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Perspectives on Legitimacy:

African Peace Missions, Security Sector Governance, Public Authority and Political Legitimacy

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This memorandum addresses the question of political legitimacy, in those parts of Africa which today host large international peace missions. It attends to recent and ongoing changes in the nature of states and public authority, and local understandings of those concepts. The intent is to historicize and contextualize the concept of political legitimacy, with a view to bridging the academic-policy divide.

Scholars of law, political science and international relations have taken various approaches to conceptualizing legitimacy. Key questions are whether legitimacy derives from process or from the substantive attributes of government, whether it is internally or externally generated, and whether it is objective or subjective. These disciplines also usually attach the concept of legitimacy to that of the state.

The approach in this project is different. The background assumption is that in these troubled places, political practice drives law and norms, rather than vice versa. I try to situate the use and function of the concepts of 'the state' and 'political legitimacy' in these particular historical and political circumstances. The approach is specific to those parts of Africa where there are active peace missions, and where security sector governance is contested (the Horn of Africa, central Africa and the Sahel-Saharan subregions). These are locations in which 'legitimate' and 'capable' states are largely not in prospect—at least not on the modernist model—and where other forms of public authority are therefore required.

Let me begin by comparing the situation in the 1970s with that of today. The 1970s were, in retrospect, the high water mark of modernist state building in Africa, especially those subregions noted above. The significance of the recognized state was marked by the extent of violent political conflict over control of capital cities, over statehood and boundaries. States were anchored by a triangle that consisted of the political economy of domestic resource extraction, ethno-nationalism, and

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World Peace Foundation

The World Peace Foundation, an operating foundation affiliated solely with The Fletcher School at Tufts University, aims to provide intellectual leadership on issues of peace, justice and security. It believes that innovative research and teaching are critical to the challenges of making peace around the world, and should go hand-in-hand with advocacy and practical engagement with the toughest issues. To respond to organized violence today, we not only need new instruments and tools–we need a new vision of peace. Our challenge is to reinvent peace.

DR. ALEX THE WAAL:

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Figure 1:
The state in the modernist period

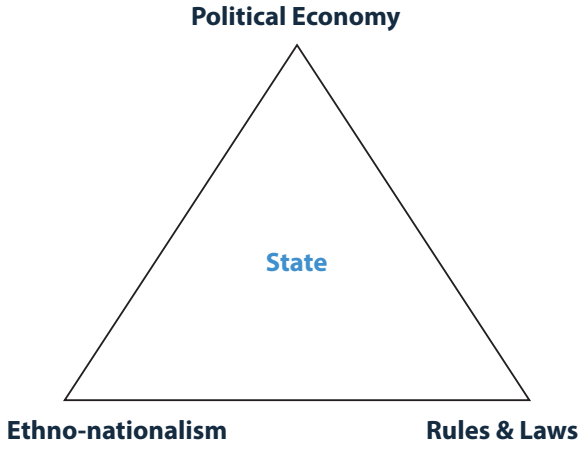
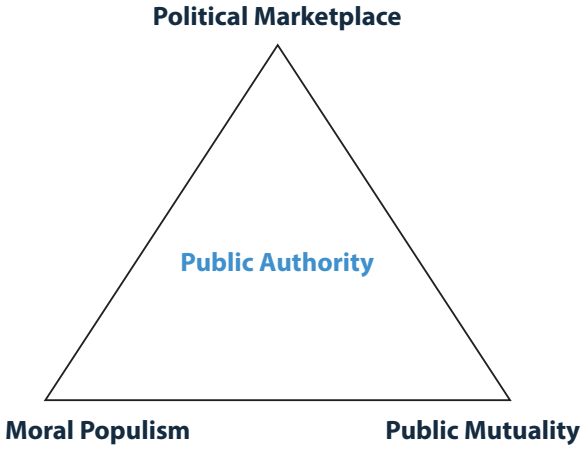


Figure 2:
Public authority in the contemporary period



laws and institutions (figure 1). In general, states have proved the most efficient way of organizing the provision of public services, security and human rights. People in Africa are nostalgic for the era when modern states appeared to be a real prospect.

Subsequently, much has happened. Most conspicuously, states and boundaries have been redrawn. This is however no more than one symptom of a deeper reconfiguration of political authority, in which the firm triangle that anchored state-building projects has been replaced by a looser set of moorings, which can be termed the political marketplace, moral populism, and public mutuality (figure 2).

First: the changing territorial dispensation. In the Horn of Africa, the three states that existed a generation ago (Ethiopia, Somalia and Sudan) have now become de jure five (adding Eritrea and South Sudan) and de facto six (adding Somaliland). A fierce political and ideological debate over nationalism and self-determination (with variant meanings attached to both), conducted in the immediate post-colonial era through until the 1980s, has morphed into another set of debates about statehood and identity. In Congo, the secessionist movements of the 1960s were defeated and 'stateness' has taken an interestingly different turn, appropriated by anti-government political movements and armed groups. In the Sahel, Tuareg secessionism and Libya's Saharan irrendentism were defeated politically but all political actors remain acutely conscious of just how contingent are boundaries and statehood—most recently manifest in the revived claims to a trans-Saharan Azawad state, the centrifugal tendencies in Libya, and the entry of the Islamic State into north Africa.

Meanwhile, over the last thirty years, each of the three logics that previously underpinned state projects, has altered.

The political economy of taxation and resource has been replaced by resource flows subject to bargaining in a 'political marketplace'. All political systems have an element of transactional politics, whether legitimate political finance or corrupt dealings. In a 'political marketplace' system of governance, this is the dominant element, such that politics is driven by the exchange of loyalties for material rewards. In an advanced political marketplace system of government, formal institutions have been subjugated and instrumentalized to short-term transactional bargaining.

These are all countries with small economies, dependent on commodity exports and external flows (remittances, FDI, aid, debt relief and security cooperation), which are vulnerable to fluctuations in the global economy and political decisions made in western capitals. The unpredictable conditions

of their global integration translate into pervasive rent-seeking in both the economic and political spheres, and into domestic turbulence. Politics in these countries is unpredictable, even chaotic, over the short term, but recurrently reproduces the same patterns of bargaining and coalition building.

In countries chronically exposed to turbulence, politicians' overriding concern is political survival and the management of contingencies. Building institutions, establishing the conditions for long term democratization and development, let alone state-building, are not on the agenda—or are only referenced insofar as they are part of an external agenda with resources attached. In these conditions, external resources—material and symbolic—are typically instrumentalized for their immediate goals (labeled the 'Janus face' or 'isomorphic mimicry' by scholars in different schools). Thus an external policymaker's belief that a particular institutional or political model is preferable, legitimate, or appropriate for external assistance, can readily become instrumentalized.

Lasting political settlements, from which arise national constitutions and other forms of enduring state legitimacy, has been eclipsed by political bargains that are as good as the political marketplace conditions in which they were struck.

Ethno-nationalism, as framed by the anti-colonial and self-determination debates, has morphed into different—more heterogenous, fluid, fractious and opportunistic—forms of identity politics. These range from localism to transnational religious extremism, from mystical cults to Facebook virtual communities. In the term used by Tim Allen at the LSE, these are forms of 'moral populism.' Thus old-style 'ethnic conflicts' and wars of national self-determination, irredentism, etc., have been replaced by identity-based conflicts framed by contingent political circumstance. Political legitimacy that arises from national communities united by language, shared (invented) historical tradition, etc., has been supplanted by the political credibility of short-term political projects.

Institutions, and their corollary laws and rules, have become secondary to the contingent, heterogenous and overlapping bargains and political projects. Insofar as institutions exist in a political market-moral populist landscape, they are wholly dependent on the position, capabilities and intent of their sponsors. We are all familiar with the situation in which a particular government minister or senior civil servant establishes a credible record of running an institution, holding out hope that this is a sustainable and replicable model, only to find that the institution collapses into an instrument of patrimony or corruption, when that individual leaves or circumstances change. We should focus less on the formal appearances of these institutions and more on their place and function within a wider political market system of governance. And insofar as we are looking for the foundational components of a rule-governed, civic and democratic order, we should look instead for manifestations of civility, integrity in public office, and the practice of 'public mutuality'—transactions based on principled reciprocity and regard for the common interest.

"Political legitimacy that arises from national communities united by language, shared (invented) historical tradition, etc., has been supplanted by the political credibility of short-term political projects."

The trends are not in the direction of state-building. The literature on hybrid political orders, twilight institutions, and developmental patrimonialism (to name a few prominent strands) has all questioned the centrality of political orders based on institutionalized states. But while comparative political science has abandoned the teleology of state-building and state formation, it is rare to find scholars who systematically explore the possibility that political trajectories might occur that do not lead in the direction of institutionalized states. If we take seriously the political vernaculars in use in large parts of Africa, we are obliged to do this. There exists a plurality of terms related to stateness, governmentality and political legitimacy.

English and French language words for 'the state' and 'statehood' do not translate readily into local concepts. The people who live in these countries

generally have a better understanding of what is going on there, than do outsiders. Their political vernaculars must be taken seriously. To give a few examples: in Ethiopia, *mengist* refers to unitary authority, characterized by brute power. In Sudan and South Sudan, *hukm* has the resonance of an external Leviathan that is imposed by force. The popular Nuer-language concept of government is 'a gang of men with guns who have banded together to rob the people. In Anglophone east African countries, no distinction is made between 'government' and 'state'. In Francophone countries, however, *l'état* and is corollaries are in common use. (One consequence of these observations is that it is sometimes difficult to know what is being measured in surveys that use English language words such as 'state' and 'legitimacy'.)

> **"Peace missions therefore are part of wider processes of the dismantling of modernist frameworks of state legitimacy."**

The language of stateness and governmentality has been appropriated by anti-governmental groups. For example, during the second Sudanese civil war (1983-2005) the rebel 'non-state actor', the Sudan People's Liberation Movement/Army (SPLM/A) was commonly referred to by southern Sudanese as *hakuma*, or 'government'—with the connotation that it was '*our* government.' Similarly, in DRC, it was the (largely non-violent) political opposition to President Mobutu Sese Seko that used the language of stateness, against a ruler who conspicuously transformed governing into patrimonial kleptocracy. Subsequently, during the second war in the DRC, the Mouvement de liberation Congolais (MLC) used the symbolism and apparatus of the Congolese state in the areas that it controlled more effectively than the government in Kinshasa. The MLC utilized its 'stateness' not only for creating an effective public authority in its territories, but also for external relations. It was the senior partner in an alliance with President Ange-Félix Patassé of the Central African Republic in 2003. Most striking of all, the most democratic and internally legitimate 'state' in the Horn of Africa is the Republic of Somaliland, which does not enjoy external recognition. The international community instead recognizes the Somali Federal Government, which is its own creation, and whose modest legitimacy is based upon its (as yet unproven) staying power.

These processes point in the direction of a plurality of governmentalities, away from a singular model of a (legitimate) state. The concept of the 'state' remains important, both as a fact of political-juridical life (to varying degrees in different contexts) and as an idea. But we need other concepts with which the notion of a legitimate entity of government can be framed. Across most of these countries, the concept of 'public authority' is a more useful than 'state' in the conventional sense. Similarly, the concept of 'legitimacy' is best understood through analyzing the means whereby it is contested, in specific circumstances.

International peace operations are establishing forms of plural legitimacy. The study of peace missions and security sector governance and reform (SSG/R) is, by definition, the study of circumstances in which state legitimacy has been challenged internally, and in which foreign governments and multilateral organizations have responded with instruments of external governance. The implicit model for peace operations is that they are time-limited missions that will end when normality (conventional state governance) has been achieved. However, in almost every case of a recent peace mission in Africa, the outcome has instead been the creation of continuing (flexible) layers of regional and international governance that not only sit above the national level, but also penetrate to local levels. Hierarchies of public authority are thoroughly intermingled. Peace missions therefore are part of wider processes of the dismantling of modernist frameworks of state legitimacy.

These processes are especially clear in the arena of SSG/R. There are very few cases of 'successful' national SSG/R and those cases (Ethiopia, Somaliland) stand out in that they are demand-driven and problem-focused, rather than supply-driven and template-derived. Cases of subnational or regional SSG/R illustrate that successful adaptation of security frameworks can be detached from the nation-state level. This leads us to an agenda framed in terms

of human security, in which not only is the referent of security broadened from the state to the individual, but the mechanisms for providing security are broadened from the state to multiple levels of public authority, from the local to the international.

Whence legitimate public authority? In the context of peace operations, legitimacy is relevant in two intersecting ways. First is external legitimacy: the processes whereby international actors (in our cases, led by the African Union and United Nations) determine the (il)legitimacy of national actors. Second is the internal notion of public authority or authorities, which can be plural, overlapping or task-specific. If states are historically dethroned, but yet retain their hold over our political imaginations, how is plural public authority in these difficult places to deliver the public goods that are provided by states elsewhere in the world?

Policymakers regularly grapple with these conundrums in their everyday work. Indeed many routine practices in peace missions and humanitarian operations have succeeded in dealing with public authorities in ways that sustain and promote legitimacy. But clarity of analysis and prescription is hampered by frameworks that are poorly suited for purpose. Our objective is to improve analysis and evidence to bridge that gap.

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