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Investigating the Role of Legitimacy in the Political Order of Conflict-torn Spaces

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Abstract

Conflict-affected spaces that are far from exhibiting a Weberian monopoly of the legitimate use of force have been categorised as 'fragile' and 'failed' states for years. However, there is a growing tendency to understand conflicts as a form of order and to adapt the definition of statehood accordingly. But while the post-Weberian approaches indeed help to overcome some of the flaws of the dominant understanding of statehood, they do not substantively consider the role of legitimacy. The statebuilding discourse illustrates the problematic implications of the limited understanding of legitimacy on the policy level. In response, this paper suggests in line with post-Weberian scholars to understand political order as a field with multiple authorities but to consider both force and legitimacy as sources underpinning obedience to social control. An analytical framework is developed that acknowledges multiple dimensions of legitimacy as well as its dynamics. This framework may help to analyse legitimacy in empirical cases to inductively advance the theoretical understanding of legitimacy and to enable statebuilding which strengthens those authorities and institutions that are actually considered to be legitimate.

Key Words

legitimacy, political order, state, statehood, violent conflict, statebuilding

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Introduction

Whether we look at Afghanistan, Iraq, Libya, Syria or Yemen – many contemporary violent conflicts appear to be chaotic. They often involve numerous armed groups with changing alliances, acting across national borders and causing a large number of civilian deaths over an endless period of time. Conflicts look like an antithesis of the state. By definition, under such circumstances, a Weberian 'monopoly of the legitimate use of physical force' cannot exist. Thus spaces that are characterised by large-scale violent conflict are often considered to be 'fragile' or 'failed' states (e.g. Fukuyama 2004; Rotberg 2004). But despite the chaotic façade of contemporary violent conflicts, some kind of rational or order can often be identified (e.g. Kaldor 2006; Keen 2008). Accordingly, also some political theorists try reconceptualising statehood to include spaces, which are far from exhibiting a monopoly of force (e.g. Boege et al. 2008; Migdal/Schlichte 2005). But whereas Weber defines modern statehood on the basis of a monopoly of both force and legitimacy, the role of legitimacy is neglected in contemporary approaches of conceptualising statehood. However, in the context of violent conflict not only the role of force but also the one of legitimacy may be different from an ideal-typical Weberian state. As legitimacy is the normative connection between people and the political order they live in, this is not only a theoretical shortcoming but also one which resonates with peace- and statebuilding policies. Policy makers have recognised that the main challenge in supposedly 'failed states' is the construction of legitimacy. For instance, the World Development Report 2011 argues that "institutional legitimacy is the key to stability" (World Bank 2011: xi). Nevertheless, policies of constructing legitimacy in conflict-torn settings have rarely been successful so far.

In response to this conceptual problem and its policy implications this paper sets out to deductively develop a better conceptual understanding of legitimacy in the political order of conflict-torn spaces and to suggest a framework for the analysis of empirical cases. First of all, I provide an overview on the dominant approaches of conceptualising the political order of conflict-torn spaces. I argue that these approaches do not consider legitimacy in a substantive way. In a second step I therefore outline what we know about 'legitimacy' and what different ways there are of understanding it. On the basis of the literature on statebuilding, I then illustrate that not substantively considering legitimacy when thinking about political order is not only an academic problem but one which translates into the policy world. Last but not least, I connect the different strands of literature and deductively develop a conceptual understanding of legitimacy in conflict-torn spaces. Building on scholars such as Migdal and Schlichte (2005) I look at political order as a field of power with multiple authorities. Considering both Weber and Bourdieu, I suggest acknowledging legitimacy and force as two sources of authority. Thereby, I define legitimacy as an empirical phenomenon with different dimensions that should be distinguished in any analysis: i) multiple authorities constituting different *referent objects*; ii) differences between the *claim of legitimacy* of an authority and the *perceived legitimacy* of the

subjects; iii) differences of perception depending on the *audience*; iv) different *degrees* of legitimacy and v) differences between *substantive* sources of legitimacy, which are underpinned by shared values – such as tradition and rational-legality as suggested by Weber – and more *instrumental sources*, which respond to shared needs – such as security. Investigating the transformation of these sources over time can particularly help to understand the *construction* of legitimacy. Differentiating the five outlined dimensions in future empirical research may contribute to gaining a better understanding of legitimacy in conflict-torn spaces inductively and thereby provide a basis for policies aimed at strengthening legitimate actors and institutions.

Ways of Understanding the Political Order of Conflict-torn Spaces

The dominant lens to describe political order is hierarchical and state-centric: one usually looks at cities within a province, provinces within a state and states within the regional and global order. Thereby, particularly the role of the state is emphasised. This certainly makes sense as our world is organised in de jure states. However, conceptually speaking, it is not clear what kind of polity the term 'state' describes. Most scholars adopt a Weberian definition. But this understanding of political order fails to describe and analyse conflict-torn spaces, which are far from exhibiting a monopoly of the legitimate use of physical force. Building on Bourdieu, 'post-Weberian' scholars suggest understanding political order as a field of power with multiple competing authorities. This understanding of the state overcomes many flaws of the dominant definition as it applies to any polities, independently of the degree of monopolisation of force. But whereas Weber's understanding of political order was not only based on force but also on legitimacy the latter aspect is subjugated in the post-Weberian approaches.

The state is not only one of the most fundamental but also one of the most contested concepts in political science. Like every other concept in social science, the state is not a categorisation of stable objects but is an abstraction of unstable social systems. Drawing on Kuhn (2000 [1989]) this instability requires a constant hermeneutic reinterpretation, which makes it difficult to agree on a common understanding of what a 'state' is. Further thinking along Kuhn's lines, the concept of the state illustrates well that political science is not a 'normal science' (2000 [1989]), as political scientists do not accumulate knowledge within one dominant paradigm but rather follow different guiding paradigms. However, even vastly different schools of thought tend to rely heavily on the concept of the 'state'. Most definitions ascribe a certain generalised function to the state, according to an underlying ideology. For instance, Marxists often describe the state as an instrument for a class to dominate another (Burnham 2003). Miliband argues that the state "is primarily and inevitably the guardian and protector of the economic interests" (1969: 265). For Gramsci "the historical unity of the ruling classes is realized in the State" (1971: 52). In contrast, pluralists often define the state as a forum to find a compromise between different

interests (Burnham 2003). Dahl, for instance, points out that "state regulation is absolutely essential to ensure a reasonable level of market competition, to reduce the harm otherwise caused by unregulated firms and markets, and to insure a more just, or at least more acceptable, distribution of the benefits" (2006 72).

Weber offers a definition which is different in kind. He emphasises that the state "cannot be defined in terms of ends, scarcely any task it has not taken in hand" (2009b [1948]: 77) but only "in terms of the specific means peculiar to it, namely the use of physical force (not the only means, but the specific one)" (ibid.). Thus Weber famously defines the modern state as "a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory" (ibid.). Weber's work is analytically valuable as it is underpinned by the ideal to "interpret historical and social occurrences in terms of the prevailing value orientation that give them their meaning without imposing the investigator's value judgment on them" (Blau 1963: 305), thus, to allow a value-free [*wertfrei*] analysis. For this purpose Weber establishes pure 'ideal types', which are methodological "utopia [that] cannot be found empirically anywhere in reality" (Weber 2011 [1904]: 90). It is important to note that Weber emphasises that ideal types fulfil an analytical purpose only, and are not necessarily ideal in a normative way (Weber 2011 [1904]: 98).

Weber's understanding of the state rests on his analysis of polities in Europe. Historically, the formation of the European states is closely associated with war. Tilly (1992) illustrates how wars contributed to the monopolisation of the legitimate use of physical force and formation of nation states in Western Europe, particularly the French state, from 1600 onward. His work builds on Elias' (1982 [1939]: 320-329) observation of a trend from monopoly-free competition towards the formation of monopolies of the legitimate use of force as well as economic means in Europe. Arguably, however, the European wars of the 17th and 18th century are different from contemporary forms of violent conflict. Many violent conflicts todays – which are also called 'new wars' (Kaldor 2006) or 'endless wars' (Keen 2008) – are more concerned with political control rather than military control, often have a global dimension and involve a plurality of groups, which partly control force (Kaldor 2006; Keen 2008). In addition, such wars have also blurred the distinction between organised crime, war and human rights violations (Kaldor 2006). And even though some scholars question the term 'new wars' (e.g. Kalyvas 2001; Pinker 2011), the impact of on-going globalisation cannot be denied. For instance, today's wars fuel an economy which rests on human trafficking, taxation of humanitarian assistance as well as arms and drug trade that creates incentives to continue the conflict (Kaldor 2006; Keen 2008). Kaldor concludes that in contrast to those wars, which contributed to state formation, new wars 'unbuild' the monopoly of the legitimate use of force of states.

Indeed, by definition spaces which are characterised by this contemporary form of violent conflict lack a Weberian 'monopoly of the legitimate use of force'. And as the

Weberian ideal-typical definition of statehood is dominant and underpins the work of numerous scholars, including for example North (1981) and Evans, Rueschemeyer and Skocpol (1985), their theories are much more difficult to apply in such a context. As a consequence of the dominance of the Weberian understanding of statehood territories with a low degree of monopolisation of force are often considered to be 'fragile' or 'failed' (e.g. Fukuyama 2004; Rotberg 2004). The concept of state 'fragility', however, is a negative-definition and puts very different forms of political order into one category, which is defined only by the deviation from the Weberian ideal. It does not consider that with the absence of a monopoly of force spaces are not institution-free but are governed by a different set of institutions. For instance, Keen (2008) illustrates how violent conflicts can turn into a stable order with different political and economic arrangements compared to typical nation states. The notion of state 'fragility' is even more problematic in the policy world. Putzel points out that in the policy discourse 'fragility' is "used as a catch-all phrase for conflict, post-conflict, humanitarian crisis-prone or chronically poverty stricken states" (2010: 1). In addition, the application of derogatory labels to non-Weberian polities securitises the absence of Weberian institutions. Scholars such as Duffield (2001) and Bliesemann de Guevara and Kühn (2010) argue that the absence of a monopoly of force is often framed as a security risk in Western societies. Building on the Copenhagen School concept of 'securitisation' the establishment of the various labels of state 'fragility' can be seen as a way of constructing a security threat which generates "endorsement of emergency measures beyond rules that would otherwise apply" (Buzan/Waever/de Wilde 1998: 5). Thus defining states as 'failed' creates a discursive environment in which any form of intervention by external actors can be justified as a response.

In response to the flaws of 'state fragility' there is an increasing amount of literature re-labelling and partly also re-conceptualising the political order of polities which are supposedly 'failed' (for overview see Hoffmann/Kirk 2013). A particularly prominent strand of literature suggests calling such arrangements 'hybrid political orders' (e.g. Boege et al. 2008; Luckham/Kirk 2012). This strand of literature is policy-focused and can be seen as a reaction to the perceived failure of dealing with state fragility. The idea of hybridity, originated in natural science, has been penetrating social science since the early 1990s. By now hybridity is commonly used to describe what results from the blurring of categorical borders. In biology hybridity describes the "offspring of two animals or plants of different species, or (less strictly) varieties" (Little et al. 1973: 1001). In social science the notion of hybridity was adopted to label "anything derived from heterogeneous sources" (ibid.) and the blurring or transcendence of borders in very different contexts. Scholars supporting this understanding emphasise that supposedly 'failed' states tend to involve a blurring of private and public as well as formal and informal. According to this literature people in 'failed' states are governed by a mixture of actors and overlapping institutions, comprising both public or formal Weberian institutions as well as different private or informal non-Weberian ('non-state') ones.

On the downside, however, the idea of 'hybridity' lacks analytical leverage. It still rests on ideal-typical categories, mistakenly indicates the existence of non-hybrid institutional settings and establishes a new broad label that brushes over fundamental differences between different hybrid arrangements. It has to be acknowledged that categorical borders can only be transcended in hybrid settings if there actually are ideal-typical categories. Thus, even though hybridity is meant to overcome conceptual binaries it actually reinforces them. In order to describe, for example, how formal and informal institutions are combined in hybrid settings the empirical existence of the category 'formal' has to be accepted, which rests on the ideal-typical Weberian definition of the state. And as no existing state can be described as 'truly' Weberian no institutional setting can actually be characterised as 'non-hybrid'. Thus hybridity is not a different or novel understanding of political order. In its most extreme form it only describes the absence of the Weberian state. Spivak, a scholar of Post-Colonial Studies, summarises that hybridity is "troublesome since it assumes there would be something that was not hybrid" (Spivak 1995, quoted in Hutnyk 1998: 414; see also Shome/Hedge 2002). The higher the degree of monopolisation of legitimate force, the lower is the degree of hybridity within a state. However, whereas the monopoly of force is a clear analytical ideal type, this does not apply to the concept of hybridity, which may exist in different forms.

Another strand of literature on political order evolved in response to the perceived insufficiency of the contemporary understanding of statehood, making this strand more analytical and less concerned with policies than the literature which evolved out of the 'state fragility' debate. This strand of literature, implicitly or explicitly, often considers Bourdieu's understanding of order to better conceptualise statehood and can therefore be considered 'post-Weberian'. Bourdieu (1994) argues that societies consist of various fields in which power is concentrated (e.g. economy, politics, universities). According to Bourdieu the linkages between the fields constitute a field of power. The field of power describes the "arena where holders of the various kinds of capital compete" (Wacquant 1996: xi). The 'post-Weberian' concepts are Weberian in the sense that they acknowledge the importance of force within a given territory. But as they also adopt Bourdieu's more dynamic notion of competition within a field of power, they consider the political order to be in a process of permanent transformation and ultimately give more space to agency and plural authorities.

Post-Weberian definitions are useful to understand political order as they describe polities regardless of the extent to which they have features that are similar to the Weberian ideal type. Hence, this conception of the state is also well suited to study supposedly 'fragile' or 'failed' polities, which do not have a monopoly of force because of violent conflict among other reasons. For instance, Migdal and Schlichte (2005) define the state as "a field of power marked by the use and threat of violence" (2005: 15). This field of power is constantly changing as "the process in which power is exercised involves a constant struggle among multiple actors" (ibid.). The definition even allows us to see resistance against domination – as for instance outlined by Scott

(1985) – as a part of statehood. But while this understanding helps to grasp spaces independently of the degree of monopolisation of force they ignore what, according to Weber, is the second central feature of statehood apart from force: legitimacy. Hence, the new approaches to conceptualising political order raise the question of what happens to legitimacy in the absence of a Weberian monopoly of the legitimate use of force.

Ways of Understanding Legitimacy

Emphasising the role of legitimacy raises the question of what the concept actually describes and what underpins its importance. Derived from the Latin word 'legitimus' (lawful, legal, legitimate) its definition has changed constantly and is used in a wide range of different contexts (Delbrück 2003: 31). In medieval European thought, for instance, it described a person who – in contrast to the tyrant – ruled according to the law and the will of God (ibid.). Building on Rawls (1971) and Dworkin (1977) it is useful to distinguish concepts from conceptions. Concepts define the ideal abstract meaning of a term, conceptions are the multiple possible instantiations, establishing under what conditions the term may be used. For instance, Rawls suggests defining the concept of justice "by the role of its principles in assigning rights and duties and in defining the appropriate division of social advantages. A conception of justice is an interpretation of this role" (1971: 9). 'Fairness' then might be a conception of justice. Similarly, different concepts and conceptions of legitimacy can be distinguished.

Usually two different *concepts of legitimacy* are differentiated: normative as well as empirical legitimacy (Andersen 2012; Schmelzle 2011; Hinsch 2008). Krasner and Risse point out that the literature on legitimacy often "does not distinguish adequately" (2014: 11) between these concepts. Philosophers and political theorists usually discuss under what conditions a political order or an authority can be considered to be legitimate (Jackson/Bradford). There is an on-going debate on the requirements, which have to be fulfilled to achieve such a *normative* legitimacy. For example, Arendt argues that "power springs up whenever people get together and act in concert, but it derives its legitimacy from the initial getting together rather than from any action that then may follow" (1969: 52). Conversely, most scholars in political science and sociology conducting empirical research adopt an *empirical* view of legitimacy (Dodgan 2002: 120). The empirical concept of legitimacy rests on Weber's understanding and his general approach to make research as independent as possible from the researcher's own views and values (Beetham 1991a). According to Weber "the basis of every system of authority, and correspondingly of every kind of willingness to obey, is a belief, a belief by virtue of which persons exercising authority are lent prestige" (Weber 1964: 382). He assumes that while voluntary obedience is necessary to ensure the stability of any political order on the long-term only empirical legitimacy makes people willing to do so. Hence, in an ideal-typical state the monopoly of force also has to be legitimate from the point of view of the

people governed. When investigating empirical legitimacy, the attitudes and beliefs of people have to be analysed. Beetham summarises the difference: "For the political philosopher, power is legitimate if it meets certain standards of the right and the good, and the philosopher's concern is to clarify these standards and show how they can be justified. For the social and political scientist, in contrast, power is legitimate if it is *acknowledged* as rightful by those involved in a given power relation, even if it does not meet standards which he or she would personally endorse" (2013: x).

In research practice, the two conceptions often overlap. On the one hand, some political theorists claim that an authority is legitimate if people perceive it to be legitimate, hence, adopting an empirical definition for normative legitimacy. On the other hand, empirical research on legitimacy always has a normative component. Even though legitimacy does not need to be conceptualised in detail for investigating other people's understandings the analysis is always framed by the researcher's own definitions. For instance, when operationalizing legitimacy and choosing certain questions to investigate the concept, the researcher decides what normatively constitutes legitimacy. "Since the normative beliefs of citizens and the moral judgments of philosophers refer to the same phenomenon" (Schmelzle 2011: 7), normative and empirical legitimacy actually are not two different concepts of legitimacy, but only constitute two perspectives on the same concept. Nevertheless, heuristically distinguishing between empirical and normative perspectives on legitimacy remains helpful to avoid conceptual confusion.

In addition, different *conceptions of legitimacy* have to be distinguished. These conceptions describe the multiple possible instantiations, establishing under what conditions it is adequate to use the term legitimacy. Thus, conceptions can also be seen as different *sources of legitimacy*. Most famously Weber distinguishes between rational-legal, charismatic and traditional legitimacy, underpinning the belief in the right to exercise social control (2009b [1948]: 78-79). The idea of rational-legal legitimacy rests on the belief in formal rules and a functioning bureaucracy. Thus, such legitimacy can be embodied in certain sets of institutions. This could, for instance, be a democratic system where the 'input' (Scharpf 1997) of the subjects influences the shape and behaviour of the system according to their interests and values. Traditional legitimacy is based on customs and routines, legitimising authority because it has not changed for a long period of time. A particularly complex form of legitimacy is charisma. For Weber charisma rests on the belief of people in the extra-ordinary [*außeralltägliche*] qualities of an individual, which makes him or her appear to be an envoy of God, a role-model or leader (Weber 2009a: 222-224; Kraemer 2002: 174). According to Weber charisma can also be normalised [*Veralltäglichung*]. Whereas extra-ordinary charisma characterises people or ideas that appear to revolutionise order from the inside, normalised charisma describes a stabile order which developed from charisma (Bliesemann de Guevara/Reiber 2011: 30). However, Beetham (1991b, 1993, 2013) challenges these Weberian conceptions of legitimacy. He points out that Weber's definition "reduces legitimacy from a complex of factors

which give people good grounds for compliance, to a single dimension: their 'belief in legitimacy'" (2013: 23). Beetham therefore suggests to re-define: "a given power relationship is not legitimate because people believe in its legitimacy, but because it can be *justified in terms* of their beliefs" (2013: 11). Accordingly he defines three universal components that can underpin legitimacy: "that power should be acquired and exercised according to established rules; that the rules should be justifiable by reference to shared beliefs; and that there should be appropriate actions expressive of consent on the part of those qualified to give it" (Beetham 1993: 488). Algappa on the contrary, supports Weber and counters Beetham's critique. He argues that "legal validity and consent are not independent of belief" (1995: 14). But in contrast to Weber he distinguishes four different elements/sources of legitimacy: "normative (shared norms and values), procedural (conformity to established rules), performance (proffer and effective use of state power), and consent elements" (1995: 24). However the conceptions of legitimacy are defined, most scholars agree that they are not static but subject to constant change. On the one hand, the reference objects in the political order may change. On the other hand, building on Algappa, needs, "norms and values may change as a result of political, socioeconomic, and ideational changes" (1995: 25). Hence, legitimacy is always in a process of transformation, construction and deconstruction.

Distinguishing concepts from conceptions sets the frame for understanding legitimacy and illustrates the importance of working with exact definitions to avoid confusion. Adopting an empirical understanding of legitimacy, as suggested by Weber, allows us to investigate the sources of legitimacy in case studies. But the conceptual literature on legitimacy does not address and has not been adapted to the complexities and dynamics of conflict-torn spaces that are far from exhibiting a monopoly of force.

Policy Implications – The Difficulties of Building a Legitimate Political Order

The unsatisfactory understanding of the role of legitimacy in conflict-torn spaces can easily be dismissed as an abstract scholarly problem. But the literature on statebuilding illustrates that this problem also translates into the policy world. Even though the ideas of how to build a state differ, all approaches rest on a preconceived idea of what institutional result is supposedly legitimate. This shows that an improved conceptual understanding of legitimacy in conflict-torn spaces is not only relevant for purely academic reasons but may, for instance, also help to guide future statebuilding policies in achieving more legitimate results.

Political order and legitimacy can be considered to be in a process of constant change and transformation (Tilly 1992; Elias 1982 [1939]). Obviously many actors try to influence or even steer these transformative processes, constructing specific kinds of political order and/or producing legitimacy. Particularly prominent in the policy domain is the idea of 'statebuilding', which - as the name indicates - aims at the

construction of a predefined kind of political order. The discourse on state 'failure' illustrates that even in academia the prevailing understanding of the state rests on a problematic normative-teleological misinterpretation of Weber's ideal-typical modern state. Many scholars actually prescribe how a 'Weberian state' can be created in the context of state 'failure' or state 'fragility' (e.g. Fukuyama 2004; Rotberg 2004). Lemay-Hébert (2013) describes this trend as 'neo-Weberianism'. The current academic debate on statebuilding is divided along the lines of sequencing – discussing, for example if economic liberalisation or institutionalisation is required in a first step (Schneckener 2007) – but widely agrees on the institutional results which statebuilding is supposed to achieve. Statebuilding rests on the normative assumption that certain kinds of institutions are naturally legitimate or can achieve legitimacy by performing well. For example, Fukuyama points out that in "today's world the only serious source of legitimacy is democracy" (2004: 35). But the assumption that only a Western-type 'strong' state is fully legitimate and can produce legitimate results neglects the reality of diverse non-Western governance arrangements. It is also ignored that the wide-spread existence of Weberian states is not necessarily a consequence of their general acceptance only but also has its roots in European colonialism, when Weberian state structures were imposed on societies around the world (Bliesemann de Guevara/Kühn 2010: 34-36). The on-going implicit idea of superiority in terms of state structures translates into the implementation phase of building Weberian states. Institutions that are in place in a 'fragile' state are usually ignored. Thus, for instance, local power relationships and certain histories of governance in societies are often not considered in a substantive way but are only seen as retrograde or underdeveloped institutions, which have to be eliminated (Jackson 2011: 1807). The assumption allows a technocratic implementation of statebuilding policies but may result in what is called 'quasi-state' (Jackson 1990), 'phantom state' (Chandler 2006) or 'empty shell' (Lemay-Hébert 2009) – states which have a Weberian façade but are governed by a very different set of institutions.

In response to the failure of this dominant approach to statebuilding the idea of conceptualising failed states as 'hybrid' evolved. But the idea of 'hybrid governance' is not only used to describe political order but has also found its way into the prescriptive statebuilding discourse. Several scholars (e.g. Menkhaus 2006/2007; Boege et al. 2008) suggest hybridity as an alternative to imposing Weberian structures in statebuilding. For example, Menkhaus emphasises that an improved approach to statebuilding "would combine what is already working locally with what is essential nationally" (2006/2007: 103). According to Menkhaus legitimate local actors should provide security and other core services, limiting the central state to "essential competencies not already provided by local, private sector, or voluntary sector actors" (ibid.). For future statebuilding efforts Boege et al. suggest "combining state institutions, customary institutions and new elements of citizenship and civil society in networks of governance which are not introduced from the outside, but embedded in the societal structures on the ground" (2008: 17).

The recognition of the failures of the prevailing statebuilding policies is worthy of support. But the hybrid alternative of transforming political orders is problematic as well. It is also based on the assumption that certain institutions are more legitimate than others. Compared to traditional statebuilding it only suggests a different pre-defined institutional result, which needs to be achieved. For example, Menkhaus (2006/2007) assumes that a 'mediated' state is most legitimate while Boege et al. (2008) suggests locally 'embedded' (Boege et al. 2008) arrangements, which combine different institutions. By making assumptions about what kind of institutional arrangement is legitimate the descriptive idea of hybridity, which acknowledges complexity, is turned into a new normatively prescriptive concept. In comparison to 'neo-Weberian' approaches it only changes the goalpost of what kind of institutional framework statebuilding is supposed to achieve. This is problematic as 'traditional' or 'local' institutions are actually not always characterised by a high degree of legitimacy. Firstly, 'informal', 'traditional' and 'local' are not homogenous categories but can include very different institutions with varying degrees of legitimacy. Secondly, some informal institutions that are considered to be 'traditional' or 'local' were actually imposed by colonial rulers as oppressive instruments (e.g. Allen 2007). Hence, the pragmatic suggestion of building hybrid institutional arrangements is based on questionable assumptions about legitimacy and narrowly focuses on institutional results. This may lay the foundations for a new blueprint in statebuilding practice assuming that 'mediated', 'embedded' or 'local' institutions – rather than 'formal', 'democratic' or 'rational-legal' ones – are 'good' institutions. An improved understanding of the role of legitimacy in the political order of conflict-torn spaces that builds on empirical analysis and acknowledges the specificities of each case would help to avoid such blueprints and to develop policies that strengthen what is considered to be legitimate by the group of people targeted.

Conceptual and Analytical Suggestions

Acknowledging the Dynamics of the Political Order of Conflict-torn Spaces

In response to the limited understanding of legitimacy in the political order of conflict-torn spaces I deductively develop a conceptual framework, which considers the role of legitimacy more substantively. I suggest adopting a post-Weberian understanding of political order as field of multiple authorities but argue that legitimacy plays a key role in these dynamics as another source of authority enabling the exercise of social control besides force.

Migdal and Schlichte's (2005) conception of the state as a constantly changing field of power, constituted by competing actors, provides a useful framework for the analysis of polities, far away from the Weberian ideal-typical state because of violent conflict among other reasons. To capture the 'state's dynamics' analytically, they suggest contrasting the image of the state, as the legitimate rule-maker of a territory, with its

actual practices (2005: 14-19). They emphasise that such an analysis has to be about processes and change rather than static snapshots (ibid.: 19-20). For an investigation of the changing practices I suggest, in line with Lund (2006), to look at the history and present of various *authorities* within the arena of competition that may be called 'state'. As Agnew points out, "political authority is not restricted to states and (…) is thereby not necessarily exclusively territorial" (2005: 441). Hence, choosing authority as the unit of analysis allows more flexibility in dealing with the globalised world order (see Kaldor 2009). While adopting this understanding the divide between global, national and local does not matter.

My understanding of authority is influenced by the German term 'Herrschaft', suggesting an analysis of governance beyond government. Weber defines 'Herrschaft' as "the chance of a specific (or: of all) command(s) being obeyed by a specifiable group of people" (1980 [1921]: 122). 'Herrschaft' has no equivalent in English as terms like power, authority and domination usually describe slightly different phenomena (Beetham 1991: 35). I use the expression 'authority' to describe social control both as a vertical relationship of command and obedience and, accordingly, the (commanding) actor or entity to whose social control a group of people obeys, thus having a structuring influence on their lives.

Whereas Migdal and Schlichte's understanding of political order is based on the "use and threat of violence" (2005: 15) I acknowledge in line with Weber the relevance of not only force but also of empirical legitimacy for political order. I assume that both force and legitimacy may enable an authority to exercise social control, constituting two, not mutually exclusive but closely linked *sources of authority*. Similarly Casinelli (1961) argues that obedience to social control can have two reasons, constituting two dimensions or sources of authority. On the one hand, obedience can result coercively from the 'exercise of authority', which Casinelli defines as the control or exercise of violence (the use of threats and physical coercion). This dimension of authority can be seen in line with the Weberian degree of (monopolisation of) force. On the other hand, obedience can be voluntary and result from the 'possession of authority', which reflects what Weber calls legitimacy. Weber (1980 [1921]: 122) points out that the belief in the legitimacy of an authority [*Legitimitätsglauben*] is actually necessary for a stable relationship. As any authority by definition exercises social control (which may also be considered to be exercise of authority) I call the two dimensions exercise of *force* and possession of *legitimacy* to avoid terminological confusion.

However, while this definition appears to be similar to Weber's, an important difference to the dominant understanding of authority has to be noted. I do not put authority on par with legitimacy. Weber acknowledges that authority may rest on coercion alone, but points out that every authority 'tries to create a belief in its legitimacy'. Similarly Arendt argues that "no government exclusively based on the means of violence has ever existed" (1969: 50). Conversely, I distinguish force and

legitimacy as two ideal-typical sources of authority. But this distinction is an analytical one only, which is supposed to enable gaining a better understanding of the relationship between these two concepts through empirical research. The analytical distinction therefore does not necessarily contradict Weber and Arendt's conclusion.

Describing the Role of Legitimacy

This understanding of legitimacy as a source of authority in a dynamic political order is the backdrop for investigating the role of legitimacy in more detail. As deductive reasoning reaches its limits empirical research is necessary to better theorise the role of legitimacy inductively. An empirical analysis could help to understand if legitimacy indeed always plays a central role for any authority. Furthermore, an empirical analysis can shed light on how the two sources of authority, force and legitimacy, relate to each other and what shape authorities have (e.g. executive bodies, organisations, groups, individuals). Last but not least, investigating legitimacy in empirical cases is intrinsically valuable. Understanding the perceptions and expectations of the people in terms of legitimacy may, for example, help to transform political orders towards wider acceptance and stability. For this kind of analysis legitimacy has to be conceptualised empirically. Building on the existing literature on legitimacy (particularly Weber 2009b [1948], Beetham 1991b, 1993, 2013 and Alagappa 1995) I propose to distinguish a number of dimensions of legitimacy that help mapping and structuring legitimacy in empirical cases.

i) Referent Object
As the political order of conflict-torn spaces is not monopolised there are numerous and potentially very different kinds of authorities, which have to be considered as referent objects. The subjects' perception of legitimacy may be linked to different aspects of each of these authorities: its specific *characteristics* (e.g. charisma or the communicated ideology that is perceived to be right), the *history* of how it gained its authority (e.g. perceived as 'democratic' or 'traditional') as well as its general *behaviour* including the experienced day-to-day *practices* (e.g. considered to be 'fair').

ii) Perspective
Both Weber as well as Beetham's understanding of empirical legitimacy is quite narrow. I acknowledge Beetham's critique that Weber's understanding reduces legitimacy to one dimension – the belief in legitimacy. But Beetham's definition – resting on the justification of legitimacy – is similarly one-sided, particularly in conflict-torn spaces with multiple authorities and a high degree of legal pluralism. However, Weber and Beetham's views are not mutually exclusive but can be combined. Hence, I propose to approach and analyse legitimacy from two perspectives: the *perception of legitimacy*, from the people's point of view, as well as its *justification*, from the authority's point of view.

iii) Audience

When analysing the perception of legitimacy I suggest considering different groups within the audience. As Andersen (2012: 207) notes, legitimacy should be treated as "a qualitative phenomenon specific to distinct communities and their actions". The perception of legitimacy may differ because of varying attitudes and interests in different geographic and cultural contexts.

iv) Degree

Especially, but not exclusively, quantitative studies may investigate the degree of legitimacy, indicating the strength of belief. To 'measure' legitimacy it can be helpful to look at people's behaviour towards an authority and distinguish between active support, passive support, passive resistance and active resistance.
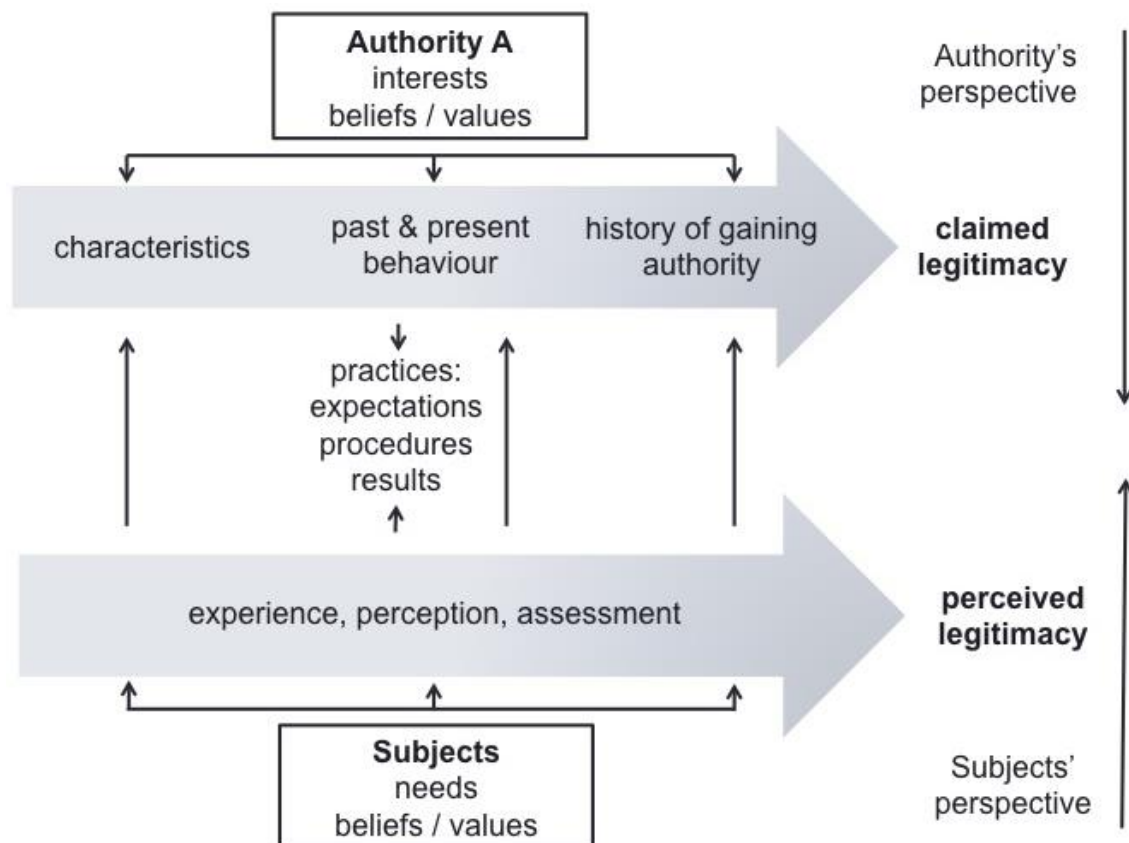
v) Sources

The most complex aspect of legitimacy is its sources. I suggest distinguishing two dimensions of sources of legitimacy, which are based on different theoretical (but again empirically certainly overlapping) reasons for voluntary obedience. I term the rational assessment of usefulness of authority *instrumental legitimacy*, describing to what extent an authority responds to shared needs. Instrumental legitimacy is very much based on the perceived effectiveness of service delivery. Conversely, *substantive legitimacy* is a more abstract normative judgment, which is underpinned by shared values. If a person believes that an entity has the right to exercise social control, he or she may also accept personal disadvantages. Hence, with substantive legitimacy I describe the dominant Weberian understanding and categories of legitimacy (formal/rational-legal, traditional, charismatic) in political science. For example, the history of gaining authority might be perceived as legitimate if it is in line with what subjects consider to be democratic or traditional. Similarly the behaviour of an authority may be considered to be legitimate as it is in line with what is perceived to be traditionally right. However, it may also be perceived as wrong on the basis of the subjects' values but still useful. In this case the behaviour is perceived to be only instrumentally but not substantially legitimate.

In a rather simplistic way these dimensions can be summarised graphically in a framework (see Figure 1). Legitimacy can be either investigated top-down, looking at the authority's claims and justifications, or bottom-up, looking at the subjects' perceptions. The subjects perceive different facets of each authority: its specific characteristics (such as charisma or the communicated ideals and ideology), the history of how it gained authority and its past and present behaviour (or performance) in a general sense. In addition, authority and subjects may directly interact so that the subjects experience the authority's practices. This interaction starts with certain expectations, has a process and ends with a result. All of these perceptions and experiences mix and are assessed on the basis of the subjects' needs and values, resulting in a certain degree of an authority's perceived instrumental and/or

substantive legitimacy. Conversely, one can adopt a top-down approach and analyse the claims and justifications of legitimacy expressed by an authority. These claims of legitimacy may be based on selected facets of authority, such as its behaviour, and justified with the authority's expressed ideology and interests.

Figure 1: Dimensions of Legitimacy

Explaining the Construction of Legitimacy

When trying to understand the construction of legitimacy a closer look at the sources of legitimacy and their transformation over time is required. Legitimacy is dynamic, not generally 'belonging' to certain authorities or being embedded in specific institutions. The needs and values as well as the constellation of authorities within the political order – and consequently their legitimacy – vary temporally. For instance, what is perceived as 'traditional' may change over time. Instrumental legitimacy may become traditional or the importance of religion as a tradition may decrease. The transformation of legitimacy may happen undirectedly but actors may also consciously try to produce or generate legitimation. For instance, Levite and Tarrow argue that "dominant elites have a greater or a lesser degree of control over that

construction" (1983: 297).

To empirically investigate the construction and deconstruction of legitimacy a more historical analysis is required. Such an analysis has to look at how authorities were perceived by different groups in the past and find the mechanisms that have caused a change of these perceptions. Theoretically speaking, for gaining instrumental legitimacy, the exercise of social control has to be matched with the needs of the people. And indeed, improving the service delivery of the state (e.g. security, health care) is a prominent strategy of 'statebuilding'. But the lack of sustainable success indicates that it remains unclear how instrumental legitimacy can be made more substantive. Constructing substantive legitimacy, which ensures stability of the political order, is challenging as it builds on beliefs rather than needs. Basically there are two influencing parameters for generating substantive legitimacy. On the one hand, authorities can adapt their way of exercising authority to the beliefs of the people. For instance, according to Scharpf (1997: 19), democracies may ensure substantive as well as instrumental legitimacy by incorporating the citizens' preferences into decision making on the 'input' side and by ensuring effectiveness of the authority on the 'output' side (see also Boedeltje/Cornips 2004; Skogstad 2003). On the other hand, authorities may attempt to adjust the beliefs of the people to their way of exercising authority. Beetham argues that "among the powers any dominant group possesses will be the ability to influence the belief of others; and among the most important of such beliefs will be those that relate to the justification of their own power" (2013: 104).

The literature on policing offers a first hypothesis on how the people's beliefs and the exercise of authority can be aligned. Many scholars in this field emphasise the importance of procedure to generate legitimacy, which refers to the judgment on the way authority is exercised on a daily basis (e.g. Tyler 2004; Jackson et al. 2013; Mazerolle et al. 2013). For instance, an authority may be able to generate a certain degree of substantive legitimacy by providing justice in a way that is perceived to be fair even if the people do not agree on the rules, which underpin the judgement or the overall governing ideology. The post-structuralist literature indicates a second hypothesis: the importance of language and labels for constructing legitimacy – or what Hansen and Stepputat call the "conditions of possibilities of politics" (2001: 4). Language may make authority real and create legitimation. For instance, adopting religious terms, referring to traditions, emphasising successful service delivery and using the media as a multiplier may help authorities to influence the belief of others and justify their way of exercising social control. To investigate the relevance of such hypotheses and to develop new ideas, however, empirical research on legitimacy in conflict-torn settings is necessary.

Conclusions

It can be concluded that the dominant ways of understanding political order are insufficient to describe the dynamics of conflict-torn spaces. The term 'state fragility' is a negative-definition that has no analytical leverage and may trigger problematic policies aiming at 'fixing' fragility to create a 'Weberian state'. But also the prominent new understanding of 'hybrid' governance is of limited analytical power. It is a new term to describe political orders with a low degree of monopolisation of force, but it is no new concept as such. Adopting a more dynamic 'post-Weberian' perspective and seeing political order as a field of power with multiple authorities, allows us to overcome these conceptual constraints. Nonetheless, this understanding does not substantively consider the role of legitimacy. The literature on statebuilding illustrates the problem of subjugating legitimacy and focusing on power relations only.

Hence, I suggested considering both Bourdieu and Weber and to view political order as a field of multiple authorities with force and legitimacy underpinning the obedience to their social control. I further proposed a multi-dimensional framework for the analysis of empirical cases. For instance, I suggested distinguishing different sources of legitimacy, including instrumental and more substantive forms. Such an empirical analysis could help to further develop the theoretical understanding of legitimacy in the political order of conflict-torn spaces. Furthermore, this kind of analysis can provide an important foundation for statebuilding policies that strengthen those institutions that are actually considered to be legitimate by the people targeted. But there also are some limitations that need to be considered. The paper is based on deductive reasoning, building on Western schools of thought only. Hence the framework is not set in stone and should be seen as the explorative starting point not the result of an analysis of legitimacy in the political order of conflict-torn spaces. Conceptual work by people with a different socialisation as well as empirical research are necessary to overcome these flaws and would substantively contribute to improving the developed understanding of legitimacy in the political order of conflict-torn spaces.

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