# Engaged Societies, Responsive States:
## *The Social Contract in Situations of Conflict and Fragility*

CONCEPT NOTE

April 2016

UNITED NATIONS DEVELOPMENT PROGRAMME

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# *Executive summary*

This concept note presents an analysis of the use of a "social contract" as a way of framing UNDP's governance and peacebuilding practices in fragile and conflict-affected contexts. It forms part of the follow-up to the UNDP report "Governance for Peace: Securing the Social Contract" (UNDP, 2012) both to contribute further to UN policy discussions and to help chart ways forward. The social contract is the process by which everyone in a political community, either explicitly or tacitly, consents to state authority, thereby limiting some of her or his freedoms, in exchange for the state's protection of their universal human rights and security and for the adequate provision of public goods and services. Divided into five sections, this note provides both a conceptual understanding of the social contract, as well as policy implications for UNDP projects moving forward. The note also examines case studies of post-conflict regions where the social contract has been rebuilt and proposes areas for further study in order to help fully capitalize on the potential that the social contract offers. Finally, the two annexes provide a framework for a tool to help practitioners analyze the structure and dynamics of the social contract in a fragile setting.

*Timorese celebrate International Day of Peace.*
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# *Introduction*

This concept note presents an analysis of the use of a "social contract" as a way of framing UNDP's governance practices in fragile and conflict-affected contexts. It forms part of the follow-up to the UNDP report "Governance for Peace: Securing the Social Contract" (UNDP, 2012) produced by the United Nations Development Programme's Bureau for Crisis Prevention and Recovery (BCPR), both to contribute further to UN policy discussions and to help chart ways forward.

In developing its 2012 report, UNDP looked carefully at successes and challenges to governance interventions in fragile settings. That exercise yielded the contours of a conceptual model centred on the "social contract" seen as an outcome of governance support. "At the centre of this framework is a commitment to restoring the social contract through the application of effective development support. … Supporting the social contract provides an overarching objective that brings together governance and peacebuilding priorities to ensure more effective coordination across diverse programmatic areas" (UNDP, 2012: 37).

The report outlined the key components of an approach that would help improve the social contract in fragile and conflict-affected contexts. These included the following:

a) Promoting responsive public institutions at both national and local levels;
b) Supporting inclusive politics, based on transparent and predictable mechanisms that include and engage individuals or social groupings commonly marginalized or wholly excluded from political life;
c) Fostering resilient societies, chiefly by promoting robust state–society and society–society relations.

In order to achieve this, the report also proposed strengthening partnerships at multiple levels: at the international level, with other UN agencies, other multilateral and bilateral agencies, and non-governmental organizations (NGOs); and at the national level, with governmental institutions, civil society organizations, and the private sector, as this work would require the coherent engagement of multiple actors.

The conceptual model (see Figure 1) thus placed the social contract at the heart of an ideal UN-wide approach. These main elements, and others subsidiary to them, required further specification and analysis in order to better build the case for the social contract as a beacon to guide policy and concrete measures for positive change.

**FIGURE 1**

# Section 1: What is a social contract?

How is the binding force of mutual rights and duties between states and society built and sustained? How is the legitimacy of public authority warranted? Answers to these questions often invoke the idea of a state–society pact or contract. Over centuries, the potentials of social contracts have engaged many minds, both in the academy and in the public realm.

One of the first thinkers to address the concept of the social contract was Jean-Jacques Rousseau. He was interested in the creation of a political community that could balance collective with individual rights and could resist prevarication and exclusion, dominant features of the mercantilist era. A social contract, thus, was to be regarded not only as a utilitarian transaction (i.e. as an agreement to forfeit some rights in return for some other benefits), but also, if not primarily, as a conscious effort to achieve an egalitarian governance system, while still respecting and guaranteeing the most fundamental individual freedoms and rights.

Since then, the concept has evolved in two main politico-philosophical lineages. For the liberal-individualistic lineage, a social contract should serve to maintain property rights and public order. For the human rights and equity lineage, social justice is the goal. Both views continue to animate debates. Emerging today is a view of the social contract as a process of sustaining an equilibrium between the expectations and obligations of the institutions in power and those of the rest of society (Lessnoff, 1990).

But whereas advanced industrial societies have largely reached such a kind of political equilibrium that is associated with open democratic systems, fragile and conflict-affected countries are often far removed from this ideal equilibrium on which a durable social contract is supposed to be based. Characterized by what North

defines as "limited access orders," these societies lack the concept of a state with territorial authority and capacity to perform its core activities across the country in an impersonal, transparent, and accountable way (North et al., 2007). Political elites, non-state actors, and multiple informal institutions emerge and compete with the state (or whatever is left of it) and among themselves for the control of that country's rents. The sort of equilibrium that they enforce is limited because access to the existing rents is allowed only to themselves and their supporters. Such a governance system is by definition exclusionary and it runs against the main principles of an equitable and sustainable social contract.

The term "social contract" can be used descriptively, referring to something substantively real; or heuristically, as an aid to analysis. In the international development community, however, it is often used normatively: an ideal that states and societies should aspire to. Thus for example in 2011, in response to upheavals in the Middle East, then-World Bank President Robert Zoellick spoke enthusiastically about the need for a "new social contract."[1] Such utterances invoke the term without necessarily explaining fully and precisely what a social contract is and how it is made. This is understandable where the aim is to awaken interest and to persuade people of the idea's importance. But where so much is left undefined, limits are set to the concept's relevance as a compass for policy and practical action.

However, definitions are now crystallizing. A team of policy advisors commissioned by the Organisation for Economic Co-operation and Development (OECD)

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1 Speech by Robert Zoellick: "A New Social Contract for Development". http://live.worldbank.org/speech-robert-zoellick-new-social-contract-development.

Development Assistance Committee (DAC) looked at the issue with regard to state-building in fragile situations. Their text refers to the social contract as a process for bargaining, articulating and mediating society's expectations of the state. It identifies five key factors making social contracts viable and durable, and then proposes a brief definition:

*The social contract emerges from the interaction between a) expectations that a given society has of a given state; b) state capacity to provide services, including security, and to secure revenue from its population and territory to provide these services (in part a function of economic resources; and c) élite will to direct state resources and capacity to fulfil social expectations. It is crucially mediated by d) the existence of political processes through which the bargain between state and society is struck, reinforced and institutionalised. Finally, e) legitimacy plays a complex additional role in shaping expectations and facilitating political process. Legitimacy is also produced and replenished – or, conversely, eroded – by the interaction among the other four factors... Taken together, the interaction among these factors forms a dynamic agreement between state and society on their mutual roles and responsibilities – a social contract.* (OECD, 2008: 17)

A synthesis of these elements combined with UNDP staff formulations suggests a more extensive definition, as follows:

**BOX 1: DEFINITION**

The social contract refers to processes by which everyone in a political community, either explicitly or tacitly, consents to state authority, thereby limiting some of her or his freedoms, in exchange for the state's protection of their universal human rights and security and for the adequate provision of public goods and services. This agreement calls for individuals to comply with the state's laws, rules, and practices in pursuit of broader common goals, such as security or protection, and basic services. The validity and legitimacy of a social contract may be gauged by the extent to which it creates and maintains an equilibrium between society's expectations and obligations and those of state authorities and institutions, all amidst a context of constant flux.

**FIGURE 2**
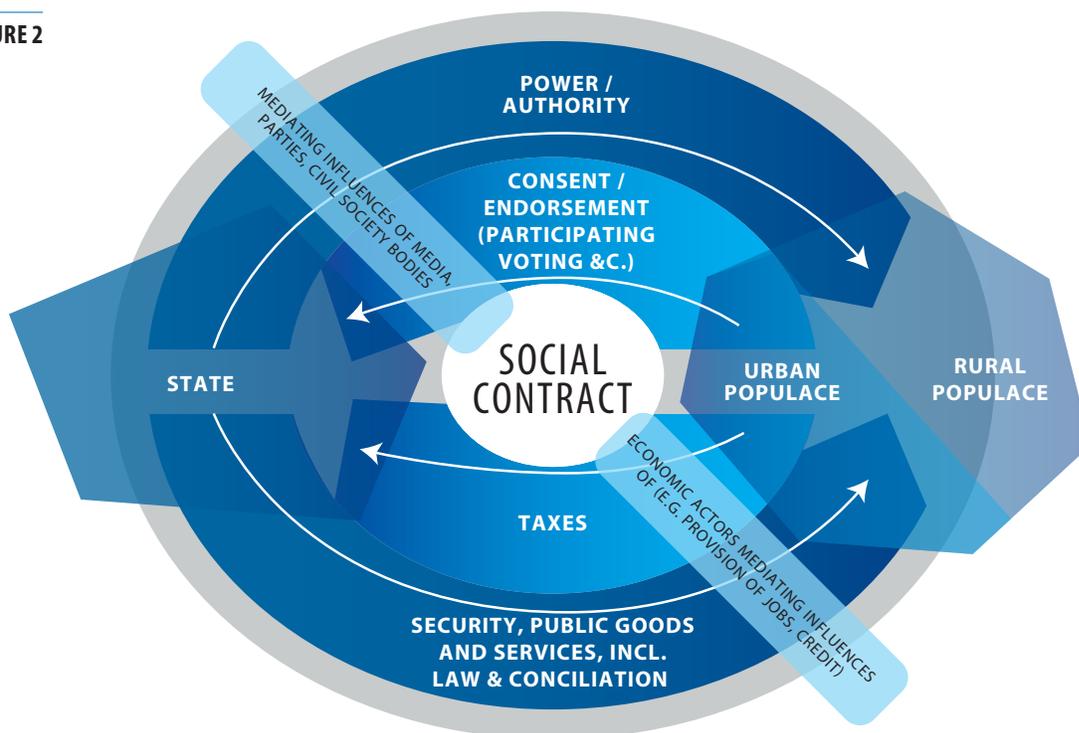
Underpinning both the shorter and longer definitions is the vital norm of universalism. For a social contract to be valid and robust, it must emerge from a political community whose membership is inclusive. Consent to a state's authority includes all under its jurisdiction; benefits from state protection and services are accessible to all.

Thus defined, the social contract may be compared with two other concepts – social covenant and social cohesion – with which it is sometimes conflated or confused. These concepts complement but do not rival the concept of the social contract.

**Social covenant** refers to a "horizontal" process that brings together various ethnic, religious, clan, and ideological groups within a political community (Kaplan, 2014). In covenants, the major groups within a society come together and agree on a new framework and vision for cooperation. A social covenant may inform and underpin a formal peace accord or even a nation's constitution.

One observer contrasts social covenants with social contracts as follows: "Social contract creates a state; social covenant creates a society. Social contract is about power and how it is to be handled within a political framework. Social covenant is about how people live together despite their differences. Social contract is about government. Social covenant is about coexistence…" (Sacks, 2007: 110).

Social covenants and social contracts complement and reinforce each other. Building a nation goes hand-in-hand with building a state. A covenantal society that has reached agreement on its fundamental principles and values (e.g., who is a citizen and what makes for a legitimate government) is much better equipped to forge a sustainable social contract than one divided by stark fault lines. The two agreements also provide a mechanism to directly address the sectarian fault lines, horizontal economic, political, and cultural inequities between identity groups, and discrimination in public-services delivery – issues which plague fragile states – in a way that elite bargains and politics generally cannot (Kaplan, 2014).

**FIGURE 3** Lines of mutual interaction among these concepts and with the state can be depicted using the following diagram:



STATE

SOCIAL CONTRACT

SOCIAL CONTRACT

SOCIAL CONTRACT

SOCIAL GROUP

SOCIAL GROUP

SOCIAL GROUP

SOCIAL COVENANTS DETERMINE LEVELS OF SOCIAL COHESION BETWEEN DIFFERENT GROUPS IN SOCIETY
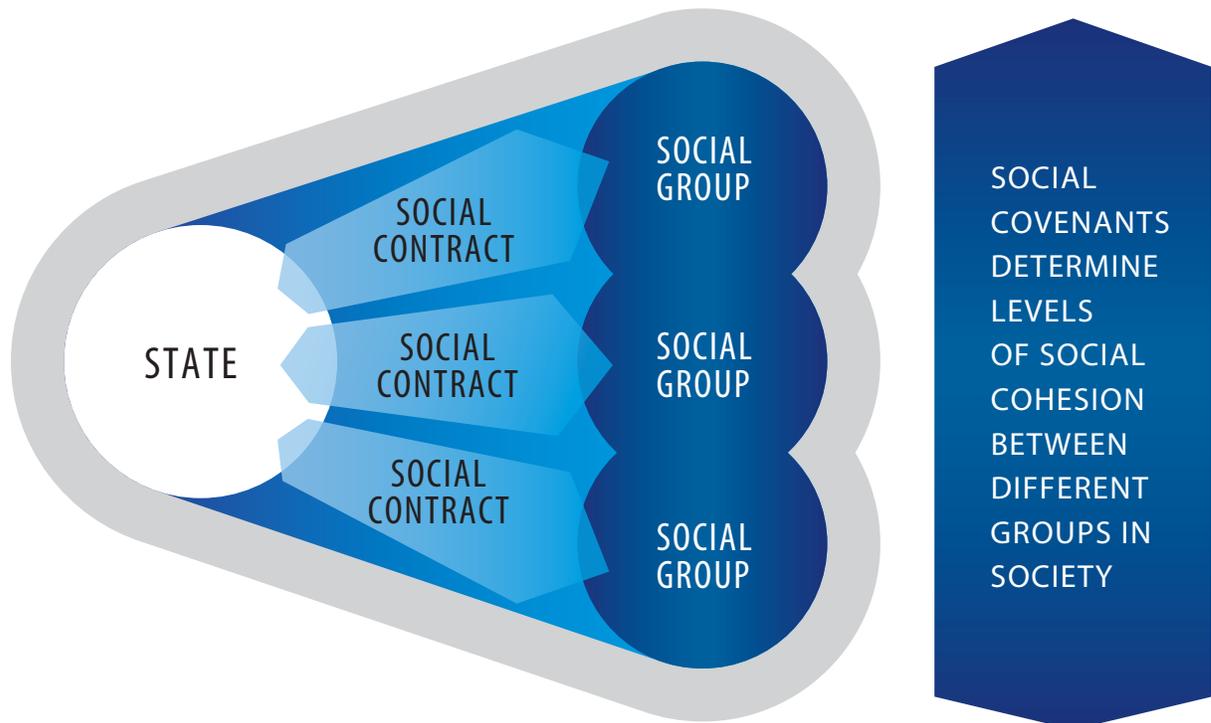
**Social cohesion** refers to the reduction of disparities, inequalities, and social exclusion within or between societal groups, as well as the strengthening of social relations, interactions, and trust. Such disparities often coincide with political divisions and forms of organied violence, sometimes driven by long–standing grievances and collective humiliation. Social cohesion and the social contract can be mutually reinforcing, for better or worse. Damaged social cohesion can possibly be repaired by the very process of negotiating a social contract. Social cohesion affects the quality and durability of the social contract; a nascent or transitional state can make greater social cohesion a goal that orients its contribution to the social contract. Understanding and respecting factors that promote or undermine social cohesion are thus vital in advancing robust social contracts.

Simplifying highly complex dynamics, social cohesion and social covenants mutually reinforce or weaken each other. Both influence social contract processes; cohesion typically pertains to broad and amorphous processes affecting trust and inclusion while covenants typically pertain to social accords mediated by informal and even formal institutions including political institutions.

Any given country may have numerous social contracts between the state and different lower-level governance structures (community-based or otherwise), which mediate the relationships between individuals and the state. These social contracts may be positive forces but they may also themselves enforce unequal power relations and patterns of exclusion. Any programmatic effort to support strengthened social contracts must first attempt to understand the multi-level governance structures operating in that environment, as well as the power structures and processes of exclusion operating at different levels.

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**BOX 2: OTHER CONCEPTS**

The social contract often appears together with other terms. These are noted here briefly.

*Fragility:* A fragile setting is one lacking effective political processes that can bring state capacities and social expectations into equilibrium (Jones et al., 2008; OECD, 2011a). In lexicons of policy, fragility refers to badly disordered political arrangements and weak state legitimacy. In such circumstances, public authorities cannot deliver services or collect public revenues. Hence the state and society are not bound in mutually reinforcing ways. If there are external or internal shocks, and political communities are unable to renegotiate their social contract, then conflict can occur and public authorities may lose the monopoly on legitimate violence. The absence of a social contract is therefore at the heart of fragility. (For an extended discussion, see UNDP, 2012: 15–23).

*Political settlement:* A political settlement refers to a compromise over the organization of power among those vying for control of the state. It codifies the "rules of the game" (UNDP, 2012: 18). It may be founded on a strong social contract, one that regulates allocation of public goods among different groupings, or it may be merely a bargain among elites. An inclusive political settlement is one where the social contract is robust and legitimate (Di John and Putzel, 2009: 4). Social contracts and political settlements are not mutually exclusive or opposing concepts. A political settlement may include such mechanisms as participatory constitution-making, transitional justice, and affirmative action measures to redress past patterns of social exclusion and inequality, thereby to promote social cohesion.

*State legitimacy:* A complex and contested concept, a state's legitimacy refers broadly to its public status based on a governed people's perceptions that the institutions and actions of their governors are appropriate. Such perceptions can stem from domestic sources such as religious or other cultural institutions and from a popular sense of a state's inclusiveness, lack of corruption and responsiveness to collective needs and preferences. Government- and privately owned media, as well as so-called social media, can influence legitimacy in decisive ways. Legitimacy is specific to domestic contexts, yet its basis in public perceptions may also be influenced by external sources, including the United Nations. Ultimately, however, a political community's social contract is the core ingredient of state legitimacy.[2]

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2 Extended discussions of legitimacy appear in OECD (2010a: 21–23; 2010b), and Conciliation Resources (2014).

## COMPONENTS AND DIMENSIONS OF THE SOCIAL CONTRACT

The significance of social contracts typically depends on the capacities and legitimacy of public institutions and the interplay of economic and political forces, including interests beyond territorial levels. This sub-section reviews some of these key dimensions and components.

### Formal and informal institutions

States and politics typically involve both formal and informal rules and practices. Especially, though not exclusively, in non-Western states, "informal networks and personal relations still influence how power is distributed and used" (OECD, 2010a: 17). The legitimacy of local authorities and rules may pose challenges to a social contract, where the "local turn" may set limits to principles of universalism. In peacebuilding, international agencies have shown ambivalence toward customary structures, sometimes seeing them as socially regressive and sometimes as valid helpmeets for peace, such as in parts of the Democratic Republic of Congo and Myanmar (Mac Ginty and Richmond, 2013; Hellmüller and Santschi, 2014).

In practice many non-Western states are *"hybrid" political orders*. These are constitutional liberal democracies that nominally operate according to formal, legally enforceable rules. But they coexist with other, competing socio-political rules with indigenous roots that rely on webs of social relations to establish trust and reciprocity (OECD, 2010b: 17–19). Given high levels of "informalization" in fragile and transitional contexts, social cohesion can be at risk where locally legitimate institutions are set aside – or made instruments of control – by formal authorities. On the other hand, the "invisibility" of informal systems of authority has historically helped foster social exclusion and weak institutionalization of the state, as in some zones of Guatemala, Bolivia, and Ecuador. That invisibility hinders the access of minorities and others to basic services and justice.

*Southern Sudan Referendum Comission staff members prepare the official counting of votes of the referendum on the self-determination of South Sudan (January 2011).* © UNAMID

In addition, the assumption that social contracts take place between a state (i.e. government institutions and possibly political elites) and the individuals living within the official boundaries of that state (and who are recognied as legitimate counterparts) does not automatically lead to an understanding of the dynamics and power structures present in that society. Some observers (e.g., Leonard, 2013) hold that "contracts" may exist at both local and transnational (diaspora) levels, among families, clans, and informal associations. These exist alongside links with the state and formal politics. Together these can mediate relationships between individuals and the state. They are not necessarily conducive to robust social contracts; indeed they may enforce unequal power relations and exclusion. The cases of denied citizenship of the Muslim Rohingya community in Myanmar, and of the influential role that diasporas can play in domestic politics, serve as reminders of extra-territorial complexities of fragile situations and the related power dynamics central to the emergence (or lack thereof) of a social contract.

## The impact of external factors on the social contract

It is also important to emphasize that, despite its strong domestic connotations, a social contract can hardly be regarded as a dynamic agreement that takes place completely unconnected with the supranational level. International covenants, security pacts, trade regimes, financial agreements, governance institutions, social movements and forces, all add concrete boundaries and pressures to the eventual shape and reach of a national social contract. Although national actors may have the feeling that they are involved in their own negotiations, existing supranational structures and forces may greatly reduce the space for maneuver and may influence the result of those negotiations.

One recent case in point is provided by the response of the European Union (EU) and International Monetary Fund (IMF) to the economic crisis along the southern fringes of Europe. By championing the sacred cause of fiscal austerity, these supranational institutions have forced a painful package of fiscal and public expenditure reforms, which have bypassed any national debate. Obviously, the governments in place have been put under considerable internal pressure because of these policies, but the actual negotiation process (or any remaining semblance of it) has not taken place within the national boundaries; it has been a reform package conceived and imposed by international institutions removed from any sort of bargaining obligation towards the societies being affected by their policies. Once fiscal, monetary, and trade policies have been locked in to binding agreements, or the control has simply been transferred to international centers of power, then public contestation is doomed to become irrelevant, unless it takes massive and often violent forms.

In this respect, the IMF has a long history of economic interventions that have ultimately contributed to the collapse of existing social contracts and to the rise of new ones. One illustrative example is the instrumental role that the IMF's structural adjustment program, imposed on the government of Indonesia in 1998 during the Asian financial crisis, and including among other things the removal of fuel subsidies, played in the unleashing of the *Reformasi* movement and ultimately the removal of Suharto after more than 30 years in power (Mezzera and Malhotra, 2002).

In other cases, the introduction of policies controlled by Western institutions has contributed to popular apathy and withdrawal from public life.

Other international processes that can frustrate the development of robust state–society relations include the following:

- The fiscal weakening of governments subjected to strict requirements by the international community to liberalize capital controls and trade taxes (with resulting revenue losses), and also to strong transnational tax competition, which tends to favour "light" domestic tax regimes and, in the worst cases, non-transparent accounting and illicit capital flight;
- The insertion of national economies into global trading and financial circuits, exposing national producers, consumers and public treasuries to fluctuations in income, prices, and revenues that often trigger violence (Brückner and Ciccone, 2010; Brinkman and Hendrix, 2011);

- Exposure to transnational criminal circuits and other armed actors. Decades of lucrative and competitive rent-seeking created by drug prohibition regimes have seen the rise of networked and diversified criminal industries that have often penetrated political classes and legitimate businesses and have supported violent political movements. Private security services, a lucrative global industry, also lack effective public control.

## Economic elements of the social contract

The interactions between the supranational and the national level mentioned above also highlight the importance of economic dimensions in the formation of a social contract. Political considerations often dominate the debate about the social contract, but it is important to consider the pivotal roles that economic interests play in violent and fragile contexts during political transitions, and in the way the state interacts with its polity.

While often stemming from bona fide commerce and industry, economic interests can have large shadow sides: criminal control of illicit activities, corruption of state institutions, support for an economy of war, capital flight, and other interactions with the international financial sector. Services and laws that in principle should be accessible for all, and underpin a social contract, can sometimes be controlled and "protected" by actors such as criminal gangs, as in Karachi and in Central America, which oversee illegal land distribution and access to basic urban services.

Access to social protection and basic public health and education services, housing, land, credit, and jobs are fundamental to a social pact. Together these may be termed an "economic social pact," something that naturally implies private sector responsibilities. Economic inclusion is the hallmark of an economic social pact, insofar as the terms of inclusion are fair rather than adverse (Acemoglu and Robinson, 2012).

**Inclusive and equitable economic outcomes** are thus fundamental elements of the social contract. To achieve these outcomes, taxation and expenditure policies are often among the most effective short- to mid-term

instruments available to public authorities. Fiscal policies can affect prospects for peace by redistributing income and wealth. Bargaining about them can instill content to political life, lending it legitimacy. Improvements to public services for non-elite groups can be an important part of sustaining a strong social contract. People can benefit from public expenditure through the allocation of contracts and employment, as well as through their access to public services, and fair revenue-sharing formulas can increase the sense of regional equity in the collection and redistribution of national resources – an issue that often takes center stage in separatist struggles (Stewart et al., 2007).

Some of the forces that tend to block or weaken the economic basis of a social contract include:

- Rents accruing to elites who control international economic flows, both licit and illicit, rather than relying on tax revenues drawn from the wider economy;
- Unimpeded flows of investible surpluses from poorer to richer jurisdictions (UN DESA, 2013 : Figure III.2), exacerbating problems of corruption, low domestic investment (Grabel, 2012), and unaccountable governance (Moore, 2012);
- Lack of global tax regulations, leaving countries alone in their efforts to address under-taxation or outright evasion, especially of corporations (International Development Committee, 2012).

Consistent with these points, an OECD study concluded the following:

*Donors need to focus much more attention on the ways in which their interventions and behaviour indirectly affect the incentives of political and economic elites to engage in statebuilding.* In particular they should concentrate on a small number of strategic global initiatives that are central to regulating global financial flows, oil revenues and the narcotics trade, and on action to control tax evasion, money laundering, corruption, terrorist financing and flows of money relating to international criminal networks, all with a view to limiting the access of elites and opposition groups in fragile states to unearned income. Such access

limits the interest of political elites in engaging with citizen-taxpayers, and provides finance that can fuel protracted internal conflict. (OECD, 2010b: 156)

On the other hand, policies that can help build up the economic basis of a social contract include the following:

- Pro-employment and livelihood policies that focus on, among other things, the informal sector and its main actors in the processes and institutions that create policy;
- Social and labor policies guaranteeing a country-defined set of basic social rights, services and facilities available to everyone and consisting of, among other things, cash transfers, universal access to health care services, food-based programs, school supplies, and vocational and training programs for the unemployed. A growing body of evidence demonstrates that basic components of social protection, such as disability and old age cash transfers as well as support of families with many dependents, can be afforded even in poor states in sub-Saharan Africa (Cook and Kabeer, 2009);

- Policies pushing back against the sweeping commodification of fundamental services such as water, sanitation, health, education, and housing. Since this commonly takes place in the context of weakened public regulation, such a commodification brings with it risks of "market failure," exemplified by cartels, price-fixing, deception, and fraud, not to mention increasing social and political inequalities;
- Food security policies, which can be crucial from a social contract perspective, as most of the marginal income of the poor is spent on food (Social Protection Floor Advisory Group, 2011).

The layers of complexity within the concept of the social contract described above obviously have an impact on the extent to which any attempt to formulate policy guidelines will be successful. The final section of this paper will address these complexities in more detail.

# *Section 2:*
# *Why the social contract? Why now?*

In order to understand what makes or breaks peace and development in fragile settings, international policymakers (OECD, 2008; OECD, 2010a; OECD, 2011a) and some academics (Paris, 2011) have come to identify state–society relations as the heart of the matter. Here the UNDP's *Governance for Peace: Securing the Social Contract* (2012) has put the social contract into the foreground. As a process by which "rules of the game" are negotiated and renegotiated, the social contract is a deeply political matter posing both opportunities and risks.

In light of the harm than can arise from poorly formed or inoperative social contracts, refusing to acknowledge and engage with political realities is not a viable option. Disorder and violence are being reproduced continually for want of political engagement between state and society. Synthesizing recent scholarship and conflict monitoring, the *World Development Report 2011* concluded that "Many countries and subnational areas now face cycles of *repeated* violence, weak governance and instability" (World Bank, 2011: 2). Such cycles can be found in many settings, including those whose fragility was supposed to have been reduced through outside intervention and "peace processes." Cases where those measures did not "stick" – Afghanistan, the Democratic Republic of Congo, Libya, South Sudan – are troubling.

Until recently, international diagnoses and remedies focused on building the formal capacities of governments. In Afghanistan and Iraq, for example, most international actors assumed that stability and prosperity would follow once central state structures and rules were put in order. Priority was given to executive authority (especially for financial policy), formal processes (elections, parliaments), and centralized judicial systems.

However, approaches confined merely to improving formal government capacities have yielded unsatisfactory outcomes (Call, 2011; Putzel, 2010; Bertoli and Ticci, 2012). Lack of coherence in concepts, and their mismatch with socio-political realities, have rendered the current "fragile state" model too feeble to support a robust and effective framework for policy. Indeed, that model has been highly contentious, not least among countries designated as "fragile." Many saw it as a label of disapproval applied to those failing to follow prescriptions imposed from international actors, such as pro-poor policies, the Millennium Development Goals, and human rights. The failure of imposed economic formulas and of state-building along Western (Weberian) lines in settings as diverse as the Balkans and West Africa indicate the limitations of conventional paradigms. The pursuit of alternatives has become imperative.

Moments for alternatives to be tested can be infrequent: post-conflict transitions are one such moment. These "critical junctures" can offer chances to rework the rules of the game (Acemoglu and Robinson, 2012). Episodes of contestation can provide critical openings for "writing the history of the future" (Ghani and Lockhart, 2007: 17). When political settlements have required constitutional revisions, opportunities to change certain fundamental rules have presented themselves, such as in Mozambique and Colombia in the 1990s, Kenya in 2010, and Tunisia in 2012–2014.

Bitter experience of the collapse of political settlements based on narrow elite bargains has helped draw attention to what many international actors have neglected – namely, that legitimate and effective state-building requires support, space, and respect for inclusive public politics. An emphasis on inclusive public politics creates the environment for a robust social contract.

International policymakers' acknowledgement of the importance of state–society relations became more prevalent in the mid-2000s. One close observer (Rocha Menocal, 2011: 1719) wrote the following:

**From a narrow preoccupation with building/strengthening formal institutions and state capacity, there has been an important shift within the international development community towards recognising that the state cannot be treated in isolation and that state–society relations are central to state-building processes. As such, the core of state-building, especially "responsive" state-building (Whaites, 2008), has come to be understood in terms of an effective political process through which citizens and the state can negotiate mutual demands, obligations, and expectations (Jones et al., 2008).**

Launched in Busan in 2011, the *New Deal for International Engagement in Fragile States* declares, as the first of its five Peacebuilding and Statebuilding Goals, that "Legitimate [p]olitics [f]oster inclusive political settlements and conflict resolution." The other four goals – people's security, access to justice, jobs, and service delivery combined with well-managed public revenue – are widely regarded as fundamental components of a social contract.

The *New Deal's* objectives and indicators are today being tested and discussed in anticipation of further elaboration and adjustment. One term under discussion is the word "inclusive." Views differ as to what degree of inclusiveness is appropriate in fragile and post-conflict settings. In the narrowest interpretation, agreements involving coalitions of certain elites – so-called "elite bargains" –may be taken as sufficiently inclusive to serve as viable bases of a political pact. Further along the spectrum is the notion of "inclusive enough coalitions" (World Bank, 2011: 120) that, while more inclusive than an elite bargain, may still fall short of the broadest possible political community within a country. Still further along the spectrum others see needs to take into account the "non-dominating power" of social groupings who have historically lacked voice and power. Here, inclusion is the broadest possible; it reflects a universalism that recognises particularisms (of culture, status, gender) but also promotes respect of the rights of inclusion on equal terms despite institutionalized inequalities (Pearce 2014 – presentation at Glen Cove conference). The UN has also consistently stressed the importance of inclusive political settlements:



*Supporters of former Haitian president Jean-Bertrand Aristide wave banners outside the airport in Port-au-Prince (March 2011). The former president arrived in Haiti after seven years of exile in South Africa.* © UN Photo by Victoria Hazou

**While inclusive political settlements may take longer to negotiate, they are more sustainable. An inclusive process builds confidence among participating parties that their core objectives can be achieved through negotiation rather than violence … A successful peacebuilding process must be transformative and create space for a wider set of actors – including, but not limited to, representatives of women, young people, victims and marginalized communities; community and religious leaders; civil society actors; and refugees and internally displaced persons – to participate in public decision-making on all aspects of post-conflict governance and recovery. Participation and dialogue enhance social cohesion and national ownership… (UN, 2012b: 11)**

Public participation beyond the ballot box is one vehicle of inclusive politics. It can take time and introduce dilemmas and risks. But experiences in post-conflict settings as diverse as South Africa, Mali, Guatemala, and the Philippines suggest that public participation can help bring a wider variety of issues up for discussion, lend legitimacy to peace agreements, contribute to more inclusive politics in future governance, and foster socio-political reconciliation (Conciliation Resources, 2009).

Inclusion also pertains to economic growth. There is increasing recognition today that growth without equity, inclusion, and accountability leads to prosperity for the few. As illustrated recently in North Africa, such circumstances can be combustible. The president

of the World Bank has stated that "when we fail to help countries develop in a way that is inclusive or fail to help countries build strong governance, we are all affected by the result, which is often a country engulfed in flames…"[3]

Recently, the World Bank has championed the notion of "inclusive enough coalitions," described in the 2011 *World Development Report* in the following terms:

**Unlike elite pacts, these coalitions involve broader segments of society – local governments, business, labor, civil society movements, in some cases opposition parties. Coalitions are "inclusive enough" when they involve the parties necessary to restore confidence and transform institutions and help create continued momentum for positive change; and when there is local legitimacy for excluding some groups – for example because of electoral gains, or because groups or individuals have been involved in abuses. (World Bank, 2011: xvii)**

However, there is no suggestion that the settlements should be only "inclusive enough" in their outcomes. Nor is it a denial that inclusive dialogue processes leading to settlements improve the chances of broadly legitimate peace agreements. Rather, it is a recognition that it is not always possible or desirable to bring *all* parties in a conflict to the negotiating table if, for example, gross human rights abuses have been committed or if any of the parties resolutely (and often violently) rejects the legitimacy of such a dialogue platform. The relevant question then becomes whether or not a process which is not fully inclusive can have inclusive outcomes. It is intuitively attractive and convenient to say that a process needs to be fully inclusive to have inclusive outcomes, but the evidence on this, such as it is, is mixed (DFID, 2011). As Di John and Putzel point out (2009: 5), inclusiveness of process is not intrinsically linked with inclusiveness of outcomes.

**It is possible that an imposed political settlement can be more inclusive than one reached through pluralist bargaining (as might be argued in the case of South Korea under Park Chung Hee versus the post-independence settlement under Syngman Rhee). As society is formed of contending groups and classes with different interests, the**

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3 World Bank Group President Jim Yong Kim's Speech at George Washington University: "The World Bank Group Strategy: A Path to End Poverty", October 1st 2013

**ultimate test of inclusiveness needs to be anchored in the distribution of rights and entitlements, which are the *outcome* of the settlement. Neither is inclusiveness necessarily an attribute more likely to lead to development or even pro-poor social policy.**

On the other hand, the bargaining involved in such inclusive processes, if positions and confrontational attitudes become polarized, may eventually lead to a kind of "limited access order" whereby the prevailing groups or alliances embrace an exclusionary approach in order to maintain control over the outcomes of the political settlement. The events that took place in Thailand leading up to the September 2006 coup could be partly interpreted from this perspective.

When state elites have used **social exclusion** as a key rallying mechanism in the shaping of identity, selectively including only certain actors in society, this has led to biased processes of state formation founded on exclusionary political settlements, deeply flawed social contracts, and the creation of fault lines in society that provide fertile ground for the outbreak of conflict. Examples of this abound: the struggle against apartheid rule in South Africa; the rise of the indigenous population against the Americo-Liberian elite in Liberia; the north–south conflict in Sudan; exclusion along class and race in Guatemala; the conflicts between ethnic groups in Burundi, Rwanda, and Kosovo; the separatist movement in Aceh, Indonesia; and the sectarian violence in Northern Ireland (DFID, 2005).

Events in the Arab states and elsewhere have elicited shifts in international discourses. These shifts acknowledge that challenges to the social contract exist not only in lower-income non-Western settings but also in middle-income and wealthy-state settings, particularly as they relate to poor governance, exclusion, and inequality. As movements in the U.S., the UK, Turkey, Brazil, and elsewhere have demanded that governments exercise greater oversight of business and demonstrate greater accountability to the governed, the power imbalances between governors and the governed have been questioned anew. There are demands from all quarters and contexts for a new paradigm to better understand and support democratic transformative processes, focusing on relationships between states and people.

# Section 3: Do social contracts matter? What do they add?

Implicit in most discussions about fragile settings are assumptions that a strong social contract will promote the following:

- Peace and stability, since consent to be ruled means refraining from political violence toward the ruling order;
- Resilience, as it allows for change through renegotiation of its terms;
- Legitimacy of states, since agreed mutual roles and responsibilities are seen as valid and appropriate;
- Accountability of states to citizens, insofar as upholding terms of the contract will help keep public expectations in (rising) equilibrium with leadership performance.

Cases where disorder and conflict were unleashed by breakdowns of social contracts, such as the ex-Yugoslav republics and several African nations in the 1990s, as well as some Arab countries after 2010, appear to validate these assumptions. However, what is still needed is a systematic study of the collapse and (hopefully) re-emergence of social contracts in fragile settings. The historical examples above indicate that such a study could prove very useful.

Shorter-term issues of war, peacekeeping, and project operations have been studied in depth. The same kind of depth and rigor should be applied to studying how longer-term matters such as justice, security, and jobs – matters of crucial importance to people – become anchored in political life. As was noted in Section 1, the concept of the social contract is an old one. The attention being paid to the phrase "social contract" in academic literature must now be followed by the collection of systematic evidence to bolster our understanding of how to put this concept into practice. A recent review of academic literature probed the practical relevance of social contract theory. It found repeated assertions of the

social contract's importance, but too little evidence to support or to discredit those assertions.

Evidence is lacking in part because policies guided by a social contract compass have yet to gain traction. A survey of how international agencies implement the *Principles for Good International Engagement in Fragile States and Situations (FSPs)* found that those agencies'

**approaches do not sufficiently reflect the need to support government institutions fostering state–society relations. They have not moved beyond "technical" institution building and capacity development to support broader political dialogue and processes. Statebuilding efforts tend to focus on the executive at central level, with less support for the legislature, judiciary and decentralised administrations. Support is often concentrated on formal institutions and "traditional" areas of intervention such as election support, public-sector management and service delivery, while support to civil society organisations in order to foster free and fair political processes, domestic revenue mobilisation or job creation lags behind. (OECD, 2011: 14–15)**

International agencies are thus failing to prioritize the social contract. Indeed, some quite important agencies ignore its basic building blocks, leaving state–society architectures weak and unsustainable. For example, an internal evaluation of the World Bank Group in fragile and conflict-affected states (FCS) concluded that "The Bank Group lacks a strategic and effective framework for inclusive growth and job creation in FCS" (IEG, 2014: xvi). Surveying international statebuilding support in fragile contexts, a Danida-commissioned review of 40 evaluations found that "counterproductive practices of donors that might undermine the establishment of legitimate state–society relations are prominently represented in evaluations" (Grävingholt et al., 2012: 22). Such findings are consistent with much academic scholarship, which suggests that "the

effect of international statebuilding on national state-formation is negative as it engenders dependency and cuts the link between the state and its society groups that is essential to state-formation, making public authorities primarily responsible to international donors and defense ministries who provide their butter and guns" (Heathershaw, 2012: 250).

Setbacks have been many, yet state responsiveness and viable social contracts are showing forward motion in a number of places. Practical measures described in the UNDP's *Governance for Peace: Securing the Social Contract* (2012) illustrate what is being achieved at local and national levels. At international levels, there is stronger backing for universal social protection. For example, the *Social Policy Framework for Africa,* ratified by African Heads of Government in January 2009, presents ways and means to build demand-driven public programmes. The Africa Progress Panel is among numerous international bodies pressing for fair and effective tax systems to boost state responsiveness and legitimacy.

Recent history provides examples of social contracts being formed or re-formed by political communities at territorial, often national, levels:

**Malaysia**

An economically stratified and culturally fragmented country coping with serious conflict in the 1950s, Malaysia saw the emergence of a social contract in the late 1960s. Ratified in the New Economic Policy and vigorously pursued under centralized authority, it combined a political settlement and a social covenant to enable the state to combat poverty, reduce disparities of income and assets, and promote greater (though not fully realized) social cohesion. The lack of political space for dissenting ideas, however, remains to date a great obstacle to the full realization of a sustainable social contract.

**Ghana**

Decades of post-independence political and economic turbulence ended in the early 1990s when a new constitution enshrined a broad political settlement. That ushered in the current period of stability, which has seen jobs created, state services and infrastructure enlarged, and formal democratic and court systems extended. While not yet wholly inclusive of all citizens, a social contract has taken shape. Older state–society hybrid arrangements, such as those governing access to land, also survived the decades of disorder and volatility intact. Ghana's social contract thus consists of many strands, both old and new.



*Fisherman on the lake Bosomtwe, the holy lake of the Ashanti people.* © UN Photo by Retlaw Snellac

**Tripura**

Decades of armed insurgency assailing this small state in the east of India abated in the early 2000s thanks to a new political dispensation and scaled-up programmes for food security, job creation, and public service provision. Local level "micro-democratic" bodies such as autonomous development councils, *gram panchayats,*[4] and village councils were strengthened. Results of public anti-poverty and anti-corruption efforts surpass those of other Indian states, including its neighbors, which continue to suffer sporadic organized violence.

Although there is limited systematic empirical evidence of the role of the social contract, the concept reflects an important move towards a more holistic and systemic view of governance and development. It promotes a focus on a broader range of relationships and processes than earlier approaches, which tended to emphasize the activities and roles of elites. The merits of the concept of the social contract for development practitioners, therefore, lie in its focus on the role and agency of "ordinary people," in their engagement with government, and in their governments' accountability to them. It is this "interface" of state and society that the social contract usefully highlights for us.

The concept of the social contract holds promise to help us focus our thinking on how best to engage the interface between the state and society. Further rigorous analytical study should be undertaken to make sure that we can capitalize on this promise, rather than having the social contract become a conceptual "bucket" that is applied loosely and without deeper understanding. The danger that must be avoided is that a glib adoption of the social contract may cause us to bundle together concepts that should be distinct. By being careful to keep these concepts separate we will be better able to assess how to support processes and structures in a way that contribute to development and peacebuilding outcomes.

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4 Local self-government institutions at the village or small town level.

# Section 4: The social contract and UNDP's strategic priorities

As noted above, in recent years the UN and UNDP, like other international actors, have begun consistently using the language of the social contract. UN approaches to the broad field of the social contract have been characterized by the following:

- A strong emphasis on inclusivity of processes;
- Prominent attention to the transformation of institutions as they hold the key for inclusive politics;
- Strong recognition of the importance of and the need for the UN system to engage with informal institutions and actors and to work on the interface between formal and informal institutions;
- More coherent holistic approaches that cut across sectorial interventions.

These elements confirm a mandate for an approach that is operationally much more focused on a wider range of actors and processes and across a multiplicity of interventions.

In 2011, UNDP noted that the concept of the social contract can do the following:

- Remind us of the importance and agency of rights-holders and the responsibilities of duty-bearers, that is the accountability at the heart of governance;
- Assert the importance of individuals' consent to be governed without invoking some of the ideological baggage associated with differing notions of "democracy";



*Women's Learning Partnership (WLP) partners discuss strategic directions and campaign tactics in Amman, Jordan (2009).* © UNDP

- Place the relationships between the state, communities, and individuals at the heart of conversations about governance, and development more broadly;
- Support a move away from a focus on thematic or sectorial approaches to governance or crisis prevention, and instead ensure a more holistic approach based on broad political processes in a country;
- Support a continued focus on the interface between people and the state located in public-sector institutions at national and sub-national levels.

An emphasis on the concept of the social contract can support UNDP's work in fragile states towards all of its outcomes in the recently approved strategic plan (UNDP, 2013a), not just those apparently more focused on "governance" issues. Nonetheless, the importance of understanding the social contract will naturally be focused on three areas of work in the period of the new strategic plan:

- How to build and/or strengthen inclusive and effective political and governance processes;
- How to strengthen inclusiveness and responsiveness of institutions;
- How to build resilience, especially in rapid and effective recovery from conflict-induced crises in those cases where prevention has fallen short.

Applying such a social contract-oriented perspective is thus entirely consistent with UNDP's new Strategic Plan 2014–2017, where special attention is dedicated to the following:

"Ensuring **participation and voice** in pursuit of equitable access to development opportunities and gains across the population, working with the poor and other excluded groups, whether women, youth, indigenous peoples or the disabled, as agents of their own development" (17);

"Reflecting the pivotal significance of gender equality and women's empowerment, understanding that sustainable human development will not be fully achieved unless women and girls are able to contribute on an equal basis with men and boys to their societies" (17);

"…**address[ing] development issues as they actually exist** – complex, multi-dimensional and often unique to each society" (19).

As seen above, the concept of the social contract is one that joins together existing elements of UNDP's work around the world. From gender inclusion to equitable distribution of resources and encouragement of opportunities across all parts of society, the concept of the social contract is already embedded in much of what UNDP seeks to accomplish. By focusing more closely on the social contract, disparate elements of goals and projects can be brought together to form lasting stability and peace.

# *Section 5: Conclusion –*
# *policy implications for UNDP*

This concept note has examined the nature and importance of social contracts in development work, especially. Through a review of the relevant literature, as well as an examination of case studies, this paper has shown that the concept of the social contract is both one that matters greatly and one that has been often overlooked. However, for this concept to be useful it must be integrated with intention and rigorous analysis. Accordingly, this paper has recommended that further systematic study should be undertaken in order to provide an understanding of the rewards and challenges that the social contract holds and how it can help to integrate peacebuilding and state building goals. Understanding how state legitimacy is established and maintained and how inclusive state society relationships contribute to lasting peace and stability should be an integral part of development work. Moving forward, the social contract can help provide a framework for this understanding. There is a need now to develop theories of change that link the social contract effectively with development interventions and desired outcomes.

## Theories of change and the social contract

The analysis presented has started to unpack the concept of the social contract, highlighting its expected importance in supporting stability, resilience, legitimacy, and accountability. By breaking down the projected benefits into these elements, it will be easier to develop theories of change which link interventions with outcomes in specific contexts, and it will also be easier to identify appropriate results frameworks for those contexts.

To begin with, a general assumption concerning the relation between theories of change and the social contract could be represented by a linear relation between a specific support intervention leading to a stronger social contract and ultimately to the establishment of sustainable peace and development. In such a case there would be two questions in need of unpacking:

1. How can a stronger social contract support peace and development?
2. How can a specific intervention support a stronger social contract?

The answer to both of these questions must inevitably be context-specific. Certainly, it is true that the first question could be addressed in a generic way, for instance by referring to the expected benefits of a strong social contract as listed above (i.e., stability, resilience, legitimacy, and accountability) and by linking them to peace and development. However, a country-specific theory of change will also always be needed for the first question – looking at the specifics of how the social contract is manifested and might be renegotiated within a particular country. The country-specific approach will focus on the specific elements of local state–society interface that could lead to improved development results, and thus provide possible programming entry points.

All the outcomes identified in the "UNDP Strategic Plan 2014–2017" are particularly relevant to the issues of the social contract in fragile contexts.[5] These types of generic outcomes need to then be tailored to the particular context of the intervention. By tailoring these goals, the second question how a specific intervention can support the social contract can be answered.

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5 The only slight exception is Outcome 7: "Development debates and actions at all levels prioritise poverty, inequality and exclusion, consistent with our engagement principles."

## Interventions at the state–society interface

Since the social contract exists at the interface of state and society, it is primarily in support of processes that help facilitate this interface that the desired development outcomes related to the social contract will be achieved. Proposed interventions under the three foundational objectives – responsive institutions, inclusive politics, and resilient society, as well as the challenges of sequencing and delivery – have been discussed in detail elsewhere (UNDP, 2012, 2013b). However, it is worth noting the particular importance of interventions that specifically support the interface of state and society, and will therefore support the social contract.

What will be important in every context is that the interface of state and society be thoroughly analysed and understood before designing programmatic interventions. Tools to support this will include the Conflict-related Development Analysis and the Institutional and Context Analysis.

**SOME EXAMPLES OF THE TYPE OF INTERVENTION THAT SUPPORTS INTERFACE BETWEEN STATE AND SOCIETY:**

(i) supporting links between traditional authorities and local governance structures;

(ii) supporting independent media, access to information, and information and communication technologies;

(iii) supporting reform of the legal framework to enable civil society to engage effectively with the state;

(iv) supporting a range of social accountability mechanisms (see UNDP, 2013b);

(v) supporting national dialogues on the role of taxation;

(vi) community-driven development programs supporting local communities and their engagement with local governance structures;

(vii) providing technical assistance to help reform institutions;

(viii) providing comparative information about the experiences and methods of other countries and how they dealt with similar challenges.

## The social contract and the UNDP Strategic Plan

For UNDP, the findings of this paper have some initial policy implications. Though not called out explicitly, the concept of the social contract is already embedded deeply in the UNDP Strategic Plan for 2014–2017. The outcomes that this plan is focused on include the following:

- Growth and development are inclusive and sustainable, incorporating productive capacities that create employment and livelihoods for the poor and excluded;
- Citizen expectations for voice, development, the rule of law, and accountability are met by stronger systems of democratic governance;
- Strengthened institutions to progressively deliver universal access to basic services;
- Reducing gender inequality and promoting women's empowerment.

Each of these outcomes is fundamentally connected to the relationship between state and society. In a sense this is good news, because the building blocks are already in place for a comprehensive plan to work on building the social contract in fragile and conflict-affected areas. The findings in this paper indicate that the explicit introduction of this concept will allow UNDP to better address the "complex, multi-dimensional and often unique" issues that manifest in each society (19).

There is an increasing recognition among practitioners and academics alike that state–society interfaces are an integral and important part of peacebuilding and state building. Questions of state legitimacy in the eyes of society are seen as key elements to lasting peace and stability. However, though the concept of the "social contract" is an old one, it is still significantly underdeveloped as a tool for development and peacebuilding. While the concept is both appealing and promising, there is still the need for further evidence to be gathered in a more systematic way. Research must aim to determine whether this concept can truly be linked to more sustainable peace agreements. Does it really help build a state that is more inclusive and responsive? The social contract is a complex issue–one that touches on many different aspects of peacebuilding, development, civil society

*Man voting in the Salvadoran election (2009).* © UNDP

networks, and more. In this sense, it better reflects the complexities that exist in all societies, cutting across many issues and provide links between different types of interventions, from parliamentary reform to fostering a robust civil society to providing direct services. The social contract is not a reinvention of any one of these processes, but rather is a means of organically integrating the seemingly disparate silos that often characterize development work.

The complexity of the social contract also provides challenges. There is a need to understand the different modalities of state society interfaces in order to readily adapt to changes at the local level. This broad understanding of the social contract must be applied to the local interface between state and society. Country-specific work done in any location can be viewed through a social contract lens, which will help to build more inclusive societies with more legitimate governments. As has been emphasized in this paper, oversimplifying the idea of the social contract or using it interchangeably with other concepts will water down the impact that it can have on development work. By maintaining a focus on the social contract's state–society interface, the different elements of peacebuilding and state building can complement each other to build stronger, more resilient societies.

# Annex 1: Tools to help analyse state–society relations

The first step in seeking to strengthen the social contract through any type of external intervention must be to understand the nature of existing state–society relations, including different interests and power relations.

Existing relevant UNDP tools include the following:[6]

- **Capacity Assessment Framework.** A capacity assessment is an analysis of current capacities against desired future capacities.[7] Performing a capacity assessment generates an understanding of capacity assets and needs, which in turn leads to the formulation of capacity development strategies. UNDP's capacity assessment framework is composed of three dimensions: (i) *point of entry,* (ii) *core issues,* and (iii) *cross-cutting functional capacities.* Elements of the capacity assessment could be adapted to support assessment of the ability of the state to be responsive to societal expectations.

- **Conflict-related Development Analysis (CDA).** The CDA was developed in 2003 as UNDP's tool for conflict analysis and conflict-sensitive development planning. It is articulated in three main phases: (i) *analysis of the context* (including causes and triggers of conflict, key actors, dynamics of conflict, and possible future scenarios), (ii) *analysis of current responses,* and (iii) *identification of ways forward* (UNDP, 2003).

The analysis within a CDA may well illuminate the role of state–society relationships as a causal factor for conflict.

- **Human Rights-Based Approach (HRBA) to Development.** The HRBA analyses and addresses the inequalities, discriminatory practices and unjust power relations that are often at the heart of development problems. HRBA focuses on the international human rights entitlements and claims of "right-holders" and the corresponding obligations of "duty-bearers."[8] These will likely form part of the social contract in a given context (although the framing may not be in the language of human rights).

- **Gender Assessment.** The aim of a Gender Assessment is to strengthen the non-discrimination and gender equality aspects of UNDP's interventions, particularly at the local level. The UNDP Gender Assessment tool consists of three parts: (i) *checklist*, including questions for gathering information; (ii) *gender problem matrix*, where the collected information in the checklist is inserted to identify gender inequalities, potential measures to solve them, and resources available to implement the measures identified; and (iii) *gender-sensitive service matrix*, to help identify men's and women's use of local services, their difficulties

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6 This section draws heavily on the draft of "Institutional and Context Analysis in Fragile and Crisis-affected contexts," draft 6, June 26th, 2014.

7 UNDP defines capacity as "the ability of individuals, institutions and societies to perform functions, solve problems, and set and achieve objectives in a sustainable manner" (UNDP, 2007: 3).

8 In 2003, the United Nations Development Group adopted the UN Statement of Common Understanding on Human Rights-Based Approaches to Development Cooperation and Programming (the Common Understanding). The purpose behind the Common Understanding was to provide a consistent and coherent definition on the Human Rights-Based Approach across all UN agencies, funds and programmes. See http://www.undg.org/index.cfm?P=221.

accessing them, and the measures needed to make the services responsive to both men's and women's needs. Identifying gendered differences in understanding and experiencing the social contract(s) is an important element for understanding the manifestation of the social contract in a given context.

- **Institutional and Context Analysis (ICA)** is UNDP's methodology for undertaking political economy analysis to support development programmes. The analysis focuses on political and institutional factors, as well as processes concerning the use of national and external resources in a given setting and how these impact the implementation of UNDP programs and policy advice. An approach to Institutional and Context Analysis (ICA) in fragile and crisis-affected contexts has also been drafted but has not been finalized. In analyzing power relations, incentives, and interest systems, ICA helps get to the heart of how societies operate, how decisions are made, and how resources are allocated. This type of analysis provides the context essential for understanding the operation of the social contract(s) in a given situation.

External tools that are relevant to analysis of the social contract include the following:

- State–society analytical framework developed by the Initiative for Peacebuilding. (available at http://www.initiativeforpeacebuilding.eu/pdf/State_and_Society_Analytical_Framework.pdf);
- "[A]gents, institutions and structural features" framework in the DFID Drivers of Change;
- Donor tools for political economy analysis [for example, the **Dutch** Foreign Ministry's Strategic Governance and Corruption Assessment (SGACA)].)[9]

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9 A useful summary of donor political economy analysis tools can be found in McLoughlin. (2012)

# *Annex 2: Developing a tool*

To develop a tool that can help to analyze the structure and dynamics of a social contract, we can start by identifying three broad sets of questions. We begin with broad, meta-level "Big Picture" questions that look at the fundamental components of a country's social contract(s) and that need to be addressed by international interveners as well as by leaders within that country. Then we move to more targeted, context-specific "Medium Picture" questions that look with more detail into the specific characteristics of a country's social contract(s).[10] Finally we look at the micro level through "Small Picture" questions. These are questions that focus on the concerns of the individuals.

| BIG PICTURE Questions: | |
|---|---|
| 1 | Is there a viable social contract (or multiple ones)? |
| 2 | What actors/groups of actors are defining what constitutes a social contract? |
| 3 | What actors/groups of actors are being excluded from the decision-making process? |
| 4 | What are the key components of a specific social contract? |
| 5 | How is the relationship/agreement between state and society perceived differently by different groups? |
| 6 | What are the mechanisms and processes that influence how that agreement is reached (e.g., media, customary authorities, and so on)? |
| 7 | How can perceptions of a social contract be measured?[11] |

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10 These are drawn from Initiative for Peacebuilding (available at http://www.initiativeforpeacebuilding.eu/pdf/State_and_Society_Analytical_Framework.pdf).

11 This question is of particular relevance in situations where it is problematic for outsiders to determine the existence of a social contract, and to accept the legitimacy of a particular agency that claims the right to define the boundaries of such a contract. The possibility of measuring society's wide perceptions of whether a social contract is actually in place (or starting to form) and what its main components are likely to be could provide an external actor, such as UNDP, with a basic and relatively accurate understanding of the situation on the ground.

| MEDIUM PICTURE Questions: | |
|---|---|
| 1 | In what ways do the government and the governed interact? |
| 2 | To what extent does the state have the financial/human resources capacity to the meet the expectations of citizens? |
| 3 | Are state–society relations highly polarized (e.g. around ethnicity or ideology)? Do interest groups make demands based on ethnicity or other exclusive criteria, or on the basis of universal rights? |
| 4 | Are relationships largely shaped by the operation of personalized networks (and expectations of individual patronage benefits) or more through engagement on "public goods" issues around which broader groups of citizens organize themselves? |
| 5 | To what extent are ordinary people able to vote/join political parties, or access other means to exert political influence? Are particular groups excluded (legally, or in practice)? |
| 6 | How are NGOs and media (including informal/traditional means of communication) contributing to popular knowledge of issues as well as public participation in debate and decision-making? |
| 7 | What are the different experiences and needs of men and women in accessing state services and pushing for government to open up access to economic opportunity and decision-making positions? What are the specific challenges for women in getting their concerns acknowledged and addressed, especially when linked for security-related issues such as sexual and domestic violence? |
| 8 | What are the challenges and risks of intervening as an outside actor? How might this harm the construction of the social contract (e.g., distrust, perceived bias, or dependency of the local government on outside actors)? |

| SMALL PICTURE Questions: | |
|---|---|
| 1 | What services are most needed by vulnerable members of society? |
| 2 | What specific incentives do excluded, marginalized, and disenfranchised populations have to engage with the establishment of a social contract? |
| 3 | What tangible benefits will people in various sectors of society reap from the implementation of a robust social contract? |

## Challenges to be considered

Aside from the challenges of any type of socio-political analysis, there are particular challenges in analyzing complex socio-political structures in fragile contexts. These have already been explored in some detail in the draft ICA guidance, and include:

- Data and information may be unavailable or unreliable;
- Insecurity may prevent the team from moving around;
- The analysis may become outdated very quickly;
- The process of analysis may put people in danger;
- The process of analysis may worsen trauma among the people consulted.

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