Private Sector Development in Conflict-Affected Countries: An Introduction

What we have learned and where do we go from here?

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Outline

• Background
  – So, what’s different in post Conflict environments?
  – What role can PSD play?
  – What can we do in practice?
  – What tools can we use? The FIAS rapid review model (the Mini-diagnostic)

• Area focus: Legal reform

• 2 Case Studies:
  – Liberia
  – South Sudan
So, what’s different in post conflict environments?

1. The social and political imperatives are both acute and urgent
   - Cessation of war and restoration of peace (signing the peace agreement) is not enough
   - Need for early peace dividends
   - Access to national resources by those previously excluded (need for broad based development) – often the reason for the war in the first place
   - Immediate access to key services
   - Lingering, but intense sense of nationhood – sometimes gets in the way of capacity enhancement (exclusion)
   - Rebuilding infrastructure, human capacity and institutions is urgent
So, what’s different in post conflict environments?

2. The causes of war have not gone away – 50% of countries emerging from war go back to conflict within 10 years.

• Social and political tensions linger

• Disparities in wealth distribution persist

• Transparency still problematic – no systems, and no checks and balances

• Perceived political risk constrains growth – trust is fragile
So what’s different in post conflict environments?

3. Capacity issues

- Government systems and structures weak or absent
- Absence of a capital class and private sector
- Lack of supporting institutions – markets don’t work, legal framework conflicting, judiciary, government administration, etc)
- Disconnect from mainstream government structures (eg separate institutions, laws, etc)
- No dialogue/lack of trust between government and whatever private sector exists
- Human resources and skills residing in the Diaspora
- Fragile labor laws prevent outsourcing of capacity
- Budgetary constraints (not lack of money but lack systems)
So what’s different in post conflict environments?

…… and informality

• Informality in Africa is high under any conditions: estimated at 60-90% of labor force

• Conflict, the deterioration of the rule of law, pushes formal firms into the informal sector

• In conflict situations economic activity continues, albeit inefficiently and informally

• These “second best” markets exist at the end of the conflict, and will continue to operate informally unless there is a concerted effort to address it
What is the role of PSD in post conflict situations?

PSD can be part of first generation reforms post conflict

• **Direct service delivery**
  – Re-build services – telecoms, roads and bridges, hospitals, etc;
  – maintenance of infrastructure;
  – Linkages with the rest of the world through telecommunications, etc
  – Capacity building/enhancement

• **Linkages with hitherto marginal areas**
  – linkages to rural markets (agriculture, livestock, transport, trade, etc)
  – International trade
What is the role of PSD in post conflict situations?

• Economic growth – through private sector activity
  – Employment
  – Tax revenue
  – Access to finance, information and technology
  – Private sector expansion – bringing the informal sector into the formal economy

• Promote socially responsible business (particularly for FDI)
  – Peace building in communities
  – Labor and environmental standards
  – Broad based access to resources
  – Some service delivery: putting back into the community – eg rural access roads, education and skills, etc
What we can do in practice: The FIAS mini-diagnostic tool

• **Diagnose** key barriers inhibiting PSD from the policy arena including informality

• **Design** a simple, absorbable reform agenda

• **Implement** the agenda with participation of the public and private sectors
Step 1: FIAS mini-diagnostics

• Intensive preparations
• Client centered approach - “listening” rather than “telling” mode
• Two to three experts spend one week in the country
• Triage key PSD issues with the country’s post conflict imperatives in mind —not rocket science
• Short assessment delivered and discussed at end of mission (aide *memoire*)
• Recommendations focused on client needs and what can be realistically delivered with the help of others
• Prioritize issues through
  – a) intra-government consultations;
  – b) public/private dialogue
Advantages and disadvantages of the mini-diagnostic

• Pros
  - Early engagement at very high levels of government and civil society
  - Fast to set up, quick results
  - Focused approach on quick and easy wins
  - Follow-up can start right after the mission

• Cons
  - Short missions – could miss key dialogues in-country
  - Does not provide for comprehensive reform package
  - Not detailed enough to start designing solutions
Supporting tools for the rapid diagnostic process

• Ongoing Public-Private dialogue: managing stakeholder interests
  – Continuous dialogue
  – Intra-governmental dialogue

• Donor co-ordination and linkages (eg. MDTF programming)
  – Leverage: We cannot be all things to all people
  – Work with whatever structures and frameworks have been established (usually carrying through from peace forums)

• Working with the Diaspora to harness resources – money, skills and markets
Step 2: solution design

- **With government counterpart, drill deeper** into issues identified and prioritized by the government and private sector

- **Design** an action plan which addresses key issues but contains
  - Quick wins as well as long term changes
  - Although assessment is comprehensive, sequencing of reforms is critical - bite sized pieces which allows for absorption
  - Capacity building throughout – careful not to be patronizing by offering help where not needed
  - Beware of the ever creeping “vested interests”

Set out a realistic timetable with realistic goals and realistic expectations
Step 3: Implementation

• Implementation should be structured around the absorptive capacity of the country

• **Communication** and “marketing reform” (the hearts and minds agenda) needs to be a central part of program, including public awareness of impact of reform

• **Quick wins and early demonstration of the benefits of successful reforms** necessary to generate ownership and momentum

• **Political economy** issues cannot be underestimated
Area Focus

Legal reform
Legal reform: This is what we find

- Inappropriate laws
  - Obsolete laws and regulations.
  - Unequal treatment of private sector often reflecting the previous conflict.
- Laws are unknown
  - Basic facilities are missing: no government printers or copiers, libraries closed or looted.
- Laws are not enforced, and therefore not respected
  - Private sector operates in legal vacuum
  - Thriving informality
- Strong rent-seeking behavior in administration
  - Resources shifted from implementing existing laws towards rent-seeking activities such as licensing, permits and inspections
- Extremely deficient, often non-functioning judiciary
- Destroyed Legal infrastructure:
  - Registries (land, company, patents, trademarks), legal practitioners, libraries, courts non in place
Legal Reform: Minimum necessary conditions

• Goal: provide conducive investment climate ASAP
  – Focus on priority issues: what do investors want most and now?

• Here is how the investor IFC assesses the investment climate (minimum necessary conditions for investing):
  – Defined ownership: Is the business partner allowed to do business?
  – Functioning Company Registry: Is the business partner legally in existence, e.g. incorporated, registered?
  – Enforceable property rights (land ownership/lease): Is holding and the use of land for business purposes an enforceable right?
  – Clear tax code: Are tax obligations and exemptions clearly stated in the tax code?
  – Clear licensing procedures: Are licensing obligations clearly stipulated?
Legal reforms: This is what we do

Legal issues on the menu of an PSD project are typically:

- **Exception:** Investment Law (equal treatment, opening sectors to private investment, incentive structure, streamlining approval process), often excellent vehicle to initiate/revive public-private dialogue
- **Reform** start up procedures and legal infrastructure: Company Registry, Land Registry, Licensing procedures, Work Permit (diaspora, expat community)
- Land reform (**acquisition and registration**)
- **Remove** administrative barriers in tax and customs
- **Review** effective tax burden and customs duties
- Informality (rule of law): **Identify causes of informality** (informality survey), removal of barriers, design of incentives, strengthen enforcement
Legal reform: Important 1 + 2

• **Important 1:** *Usually legal reform is not a stand alone component, but embedded in the PSD agenda: faster (no lengthy legal assessments), smaller “bites”, fewer resources, better focused (issues), and action- oriented (changes on the ground not on paper).*

• **Important 2:** *Sequence of legal issues: easy wins are vital for momentum of reforms, but criteria for priorities should be capability, impact and time.*
Case Study 1

Liberia
Liberia: some background

- One of the poorest countries in the world ($450 GDP per Capita, in 2005)
- 15 years of civil war ended 2003
- Institutions and infrastructure largely destroyed
- Unemployment rate at 80% (formal sector)
- 15,000 UN Peace Keepers still in the country
- FIAS missions: Diagnostic 2/06, Action planning 08/06
Step 1: Liberia Diagnostic: Five over-arching constraints

- The informal economy impedes competition
- The economy is not open to all residents of Liberia
- Implementation of law is weak
- Low capacity in both the public and private sectors
- Existing government priorities, resources are misallocated
Step 2: Liberia Action planning

• Government and private sector reviewed 5 areas found

• Determined 3 were top priorities (informality, public-private dialogue, and legal framework)

• In response, we designed our initial engagement as a coordinated series of small bites
Things we’ve learned so far

• PSD reform is not an end in itself, it’s one piece of the package and it should not be comprehensive,

• Even with a more comprehensive analysis,
  – reform should be conceived in “bite-sized” pieces,
  – Be flexible to bend as either the political landscape and climate changes, or to reflect absorptive capacity

• Political economy is paramount to success, as is the need for a change management mechanism.
Case Study 2

Southern Sudan
What’s the imperative for the Southern Sudan Government

Provide, immediate, tangible and broad based peace dividends to its people, particularly the rural poor, while providing a peaceful and secure environment in which to enjoy these dividends.

Increased private investment is seen as a strategic tool to achieve this goal:

- Increase income earning opportunities
- Revive and expand sectors where rural poor are active
- Stimulate new investments into catalytic sectors (telecoms, power, ICT, infrastructure)
- Long term capacity and institution building
- Actively protect the interests of the Southern Sudan people
South Sudan: Some background

- Comprehensive Peace Agreement signed in Jan 2005, but suspicions still high
- CPA provides for more equitable wealth sharing; new institutions; self government by the South, but implementation taking longer than expected
- Land issues extremely sensitive – the CPA hands the land back to “the people”, but no titling yet
- New laws not yet in place – Laws of Sudan; Laws of New Sudan (SPLA) and provisions of the CPA all applied
- Jurisdictions not yet clarified between Federal Government and State government; and between National Government and GOSS – “concurrent power”
- Government structures and human resources have not yet been transferred to the South
- Government and Private Sector capacity still very weak and not talking
- Business entry is extremely constrained
Southern Sudan: So what did we recommend?

• Re-establish business registration, including the investment facilitation process and institutions
  – Re-establish the Companies Registry and company registration
  – Revise and promulgate the investment Code
  – Revise and promulgate key chapters of the Company's act
  – Establish an investment promotion facility in SS

• Set up an Industrial Zone outside Juba

• Establish a Public-Private Dialogue process
  – improve coordination within government
  – Support the development of private sector voice
South Sudan: Some lessons

• Early focus on strategic recommendations which:
  – Can deliver tangible and visible peace dividends
  – Are broad based – bring more people into the economy
  – Are realistic given the capacity constraints
  – Can address several constraints at once

• Capacity building as an integral part of the diagnostics
  – Best practice lessons

• Diagnostics for implementation and not an end in itself
  – Commit to the long term
  – Relationship building
South Sudan: Some lessons

- It is important to have champions for reform, but the more people who “own the process” the better

- Build influential constituencies of support early in the process
  - The Diaspora and returnees
  - Business associations and prominent business people
  - Technical operators in government

- Empathy and not lectures
  - Most of those running government are former high ranking soldiers in the war
  - Emotions still run high post conflict
  - “Factional interests” are still relevant