Non-state Actors and Competing Sources of Legitimacy in Conflict-Affected Settings

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In conflict-affected and fragile settings, national governments often lack strong legitimacy and authority across their territories and are often challenged with capacity and infrastructure constraints to deliver the basic services that societies expect them to deliver. Because of their inability to perform and carry through on promises, citizens of these states are unlikely to place trust in elite-driven agreements and state institutions that ignore the facts on the ground. In these contexts, non-state actors (NSAs) that comprise civil society – be they deemed "civil" or "uncivil" – often play a major role in meeting political, security, and development needs of people and communities across national territory. Understanding how NSAs function as holders of legitimacy and influence political, economic, and social life is a vital ingredient for better peacebuilding, statebuilding, and development practice. This can support the strengthening of political settlements and peace agreements, and be used to tailor programming and strategy in conflict sensitive ways.

People displaced by drought in Somalia arrive at the Dolo Ado camp in neighboring Ethiopia and queue to be registered by the aid agencies running the camp. (Photo credit: UK Aid)

The discussion here focuses on NSAs with strong constituencies – in particular, clans, tribes, and radicalized groups who wield significant legitimacy and often, influence. Many of these groups maintain parallel institutions –non-state institutions that deliver

services in the absence of, or in protest against the state, i.e. as practiced by customary institutions, typically traditional social and cultural practices and rule-based systems operating outside of formal state institutions. The fact that NSAs hold this range of roles makes them important players that can shift in-country dynamics and even have relevance and impact farther afield, i.e. if and when they organize across borders. While many of these groups do not advocate violence, ISIS and al-Qaeda demonstrate this phenomenon through their networks and connections across the Muslim world, utilizing and uniting groups from multiple countries around common objectives.

In recent years, discussions around legitimacy in international affairs have flourished, focusing on the state and its mechanisms for attaining and maintaining power – notably, the legitimacy of peace processes on the one hand, and ensuing political settlements and the social contract that the state holds with society on the other. Scholars and practitioners are increasingly aware that social, political and economic context shapes the nature and forms of legitimacy. History has shown that legitimacy is based on perceptions and beliefs, and must be earned.

Consider the historical legitimacy often wielded by tribes and clans that rests on shared, cultural beliefs and is driven by their ability to perform duties traditionally aligned with the state. In Libya and Somalia, governments depend upon tribal alliances to stay in power either because of services they carry out and/or the credibility they hold. In Libya, tribal authorities over time have provided security and economic services to most Libyans, collecting taxes and administering local laws. In Somalia, it is often argued that some clans are marginalized in the political process, increasing the clan's vulnerability and attraction to Al Shabab. A 2012 public opinion survey, conducted by Voice of America in Somalia found traditional clan elders ranked highest (40%) on the question of who should elect the constituent assembly, over intellectuals and scholars (32%) and national leaders (21%). Security in some settings, however, is often provided by informal militias that may not be serving their populaces, therefore undermining efforts for a unified political settlement.

Afghan women are voting across the country today to elect their representatives for the Wolesi Jirga, the lower house of parliament. (Photo credit: UNAMA Multimedia)

Even in post-conflict settings, customary institutions, i.e. those that administer justice at local levels, hold a high level of trust among the populace, a fact which often compels governments to develop inclusive and hybrid approaches to governance. In Timor Leste, for example, traditional judicial and conflict resolution mechanisms –450 years old but repressed through Portuguese and Indonesian colonial rule – were revived after independence from Indonesia, given the heavy reliance and respect for them by local people who reject the Western formal judicial system used in the colonial era, viewed as an instrument of discrimination and oppression rather than a tool to protect rights of people. In Afghanistan, UNDP compiled several 2007 public surveys that similarly

demonstrates Afghans suggesting their customary institutions were more trustworthy and less corrupt than formal state institutions. At the time of this survey, the jirgas and shuras, tribal assemblies and consultations, were handling 80% of judicial cases.

Radicalized groups also often hold significant legitimacy. They may have deeper roots in the community than, say, formalized civil bodies, because they deliver services – whether formal or informal, licit or illicit. They often rely on systems of patronage, which can operate inside and outside of the state. This creates a type of parallel non-state structure, potentially more trusted than the state. In Palestine, Hamas likely holds more legitimacy with Gazans than the Fatah does with citizens of the West Bank. In addition to Fatah's poor track record of delivering services, this may have much to do with the deep ties that Hamas holds with clans who have enormous potential to act as enablers or spoilers in the political process.

One need only look at Afghanistan and Palestine to see that that exclusion of radicalized groups in political settlements – long supported by the international policy community – is problematic. In some cases – notably, where the groups have strong ties to society and illustrate a willingness to engage politically – it seems clear that no political settlement will be possible without the inclusion of these actors, despite the challenges of adhering to the human rights-based, normative agenda that underpins traditional peacemaking.

Policymakers and practitioners should be careful not to promote static notions of legitimacy that focus on templated conceptualizations about the state and that do not reflect the complexity of context; they are unlikely to foster authentic discussions about what supports the making and building of peace that is nationally-owned and sustainable.

The children of Ai-Tarak Laran, in Dili, the capital of Timor Leste are threatened with eviction from their homes. (Photo credit: Alex McClean)

The notion of hybridity, ever present in peacebuilding and statebuilding discussions, to explain institutional systems and political orders, offers promise. Hybridity describes a mixing of approaches, processes, or systems, for example: formal and informal systems, or international and indigenous approaches. How can hybridity serve as a lens to foster robust political settlements and/or enduring social contracts between state and society? This is where policy, practice and scholarly attention needs to turn – towards engaging concepts, tools and arrangements that hold potential to reconcile competing sources and narratives of legitimacy at

different levels.

Such agreements and arrangements would go beyond notions of federalism, which too often have been imposed from the outside in templated ways that may have worked in some contexts, but simply do not work in others. Workable options to address the challenges and opportunities in NSAs with strong claims to legitimacy will demand greater awareness of and sensitivity towards on-the-ground realities and greater creativity and willingness on the part of all actors to collectively accept greater risks, take the time needed for genuine national ownership to sufficiently emerge, and to be open to new ways of organizing and sharing power. Ultimately, agreements and arrangements are needed to reflect the aspirations and realities of people on the ground in ways that will promote equitable access to–and control of–resources and services, and enable meaningful participation in the building of states that are capable of fulfilling the promise of peace.