated to informality by colonialism and now invariably identified as informal, traditional or indigenous. On the other hand, there are colonially imposed and postcolonially imported modern entities.

Bureaucratisation, in the context of state-building, is associated with a process leading to rule by administrative office. This Weberian notion of state-building stresses the promotion of administrative professionalism and meritocracy and the development of a civil service and routinisation of administration to achieve publicly acknowledged objectives. The normative effect is neutrality and objectivity as between administration and citizen, with office being viewed as in the public domain, in contrast to the patrimonial, personalised and clientelistic exercise of office. Bureaucratisation denotes development of the rule of law whereby officials follow long-term career paths in the bureaucracy and generally operate in accordance with rules and established norms. Modernity brought with it bureaucratic centralisation, and an urban-based, Western-educated dominant elite expropriated state power, alienating the overwhelming rural population.

The third notion, democratisation, refers to the construction of institutions of divided power. It concerns the process by which a democratic governance system is set in motion. Democratisation refers to a genuine spread of power in society, leading to enhanced popular control over national choices. It facilitates basic freedoms such as those of expression, demonstration and association; minimises arbitrary and dictatorial rule; and holds the ruling elite accountable for their actions. Although historically democratisation and state-building were not conflated, it has become increasingly apparent that modern state-building and democratisation are intimately connected.

This conflation, however, has a downside for state-building in fragile African societies, at least, in the short term. The overarching liberal democratic dispensation presumes enfranchising the general populace with the aim of influencing decision-making. It also presupposes integrating ethnic and societal groups into the state and decision-making processes. Democratic negotiations and compromises between the various groups impinge on issues such as centralisation/decentralisation of power, individual rights, minority relations, electoral systems, state intervention in the private and public realms. This may render state-building in Africa precarious, because it creates ten-

sions and contradictions within society. In this sense, it is proposed that African societies pursue their own variant of democracy that takes into consideration those societies' precolonial and colonial ancestry and harnesses both in the state-building project.

African reality may therefore require that democracy be arranged in a way that respects the rights of nations without intruding on the rights of individuals and groups. State-building should accommodate African communal life as well as growing individualism. Admittedly, democratisation renders the state more transparent and better equips it to advance social interests. This transformation, in turn, strengthens the state by enhancing its legitimacy and by integrating different national entities.

Democratisation understood as building functional and sustainable state institutions stands at the centre of the state-building process. Institutions in postcolonial African societies are, however, divided into two types. The modern institutions transplanted by colonialism and imported by the postcolonial state were elevated to formality and privileged while traditional institutions were relegated to informality and denigrated. This spawned two publics, the urban and the rural, a condition that engendered fragmentation of institutions and institutional clashes. A viable state-building project therefore requires striking a balance between the two institutional lineages.

In addition to modern institutions and structures, we therefore need to take other dimensions into consideration when we debate state-building in Africa. One of these pertains to the role of traditional informal institutions and practices in state-building. Their significance is twofold: they cater to the overwhelming rural population and they have proven resilient. Indeed, modernist state-builders have not been able to obliterate these institutions, even though they impose limits on the liberal-democratic state. Rather, state-building agents need to take account of these institutions.

A further consideration is that state-building put in motion following prolonged liberation struggle may assume different form and content. In such cases, the state-building agents are often the liberators, who derive their legitimacy from the fact that they brought independence. Two things need to be taken into account in such cases: the transition from liberation movement to civil governance and the transformation of the liberation political culture.

State-building: Somaliland and South Sudan

State-building as a result of secession seldom occurs in Africa. As a matter of fact, only South Sudan duly fits the theoretical and legal definition of secession. In the case of Somaliland, secession seems not to fit, since Somalia was a last-minute colonial artefact. The principle of decolonisation confers on Somaliland the right to construct its own statehood. Indeed, decolonisation resulted in the emergence of a sovereign Somaliland on 26 June 1960. After just four days of independence, Somaliland dissolved its statehood and voluntarily joined with Italian Somaliland to form the Somali Republic on 1 July 1960.

Thirty years later, in 1991, Somaliland declared its inde-

pendence, following the collapse of the Somali state. The declaration was perceived by nationals of the territory as retrieving what they had voluntarily conceded, rather than secession. Indeed, many inhabitants of Somaliland claim they joined the union under the impression that the five territories inhabited by ethnic Somalis (Italian Somaliland, British Somaliland, French Somaliland, Ogaden and the North Eastern District of Kenya) would constitute the emergent Somali union. When this pan-Somali project failed, the union between Somalia and Somaliland was compromised.

The Somali National Movement (SNM), an insurgent movement that had helped overthrow the Siad Barre regime, assumed power in the self-declared independent state. Somaliland then embarked on the arduous task of state-building anew. SNM promised elections after a two-year transition period and in 1993 was compelled to hand over power to civilians. So far, Somaliland has had four successful democratic elections (1993, 2000, 2003, 2010), thereby strengthening the state-building process. Somaliland is a *de facto* state awaiting *de jure* statehood.

The Somaliland state comprises two chambers: the House of Representatives and the House of Elders or *Guurti*, which is part of the formal political system. The *Guurti*'s original task was mediation and conciliation of conflicts. Thus, Somaliland combines traditional indigenous institutions and authorities with modern institutions and authorities in its state-building process. In the *Guurti*, traditional elders selected by their clans exercise authority in their sphere of influence. Modern institutions are represented in the elected national legislative assembly. Many observers have commended Somaliland for this conflation, which is considered to have contributed to relative peace and stability in the country over the last 22 years.

More than 50 years of struggle for the right of self-determination culminated in the emergence of the Republic of South Sudan in July 2011. Unlike Somaliland, South Sudan was not a colonial artefact, and its quest for self-determination properly conforms to the notion of secessionism. It was part of the Anglo-Egyptian condominium, though never adequately integrated into the rest of Sudan. Indeed, under the British system of indirect rule, South Sudan was administered separately, a situation that possibly sowed the seeds of the separate South Sudanese territorial identity that underpinned the quest for self-determination.

The negotiated settlement between the ruling National Congress Party (NCP) and the Sudan People's Liberation Movement (SPLM) conferred legitimacy on the latter as power bearer in South Sudan. SPLM's mantle of state-building was uncontested on the grounds that it had led the final phase of the liberation struggle. The state-building process in South Sudan faces challenges, however. One pertains to setting up functional and viable state institutions. Unlike the SNM in Somaliland, the SPLM chose a different model of state-building, which is predicated on two considerations. First, it is a centralist model informed by modernisation theory, and second it ensures the dominance of the liberators. At a formal level, former traditional institutions are given at best a negligible role in

the state-building process, while the transformation of the national liberation political culture and the transition to civic state-building is deferred.

Both contexts have crucial implications for the state-building project. It cannot be emphasised enough that modern and traditional institutions need to underpin the institutional component of state-building if South Sudan is to be spared post-liberation crisis. Moreover, the SPLM faces the challenge of transforming itself and transitioning from liberation movement and liberation culture to civilian government and civic culture. Moreover, the state-building process will require a shift from SPLM/Dinka domination and the embrace of an inclusive and equitable pluralism.

State Reconstitution: Somalia and Sudan

The common hallmark of Somalia and Sudan is that both experienced secession. In the case of Sudan, the seceding entity was immediately recognised as a sovereign state, thereby dispelling lingering doubts. Somalia, however, has still to grapple with unfinished business with regard to the self-declared independent territory of Somaliland. Both countries are also involved in state reconstitution following the splits.

With the election of a president on 10 September 2012, the transition period in Somalia ended and the post-transition period officially commenced. Post-transition state reconstitution is faced with formidable challenges. State reconstitution is embedded within a federal dispensation that includes Somali Federal Government (SFG), a transitional federal constitution and federal institutions. The SFG is now recognised by the UN, AU, EU and US. This recognition is tied to the territory that existed before the collapse of the Somali Republic in 1991, thereby complicating Somaliland's quest for recognition. The federal dispensation is strongly debated among Somalis, and some critics assert that it was imposed from without. Two challenges are paramount: (i) what will the component units of the federation be; (ii) whether a federal dispensation is compatible with Somali reality.

The proposed component entities of the emergent Somali Federal State (SFS) are central Somalia, Jubaland and Puntland. The status of Somaliland has yet to be resolved amicably, but dialogue between Mogadishu and Hargeisa has begun regarding state reconstitution. Somalia's reconstitution is marred by conflicts and contradictions arising in part from heavy-handed intervention by neighbouring states. Although al-Shebab has been driven from the main urban centres and may be in retreat, it still controls significant rural areas and launches deadly attacks in the towns it was forced to abandon, particularly Mogadishu. It thus seems that a political rather than military solution is required to deal with the Somali predicament. All these issues have revealed the fragility of the post-transition state-reconstitution process. Moreover, consensus on state reconstitution among Somalis is largely lacking. Primarily among the people of Mogadishu and its environs, there is a fear that federalism will lead to balkanisation. Punt-

land and the emerging autonomous state of Jubaland, by contrast, are pushing for a strongly decentralised federal structure that allows real powers to regional states. Absent consensus among Somalis, state reconstitution will remain precarious indeed.

Sudan has also entered a new era of reconfiguration and state restructuring following the secession of South Sudan. This secession has failed to bring peace, stability and security to Sudan, particularly on its restive periphery, where a new round of conflict exploded as South Sudan neared recognition. Consequently, Sudan's state-reconstitution process is also precarious. Indeed, the future of Sudan remains bleak. As long as wars continue, the state of emergency intended to settle them will define political practice and state reconstitution will languish.

The ruling NCP is accused of behaving in the same old way, instead of learning from the past and fashioning a new social contract that accommodates the interests of the restive peripheries and marginalised ethnics. The NCP needs to recognise its game must change. Constitutionally, the state is predicated on federalism, yet state business is conducted in a highly centralised fashion. The placing of the leadership in the international criminal spotlight has further complicated state reconstruction by delegitimising the president and his senior associates.

The post-secession constitution-making process in Sudan needs to generate consensus across the political, ethnic and religious spectrum. This is difficult while conflict persists. Stakeholders need to acknowledge each other's claims within the realm of politics rather than resort to violence if that consensus is to develop.

Conclusion

A common element in all the cases is the endeavour to rearrange the state either by building it anew or reconstituting following split and collapse. In Somaliland and South Sudan such rearrangement involves the complete metamorphosis of state institutions so that they respond to the needs and interests of the people. In all four cases, conflict is in varying degree evident. It is this conflict that defines the scope, depth and momentum of state-building and state reconstruction. It follows that peace-building is a prerequisite for successful state-building and state reconstitution.

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Recommendations

- State-building in Somaliland and South Sudan needs innovative statecraft. In addition to fashioning modern state institutions catering chiefly to the urban populace, traditional institutions and authorities appropriate to the rural sphere need to be incorporated into the state-building process.
- The hybrid modern-traditional state-building process in Somaliland, credited with achieving relative peace, security and stability, needs to be enhanced.
- Post-secession state reconstitution in Sudan needs to take account of social plurality. It is imperative that state reconfiguration avoids repeating the mistakes that led to the secession of South Sudan
- Post-transition state reconstitution in Somalia has entered a critical stage. The process needs to be owned by the Somali people, and political rather than military solutions are needed.
- In all these cases, peace-building should be afforded priority as a mechanism of state-building and state reconstitution. Without peace there will be no successful state-building, just as without successful state-building there will be no sustainable peace. The linkages between state-building and peace building should be consolidated.
- External actors need to remain engaged in the task of state-building and state reconstitution. However, their engagement needs to be national-, local- and people-centred.
- The regional dimensions and dynamics of peace-building and state-building also need to be taken into account.
- A transparent, democratic, accountable and inclusive state-building and reconstruction process needs to be implemented.

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