

Can the private sector successfully advocate change in public policy in Africa?

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Objectives: This paper reviews the competences and other factors which affect whether business associations are likely to be able to influence public policy in Kenya and Tanzania. It suggests that advocacy and institutional competences are essential pre-requisites, but that they are not sufficient by themselves; it assesses the extent to which competence can be measured and developed and concludes that business associations can, with just a little effort, considerably improve their chances of success.

Prior work: There is limited research reviewing the factors driving the success of public private dialogue and private sector advocacy in sub-Saharan Africa. However, the author is currently working with advocacy support initiatives in both Kenya and Tanzania. The World Bank is encouraging governments to improve their enabling environments; arguably, the people who are best placed to give such advice are based in the private sector, yet all too often they lack the skills and resources.

Approach: The author has reviewed the literature and has drawn conclusions about the key factors, of which competence is of primary importance. With a colleague, he has designed a diagnostic tool to assess advocacy and institutional competence. All business associations seeking support from the initiatives are required to undertake the diagnostic test, thus providing a baseline position. Associations will be re-assessed after 12 and 24 months.

Results: Early results suggest that the diagnostic tool gives a good assessment of competence and development needs. As a result of the capacity building support provided by the funds, the business associations are increasing their level of competence. This is reflected by increased levels of dialogue and advocacy and in the changes in public policy being achieved.

Implications: The study will be relevant to policy makers, particularly those based in donors and multi-lateral institutions, since it will demonstrate the extent to which business associations can improve their dialogue and advocacy skills and consequently make compelling proposals to change public policy. It will be of value to practitioners aiming to build the competence of business associations.

Value: This paper is one of the first to explore the nature of, and the extent to which business associations can develop, the skills and competences needed for effective advocacy in Africa.

Keywords: Africa, advocacy, dialogue, enabling environment, investment climate

1. Introduction

There is much encouragement these days for governments to improve the enabling environment and, particularly, the regulatory framework on the basis that this will lead to increased growth in economic activity – and thus to more wealth generation, more job creation and more poverty alleviation. There is encouragement, too, by institutions such as the World Bank to increase private public dialogue and private sector advocacy in the belief that this will assist in improving the enabling environment – though this is predicated on the belief that governments act rationally in their policy making and that they can be swayed by compelling evidence. Many governments now stress that they are only interested in making ‘evidence based policy’, though sometimes it looks more like they are looking for ‘policy based evidence’.

Business membership organisations (BMO) engage in dialogue and advocacy to influence those making public policy. Public private dialogue is a pre-requisite for effective advocacy. It implies regular contact between the public and private sectors, to ensure that each party understands the other and that neither is taken by surprise when issues arise. Dialogue implies a desire to have a conversation, to understand each other's position and to reach a consensus about what is good for business.

Advocacy is the act of influencing, or attempting to influence, the way that someone else thinks about, and acts on, an issue. So private sector advocacy simply describes attempts by the private sector to influence the development and implementation of public policies in an effort to improve the business environment. Depending on the objective and the target audience, the advocacy may be intended to raise awareness of an issue, to seek support for a point of view or to impel someone to act. Advocacy implies a more adversarial relationship, though where the parties know each other, it does not necessarily have to be adversarial.

The ideal position is public and private sectors working together in a spirit of partnership, recognising that there will not always be a meeting of minds.

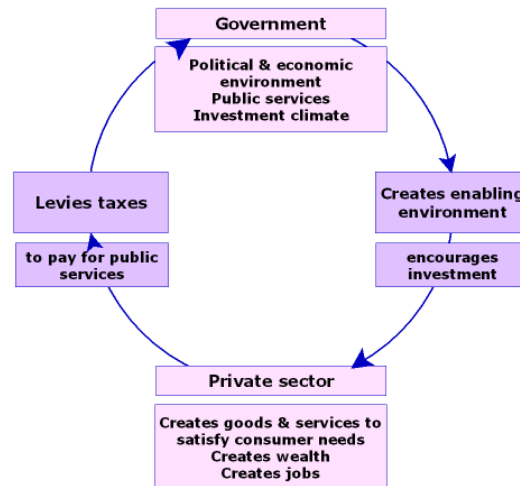
1.1 Governments and regulation

Governments create the political and economic environment in which their countries' businesses have to operate. They are responsible for providing, or ensuring the provision of, a range of public services. And governments legislate and regulate. Indeed, many politicians think that the specific reason that they were elected to Parliament is to legislate.

Regulations are a form of government intervention in the economy. The OECD (1994) explains that regulation covers “the full range of legal instruments and decisions through which governments establish conditions on the behaviour of citizens or enterprises”. In this paper, ‘regulation’ is used to define all statutory requirements, whether enacted by Parliament or by local government or additional rules prepared by agencies such as the tax authority.

While there are costs associated with regulation, benefits also accrue, though generally it is society that gains from the benefits whilst business pays the costs. For example, imposing health and safety requirements on business creates costs for those businesses, but aims to reduce the risk (and the cost to society and to the business) of people having accidents at work. Governments, therefore, have a responsibility to weigh up the advantages and disadvantages of every viable response to any situation that may merit government intervention and recommend regulation when it is the best option. This involves balancing a number of different and often competing priorities such as public health and safety, environmental protection and sustainable development, economic efficiency and performance.

Governments generally recognise that the private sector is the engine of growth, creating wealth and jobs and providing tax revenue to pay for the public sector. As a result, governments are anxious to demonstrate that they are being responsive to business, that they are creating an enabling pro-business environment leading to more investment and more economic activity, and that, whilst regulation may be necessary from time to time, they are far more business friendly than other governments.

Figure 1: The virtuous circle

Source: adapted from an original idea by Clive Davis, KIPPRA, 2000

The problem for business is that regulations impose financial burdens – through the time taken to comply and to demonstrate compliance, through the initial cost and through recurrent costs. Furthermore, if the requirements become too extensive and complicated, there is a good chance that they will be ignored, whether consciously or just through ignorance. As a result, businesses get particularly aggravated by the regulatory requirements imposed on them – and become more vocal about them.

Sometimes, it is the financial cost that is the objective (for example, the requirement to pay tax or some sort of levy), imposed in order to stimulate a change in behaviour. Sometimes, little thought is put into the administrative burden (for example, preparing the paperwork to demonstrate compliance). Inevitably these burdens are felt disproportionately by smaller businesses. Large businesses can afford to employ people – who then build up expertise – specifically to ensure compliance. However, in the smallest business, it is usually the entrepreneur who has to do the work – on top of everything else required to generate sales and make a profit.

Ideally both the financial burden and the administrative burden should be mitigated, but often focusing on the administrative burden can provide the biggest dividends. There are a number of ways in which the burdens can be mitigated:

- Less new regulation;
- Improving existing regulation – to reduce the administrative burden, to reduce opportunities for corruption, etc;
- Providing guidance so businesses know what is expected of them; and
- Promoting a culture change so that (i) inspectors are seen as 'coaches', not 'cops'; and (ii) there are fewer inspections.

1.2 Reducing regulation leads to economic growth

There is a growing body of evidence which demonstrates that investment climate improvements do make a difference to economic growth and that it can achieve far more than any number of poverty alleviation projects, typically promoted by NGOs (Chapman & Warneyo, 2001; Coates & David, 2002).

Reducing the burden on business is not the same as reducing the total number of legislative requirements. Kitching (2005) argues that business owners may benefit from the introduction of regulations, especially where they help to create a 'level playing field'. This may be true where governments are able to define the requirements in a way that minimises the administrative burden and does not miss any unforeseen consequences. Not many developed countries can claim total success; in Africa, typically, regulations are rushed in response to some apparently urgent need and, even when not rushed, are often poorly conceived, increasing the administrative burden for those firms who attempt to comply and leaving the door open to corrupt practices.

The World Bank (2004) report, "Doing Business in 2005", stresses that:

- Countries that reduce regulatory burdens tend to enjoy greater rates of business growth;
- The payoffs from reform appear to be large, with estimates that an improvement in the ease of doing business from the bottom quartile of countries to the top could add two percentage points to annual economic growth; and
- Heavy regulation and weak property rights exclude the poor – especially women and younger people – from doing business: countries with simpler regulations provide better social protections and a better economic climate for business people, investors, and the general public.

The World Bank goes on to suggest that regulatory reform produces economic and social benefits. Specifically, they say, it fosters non-inflationary growth; boosts consumer benefits; improves the competitiveness of export and upstream sectors; enhances flexibility and innovation in the supply-side of the economy, reducing vulnerability to economic shocks; creates jobs; strengthens regulatory protection for health and safety, the environment and consumers

These arguments are reinforced in the 2005 World Development Report (WDR 2005). It argues that investment, innovation and business creation are hampered by corruption, over-regulation, weak contract enforcement and inadequate infrastructure. Further it notes that a good investment climate encourages firms to invest by removing unjustified costs, risks and barriers to competition

The evidence, and the wording, is repeated more strongly in Doing Business 2008 in which the World Bank stresses the boom in new businesses that can follow regulatory reform (World Bank, 2007). They note, again, that "higher rankings on the ease of doing business are associated with more growth, more jobs and a smaller share of the economy in the informal sector". They cite the example of Mexico where the number of registered businesses rose by nearly 6 per cent and employment increased by 2.6 per cent following the cut from 58 to 27 days in the time required to establish a business. Clearly this increase would not all be due to the regulatory changes, but the World Bank argues that the changes made a significant difference.

The Netherlands Government has, since 2003, been working hard to reduce the administrative burdens imposed on business as a result of meeting regulatory requirements. Their efforts have been reviewed by the World Bank (Ladegaard et al, 2007). Whilst the Bank notes that, compared to other countries, the level of administrative burdens is higher, they have nevertheless made huge improvements. Indeed, their regulatory reform programme was expected to eliminate €4 billion of administrative burdens on business by the end of 2007.

1.3 Success rates

Defining success is difficult since advocacy is not a zero sum game, though failure is usually more obvious. As noted above, it is unusual for an advocate to achieve all of their aims. A proposal for a new regulation may be modified or watered down but is still passed into law – so both public and private sectors can claim a degree of success. For example, in 2001, the UK's Secretary of State for Trade & Industry wanted to 'improve' the regulations for parental leave and to introduce a right for flexible working (that is, part time and flexible working hours) for parents with young children. Working on behalf of SMEs, I successfully argued that whilst staff should feel able to ask for flexible working, employers should be able to refuse such a request if they had justifiable reasons. En passant, my case was strengthened, I am sure, because I had previously been in the position of discussing and agreeing similar arrangements for staff (of both genders) when I managed an enterprise agency. The policy for which I argued was the eventual outcome, with employees given a legal right to ask for flexibility, but employers given a legal right to refuse.

2. Literature review

2.1 Success rates

It should be remembered, and as Mahoney (2007) stresses, that success does not prove influence. A trade association may see a change in public policy that accords with their wishes but which they did not bring about. Similarly, a trade association may lobby against a proposal and still see it pass into law, though they may have achieved some success at least in influencing the final policy.

Mahoney (2007) has reviewed success rates of advocacy initiatives by surveying 149 interest groups in Washington DC and Brussels. I contributed to survey design in Ghana (2003) and Nigeria (2007) and undertook some analysis on the data. In Ghana, the survey covered more than 1,600 private sector associations and 200 trades unions. In Nigeria, the survey covered more than 2,000 private sector organisations.

It is interesting to note that organisations in all countries claim success (or partial success) for a little over 50 per cent of their advocacy projects.

Table 1: Success rates

	US	EU	Ghana	Nigeria
Fully attained goal	23%	17%	53%*	58%*
Partially attained goal	31%	43%		
Did not attain goal	46%	39%	47%	42%

* Respondents defined success but no attempt was made to assess whether success was partial

Sources: US/EU: Mahoney (2007); Ghana: Irwin (2003); Nigeria: Irwin (2007) and Okpudo (2008)

Irrespective of success in stimulating or blocking a public policy, Dür and de Briève (2007) note that interest group participation in policy making can improve public sector decision making. However, as they also note, this can result in public policies that are less efficient than they might otherwise have been. Policies ideally favoured by business and trade associations, whilst rarely being the opposite of public preference, do not always resonate closely either.

2.2 The success factors

Mahoney (2007) argues that gaining an understanding of why interest groups sometimes succeed and sometimes fail requires consideration of the institutional structure in which they are operating; the characteristics of the specific issue; and the characteristics and advocacy strategy of the interest group itself. That view is too simplistic. She goes on to postulate that three characteristics stand out as important: the level of the financial resources, simply because more resources means that they can devote more effort to advocacy (and she sees staff size as a proxy for financial resources); size of membership, because having more members suggests greater credibility to policy makers; and, the type of organisation (with Mahoney (2007) speculating that policy makers are more responsive to citizen groups than to business associations). However, the author's practical experience suggests that there are four major factors that affect the likelihood of success; one is external to the BMO and others three are internal:

- Willingness of the public sector (to listen and) to act (which is affected by political leadership, by the salience and contentiousness of the issue, by the effectiveness of existing partnerships between private and public sectors and by the credibility of the BMO or the coalition seeking the policy change);
- Advocacy competence of the BMO (if it cannot gather evidence or cannot communicate a compelling proposition, then it is unlikely to succeed);
- Institutional competence (if it cannot sustain itself or cannot manage projects effectively and within budget, then it is unlikely to succeed, even if it has the necessary advocacy competence); and
- Resource availability (which is more than just money).

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