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**Subject:**

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## IdeasLab on Building Institutions in Africa

Presentations and in-depth group discussions will focus on:

Idea 1: Writing constitutions in post-conflict Africa

Idea 2: Formalizing the informal economy

Idea 3: Rethinking regional economic integration

Idea 4: Controlling corrupt corporations

### Key Points

- Institutions are only as effective as their legitimacy, their capacity to deliver and their strategies.
- Multinational corporations are more influenced by conventions and laws on corruption in their home base than by local regulations, which are often poorly enforced.
- The informal sector in African countries is unprotected and dedicated policies to address this complex situation are required.
- Building regional economic integration on the back of weak national institutions may undermine the entire process.

### Synopsis

#### Idea 1: Writing constitutions in post-conflict Africa

African constitutions still carry remnants of the artificial states associated with colonialism and structural underdevelopment, exacerbated by the wave of authoritarian states in the post-colonial era. But recently, the process of constitution making has become more inclusive and has enshrined democratic systems and human rights. A challenge for constitution making in Africa is to create national unity in states with many disparate groups and ensure executive accountability to the people.

Constitutions have a shelf life in African countries and there are examples of where these need to be renegotiated to align them with the changing demands and requirements of the population.

China provides an interesting example of a country that does not have a democratic constitution but has lifted millions of people out of poverty, which raises questions about the relationship between democracy and development.

#### Idea 2: Formalizing the informal economy

The informal sector, which comprises the largest portion of Africa's private sector, operates without protection in terms of health and safety, labour laws and other issues, leaving them vulnerable. But this economically active

group is a complex collection of different types of actors and the challenge is to find a way to regulate them so that they benefit both the workers and society as a whole.

### **Idea 3:** Rethinking regional economic integration

Economic integration in Africa tends to follow Western models that aim to establish economic and monetary union. But this requires building regional superstructures that are often inefficient and ineffective.

African regional organizations need to adapt the European models to suit the continent's specific circumstances, focusing more on trade facilitation, which is currently weak, than on building large regional bureaucracies. An added problem is layering such structures over already weak national institutions. It raises the question of whether you need strong states before you integrate them or whether you strengthen states through integration.

### **Idea 4:** Controlling corrupt corporations

Institutions and regulations to regulate capital flows and multinationals' behaviour are weak in Africa, if they exist at all. This leaves the way open for opaque and corrupt activities, particularly where top officials or business people consider themselves to be above the law.

Multinational corporations' behaviour is more influenced by international anti-corruption conventions and laws in their home nations than by local regulations, which are often poorly enforced and distort the playing field for ethical companies. The growing number of new international conventions is making it difficult for companies to ensure compliance with them but it is also making it harder for businesses to circumvent them.

Weak legal systems in Africa mean that multinationals often take legal battles offshore to other jurisdictions but this, arguably, weakens state institutions by not forcing them to tackle controversial or difficult issues.

### Discussion Leaders

**Paul Benjamin**, Professor, Department of Commercial Law, University of Cape Town, South Africa

**Halton Cheadle**, Professor of Public Law, University of Cape Town, South Africa

**Peter Draper**, Senior Research Fellow, Economic Diplomacy Programme, South African Institute of International Affairs (SAIIA), South Africa; Global Agenda Council on Trade

**Charles Goredema**, Head, Organised Crime and Money Laundering Programme, Institute for Security Studies (ISS), South Africa

### Facilitated by

**Scott Weber**, Director-General, Interpeace, Switzerland; Young Global Leader

### Disclosures

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