Chapter 3

Critical elements underpinning statebuilding

There are three critical elements of statebuilding that underpin the social contract and are at the core of state-society relations: (i) *political settlement and political processes through which state and society are connected;* (ii) *state capability and responsiveness to effectively perform its principal state functions; and* (iii) *social expectations. In addition to analysing these three elements, this chapter also examines state legitimacy and its sources.*

Statebuilding is a deeply political process forged out of complex struggles over the balance of power, the rules of engagement and how resources should be distributed. To understand the dynamics of statebuilding with a view to improving the ability of external actors to support the movement from fragility to resilience, this guidance focuses on three critical aspects that underpin the social contract and are at the core of state-society relations:

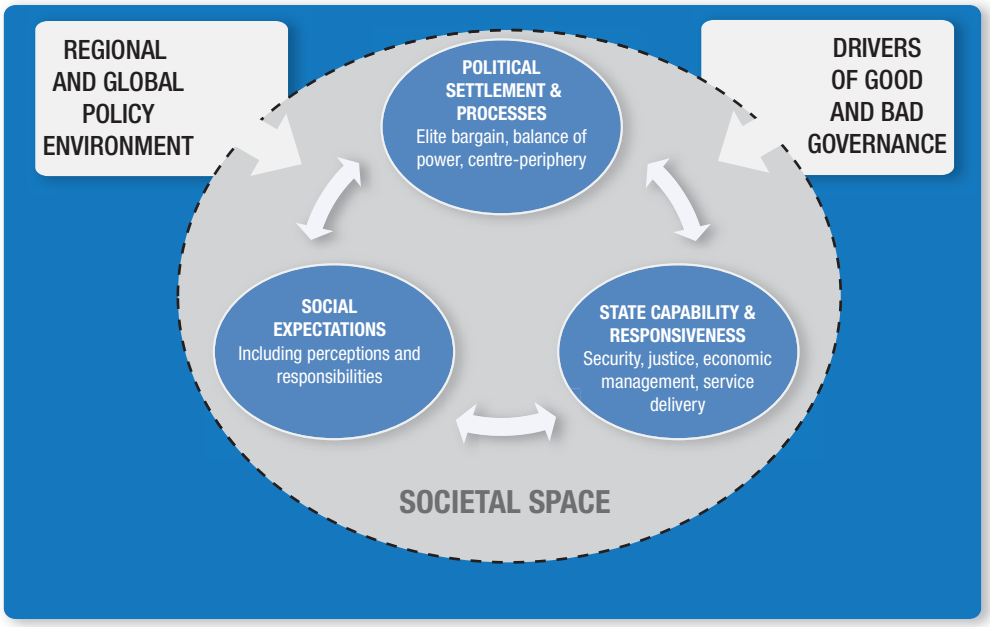
- *The political settlement*, which reflects the implicit or explicit agreement (among elites principally) on the "rules of the game", power distribution and the *political processes* through which state and society are connected.
- *The capability and responsiveness of the state* to effectively fulfil its principal functions and provide key services.
- *Broad social expectations and perceptions* about what the state should do, what the terms of the state-society relationship should be and the *ability of society to articulate demands* that are "heard".

Statebuilding efforts need to be attuned to all three dimensions, set out in Figure 3.1. By focusing only on one – state capabilities, for instance – without paying due attention to others – such as how power holders are to be held to account for how public resources are spent – external and internal actors risk at best ineffective and at worst harmful outcomes. These dimensions also need to be understood within a larger regional and global policy environment and as operating at multiple levels – national and sub-national – within the domestic polity.

At the heart of the interaction among the three aspects lies the matter of legitimacy, which provides the basis for rule by primarily non-coercive means (OECD, 2010c). States derive legitimacy from multiple sources that may coexist and/or compete. Understanding the sources of legitimacy must be central to external interventions in statebuilding efforts.

This chapter focuses on the different aspects of state-society relations, and further examines the linkages between legitimacy and statebuilding.

Figure 3.1. **Building "states in society": Three critical aspects of state-society relations**



Political settlement and political processes

The prospects for statebuilding ultimately depend on the terms of the political settlement upon which the state is founded. The concept of "political settlement" is still unfolding in the international community, but essentially it refers to how the balance of power between elite groups is settled through agreement around the rules of political engagement. Political settlement may be (re)shaped by the outcome of a single event (such as a peace agreement), or it may reflect an ongoing process of exchange and (re)negotiation that extends over time where what matters is the conduct of the key actors (Brown and Grävingholt, 2009). In both cases it is about how power struggles are "settled", reflecting "an elite consensus on the preferability and means of avoiding violence" (Brown and Grävingholt, 2009),

Political settlement refers not only to the formal architecture of politics, but also to the web of political institutions – the informal rules, shared understandings and rooted habits that shape political interaction and conduct, and that are at the heart of every political system.[1] Political settlement is also a dynamic phenomenon that is subject to change and transformation over time (with varying levels of conflict, consensus and resolution), as different state and non-state actors continually (re)negotiate the nature of their relationship. When political settlement is underpinned by a broad societal acceptance of the rules of the game, it is more likely to be stable.

The existence of a political settlement, however, is not in itself indicative of the level of inclusion and participation (Brown and Grävingholt, 2009). In some cases fragility reflects the degree to which the political settlement is exclusionary and/or privileges certain groups and interests over others. In many such settings, conflict and instability are the results of contests to redraw the rules of the game along different, although not necessarily more inclusive and representative, lines. By contrast, in other settings, an exclusionary political settlement may become entrenched and stable, defying contestation for a long time. In the short term this may give the impression of stability, but in the long term exclusion and horizontal inequalities (Stewart, 2008) can contribute to conflict and fragility.

The concept and practice of political settlement is deeply connected to **economic settlement**. The political settlement fundamentally affects how resources are distributed within and across groups. In all states, wealth and control over resources is unevenly distributed, disproportionately favouring the elite, but in fragile states this disproportion is often extreme. There is considerable evidence that the discrepancies in wealth, and therefore power, are especially large in countries where there are abundant natural resources. Through lawful or illicit trade, these can be and are exploited by a narrow circle of the economic and governing elites, mostly for personal benefit, or by those employing coercion or violent force. Thus, lack of natural resource governance and absence of a rule of law can be destabilising and lead a country toward armed conflict over control of resources. Crucially, in fragile situations the incentive structures are not in place for elites to "buy in" either to supporting economic development that is more equitably structured, or to meeting their obligations (through taxation) to supporting the social contract. Instead, state capture by elites undermines the prospects for the state to keep its side of the social contract in terms of service provision, security and rule of law in ways that benefit the broader community.

The relationship between state and society is coloured by the way in which political settlement results in **political processes**, which channel the range of social expectations and political voice that represents the population (in all its heterogeneity). There are two interconnected issues at stake. First, there is the matter of accountability, which is about whether there are in place the mechanisms and capabilities of oversight to ensure that the

social contract is upheld (Schedler *et al.,* 1999). Accountability structures are what bind social expectations in a virtuous cycle to both state capabilities and systems of governance. Second, political processes refer to the level and quality of political inclusion and the rules of political participation across the social spectrum. The level and quality of political inclusion are shaped by formal rules as well as informal norms and practices; supporting the effective political participation of under-represented groups such as women or internally displaced persons requires attention to the full range of formal and informal rules that may act as barriers to effective access and participation. Through this, political accountability can emerge – for instance, through competitive elections or the mere act of voting.

For the international development partner community, it is vital to understand that achieving a political settlement that assures agreement concerning the rules of political engagement, law-abiding elite conduct, effective accountability and inclusive governance structures is the outcome of local political processes and capabilities and local political power struggles, and not externally led intervention *per se*.

Key actors

It matters, then, who the key actors are in determining the political settlement and the incentive structures that shape their strategic choices. Key actors include those with power to stop or seriously destabilise statebuilding endeavours. Among them are elites, including leadership figures that move across the spectrum of formality/informality, legal/illegal and state and non-state, often with significant economic resources and in some cases strong allegiance. For states emerging from violent conflict, the balance of power is often concentrated around those with influence over armed groups, although this may not reflect the structure of relations that existed before the war.

The opportunities, constraints and incentive structures that domestic elites face (at the international, national and sub-national level) will shape the balance of power between competing actors, and their ability to act in support of statebuilding or a process that fundamentally works to their own advantage. Global and regional processes can have, as mentioned before, disproportionate impact on shaping the incentive structures to which local leaders and the elite respond.

Centre-periphery relations

The political settlement also shapes (and is in turn the outcome of) how centre-periphery relations are negotiated. As the rules of the political game evolve, choices are made about the degree of centralisation and decentralisation both of service provision and of power. A central issue here is revenue and the ability of the centre to mobilise tax revenue from the country's periphery. In contemporary statebuilding and peacebuilding processes, recurrent issues include: whether ethnic and sub-national political identities are able to coalesce behind a common national identity; the patterns of exclusion or domination that characterise relations among sub-national groups and their relation with the centre; disputes over natural resources; variable forms of state capture; and the quality of the state presence at the sub-national levels.

State capability and responsiveness

States vary in their normative basis and sources of legitimacy. There are, however, some key capabilities that are common to all effective states. States are responsive when they fulfil these functions and deliver services in keeping with prevailing social expectations about state-society relations.

To provide security, enforce the law and protect its citizens. The security function of the state refers to the capacity to centralise the legitimate use of force in order to protect the population and territorial integrity from internal and/or external threats. It is a central component of the social contract. How security is deployed will have an impact on the other domains of state capability. In the best of cases, the security apparatus enforces the rule of law, ensures that powerful groups are kept in check and do not undermine the state, protects the rights of citizens, and supports the state's capacity to collect taxes and mobilise other sources of revenue. In the worst of cases, the coercive apparatus of the state can be turned against citizens in ways that are biased, repressive, or violent, or that fail to contain or prevent the emergence of armed conflict of actors contending for political control, violent crime, and/or interpersonal violence (Call and Cousens, 2007; OECD, 2008a). In some cases, the state itself may be implicated in the sponsorship of forms of interpersonal violence such as gender-related abuse or sexual exploitation.

To make laws, provide justice and resolve conflict. This is connected to the state's capacity to rule "through" the law. It reflects the state's capacity to contain and resolve conflict; to adjudicate through the independent, impartial, consistent, predictable and equal application of the law; and to hold wrongdoers to account. The justice system is a key component of the accountability dimension of state-society relations. But for accountability to be meaningful, the law must be seen to be legitimate by the majority of the population. Society must also be able to engage with the law through sufficient access to justice mechanisms, especially for the most vulnerable and be well informed or aware of their position, rights and obligations as citizens in state-society relationships.

In many fragile contexts, contemporary notions of justice and conflict resolution need to allow for the notion of "legal pluralism". This sees value in acknowledging, understanding and working with existing informal rules and mechanisms of conflict resolution rooted, for instance, in community justice, which are seen as legitimate by the local population, and which can support the emerging rule of law. Integrating a "legal pluralist" perspective, however, can be difficult when there is fundamental disagreement about which type of law should apply, or when legal principles and practices clash with international human rights norms.

To raise, prioritise and expend revenues effectively and deliver basic services. In order to finance the rule of law and provide security and other basic services, the state must be able to raise revenue and manage it in line with social expectations. This requires a sound and transparent system of public financial management, the ability to raise taxes (Carnahan and Lockhart, 2008), and related administrative capacity and accountability mechanisms. When revenue from taxation is perceived as being used to deliver public services and fulfil redistributive functions in ways that meet social expectations, nationally and sub-nationally, a relationship of reciprocity between state and society may result (Moore, 2004). In this way, the population has a stake in supporting the state, and the state has an interest in being responsive because it relies on taxation to raise the revenues it needs to function and survive. In the absence of a visibly positive link between taxation and service delivery, state legitimacy is likely to suffer (OECD, 2008c; Clements, 2008).

Typically, social expectations about what constitutes basic goods and services (in addition to justice and security) include equal access to health, education, water, sanitation, communications and infrastructure. However, social expectations about basic service provision and the ability to access and benefit from basic services vary within and across different social groups and geographic locations; rural communities and women and girls, for example, are particularly vulnerable to being underserved.

To facilitate economic development and employment. The state must create an enabling framework for trade, investment, employment and economic growth. Enabling wealth accumulation, income earning and the development of investments in human capital can make significant contributions to positive state-society relations. Political stability and social peace are more likely under conditions of equitable economic growth and social development. At the same time, economic development is facilitated by state structures that provide basic infrastructure for investment, protection of property rights, legal security and a regulatory framework for financial and economic transactions.

The effectiveness with which the different state functions are carried out and services delivered also depends on the interaction among them, and the mutually reinforcing synergies that are activated as a result. Where one or more of the functions enter a cycle of deterioration, this is likely to have a negative impact on the other state functions and to contribute to fragility. The manner and the extent of provision of these state functions remain part of the political process through which the interests of citizens, policy makers and providers are reconciled.

A state that can fulfil the functions outlined above is well on the way towards being a resilient state. These functions therefore usefully suggest generic objectives in a statebuilding process. They can equally well be expressed in one context as the objectives of a social movement or political party, and in another context as the purpose of development partner engagement. In addition, as indicators of capability and responsiveness, the functions are part of social, political and economic expectations, and the political settlement and processes. The tendency to seize upon these four capabilities, and translate them into projects and programmes, needs to be resisted. Strengthening key state capabilities (police, the judiciary, public financial management, etc.) from a technical standpoint alone is insufficient. To treat these merely as technical exercises denies the fundamentally political basis of statebuilding, and risks ignoring and addressing the political interests that have resulted in the current status quo.

Key actors

Given the complexities that arise from limited state presence and capability across the territory in fragile states, it is frequently the case that the provision of key functions and service is in the hands of a range of non-state actors, including international and domestic non-governmental organisations (NGOs) and civil society organisations (CSOs), traditional authorities, and in some cases criminal organisations or armed groups that challenge and compete with the formal authority, capacity and legitimacy of the state.

Centre-periphery relations

To a considerable extent, state capability and responsiveness need to be assessed also in terms of their prevalence across the territory. As indicated, a fragile or conflict-affected state may have extremely limited authority in (and even access to) large swathes of territory. Statebuilding has historically focused on the centralisation of the coercive

(*i.e.* security, law enforcement), administrative and service provision apparatus of the state. In fragile situations this has tended to mean that statebuilding has been more visible in the capital cities, and the population in the more remote or distant parts of the territory often have limited and unsatisfactory interactions with the state. In these areas, informal or community systems of rules operate with varying levels of acceptance, and are likely to have more presence than state institutions or state law. In this context, the traditional pattern of top-down statebuilding risks exacerbating the problem; it can secure the position of the central elite precisely by not extending to large rural areas, which therefore remain under the sway of local leaders. This is exactly the kind of implicit bargain that perpetuates elite rule but impoverishment and insecurity for the majority.

Social expectations

As highlighted before, a resilient state that is also responsive is one that is closely aligned with prevailing social expectations about what the state should deliver (OECD, 2008c). Social expectations are articulated and channelled through the political process – to greater or lesser effect. We can distinguish between "realistic expectations" and "normative expectations" regarding how society sees the state (OECD, 2010a).

Normative expectations are based on beliefs and perceptions about what a state should look like, what it should deliver, and how it should relate to society, which is in turn related to how legitimacy narratives about state-society relations evolve. Normative expectations are above all the product of the changing interaction between political contestation, ideology and beliefs.

Realistic expectations refer to what the population expects the state to deliver in reality, based on previous experience (OECD, 2010a).

There is always, in all country contexts, a gap between the realistic and normative expectations, as citizens are more often than not disappointed, either by government or state responsiveness. But in fragile contexts the population typically either expects little from the state in terms of service provision (as a matter of capability), or sees the state as the source of repression or instability, or as the "privatised" domain of elite groups. The mismatch between normative and realistic expectations of the state can contribute to entrenching perceptions and corresponding patterns of conduct among the different stakeholders. But crucially, it strikes at the heart of whether state-society relations are perceived to be legitimate or not.

Social expectations about state-society relations are also shaped by changes in political voice and social mobilisation from below. How effectively expectations for change find political voice is shaped not only by the terms of the political settlement, but also by existing levels of mobilisation capacity in civil society. Where societies are fractured through conflict and violence, the capacity for political voice and social accountability from the bottom up is often severely undermined. Of special concern is the mobilisation capacity of vulnerable or marginalised groups, which is often limited in the pre-conflict period and at particular risk of being undermined in societies impacted by conflict. The persistent neglect of structural and relational inequalities – such as the neglect of children's rights, systematic gender inequality, and ongoing exclusion of indigenous peoples and other vulnerable minorities in fragile states – is related to the absence of effective channels for voice and substantive participation.

Finally, in fragile situations, there is often the added complexity that social expectations about the state are highly heterogeneous or polarised. In part this reflects problems of social cohesion that are perpetuated by a state that delivers public goods in an uneven manner. It may also reflect differently formed views about state-society relations. Whatever the source of the problem, a shared sense of citizenship is missing, and the political settlement has not succeeded in brokering a *modus vivendi* between different normative views about the social contract. It is vital in such settings that external backing for the promise of reform and change is carefully moderated so as to avoid over-inflated social expectations beyond what is reasonably possible in a context of fragility.

Key actors

Key actors include those political elites charged with representing political preferences. Under democratic governance regimes this largely means political parties. Elsewhere, political elite structures may include both lawful and illicit elements, including individuals or groups engaged in organised crime and corruption. Political parties in such settings will have support, to varying degrees, from elite structures or exclusive economic interests. Non-state and civil society organisations can be important actors in support (or not) of responsive statebuilding. The degree to which these organisations are truly "civil" or representative varies, however, as non-state actors may include warlords, or criminal groups participating in illicit activities.

Centre-periphery relations

In hybrid political orders, social expectations about state-society relations will be especially disparate and fragmented. This is likely to be further accentuated by the political and geographic distance between the centre and periphery and the fact that different social and political actors will have different experiences of state functioning depending on their location. The challenge for statebuilding lies in working across these multiple levels of state-society relations, and understanding the range of experiences and expectations of public authority that they engender.

State legitimacy

Legitimacy matters because it provides the basis for rule by consent rather than by coercion (OECD, 2010c). The lack of legitimacy contributes to fragility because it undermines state authority and capacity given that people are unwilling to engage with the state. Understanding the sources and processes that increase legitimacy are central to effective statebuilding. This requires a deep appreciation, without preconceived or fixed ideas, of how people's perceptions and beliefs about what constitutes legitimate public authority are shaped in a specific context.

There are four main sources of legitimacy, which play out differently in varying social and political contexts:

- *Input (process) legitimacy* relates to the observance of agreed rules of procedure through which the state takes binding decisions and organises people's participation. In Western states these rules will be mainly formal (usually enshrined in the constitution), and include competitive elections, bureaucratic management and formal accountability mechanisms. In non-Western states, process legitimacy may also be based on customary law or practice.

- *Output (performance) legitimacy* depends on perceptions about state performance, and the effectiveness and quality of the services delivered. The ability to provide security, basic social services and an enabling framework for economic development and employment are fundamental. Patronage in Western states undermines input and performance legitimacy, but it may be a source of both input and output legitimacy in non-Western, hybrid political orders.
- *Shared beliefs* are shared narratives about what public authority should be, shaped by tradition, historical processes of collective identities, and structures of socialisation (these include for instance nationalism, culture, religion, gender roles and ethnicity). Legitimacy based on charisma is also included in how beliefs about legitimacy are shaped.
- *International legitimacy* derives from recognition of the state's sovereignty and legitimacy by external actors. This may also be a source of internal legitimacy, or may conflict with it: to have a positive effect, international legitimacy has to resonate with internal notions of legitimacy.

It is important to distinguish between state legitimacy and the legitimacy of specific regimes or political leaders.[2] Legitimacy of the state or regime is also likely to vary significantly in different areas, and among different communities.

Understanding the links between legitimacy and state capacity is central to statebuilding and the evolving political settlement. People's perceptions of legitimacy reside at the core of their willingness to engage with the state, to accept its "right to rule". Legitimacy strengthens capacity because the state can rely mainly on non-coercive authority: citizens can be motivated to mobilise and engage in collective or individual action that is responsive toward the state. The responsiveness of citizens enables states to better appreciate and manage competing interests and to design and implement policies that are equally responsive to citizens' needs, goals and interests. Capacity is likely to improve legitimacy and further stimulate collective action that effectively aggregates and channels citizen demands and expectations. In this way, capacity and legitimacy are mutually reinforcing, and can create virtuous or (in fragile situations) vicious circles (where lack of capacity undermines legitimacy and *vice versa*).

Legitimacy matters at every stage of statebuilding. It can support or inhibit the negotiation of an initial political settlement. That settlement provides the basis for a shift from purely coercive state power to the acceptance of the state as the highest (legitimate) authority in society, entitled and indeed expected to make and enforce binding decisions for society as a whole. As statebuilding processes gather momentum, perceptions of legitimacy are also central to the establishment of constructive state-society relations that can support bargaining to achieve institutionalised arrangements for managing conflict, negotiating access to resources, and producing and distributing public goods.

As noted in the discussion of hybrid political orders in Chapter 2, different sources of legitimacy interact and compete. Particularly when it comes to shared beliefs of religion, culture, and other areas of tradition, normative beliefs may differ substantially across regions and sub-regions and between elites and non-elites within the nation-state. Where narratives of legitimacy conflict, possibilities for widely held conventions on the rights and duties of citizens and the state within the social contract are diminished. Non-state actors including warlords, insurgents, and criminal networks may take advantage of the state's lack of capacity and legitimacy to offer alternative systems of government. Legitimacy in fragile situations is therefore very complex, with different sources of legitimacy coexisting,

competing and conflicting – and interacting with other sources of power and interest. These are very difficult issues for outsiders to grasp, much less influence constructively.

Development practitioners have recognised that top-down models of statebuilding will fail if they clash with local perceptions about what constitutes legitimate public authority. This presents a number of substantial dilemmas. For instance, the development partner community is committed to supporting statebuilding that is in keeping with international human rights norms or rational-legal notions of legal accountability – but this might not match local beliefs and traditions about how power is best exercised (OECD, 2010c).

There is increasing interest among development practitioners in deliberate strategies for supporting the marriage of indigenous, customary and communal institutions of governance with introduced, Western state institutions, with a view to creating constructive interaction and positive mutual accommodation. An emerging concept is that of **"grounded legitimacy"** (Clements, 2008) as "a way of incorporating traditional authorities and practices within the formal state in order to provide the belief systems within which to enhance the capacity and effectiveness of new forms of statehood" (OECD, 2010c). However, two notes of caution are in order. First, a mechanistic fusion will not work. Introducing customary practice into formal state law or anchoring new rules in traditional practice requires constructive interaction between different sources of legitimacy. Fusion of justice systems has to be negotiated through political processes of bargaining between the state and different groups in society. A second, related consideration is that external actors are likely, even in the best of circumstances, to only have a facilitating or catalytic role in creating space or opportunity for such interaction to take place. It is no accident that some of the most successful examples of "grounded legitimacy" – including the role of customary institutions and traditional leaders in Botswana and Somaliland – were led by domestic actors, with little or no participation by development partners or other external actors.

In sum, statebuilding involves a complex process of navigating through the different narratives of legitimacy and systems of trust as the basis for constructing widely held or common understandings of state-society relations and public authority.

Conclusion

Effective states matter for development, and the prospects for moving from fragility to resilience depend on the capability, accountability and responsiveness of the state and its relationship with society. At the same time, statebuilding is constrained or undermined by the very conditions of fragility that make it necessary. This has implications for the citizens and communities that live in fragile states, particularly for their basic security, livelihoods and basic wellbeing. Fragility, conflict and violence are not the same but they can exist concurrently, with each shaping and being shaped by the other. Thus, the processes of statebuilding will often develop alongside and in a mutually supportive relationship with peacebuilding, with both processes supported by a range of internal and external actors that includes the development community. Finally, statebuilding at the start of the new millennium is deeply enmeshed in broader global processes that can enable or constrain statebuilding.

Notes

1. Institutions across multiple levels of society, such as systems of religion, family and education, are not conventionally understood as "political", but also play an important role in shaping access to and control over the material and symbolic resources that form the basis of political interaction and conduct.

2. In some cases, particular groups may reject the very existence of the state. Other cases are more subtle: the legitimacy of the state and its institutions may be high, but what is rejected or challenged is the "occupation" of the state by a narrow regime, the elite, or an exclusive set of interests. In theory the distinction is clear but in practice it is often blurred.