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# Building Legitimacy in Conflict-affected and Fragile States

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## KEY FINDINGS

- This project defines legitimacy as popular acceptance of a governing authority's right to exercise that authority. It is a subjective concept and it is context-dependent. There are multiple sources of legitimacy and their importance varies from society to society, and can shift over time as circumstances change.
- Meaningful inclusion is a source of legitimacy in the four peacebuilding sectors this project focuses on: delivery of basic services, political processes, addressing corruption in the criminal justice sector, and security sector governance.
- Lack of trust in the behavior of individual officials does not necessarily translate into lack of legitimacy for the institution.
- Legitimacy is often contested, with multiple authorities at different levels of governance competing for the support and allegiance of a population. Building stronger central institutions is not the only or necessarily best way to build legitimacy in conflict-affected and fragile states.
- The relationship between internal and external legitimacy is complex. More research is required to understand that relationship.

## Legitimacy and Peacebuilding

The substantive focus of the Fletcher project is on what it takes to build legitimate political authority in fragile and conflict-affected states. Specifically, what, if anything, can development and peacebuilding programs do to enhance the legitimacy of public authorities in these states?

Why the focus on legitimacy? First, building legitimacy is thought to be the most efficient and sustainable mode of governing because it fosters voluntary rather

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**Legitimacy...provides the basis for rule by consent rather than coercion. Lack of legitimacy is a major contributor to state fragility, because it undermines the processes of state-society bargaining that are central to building state capacity...”**

OECD, *The State's Legitimacy in Fragile Situations: Unpacking Complexity* (Paris: OECD, 2010), p. 3

than forced or “bought” compliance. This theoretical proposition is reflected in a substantial body of policy literature that sees a connection between legitimacy and state stability.<sup>1</sup> Yet there is little consensus on the sources of legitimacy or on the extent to which they correlate with peace or stability.

Second, because legitimacy is hard to define, hard to measure and contested, it risks either being misused in policy circles or falling off the radar altogether. Despite the methodological challenges for researchers, it is incumbent upon academics to help specify what it means, how it is accrued, and how it relates or should relate to peacebuilding programs.

## Legitimacy Defined

This project defines political legitimacy as popular acceptance of a governing authority's right to exercise that authority. The definition has three elements:

- First, it treats legitimacy as a *subjective concept*, meaning it is about perceptions and beliefs, not objective, normative standards that apply universally. Thus it asks whether governing authorities are perceived to be worthy of support; not whether they satisfy some pre-determined set of criteria.
- Second, it puts the focus on *internal perceptions of legitimacy* — whether and to what extent those

who are subject to authority believe it to be legitimate. What the citizens in fragile or conflict-affected states feel about governing authorities in their societies is more relevant for our project than what the international peacebuilders and donors believe.

- Third, while discussions of political legitimacy tend to focus on state institutions at the *national level*, the above definition leaves open the possibility that *local levels of governance and non-state actors* may also accrue legitimacy. The various levels of authority may compete for legitimacy in the eyes of a population, or they may be mutually reinforcing.

Following from this definition, the list of potential sources of legitimacy is long. It is also context-dependent: the factors that determine how citizens perceive those who exercise authority vary from society to society, and can shift over time as circumstances change. The literature tends to divide sources of legitimacy into three categories:

- **Input legitimacy:** the processes by which rulers come to power, decisions are made and institutions function. Participation, transparency and accountability are examples of input legitimacy.
- **Output legitimacy:** the outcomes of decisions and actions, sometimes called performance legitimacy. How well public authorities deliver justice, security, health and education are examples of output legitimacy.
- **Tradition, religion, ideology and identity:** these factors may also be sources of legitimacy, especially if harnessed by a charismatic leader. The emphasis here is on ideas, rather than on particular institutions or governance systems.

The potential sources of legitimacy are not mutually exclusive. A governing authority may benefit from multiple sources of legitimacy, or may seek to legitimate its authority through different techniques. In most places, legitimacy is accrued not from a single source but rather a combination.

<sup>1</sup> Organization for Economic Cooperation and Development, *The State's Legitimacy in Fragile Situations: Unpacking Complexity* (Paris: OECD, 2010); United Kingdom Department for International Development, *Building Peaceful States and Societies: A DFID Practice Paper* (London: DFID, 2010); World Bank, *World Development Report 2011: Conflict, Security and Development* (Washington D.C.: World Bank, 2011); International Dialogue on Peacebuilding and Statebuilding, *New Deal for Engagement in Fragile States* (2011); Report of the Advisory Group of Experts on Review of the Peacebuilding Architecture, *The Challenge of Sustaining Peace* (New York: United Nations, 2015); Report of the High Level Independent Panel on Peace Operations, *Uniting our Strengths for Peace – Politics, Partnership and People* (New York: United Nations, 2015)

## Research Areas and Key Findings

Our project established working groups in four issue areas: delivery of basic services, political inclusion, security sector governance, and corruption in the criminal justice sector. We chose these four in part because conventional wisdom tells us all have an impact on internal legitimacy, and in part because Fletcher faculty and others have carried out substantial research in these areas. The research focus, methodology and findings of each working group are contained in separate briefings. Below are summaries of the findings.

**In peacebuilding and state-building programs in 2014, donors invested \$36 billion in basic services, social infrastructure and material relief in the world's most fragile nations.**

Source: OECD Creditor Reporting System at [stats.oecd.org](http://stats.oecd.org)

### Delivery of Basic Services

These findings derive from the baseline data of a large-scale representative population-based panel survey carried out in the Democratic Republic of the Congo, Nepal, Pakistan, Sri Lanka, and Uganda by the Secure Livelihoods Research Consortium (SLRC). They challenge the conventional wisdom that providing basic services — health care, education, and water — automatically leads to improved perceptions of governance legitimacy by the populace:

- Overall, there is no linear or consistent relationship between the receipt of services and citizens' perceptions of governance legitimacy, at the national or local levels.
- However, poor quality service delivery can make matters worse – resulting in citizens viewing local and central authorities more negatively.

- What matters most for improved perceptions of governance legitimacy is the quality of services, inclusion of citizens in decisions about service delivery, and well-functioning complaint mechanisms.

### Political Inclusion

This research analyses the Broadening Participation Project dataset to explore the relationship between broader inclusion in peace and political negotiations and the legitimacy of those negotiations in a variety of population groups. The research attempts to understand *the role of legitimacy* in peace and political negotiations, as it pertains to *the inclusion of additional actors*. It is not measuring legitimacy of public authorities per se, although inferences can be drawn in that regard. Data from 40 qualitative case studies yielded the following findings:

- Legitimacy is the most frequently identified rationale for broadening inclusion by both those in power and their challengers when it comes to complex, multi-stakeholder negotiation processes. Often inclusion is initiated with the expectation that it will increase the legitimacy of actors, the overall process, or both.
- How inclusion is operationalized in process design influences whether it will deliver legitimacy, and to whom.
- A major factor influencing whether relevant actors initiate inclusion for the purpose of enhancing legitimacy has been whether or not a regime is in crisis.

**The Broadening Participation Project uses qualitative research to analyze how and under what conditions various actors in addition to the main negotiating parties have participated in and influenced peace processes and political transitions.**

Source: Inclusive Peace and Transition Initiative, Geneva Graduate Institute of International and Development Studies

## Corruption in the Criminal Justice Sector

Based on research in Northern Uganda, this work identifies a mismatch between the strategies used to combat corruption and the nature of the problem itself. Anti-corruption efforts often fail to take account of drivers of corruption that are rooted in social norms and political dynamics.

- Corruption in the criminal justice process is the system; it is not the exception. There are social and professional consequences for not engaging in corruption for those within the sector (e.g. Magistrates, police) as well as citizens.
- The citizen perception that all justice must be paid for diminishes their trust in the police and courts as state institutions. Despite this, citizens do not question the legitimacy of these institutions—rather they separate the current negative behaviors from the right of these structures to implement the rule of law.
- Anti-corruption efforts that succeed in actually reducing levels of corruption may not significantly improve trust in the institutions unless they address other drivers of citizen perceptions that justice is for sale, such as ignorance of the criminal justice process, uncertainty about outcomes, and fear of police and courts.
- Corruption serves a number of functions in Northern Ugandan society, including: providing a means to access the police and courts; allowing the elite to maintain their positions and power; and providing those working in the criminal justice system with a means of paying for operating expenses in their institutions, and for supporting their extended families' needs.

## Security Sector Governance

As part of a major, multi-country study on peace missions in Africa, the security sector working group considered the lessons of recent experience in security sector reform and governance. A key lesson is that for SSR to succeed, demand for it must come from the principal political actors in the country, rather than be supply-driven by outsiders. Key findings on legitimacy and SSR are:

- In turbulent and contested political environments, where there is no recent history of state-building or state formation, diverse concepts of legitimacy may co-exist. The dominant international norm of legitimacy is associated with a democratic institutionalized state and a near-monopoly on the use of organized violence. Other conceptualizations of legitimacy arise from local traditions, which may be based on exclusivist or nativist agendas, and are relevant when local political actors are mobilizing for violence.
- The African Union has been a significant driver of new legitimacy norms: the prohibition on unconstitutional change in government; non-indifference to mass atrocities; and inclusivity in peace processes. Instead of hard-security approaches to peace and security challenges that are overly dependent on military interventions, the African Union should place greater emphasis on the norms of constitutional democracy, protecting civilians, and a preventative and inclusive approach to peace and security that it has already adopted.

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**In a context of fragmentation, it is possible that an attempt to rebuild or extend central authority could lead not to peace but to deepening conflict... Too often, 'national ownership' is equated with acquiescing to the strategies and priorities of the national Government. In divided post-conflict societies, such an approach risks perpetuating exclusion.**

*Source, Report of the Advisory Group of Experts on Review of the UN Peacebuilding Architecture (29 June 2015), paras 21 and 42.*

## Implications for Peacebuilding Programs

**Invest in inclusive processes.** People's perceptions of legitimacy depend in large measure on the processes through which authority is exercised. The most important procedural attribute is meaningful inclusion, a finding that cuts across the working groups and seems to hold in most cultural contexts. Moreover, inclusion may be used by local actors for strategic as well as normative reasons, in order to gain an advantage in a negotiation or peacebuilding process. Meaningful inclusion, therefore, requires a multi-track approach to building opportunities for participation and voice. The inclusion that leads to legitimacy cannot be mere window-dressing; there must be multiple channels for genuinely seeking people's opinions and accounting for their interests, and that show someone in authority is actually listening and responsive.

### **Legitimacy accrues at multiple levels of governance.**

Local authorities and community or faction leaders may be perceived to be as legitimate, or more legitimate, than central authorities. Indeed, in conflict-affected and fragile states legitimacy is often highly contested. Which entity is worthy of support varies among different population groups, regions and social classes. This creates a dilemma for peacebuilding programs, because in a state-based international system, the natural interlocutor with outside actors is the national government. By-passing central authorities can generate hostility that makes it difficult if not impossible for the outside actors to operate. One way to square that circle is by encouraging central governments to broaden ownership to as wide an array of national stakeholders as possible, and to create the space for local levels of governance to deal with matters best dealt with at that level.

### **Conduct further research on the relationship between internal and external perceptions of legitimacy.**

National and local authorities care about legitimacy. However, they have different understandings and employ different techniques for attaining legitimacy. Internal legitimacy is often sought only to secure external legitimacy, i.e. the approval and support of international agencies and actors. More research needs to be done to understand the relationship between external and internal legitimacy, and the conditions under which leaders begin to engage in sincere state-society bargaining and exchange.