Future Challenges to Policy-Making in Countries in Transition

by

Graeme Simpson, Brandon Hamber & Noel Stott

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Graeme Simpson is a founder and former Executive Director of the Centre for the Study of Violence and Reconciliation.

Brandon Hamber is an independent consultant.

Noel Stott is a former Researcher at the Centre for the Study of Violence and Reconciliation.

Thank you for this opportunity to be both here at this Workshop and to be in Derry, Northern Ireland. What I would like to do, in the limited time allocated, is to briefly talk to a presentation that the South African Team members of the *Developing and Implementing Public Policy Project (DIPP)* developed in order to address the topic of *Future Challenges to Policy-Making in Countries in Transition*. This in itself was a challenge for us in that it forced us to reflect on our own situation as a country in transition while being actively engaged with that transition. As Gillian mentioned yesterday, one member of the Team, Graeme Simpson, who is the Director of the Centre for the Study of Violence and Reconciliation, is not present. Graeme apologises for his absence.

We hope that at least some of the nine or so challenges that we feel ought to be thought about and indeed anticipated, will relate to the sessions that have preceded this presentation and link to some of today's and yesterday's questions and discussions: For example, the issue of policy-making forums; the basis on which comparisons can be made; the issue of implementation and delivery which we believe to be central and the difference between vision-based versus capacity- based policy-making as well as the issue of "lesson-drawing" which is related of course to the question of making global comparisons. In a sense, our presentation might also serve as a summary of what we have heard over the last two days.

Before I start, it may be important to mention that from a DIPP Project point of view, what we have heard so far has been refreshing for us. Many of the discussions and inputs we have heard confirm what we have found during our research and in particular through the interviews that we have done both in Northern Ireland and in South Africa. The complex issue of "hidden motivations" for example, which is not described in great deal in the literature, has been mentioned a number of times both here and in our research.

To relate an interesting example from one of our interviews: Politics also plays a part. Because of certain historical events there may be a greater propensity to listen earnestly to the Canadians rather than the Americans. In the Public Administration area, South Africa's interest in importing models from Britain heightened when Labour came into power simply because of the historical relationship between Labour and the ANC. The models "imported"

however were virtually the same under the Conservatives.

Negotiated Transitions/Negotiations Processes/Negotiating Contexts are not Uniform

The first critical thing that we have learnt, or perhaps more correctly, that we are learning, is that one of the central challenges of the policy-making context in societies in transition is to understand what *transition* entails. In some respects this is stating the obvious, but the processes of transition are almost inevitably unique to each context. While they may display similarities across countries one can not assume that the context is uniform or universal. South Africa's process of a negotiated settlement had a very specific character. Compared to Zimbabwe, for example, and as Roelf mentioned yesterday foreign mediation was not a significant factor. The extent to which agreements are voluntarily entered into, and not imposed by an external facilitation process is an important factor in defining the character of transition. This might be very important in a Northern Ireland context. The impact that this may have could be substantial. A good example of this is the residual consequences in Zimbabwe of the unresolved land issue.

Transitions are Long-term Processes

I think it was David who yesterday asked when do transitions end. The fact is that transitions are long-term processes. One of the most important things that we have learnt in South Africa is that a formal *political* negotiation between *political* parties which achieves *political* reconciliation, and even the reconciliation process embodied in the [Truth and Reconciliation Commission](#) (TRC), largely revolved around a political settlement - the constitutionalisation of our politics and the formal democratisation of our society - and did not address in any great detail, the transitions and transformations needed in the other aspects of social life. Transitions are not instantly complete on the signing of an agreement or the agreement of a Constitution and indeed a transition is not even complete once democratic (and free and fair) elections are held. Transition is not the same as regime shift. America has not just been through a transition. If someone in South Africa stood up and said that there may not be an election in 2004, we would not regard him/her as a lunatic – although we may disagree – we do not yet know if the basic-liberal-democratic features of South Africa's democracy are going to be reasonably permanent.

Analysing the Character and Potential Changing Nature of Patterns of Conflict within Societies in Transition

A third challenge and lesson from South Africa is the need for an astute analysis of the character and potential changing nature of patterns of conflict within societies. The reality is that, if we understand the complex nature of the relationships between political and economic deprivation, then what we would be tuned into is the fact that the nature of change in society at a fundamental level, at a grassroots level, is actually experienced very slowly - whether its in the change in the education system or the redress of economic disparities (to use two good examples from South Africa). Thus, one of the consequences of this, is that the experience of ordinary people, as being marginalised from the process and the propensity to engage in violence as a response to that marginalisation may actually be sustained despite the reaching of a political settlement. Rather than assuming that conflict may re-emerge along the same lines of politically-defined cleavage in society, an astute understanding of the root causes of violence and conflict in society may mean that you are

engaging with ongoing patterns of violence that manifest themselves in different ways - in South Africa, the emerging problem of youth based violent crime as opposed to youth based violent politics.

Effective Policy Innovation in a Society in Transition Needs an Active Process of Acquiring Public Support

This is the issue that Steve White mentioned earlier. From the South African Workshop what was most striking was that for policy innovation to be effective in a society in transition there has to be at some level an active process of acquiring public support. It was clear that the most effective processes of policy making were linked to effective processes of advocacy through the garnering of public support through various mechanisms and tools such as forums. Some of the greatest failings of the creative policy innovation through the National Crime Prevention Strategy (NCPS) was that it never actually secured public support for an approach which was about prevention, which was about medium to long-term innovation - that that approach was never accredited to short-term mechanisms that built public confidence or support and the result therefore is a popular backlash against a crime-prevention approach and a human rights discourse.

In other words, people on the ground are not feeling short-term safety and security measures. The lesson here then is about recognising that policy-making and innovation is not just about an academic enterprise, which is not just based on the integrity or rigour of the policy-making process itself but that it has to be premised on an inter-face with popular support and popular organisations. And so, the challenge is about building support and making sure that you sustain it - not just through the period during which you evolve policy but also during the period when you seek to ensure that that policy is implemented.

Patterns of Need and Popular Expectation Change

Rather than assuming a simple continuity in the way people feel about issues, we need to anticipate changes in popular attitudes. In slowly maturing democracies and as new democracies, like South Africa slowly evolve, so the patterns of need and popular expectation also change.

To use the South African example, the inheritance of an illegitimate policing institution which had been the primary violator of human rights in the past etc etc meant that in the first phase of South Africa's democracy, the priority concern at a policy level was to show that new institutions were being put in place and new things were being developed that had the legitimacy of a democratic government. In the policing context it was very simple: it was about building the police - community relationship - trying to seek out local level accountability which built the sense of this relationship, that built the sense of accountability. What changes, slowly but surely, is that expectations of delivery start to become paramount. So that the mere establishment of legitimate institutions increasingly becomes an inadequate pacifier to popular need as increasingly people start saying like in any other normal democracy, our expectations are not so much about the legitimacy of the institution but about the quality of the services that it provides.

This also of course has implications for how we defend creative policy innovation.

In our context, the example being that the NCPS or the policing approach in South Africa, which should have been based not just on a community policing paradigm as a principle of establishing legitimacy but it should have been based on a set of strategic priorities from the beginning which were about service delivery, building popular confidence in the longer term policy innovation around prevention. There is no question that the prevention agenda is the best vehicle for dealing with violence and crime but because we did not have short-term enforcement measures that built that confidence up front, the wider policy agenda was discredited. The lesson learnt and thus the challenge, is how we build the mechanisms which anticipate shifting popular concerns at the outset.

This then deals with our broad point: The experience of democracy is not static. It is slowly changing and maturing where popular expectations of the new democracy are constantly changing and evolving. The challenge is to anticipate that, in the way policy is evolved.

To summarise briefly: We have dealt with:

- How we deal with the past is the one lesson (what I said about transitions and about changing patterns of violence and conflict);
- How policy-making needs to be related to popular support and that relates very much to the third, which is about,
- Recognising that popular understanding and experiences of democracy actually change and evolve.

The Specific Character of Transition Affects the Ability to Translate Policy into Delivery

Our sixth point is about recognising what the *character* of transition means for our ability to translate policy into effective delivery. There are two things here that are very important in our view:

Firstly, that it is almost inevitable that within negotiated transitions - whatever the character of those negotiated transitions is, - comes the inheritance of state institutions. That one does not have the luxury, as one often has in the context of conquest, of simply driving the defeated party into the sea. To coin a phrase: *Transition killed the revolution*. What this means is that one is largely inheriting not only very complex relationships between former enemies but one is also inheriting state institutions which come from the past and which therefore are often embodied with a high degree of popular mistrust.

We should not under-estimate the importance of building trust in those relationships and that is the legitimacy exercise. The other reason why this is important is that it often means that you are dealing with dynamics within state institutions - dynamics that relate to the fact that very often, key state actors - bureaucrats - retain their positions. In South Africa, the sunset clause and the amnesty provisions pretty much secured this.

One of the consequences of this is the fundamental impact it has on capacity - at least in part the capacity to change.
a) you may have an active resistance to change;
b) you may have a more passive form of resistance which is that state institutions and

bureaucracies tend to have very powerful sustained cultures in the way in which they work - a point that David Dolowitz alluded to.

Policy innovation is thus always going to be bumping up against not just an unwillingness to implement but a capacity to implement based on historical practise and the institutional culture within those institutions. This is very clear from our crime and policing environment.

Secondly, and we believe this to be very important, and which also relates to the issue of how one makes policy that is deliverable, is the magnitude of the endeavour to transform state institutions - policies are often about policy in society generally without always articulating or resonating closely enough with the change enterprise which that demands within institutions of state. Thus while vision based policy-making is always important for new governments, it is nonetheless also about recognising that the strategic approach to policy-making is to evolve it in an incremental fashion - so set up a vision but then actually make sure that you have an incremental approach to achieving it - which is about prioritising, short-term delivery mechanisms that are not necessarily about the big picture but are about accrediting the big picture.

The conclusion in South Africa in relation to the NCPS was that having designed a 25 year plan for crime prevention which spoke very analytically and astutely to all of the core problems at the root of violence and crime in South Africa society, it nonetheless failed to recognise the incremental priorities of developing short-term confidence building measures in order to credit the big picture.

This (realisation) was central to the South African White Paper on Safety and Security where we had to look at how the White Paper would relate to the NCPS document which had preceded it by three years. In some respects the White Paper retreated back to a position of where we were saying, build local level patterns of accountability which are linked to local government rather than to Community Policing Forums (CPFs), that are about tying the innovations at a policy level to a delivery mechanism (local government) rather than to a mechanism that was just about legitimacy - the CPFs - that couldn't actually deliver. And so the White Paper took a few steps back in order to try and build the incremental basis for an NCPS which had lost sight of delivery as a mechanism of accrediting vision-based policy-making. (This is of course not to say that the White Paper was able to address this issue adequately enough. The White Paper recognised that we have the CPFs but in reality there are very real problems. Firstly, you have community groups that buy in to the issue of local level accountability of the police but who, as a consequence, actually see their role as being, as almost subverting the role of local station commanders. So the community wanting to say, "we should be doing the policing, we should be defining policing priorities"!

One of the big problems is that we said we needed to establish a relationship between the police and the community as a way of building legitimacy but the criteria for community representation was never established - so what you had in some communities was local level "mafias" literally representing themselves as the community, trying to take over the policing role and the whole thing falls apart. The basic problem was police-community relationships nonetheless depend on some legitimate and transparent basis for community representation in that relationship.

The White Paper tried to solve that problem by saying we need to completely formalise that relationship. In other words, - largely based on the American model - that through local government which is formally elected you can have the legitimate basis for representation in the relationship to the police. So what you start to do is to link policing to local government and local government to control. The problem here is that arguably it bends the stick too far in the other direction - because in fact what it does is to substitute formal representation which often excludes through the party political process a whole range of community level stakeholders that are not politically articulate in local government elections, women's organisations, children and youth, taxi associations and hostel residents etc.

In a way then, the White Paper tried to seek a delivery mechanism and prioritised delivery because of where popular sentiment was thrusting government in the late 1990s. It however, (to some extent) lost sight of some of the very important vision that was built into creating more multi-faceted patterns of accommodation and accountability.

So one can argue that the White Paper in the name of delivery went so far that it lost sight of the very important vision of how you create and inter-face a range of stakeholders who are not formally represented in local government.

So while there was an attempt to re-dress the policy vacuum (in the NCPS document) or delivery vacuum, in some ways what it (the White Paper) did was to feed off popular sentiments in a very crude way and sacrificed some of the more important insights of the vision-based process.

Popular Sentiment is not Always Supportive of Vision-based Policy

Popular sentiment is not always to support the progressive orientation of vision-based policy. A perfect example (of this in the South African context) is the backlash and resistance to the ultimate vision-based policy - the Bill of Rights - contained within the Constitution.

Prevailing experiences of crime and violence and the non-delivery by government in respect to these experiences has increasingly stimulated a popular backlash which is about a resistance to those mechanisms contained in the Bill of Rights which are seen as servicing criminals rather than victims. Examples include: resistance to bail legislation; strong popular support for the Minister's resistance to amendments to the Criminal Procedures Act which was designed to reduce police use of lethal force; sustained levels of police brutality; limited transformation of the policing institution etc - all in a way sanctioned and justified by popular sentiment saying that human rights only services perpetrators and not us. The best example of course is the strong call for the return of the death penalty in South Africa.

All of this is about the key challenge which is that policy innovations are not irreversible - that popular sentiment can actually drive the process of retreat in government - often justified by reference to delivery or the failures of non-delivery.

Comparisons and Cross-country Learning

What are the challenges and lessons, which relate to the issue of international comparisons and cross-country learning?

The one lesson, which is based on what I have already said, is a methodological one for people - both academics and practitioners - engaged in the endeavour of comparative studies, and that is the simple need to recognise the absence of uniformity in the nature of transition processes. Rather than assuming that the South African obsession with crime and the substitution of political based violence with crime based violence and all the dynamics that we work with at home, will emerge in Northern Ireland or Cambodia or wherever, we should be monitoring and evaluating it sensitively and modestly.

And that it includes the ways in which we deal with our past. Rather than presuming that there are universal processes of change and universal lessons of how to manage that change, we should scrutinise both similarities and differences. Examples are:

- **The crime issue** and the emergence of the predominance of violent crime and the popular psyche here and what it did - we ought not to assume that that will be a characteristic elsewhere. This is often dependent on a range of variable such as the reintegration of former combatants, the extent of demobilisation, the recovery of weapons and decommissioning, etc. and the extent to which the core problems in society around experiences of marginalisation are in fact dealt with or not dealt with.

  These are all variables that would determine whether or not, for example, the South African experience is going to manifest itself elsewhere. The short way of framing that, is that we need to be very modest in our assumption and in our lesson learning.

- **Dealing with the past**, especially the issue of amnesty. It is often strongly motivated that we can take the strengths of the South African TRC or the Chilean or Argentinean one, which was in providing a vehicle for survivors to find their voice and seeing the TRC as a process of building reconciliation. We don't necessarily have to take on the amnesty process as uniformly necessary. Amnesty was really a very specific aspect built into the South African negotiations that may be avoidable in other societies in transition. What is needed is modesty in the analysis and recognition, in a very fundamental way, that there is no uniformity in patterns of change, in transition in society.

Policy is not just about vision

- **Setting a Future Agenda**. The real power of cross-country comparisons is not just on an understanding of the policy making process and its relationship to delivery but on the strategic endeavour of developing tools for evaluation and impact analysis.

  The best lesson we can learn about international comparisons is that it potentially helps us to sophisticate and develop better impact assessment tools. Its about evaluation tools that are based on impact rather than on political theory or legal

theory. That is the challenge. That within the macro-processes that we are comparing we don't always force ourselves to work with the kind of impact assessment tools that we do in local level focussed programmes. While this is debatable, I would argue that if we are going to do international comparisons it has to be in a way that involves those kinds of tools.

Donors who fund local level programmes always ask, what are your outputs and what are your outcomes? We need to start living up to the same set of criteria, something which we don't do at the moment. At the moment we often do comparisons for its own sake.

Global international comparisons tends to take place at the level of policy comparisons without actually looking at the impact of policy innovations through exactly this - the relationship between policy and delivery, what is being delivered, how effectively is it being delivered, is the non-delivery about flaws within the policy paradigm or is it about other criteria and practise such as state institutions' resistance, failure to recognise the magnitude of the transformation agenda inside the State, failure to build popular support for policy interventions.

These are the tools by which we need to scrutinise impact and evaluate why impact is better or worse in certain contexts rather than just saying lets look at the transformation goals and agenda in police transformation in South Africa and lets look at it in Northern Ireland and lets look at what they did to redress the race balance or religion or whatever. So, what I am saying is that comparisons can not stop at the level of policy-making. It has to be measured against the hard impact assessment of deliverables. Its about an ability to evaluate what policies worked in a country and why they worked and then evaluating the transferability of these policies to different contexts.

The example of police transformation in South Africa is a very good one in this regard. The truth is that we adopted a community policing model or paradigm from elsewhere that did not anticipate the delivery problems in South Africa, that did not anticipate the problems of state transformation, which did not anticipate the popular backlash - a whole range of issues. What we certainly did was to absorb the policy approach that is universally accepted and modelled in developed countries.

This is what South Africa absorbed. On the flip side - what some people refer to as the "Transition Dividend" - what South Africa is marketing is the reconciliation approach - amnesty, Truth Commissions, etc etc. where again the exact same issues need to be considered - a harsh, self-critical look at whether or not the TRC has achieved all the goals and objectives that is often claimed for it. Because what other societies seem to be saying is that this is a fantastic way of dealing with the past, when an impact assessment (in both the South African and Chilean contexts) hasn't in fact been done.

Before looking at the policy transfer, actually measure it against its delivery consequences in those societies or to put it another way, its appropriateness in a delivery context. Delivery becomes the key performance indicator against which you measure policy innovations. Although important, policy is thus not just about

vision! To end, I would like to read something from the Mail & Guardian, which I picked up at the airport when coming here. You may have heard about a terrible incident in South Africa, where 11 people were burnt to death after being locked up in a factory which caught fire. The owners are of course on trial for culpable homicide. However, what has also come to light is the fact that the Department responsible for monitoring occupational health and safety standards - the National Department of Labour - has recently been restructured and many of the functions of staff members have been integrated. Inspectors now have to deal with a range of administrative issues as well for example.

An Inspector had gone to the factory but could not find it because he had an old map. This was reported to his immediate superior who did not act because he was too busy with his administrative functions. The newspaper quotes someone who recently resigned from the Department: " It became difficult to do accident investigations - what we were trained for. Its just a stupid decision on the part of the government. It's an imported policy from Australia - integrating …" (Mail & Guardian 2 February 2001)

Thank you.