Diversity Management through Public Action: the case of Constitutions and Human Rights

November 2012

Colloquium note - Addis Ababa meeting

Contents

I. Diversity: main challenge for public governance

Managing the diversity of worldviews and power conceptions in the public policy making process proves to be, everyday a little more, at the heart of current democratic governance issues. Worldwide, from local to global, societies are themselves diverse and characterized by pluralism, be it cultural, social, socio-professional, etc. Many references that coexist daily, more or less peacefully. This state of fact, widely analyzed by the IRG in the framework of its activities, especially during the different meetings which punctuated the course of the International Meeting Process for Debate and Proposals on Governance, the Meeting Process henceforth, is shared by many actors. In particular, we can underline that the Eight African Governance Forum , in October of this year, is devoting its attention on the issue of diversity[1] through the prism of elections and democratization. Already, in 2004, the UNDP's Human Development Report 2004, titled "Cultural Liberty in Today's Diverse World", underlined the premise and importance of this diversity challenge: "Cultural diversity is here to stay—and to grow. States need to find ways of forging national unity amid this diversity». If diversity can be defined differently (politically, culturally, socially, etc.), the shared challenge in terms of democratic governance is now a fairly consensually expressed question: how to foster unity out of diversity? This requires going beyond the paradigm which not only founded modern political theory but also established itself as the unique valid reference: the principle of unity, assumed or intended, as the basis for public policy and the state.

Thus, often denied, diversity, even when it is recognized and/or accepted, rarely constitutes the premise of how to define the social contract. Failing to take into account the prism of diversity in their conceptions, institutions and public regulations governing societies do not adequately embody their concerns or needs. Consequently, peoples are less likely to recognize themselves in their institutions and public regulations. The state finds itself incapable of producing a shared and inclusive social regulation. This is very often at the heart of the legitimate democratic governance deficit faced by many states, it is the backbone of the political crisis as can be seen through the many examples of disconnection between peoples, elites, and institutions (states mostly), as can be seen on a regular basis in the news. In response, societies, on a daily basis, mobilize parallel regulations to meet their material and symbolic aspirations and needs: tradition, religion, the informal economy etc. Too often, the context of poverty leads stakeholders to adhere to extreme regulations (armed movements, drug trafficking, etc.), thus opening situations of fragility for the concerned countries and/or regions.

---

1. Concept Note. The Eighth African Governance Forum (AGF-VIII) on Democracy, Elections and the Management of Diversity in Africa, UNDP/ECA Joint Governance Initiatives, Addis-Ababa, pp. 9.

http://www.institut-gouvernance.org/governance-meeting-process.html
http://www.institut-gouvernance.org/diversity.html

Diversity management through public action: the case of Constitutions and Human Rights
Colloquium note - Addis Ababa Meeting / November 2012

3

II. Diversity, Constitutions and Human Rights

The basis of the legitimacy of power refers to the visions and representations that socie-ties and their related authorities have of themselves, of their raison d'être, of their duties. Therefore, analyzing the institutionalization of power and of the state through the prism of legitimacy requires a pragmatic approach, starting from this situation of pluralism that characterizes every society. Such a perspective underpins the work of both the IRG and its partners in the analyses that we are jointly developing on the management of diversity through public action. Indeed, we advocate that the legitimacy of the state is not based on a single source of legitimacy, on a single set of regulations (authorities, norms, and values), which would be the legal-rational one that is the basis of the Western model. To the contrary, we strive to demonstrate that state legitimacy derives from a plurality of sources. Moreover, said legitimacy is based on the interaction of various sets of regula-tions effectively mobilized by the concerned stakeholders.

Identifying and understanding the different regulations at work, in societies, and their articulations, in the different regions of the world is precisely the purpose of the Meeting Process which is coordinated by the IRG, in partnership with the Alliance for Rebuilding Governance in Africa, the University of Columbia, and many institutions from the diffe-rent regions we visited; and with the support of the Charles-Léopold Mayer Foundation for the Progress of Humankind, the French Ministry of Foreign Affairs, and the Agence Universitaire de la Francophonie.

Since 2007, over the course of the meetings (in West, East, Southern, Central, and North Africa, in the Andean America, and in Europe), the IRG and its partners have been wor-king to identify the authorities, values, and norms that underpin power adhesion. Our ap-proach seeks to capture the widest possible range of sources of legitimacy. This inevitably leads to the identifications of regulations ranging from the obvious (attached to tradition, religion, formal legality – Human Rights, elections, constitutions, the economy, etc.) to the less obvious (linked to violence, sectarianism, etc.), but claimed by the actors who consider them more efficient than the state when it comes to fulfilling their basic needs. These regulations are the measure by which one can rate the degree of legitimacy of a state, of its fragility and in some cases of its circumvention. Very quickly, in the wake of this constantly in movement inventory, it became evident that it is less the establish-ment of a roster of the sources of legitimacy at work in a society that matters, in terms of legitimate governance, but rather the understanding of the dynamics, of the underlying principles of transformation and of reliance between the different sets of regulations. Each of these refers to authorities, norms, and specific underlying values which affect the representation and practice of power. As such, these regulations are not set into stone, they change, evolve through their interactions with one another.
The scope of possible combinations is therefore large and ever changing. The legitima-tion of power rests on a delicate balance. This is exactly where the challenge for states lays: promoting constructive interactions between the different sources of power legiti-macy, which are the vectors of shared social regulations, and the capacity to define the framework of a common civic and political culture rooted in a given society's diversity. However, the Meeting Process allowed us to show that the state is seldom in capacity to generate such dynamics.

http://www.institut-gouvernance.org/governance-meeting-process.html
http://www.institut-gouvernance.org/diversity.html

4

Diversity management through public action: the case of Constitutions and Human Rights
Colloquium note - Addis Ababa Meeting / November 2012

We therefore decided to search for examples, and counterexamples, of such interactions so as to identify the necessary drivers and modalities needed to enable such constructive articulations. It is with this in mind that in 2008, in South Africa, the "object Constitution" was identified as a central issue for reflection and proposals. Standard intended to be the perfect embodiment of the social contract, the founding myth, the sacred history of a society; a Constitution, more often then not, is not a melting pot or the facilitator of shared social regulations. It tends to be a technical document that at best makes reference of the diversity of sources of power legitimacy but that is never the result of the their hybridization. It was then decided to implement an international network to promote a plural approach on Constitutions, theme that our partners all estimated as being a fundamental issue of legitimate democratic governance today. The plural approach is based on 1) the postulate of diversity and 2), processes promoting mutually constructive interactions between the various components of diversity to strengthen the legitimacy of public action.

Since 2010, from the various Occupy Movements (Spain's Indignados, Occupy Wall Street, etc.) to the financial crisis and of course the Arab Spring, the news is a daily reminder of the urgency and of the challenges facing politicians and public policies, which are supposed to give meaning to the social pluralism they are supposed to incarnate. Furthermore, in this process of defining and promoting a plural approach of public policies, the Lima Meeting allowed us to identify a highly interesting field of experiences with regards to constructive articulations between different conceptions of Human Rights: the intercultural approach of the Inter-American court of Human Rights. Due to the symbolic of their institutionalization within states, constitutions and Human Rights are public standards that are prime to become thematic areas for the new, and even inventiveness, of the plural approach of public action.

Constitutions and Human Rights have thus emerged as concrete prisms through which this network develops its reflection in a multi-actors, interdisciplinary, and intercultural perspective. For the Addis Ababa Meeting, we therefore propose to debate the issue of diversity management through the prism of Constitutions and Human Rights.

Institute for Research and Debate on Governance - IRG
November 2012

http://www.institut-gouvernance.org/governance-meeting-process.html
http://www.institut-gouvernance.org/diversity.html