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Trying to Make Sense of the Contemporary Debate on State-building: The Legitimacy and the Institutional Approaches on State, State Collapse and State-building

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Abstract: *Drawing upon the vast contemporary literature on state-building that has emerged since Helman and Ratner's pioneer article in 1992-1993, this paper identifies two different schools of thought in the discussion, each of which reflects different sociological understandings of the state. The first one, an "institutional approach" closely related to the Weberian conception of the state, focuses on the importance of institutional reconstruction and postulates that state-building activities do not necessarily require a concomitant nation-building effort. The second, a "legitimacy approach" influenced by Durkheimian sociology, recognizes the need to consolidate central state institutions, but puts more emphasis on the importance of socio-political cohesion in the process. The institutional approach focuses on the institutional and physical basis of the state, while the legitimacy approach is more preoccupied with the social contract binding the citizens together. This contemporary debate has practical implications for practitioners in the field of state-building. Indeed, one's conception of what to rebuild – the state – will necessarily impact the actual process of state-building. This paper tries to bring some clarity to a very confused debate, detailing the rise of the institutional approach and its limits when faced with unforeseen legitimacy issues.*

Introduction: Addressing the state, state collapse and state-building

There is a wide consensus between political analysts and practitioners concerning the importance of the state collapse phenomenon in contemporary world politics. Indeed, in light of the growing number of intra-state conflicts, the central cause of war in the present international system stems not from the security dilemma inherent in an anarchical international system, but rather in crises of state legitimacy in weak and failed states.[2] According to the latest issue of the *SIPRI Yearbook*, state weakness is now among the most critical factor stimulating armed violence.[3]

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[2] After brilliantly demonstrating that yesterday's wars were anchored in interstate rivalry, Kalevi Hosti states that today's wars are "less a problem of the relations between states than a problem within states. New and weak states are the primary locale of present and future wars. Thus, war as a problem that commanded the attention of experts in strategy and international relations is now becoming a problem better addressed by students of the state creation and sustenance processes." See: Kalevi Holsti, *Peace and War: Armed Conflict and International Order: 1648-1989* (Cambridge: Cambridge University Press, 1991); Kalevi Holsti, *The State, War, and the State of*

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However, because the concept of "state collapse" seems so obvious and clear, few have attempted to dwell on the concept in itself. As a result, a growing number of scholars, practitioners, and analysts point to the significant challenges to international security posed by failed and failing states without coming to a common definition of the phenomenon. Conceptual vagueness is reflected in the proliferation of terminologies concerning the state collapse phenomenon – e.g. collapsed state, failed state, fragile state, imaginary state, lame Leviathan, gentle state, mashed potato state[4] – as well as concerning the process of tackling this issue – peace-enforcement, peace-maintenance, peace-building.[5] This conceptual ambiguity is no doubt linked to the international

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War (Cambridge: Cambridge University Press, 1996), xi. See also Mary Kaldor who considers that what she calls the new wars "arise in the context of the erosion of the autonomy of the state and in some extreme cases the disintegration of the state." Mary Kaldor, *New and Old Wars* (Cambridge: Polity, 2001), 5.These analyses have also found an echo in the practitioner's world. For instance, the National Security Guidelines of September 2002 considered failed states as henceforth a greater threat than states that have ambitions of conquest: "America is now threatened less by conquering states than we are by failing ones." Interestingly enough, this report came amid a period of heightened tension between the People's Republic of China (Mainland China) and the Republic of China (Taiwan), concerning the politics of the Taiwanese president Chen Shui-bian. National Security Council, *National Security Strategy 2002*, September 2002, http://www.whitehouse.gov/nsc/nss/2002/index.html (last accessed November 13 2008).

[3] Ekaterina Stepanova, "Trends in Armed Conflicts" in *SIPRI Yearbook 2008: Armaments, Disarmament and International Security* (Oxford: Oxford University Press, 2008), 71.

[4] For a review of the different expressions used to describe the state collapse phenomenon, see: Atieno Odhiambo, "The Economics of Conflict among Marginalized Peoples of Eastern Africa" in *Conflict Resolution in Africa*, ed. Francis Deng and William Zartman (Washington: The Brookings Institution, 1991), 294 [quoted in Holsti, *State, the War and the State of War*, 104 (footnote 2)]. In this work, I will prefer the use of the term "state collapse" over the others, especially because it appears more value-neutral. In that regard, I totally agree with Alexandros Yannis, who states that the term "failed state," endorsed originally by authoritative figures as the previous UN Secretary General, Boutros Boutros-Ghali and the former US Secretary of State, Madeleine Albright and widely used after September 11, "can mislead if it is understood to imply a value judgement that there are specific standards of social, political and economic performance and success to which all states should aspire (…). Moreover, the picture portrayed when 'failed state' is used is one of societal failure. This automatically attributes the entire political responsibility and moral liability for state collapse to local communities – generating a moral justification for outside intervention to assist those who have failed." Alexandros Yannis, "State Collapse and its Implications for Peace-Building and Reconstruction" in *State Failure, Collapse and Reconstruction*, 64.

[5] For the sake of clarity, peace-maintenance is a concept brought forward by Jarat Chopra, former UN official. See : Jarat Chopra, "The Space of Peace-Maintenance," *Political Geography*, 15, . 3-4 (March-April 1996): 335-357; Jarat Chopra, "Introducing Peace-Maintenance" in *The Politics of Peace-Maintenance*, ed. Jarat Chopra (Boulder: Lynne Rienner, 1998), 1-18. The notion of peace-enforcement seems to follow from the works of two former UN officials, Brian Urquhart on the one hand and by Jarat Chopra along with John Mackinlay on the other hand, who advocated a "third category of international military operation (...) somewhere between peacekeeping and large-scale enforcement." The notion has been endorsed later on by the former

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community's unease when dealing with specific cases of state collapse. As Alexandros Yannis points out, "the evident frustration of international society when facing the phenomenon of state collapse can be attributed to the lack of precise conceptions about state disintegration, and the absence of comprehensive international mechanisms to respond effectively to the challenges posed by the disappearance of effective central governments and the emergence of powerful non-state actors."[6]

Hence, I initially propose to return to the literature concerning state-building to better understand the phenomenon of state collapse and the challenges it poses to the international community. I address the literature on state-building by distinguishing between two approaches, fundamentally differentiated by their conception of the state. An institutional approach focuses on the institutions of the state, while a legitimacy approach is more concerned with socio-political cohesion and the legitimacy central authorities can generate; whereas the former emphasizes efficiency of state institutions, the latter focuses on their legitimacy and the social contract binding underpinning it. I will first briefly outline the two approaches, and I will then look at their implications, which will enable me to demonstrate later on how this discussion has direct implications on the way the state-building issues are tackled concretely.

The institutional approach

Every scholarly contribution on state-building adopts, whether consciously or unconsciously, a definition of what it intends to reconstruct: a definition of the state. In

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UN Secretary General, Boutros Boutros-Ghali, in his *Agenda for Peace*. Brian Urquhart, Who Can Stop Civil Wars?, *The New York Times*, December 29 1991, sec. E; John Mackinlay and Jarat Chopra, "Second Generation Multinational Operations," *The Washington Quarterly*, 15, no. 2 (spring 1992), 118 [articles quoted in Glen-Steven Macdonald, "Peace Enforcement: Mapping the 'Middle Ground' in Peace Operations," PhD diss., HEI-Geneva, 2001 (footnote 61)]; United Nations, *An Agenda for Peace Preventive Diplomacy, Peacemaking and Peace-keeping (Report of the Secretary-General Pursuant to the Statement Adopted by the Summit Meeting of the Security Council on 31 January 1992)*, UN. Doc. A/47/277 and S/24/111, 17 June 1992. para. 44. The notion of peace-building has been introduced by Boutros Boutros-Ghali in an *Agenda for Peace*, stating that peacebuilding is an "action to identify and support structures that will tend to strengthen and solidify peace in order to avoid a relapse into conflict." United Nations, *An Agenda for Peace*, 46. However, since then, "peacebuilding" has become a broadly used but often ill-defined term connoting activities that go beyond crisis intervention such as longer-term development, and building of governance structures and institutions, to the extent that Roland Paris states that nowadays "there is no universally accepted definition of peacebuilding" while Charles-Philippe David considers that "there being as many visions of peacebuilding as they are experts on the issue and actors on the field." Roland Paris, "Broadening the Study of Peace Operations," *International Studies Review* 2, no. 3 (Fall 2000), 33 (footnote 18); Charles-Philippe David, "Does Peacebuilding Build Peace?" *Security Dialogue* 30, no. 1 (March 1999), 27. Definitions will be discussed more thoroughly in the first chapter, section II.

[6] Yannis, "State collapse and its implications," 69.

this regard, the Weberian approach to statehood is the starting point for a number of analyses. Weber famously defines the state "as a human community that successfully claims the monopoly of the legitimate use of physical force within a given territory."[7] Following this definition, the state's ability to provide security is the benchmark according to which each state can be judged. Besides security, other criteria also have to be taken into account, all related to the capabilities of the state to secure its grip on society. Tenants of what I dub the "institutional approach" tend to focus on the administrative capability of the state and the ability of the state apparatus to affirm its authority over the society.

The term "failed state" came to prominence in the contemporary academic and policy discourse with the publication of Gerald Helman and Steven Ratner's article, "Saving Failed States," who defined the failed state as "a situation where governmental structures are overwhelmed by circumstances."[8] This does not mean that state collapse phenomena only started to take shape after 1992-1993. Certain elements that are now subsumed into the larger category of collapsed states were present before this date, but their analysis was obscured by the ideological veil cast upon the discipline of international relations at this time.[9] Thus, the end of the cold war unveiled the true nature of intrastate conflicts in a sense, and allowed scholars to start new reflections about their causes and consequences. In that context, Helman and Ratner's article constituted arguably one of the first attempts to cope with the "failed state" phenomenon in a post-cold war world.[10] Moreover, Helman and Ratner's work is also the first major work

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[7] Max Weber, "Politics as a Vocation" in *From Max Weber: Essays in Sociology*, ed. Hans Gerth and C. Wright Mills (New York: Oxford University Press, 1948), 78.

[8] Gerald Helman and Steven Ratner, "Saving Failed States", *Foreign Policy* 89 (Winter 1992-93), 5.

[9] It worth pointing out that the concept of "weak state," used in its contemporary sense, can be traced back as far as 1915, when Walter Lippmann, adviser to the President Woodrow Wilson, wrote that "the chief overwhelming problem of international diplomacy seems to be weak states. Weak because they are industrially backward and at present politically incompetent to prevent outbreaks of internal violence." David C. Ropoport, "The Role of External Forces in Supporting Ethno-Religious Conflict" in *Ethnic Conflict and Regional Instability: Implications for U.S. Policy and Army Roles and Missions*, ed. Robert L. Pfaltzgraff et Richard H. Schultz Jr. (Carlisle: US Army War College, 1994), 59.

[10] According to Martin Doornbos, the UN begun to tackle the theoretical issue of "rebuilding wartorn societies" in the context of collapsing state in 1993, thus following Helman and Ratner's article. For instance, the United Nations Research Institute for Social Development (UNRISD) convened its first research-preparatory workshop on this theme in April 1993. The United Nations Development Program (UNDP) developed a program on "Linking Rehabilitation to Development: Management Revitalization of Wartorn Societies" around the same time. Also noteworthy, these tentative efforts to tackle the issue of collapsing states coincided with the actual collapse of Somalia and the Socialist Federal Republic of Yugoslavia (SFRY). Martin Doornbos, "State Formation and Collapse; Reflections on Identity and Power ," in *Pivot Politics: Changing Cultural Identities in Early State Formation Processes*, ed. Martin van Bakel, Renée Hagesteijn and Pieter van de Velde (Amsterdam: Het Spinhuis, 1994), note 1, 281.

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exemplifying what we call the "institutional approach," as their pioneering definition emphatically revolves around governmental institutions. Helman and Ratner's work is also considered authoritative. As Ralph Wilde pointed out, "Helman and Ratner's article continues to enjoy widespread currency as a way of denoting situations where the governmental infrastructure in a state has broken down to a considerable degree."[11]

Building on Helman and Ratner's work, other scholars have helped clarify the notion of collapsed state. For instance, Robert Rotberg, director of the Failed States Project at Harvard University, has provided a clear definition of the state in his work, allowing him to put forward a more precise notion of state collapse. In the purest functionalist tradition, he states that "nation-states exist to provide a decentralized method of delivering political (public) goods to persons living within designated parameters (borders)."[12] He continues, asserting that "it is according to their performances—according to the levels of their effective delivery of the most crucial political goods—that strong states may be distinguished from weak ones, and weak states from failed or collapsed."[13] For the author, public goods encompass the supply of security, a transparent and equitable political process, medical and health care, schools and education, railways, harbours, and even a beneficent fiscal and institutional context within which citizens can pursue personal entrepreneurial goals. Hence, according to his model,

> strong states obviously perform well across these categories and with respect to each, separately. Weak states show a mixed profile, fulfilling expectations in some areas and performing poorly in others. The more poorly weak states perform, criterion by criterion, the weaker they become and the more that weakness tends to edge toward failure.[14]

Rotberg's functionalist focus on the provision of public goods has been shared by other subsequent authors.[15] For example, Stuart Eizenstat, John E. Porter and Jeremy

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[11] Ralph Wilde, "The Skewed Responsibility Narrative of the 'Failed States' Concept", *ILSA Journal of International and Comparative Law* 9 (Winter 2002-2003), 425.

[12] Robert Rotberg, "The Failure and Collapse of Nation-States" In *When States Fail: Causes and Consequences*, ed. Robert Rotberg (Princeton: Princeton University Press, 2004), 2.

[13] *Ibid.*

[14] *Ibid.*, 4. According to the author, state collapse is defined as an extreme case of state failure: "It is a mere geographical expression, a black hole into which a failed polity has fallen. There is dark energy, but the forces of entropy have overwhelmed the radiance that hitherto provided some semblance of order and other vital political goods to the inhabitants (no longer the citizens)." *Ibid.*, 9.

[15] For Derick Brinkerhoff, "while definitions of fragile states vary, all concur that state fragility is directly related to capacity deficits." Derick Brinkerhoff, "Where There's a Will, There's a Way? Untangling Ownership and Political Will in Post-Conflict Stability and Reconstruction Operations," *The Whitehead Journal of Diplomacy and International Relations* (Winter-Spring

Weinstein contend that "the weakness of these states can be measured according to lapses in three critical functions that the governments of all strong, stable states perform: security, the provision of basic services, and protection of essential civil freedoms."[16] As for Martin Doornbos, Susan Woodward and Silvia Roque, they define failing states as "states incapable to fulfil the basic tasks of providing security for their populace."[17]

Demonstrating how this approach has had far-reaching impacts, even Boutros Boutros-Ghali defines state collapse as "the collapse of state institutions, especially the police and judiciary, with resulting paralysis of governance, a breakdown of law and order, and general banditry and chaos. Not only are the functions of government suspended, but its assets are destroyed or looted and experienced officials are killed or flee the country."[18] The concept of "fragile states," put forth by the United Kingdom's Department for International Development (DFID), is yet another example in the practitioner's world. Fragile states "have governments that cannot or will not deliver core functions to the majority of its people."[19] Similarly, the Organization for Economic Co-operation and Development (OECD) indicates that "states are fragile when *state structures* lack political will and/or capacity to provide the *basic functions* needed for poverty reduction, development and to safeguard the security and human rights of their populations (italics added),"[20] even if the OECD, maybe more than any other international organizations, incorporates legitimacy aspects in its analysis.[21]

2007),
http://diplomacy.shu.edu/academics/journal/resources/journal_dip_pdfs/journal_of_diplomacy_vol8_no1/09-Brinkerhoff.pdf (last accessed 16 July 2009), 111.

[16] They added that "failed" states do not fulfill any of these functions, but even "weak" states, which are deficient in one of two of these areas, can still threaten US interests. Stuart Eizenstat, John Porter and Jeremy Weinstein, "Rebuilding Weak States," *Foreign Affairs* 84, no. 1 (January-February 2005), 136.

[17] Martin Doornbos, Susan Woodward and Silvia Roque, *Failing States of Failed States? The Role of Development Models: Collected Works* (Madrid: FRIDE, February 2006), 2.

[18] Boutros Boutros-Ghali, Concluding Statement of the UN Congress on Public International Law: "Towards the Twenty-First Century: International Law as a Language for International Relations," 13-17 March 1995, New York, 9 [quoted in Daniel Thürer, "The Failed State and International Law," *International Review of the Red Cross* 836 (1999), 731.

[19] Department for International Development, "Fragile States," http://www.dfid.gov.uk/Global-Issues/How-we-fight-Poverty/Government/Fragile-States/ (last accessed 19 June 2009).

[20] OECD, *Principles for Good International Engagement in Fragile States and Situations*, April 2007, para. 3. See also: OECD, *Service Delivery in Fragile Situations: Key Concepts, Findings and Lessons*, OECD/DAC Discussion Paper, 2008, 7.

[21] At least, it does in further reports. For instance, it states quite accurately that "in practical and political terms, international actors have tended to focus either on capacity or will, perhaps reflecting the instruments available to them. Relatively few incorporate questions of legitimacy in any operational sense. Each of these, however – capacity,will, legitimacy – is critical to a more accurate and dynamic understanding of fragility and its causes." OECD, *Concepts and Dilemmas*

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Francis Fukuyama's influential *State-building: governance and world order in the 21st Century* also provides a good and detailed example of what I call the "institutional approach." In order to understand what precisely a "weak state" is, the author clarifies two concepts. He defines the *strength of state* as "the ability of states to plan and execute policies and to enforce laws cleanly and transparently—what is now commonly referred to as state or institutional capacity," and distinguishes it from the *scope of state,* "which refers to the different functions and goals taken on by government."[22] This distinction allows Fukuyama to differentiate a decrease in the scope of state institutions in the context of globalization from the more problematic aspect of weak state institutions. From this perspective, a weak state is a political entity that lacks the institutional capacity to implement and enforce policies; state-building is the creation of new government institutions and the strengthening of existing ones.[23] Interestingly enough, the institutional approach is so pervasive that even some authors who claim not to take a stance end up adopting it. For example, in *Making States Work*, Sebastian von Einsiedel asserts that "for present purposes, no attempt will be made at a final definition of the term 'failed state.' Much ink has been spilled on developing typologies of the forms of state failure, using either the degree of failure or its cause as a criterion. Instead, this volume treats state failure as a continuum of circumstances that afflict states with *weak institutions* (italics added)."[24]

The legitimacy approach: socio-political cohesion and the state

Failure to perform the functions of statehood clearly enters into the phenomenon of state collapse. Response to it is certainly part of any effective solution. However, the re-establishment of effective state institutions, notably the security institutions, is only one aspect of a long-lasting solution. Hence, as it has been asserted by Holsti, while institutionalization and the instrumental capacities of statehood are important, it can be argued that "it is in the realm of ideas and sentiment that the fate of states is primarily determined."[25] This highlights a very different conception of the state than the one adopted by institutionalists. While accepting the institutional approach's focus on the security apparatus and state institutions, especially as a critical first step in state-building processes, the tenants of the "legitimacy approach" adds a layer of complexity in drawing

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of State Building in Fragile Situations: From Fragility to Resilience, OECD/DAC Discussion Paper, 2008, 16.

[22] Francis Fukuyama, *State-building : Governance and World Order in the 21st Century* (New York: Cornell University Press, 2004), 7.

[23] Fukuyama, *State-building*, ix.

[24] Sebastian Von Einsiedel, "Policy Response to state failure" in *Making States Work: State Failure and the Crisis of Governance*, ed. Simon Chesterman, Michael Ignatieff and Ramesh Thakur (Tokyo: United Nations University Press, 2005), 16.

[25] Holsti, *The State, the War and the State of War*, 84.

attention to the state's underlying legitimacy. The strength of the state is defined in terms of "the capacity of state to command loyalty—the right to rule."[26] Hence, as Scott Pegg underscores, "the term weak state refers to states that are lacking in legitimacy and socio-political cohesion, not states that are lacking in power."[27]

This approach stems from a different conception of the state. One good example is Barry Buzan, who puts emphasis on the "idea of the state," assuming integration between the territorial, societal and political aspects of the state. For Buzan, the state exists primarily on the socio-political rather than on the physical plane: "in some important senses, the state is more an idea held in common by a group of people, than it is a physical organism."[28] In this approach, the state is composed of three different elements, each crucial to understand the strength of states: the physical base of the state (effective sovereignty, international consensus on territorial limits); the institutional expression of the state (consensus on political "rules of the game" but also scope of state institutions); and the idea of the state (implicit social contract and ideological consensus pertaining to a given society).[29] The first two elements are subsumed within the institutional approach. However, the focus on the idea of the state is specific to the legitimacy approach. According to the tenants of the legitimacy approach, if a state cannot exist without a physical base, as the institutionalists stress, the reverse is also true. As Buzan posits, "without a widespread and quite deeply rooted idea of the state among the population, the state institutions themselves have difficulty functioning and surviving."[30]

Figure 1: the state, according to Holsti and Buzan

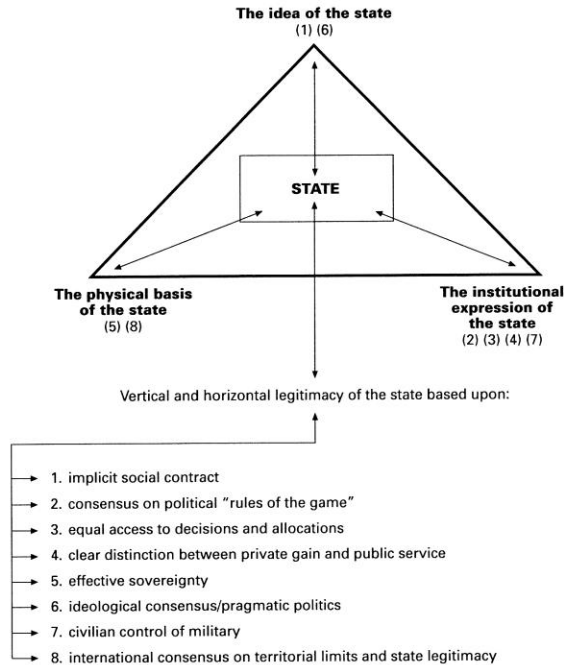---

[26] *Ibid.*, 82.

[27] Scott Pegg, *International Society and the De Facto State* (Aldershot: Ashgate, 1998), 132.

[28] Barry Buzan, *People, States and Fear : An Agenda for International Security Studies in the Post-Cold War Era* (New York: Harvester Wheatsheaf., 1991), 63.

[29] *Ibid.*, 64; Holsti, *State, the War, and the State of War,* 98.

[30] Buzan, *People, States and Fear*, 64.

Source: Holsti, *The State, War, and the State of War*, 98.

Figure 2: differences between the institutional and the legitimacy approaches
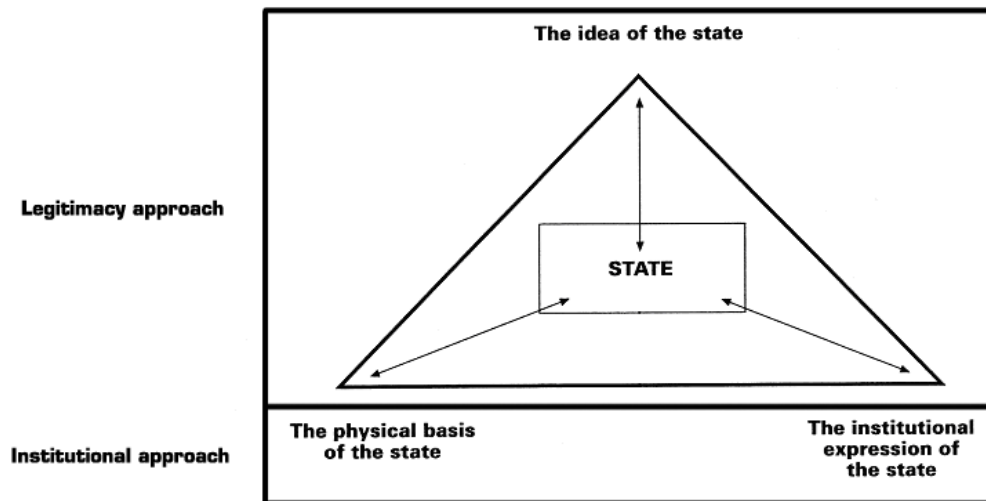
     The legitimacy approach is more coherent with the Durkheimian conception of the state than a strictly Weberian one. For Durkheim, the state "is the very organ of social thought," it comprises "the sentiments, ideals, beliefs that the society has worked out collectively and with time."[31] The collective conscience is distinct from individual

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[31] Emile Durkheim, "The Concept of State" in *Durkheim on Politics and the State*, ed. Anthony Giddens (Cambridge: Polity Press, 1986), 54. See also: Emile Durkheim, *Professional Ethics and Civic Morals* (London: Routledge, 1957), 79-80; Emile Durkheim, *The Division of Labor in Society* (New York: Free Press, 1964), 79.

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consciences, and, although it is diffuse in every society, the collective conscience has specific characteristics which make it a distinct reality: "it is, in effect, independent of the particular conditions in which individuals are placed: they pass on and it remains."[32] For him, the division of labor and the development of organic solidarity paralleled the development of contract and the state. However, and contrary to Weber's conception of the state, Durkheim states that the coercive powers of the state could vary independently of the level of social development.[33] The political society is neither primarily determined by possession of a fixed territorial area nor by density of population, but by the act of "coming together" to use Durkheim's own words.[34]

Furthermore, to put in perspective the conceptual differences between the two schools of thought herein defined, one has to understand that the different approaches stem basically from different understanding of the concept of "state." As Anthony Giddens observes "the "state" sometimes means an apparatus of government or power, sometimes the overall social system subject to that government or power."[35] This difference in definitions is at the root of the distinction between the two approaches, and the tenants of the legitimacy approach tend to follow Durkheim's attempt to eliminate the antithesis between the state and society.

The legitimacy approach has a number of implications concerning how one should regard state collapse. First of all, state collapse is not only driven by institutional collapse per se, but by the collapse of the legitimacy of the central authority. The collapse of legitimate governance opens the door to "political entrepreneurs," allowing them to mobilize sectors of the population on the basis of allegiances competing with national ones. Building on Buzan's conception of the state, Holsti defines the strength of the state as the capacity to command loyalty. A collapsed state is one where "authority fragments or evaporates in direct proportion to the loss of governmental legitimacy in society and its component groups. Rule—to the extent that it exists – is based on coercion, corruption or terror. It is no longer a right."[36] William Zartman synthesizes the argument of the tenants of the legitimacy approach with is oft-quoted definition of the state collapse:

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[32] Durkeim, *The Division of Labor*, 80.

[33] Emile Durkheim, "The Two Laws of Penal Evolution," *Economy and Society* 2, no. 3 (August 1973), 285-308 [quoted in Irving Horowitz, "Socialization without Politicization: Emile Durkheim's Theory of the Modern State," *Political Theory* 10, no. 3 (August 1982), 365]. For a critique of this aspect of Durkheim's work, see: Melvin Richter, "Durkheim's Politics and Political Theory," in *Emile Durkheim: 1858-1917*, ed. Kurt Wolff (Columbus: Ohio State University Press, 1960), 192-193.

[34] Durkheim, *Professional Ethics*, 45.

[35] Anthony Giddens, *The Nation-State and Violence* (Cambridge: Polity Press, 1985), 17.

[36] Kalevi Holsti, *Taming the Sovereigns: Institutional Change in International Politics*, Cambridge : Cambridge University Press, 2004, 56-57.

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situations where the structure, authority (legitimate power), law, and political order have fallen apart and must be reconstituted in some form, old or new. […] As the authoritative political institution, it [the collapsed state] has lost its legitimacy, which is therefore up for grabs, and so has lost its right to command and conduct public affairs. […].[37]

Hence, the challenge of building and consolidating state institutions aside, one the most important issues is for the indigenous institutions to define, create, and solidify a viable collective identity in order to provide the social bond necessary for them to be recognized as legitimate by the citizens, and, by extent, for the external actors to find efficient and unobtrusive ways to support this process. The problems faced by recently decolonized states in the 1960s, as identified by anthropologist Clifford Geertz, are to a certain extent similar to those facing current weak states: "it consists in defining, or trying to define, a collective subject to whom the actions of the state can be internally connected, in creating, or trying to create, an experiential 'we' from whose will the activities of government seem spontaneously to flow."[38] This goal can be hindered by legacies of bad governance from colonial powers in the case of decolonized states, which can then lead to neopatrimonial practices in newly created states or states striving to define their identity.[39] Hence, failure to create and nurture this "collective subject" can lead to a wide variety of problems. As Lloyd Fallers argued more than thirty years ago, "since nation-states are internally differentiated in so many dimensions, heightened self-consciousness causes diverse solidarities to stimulate each other by opposition, to challenge each other and may even threaten the integrity of the nation-state itself if these solidarities, felt to be crucial, are insufficiently represented in the politics and culture of the state."[40]

By putting emphasis not only on the degree of institutionalization of the state but also on the socio-political cohesiveness of the state and the factors influencing it, the authors following the legitimacy approach are bringing a new dimension to the state-building debate, without necessarily neglecting the importance of governmental institutions. Rejoining the Durkheimian sociological tradition by putting emphasis on logics of social integration and solidarity, and *a contrario* on logics of anomie,[41] and not

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[37] William Zartman, "Introduction: Posing the problem of state collapse" in *Collapsed States: The Disintegration and Restoration of Legitimate Authority*, ed. William Zartman (Boulder: Lynne Rienner Publishers, 1995). 1-5.

[38] Clifford Geertz, *The Interpretation of Cultures* (New York: Basic Books, 1973), 238-240.

[39] Bertrand Badie, *The Imported State: The Westernization of the Political Order*s (Stanford: Stanford University Press, 2000), 14-24.

[40] Lloyd Fallers, *The Social Anthropology of the Nation-State* (Chicago: Aldine, 1974), 4.

[41] We refer here to Durkheim's second conception of anomie, elaborated in his *Suicide*. His first conception, conceived in *The Division of Labor in Society* refers to anomie as an inadequate procedural rules to regulate complementary relationship among the specialized and interdependent parts of a complex social system, while the second conception refers to a

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only the Weberian logics of state capacity, they impose a salutary debate to the field of political science.

State-building as institutional reconstruction: the limits of the institutional approach

Conceiving state collapse as a breakdown of government institutions, as institutionalists will contend, allows one to identify failed or failing states according to institutional strength. In Fukuyama's words, "distinguishing between these two dimensions of stateness [scope and strength] allows us to create a matrix that helps differentiate the degrees of stateness in a variety of countries around the world."[42] Similarly, Rotberg uses a performance indicator comprising the functions that states perform.[43] The *State Failure Task Force*, established by then vice-president Al Gore and funded by the CIA, claims to forecast state failure with a degree of exactitude of around 70 to 80 percent.[44] Other indexes provide different lists of failing states, according to their own criteria for measurement of state performance.[45]

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breakdown in moral norms, which "springs from the lack of collective forces at certain points in society." Emile Durkheim, *Suicide: A Study in* Sociology, trans. by John Spaulding and George Simpson (New York: Simon and Schuster, 1997), 382. See also, Robert McIver's interpretation of anomie which he defines as "the breakdown of the individual's sense of attachment to society." Robert MacIver, *The Ramparts We Guard* (New York: MacMillan, 1950), 84. For a discussion of the difference between the two conceptions of anomie in Durkheim's work, see: Marvin Olsen, "Durkheim's Two Concepts of Anomie," in *Emile Durkheim: Critical Assessments Vol. II*, ed. Peter Hamilton (London: Routledge, 1990), 47-54.

[42] Fukuyama, *State building*, 7.

[43] Rotberg, "The Failure and Collapse of Nation-States," 2.

[44] Jack Goldstone et al. *State Failure Task Force Report : Phase III Findings.* (McLean: Science Applications International Corporation, 2000), v. Interestingly enough, some use the medicine reference in order to exemplify how we should be able to forecast state failure. After defining state failure in institutional terms (unable to control its territory and guarantee the security of its citizens, maintain the rule of law and deliver public goods to its population), Jack Straw stated in a speech that "in medicine, doctors look at a wide range of indicators to spot patients who are at high risk of certain medical conditions – high cholesterol, bad diet, heavy smoking for example. This does not mean they ignore everyone else nor that some of those exhibiting such characteristics are not able to enjoy long and healthy lives, against our expectations. But this approach does enable the medical profession to narrow down the field and focus their effort accordingly. We should do the same with countries." Jack Straw, "Failed and Failing States," speech given at the European Research Institute, University of Birmingham, 6 September 2002.

[45] World Bank, *Engaging with Fragile States* (Washington: The World Bank, 2006); US Department of State, Framework for US Foreign Assistance, July 10 2007, http://www.state.gov/f/c23053.htm (accessed November 16 2008); Monty Marshall and Benjamin Cole, "Global Report on Conflict, Governance and State Fragility 2008", *Foreign Policy Bulletin* 18, no. 1 (Winter 2008); Fund for Peace, "The Failed States Index 2008", *Foreign Policy* 167 (July/August 2008); Susan Rice and Stewart Patrick, *Index of State Weakness in the Developing World* (Washington: The Brookings Institution, 2008); Department for International Development

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In these works, the Western states set a standard against which other states are measured. We could argue along with Ralph Wilde that "just as Edward Said studied 'Orientalism' *inter alia* as a way of understanding how Western culture conceives itself through an alienated, oriental 'other,' the failed state concept may be illuminating insofar as our understandings of those who use it are concerned."[46] Indeed, as Jennifer Milliken and Keith Krause observe, "concern over the possibility of state failure often has as much to do with dashed expectations about the achievement of modern statehood, or the functions that modern states should fulfil, as it does with the empirically-observed decomposition or collapse of the institutions of governance in different parts of the world."[47] "Failed states" are thus understood as falling short of specific standards of social, political and economic performance. As Aradhana Sharma and Akhil Gupta stated

> Many comparative and classificatory analyses of states, such as those that rank states as "weak" or "strong," effectively strip the unit of analysis – the state – from its cultural moorings. When a state does not have a fully developed set of functional elements or if such elements are completely absent, that nation-state is classified as having a "transitioning" or "weak" state or a "stateless" society. In addition such exercises take for granted that "fully developed" and "ideal" states are Western liberal democratic ones. Western states are thus often employed as the norm against which other states are judged; the criteria for "strong" state are almost always those that apply to a specific subset of Western nation-states.[48]

In this context, the expression "failed or failing state" seems to be a convenient neologism describing nothing more than a state with low-standards of living, a country that has not attained the same level of development – measured as the public goods provision of state institutions – as the "developed world". Hence, peacebuilding is increasingly seen as a new *mission civilisatrice,* as an "act to bring war-shattered states into conformity with the international system's prevailing standards of domestic governance."[49]

(DFID), *Why We Need to Work More Effectively in Fragile States* (London: Department for International Development, January 2005).

[46] Wilde, "The Skewed Responsibility," 428.

[47] Milliken and Krause, "State failure, state collapse, and state reconstruction," 1-2. Similarly, Serge Latouche attributes the state failure to the "West and its universalist pretensions." Serge Latouche, *The Westernization of the World* (Cambridge: Polity Press, 1996), 103.

[48] Aradhana Sharma and Akhil Gupta, "Introduction: Rethinking Theories of the State in an Age of Globalization," in *The Anthropology of the State: A Reader*, ed. Aradhana Sharma and Akhil Gupta (Oxford: Blackwell, 2006), 10-11.

[49] Roland Paris, "International Peacebuilding and the 'Mission Civilisatrice'", *Review of International Studies* 28, no. 4 (October 2002), 638.

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Different attempts to map state failure point, in large, to poor countries; the juxtaposition of a poverty map and a failing states map generally corroborates this analysis.[50] The commonly used DFID's "fragile state" is clearly linked to income in countries. The DFID states that

> one common way to estimate the level of fragility is derived from the World Bank's Country Policy and Institutional Assessments (CPIA). CPIA scores divide low-income countries into five categories of performance, the lowest two of which are useful proxies for state fragility. There is a separate group of unranked countries, also deemed fragile. This provides a list of 46 fragile states, containing 870 million people or 14% of the world's population. Middle-income countries are not included in this list.[51]

Moreover, none of the above approaches list seemingly "strong" states that still have serious problems in defining their identity, such as Belgium, Spain (in its relations with the Basque country and Catalonia), Canada (with Quebec) or the United Kingdom (especially during the conflict in Northern Ireland). Even if it could be problematic to consider them as potentially failing states, or even as weak states, the question remains: which criterion should one take into account in defining state strength? Should criteria only encompass the institutional capabilities of the state, or should they encompass other fundamental aspects of "stateness"?

A second implication of the institutional approach for state-building practices is related to the policy prescriptions that follow from this approach. Since in this conception a "state" is synonymous with "central government," the state-building process aims mainly to strengthen government institutions. For Fukuyama "the underlying problems caused by failed states or weak governance can only be solved through long-term efforts by outside powers to rebuild indigenous state institutions."[52] This approach minimalizes the social impacts of such policies. Hence, this project and the institutional approach in general tend to differentiate between state- and nation-building, arguing that it is possible to conduct *state-building* operations from the outside without entering into the contested sphere of *nation-building*. In other words, it is possible to target the institutions of a given state, to reconstruct the state capabilities, without engaging in the realm of socio-political cohesion of "society" in general. In that sense, state-building becomes a scientific,

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[50] According to Maria Ottaway and Stefan Mair, "there is hardly a low-income country that does not face the possibility of failure". Maria Ottaway and Stefan Mair, *States at Risk and Failed States: Putting Security First*. New York: Carnegie Endowment for International Peace, 2004, 2. For Stuart Eizenstat, John Porter and Jeremy Weinstein, "of the world's more than 70 low-income nations, about 50 of them are weak in a way that threatens US and international security." Eizenstat, Porter and Weinstein, "Rebuilding Weak States", 136.

[51] DFID, *Why We Need to Work More Effectively in Fragile States*, 7.

[52] Fukuyama, "Nation-Building and the Failure of Institutional Memory," *Nation Building Beyond Afghanistan and Iraq*, ed. Francis Fukuyama (Baltimore: John Hopkins Press, 2006), 2.

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technical and administrative process.[53] Not surprising, then, is the state-building literature's striking neglect of politics; what is, in fact, a highly political process becomes depoliticized through a focus on state capacity-building, where concerns of stability and regulation are discussed in a narrow technical and functionalist framework.[54] In that regard, there are interesting similarities between the state-building and development literature, defined as an 'anti-politics machine' by James Ferguson.[55]

The narrow understanding of the institutional approach can also lead to another bias, in which one recognizes the need for a more thorough state-building process that encompasses nation-building, while at the same time leaving aside the issue of legitimacy in the process. The *Beginner's Guide to Nation Building*, defines nation-building as "the use of armed force as part of a broader effort to promote political and economic reforms with the objective of transforming a society emerging from conflict into one at peace with itself and its neighbors."[56] The hurdles of this "transformation" are barely addressed. Hence, society is objectified, portrayed as an entity as tangible as any dimension of the state. While facilitating policy prescriptions, such analysis lacks a crucial dimension of the understanding of stateness and state-building, namely legitimacy.

In general, the legitimacy approach is more sociologically or anthropologically-oriented, distancing itself from generalizing assumptions and emphasizing the particularities of each state and its societal context. The legitimacy approach therefore poses obstacles to measuring state strength in quantitative terms. Yet some indexes may help us to evaluate the degree of socio-political cohesion or the legitimacy of the central authorities. A good example might be the *Afrobarometer* project that studies public

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[53] For example, Fukuyama states the possible benefits from "a science, art, or *techné* to state-building." Fukuyama, *State Building*, 99.

[54] David Chandler, *Empire in Denial: The Politics of State-Building* (London: Pluto Press, 2006), 5-6.

[55] "'Development institutions' generate their own form of discourse, and this discourse simultaneously constructs Lesotho as a particular kind of object of knowledge, and creates a structure of knowledge around that object. Interventions are then organized on the basis of this structure of knowledge, which, while "failing" on their own terms, nonetheless have regular effects, which include the expansion and entrenchment of bureaucratic state power, side by side with the projection of a representation of economic and social life which denies "politics" and, to the extent that it is successful, suspends its effects. It is an "anti-politics machine", depoliticising everything it touches, everywhere whisking political realities out of sight, all the while performing, almost unnoticed, its own pre-eminently political operation of expanding bureaucratic state power." James Ferguson, *The Anti-Politics Machine: Development, Depoliticization, and Bureaucratic Power in Lesotho* (Minneapolis: University of Minnesota Press, 1994), xiv-xv.

[56] Dobbins, James et al. *The Beginner's Guide to Nation-Building* (Santa Monica: RAND National Security Research Division, 2007), xvii.

opinion in various African countries, notably the citizens-government relationship.[57] In general, a careful examination of a particular case study, including for example its past experience and the nature of the demands of the opposition (threatening the nature of the state or demands formulated inside the agreed national political framework), constitutes a first step to understand its stability as a political entity. The legitimacy approach can also be associated with some very interesting proposals, trying to reconcile the need for cultural sensitiveness on the one hand and enhancing international preparedness for crises outbreak.[58] The proposal to create an interim legal code for ready use in post-conflict situations, one of the recommendations included in the Brahimi's report,[59] also gave rise to an interesting proposals, some closer to the legitimacy approach, others not. For instance, tentative model codes have been designed, a solution that seems to play down the importance of culture in the conception of legal codes. However, as noted by Reyko Huang,

> it's not meant to be a 'one-size-fits-all' to legislative reform; neither should it be imposed on a country by external actors. Rather it is intended to provide a simple, useful package of codes from which competent national authorities can select the appropriate legislation for their own country's legal framework. Intended to be readily applicable worldwide, the toolbox of codes represents a cross-cultural hybrid of civil, common and Islamic law.[60]

However, on the other hand, legal experts identified at least seven major legal traditions in the world (catholic, talmudic, civil, islamic, common, hindu and Asian) and many more peripheral traditions which "await investigation and recognition."[61] Thus, Kofi

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[57] See: http://www.afrobarometer.org/ See also the very interesting reports produced by the OECD: OECD, *Concepts and Dilemmas of State Building*; Séverine Bellina et al. *The Legitimacy of the State in Fragile Situations*, Report of the OECD/DAC International Network on Conflict and Fragility, February 2009.

[58] See for instance the "Government out of the box project," which is more culturally-sensitive that the title seems to imply. Crisis Management Initiative, "State-Building and Strengthening of Civilian Administration in Post-Conflict Societies and Failed States," High-Level Workshop, New York, 21 June 2004. See also: Crisis Management Initiative, "Governance Out of a Box: Priorities and Sequencing in Rebuilding Civil Administration in Post-Conflict Countries," Workshop, 17 September 2007.

[59] United Nations, *Report of the Panel on Peace Operations,* UN Doc. A/55/305-S/2000/809, 21 August 2000, Section II, para. 81.

[60] Reyko Huang, "Securing the Rule of Law: Assessing International Strategies for Post-Conflict Criminal Justice," IPA Policy Paper, November 2005, 4.

[61] Patrick Glenn, *Legal Traditions of the World* (Oxford: Oxford University Press, 2007), 344. See also: Leon Sheleff, *The Future of Tradition: Customary Law, Common Law and Legal Pluralism* (London, Routledge, 2000); and the section I. A. 2. of this study: "UNTAET and the local systems of justice: the "empty shell" perspective at work."

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Annan's approach outlined in his report on the rule of law and transitional justice in conflict and post-conflict societies, seems more coherent with the legitimacy approach aforementioned. As he states, "although the lessons of past transitional justice efforts help inform the design of future ones, the past can only serve as a guideline. Pre-packaged solutions are ill-advised. Instead, experiences from other places should simply be used as a starting point for local debates and decisions."[62]

Defining legitimacy: from Weber to the institutionalists

Thus far, our analysis may imply that tenants of the institutional approach do not mention legitimacy aspects of state collapse and state-building; actually, most of the time, they do. However, different conceptions of the state adopt different definitions of legitimacy. The distinction between both understandings of legitimacy here is subtle and brings us back to the state-society relationship. Following Anthony Giddens' point that the "state" sometimes means an apparatus of government or power, sometimes the overall social system subject to that government or power, and given the fact that institutionalists tend to adopt the "restrictive" conception of the state, they also naturally tend to be attracted to use a restrictive interpretation of legitimacy.

The conception of the autonomous state, seen as differentiated from the society,[63] has long been equated with Weber's work, as publicized by such neo-Weberians as

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[62] United Nations, *Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, UN. Doc. S/2004/616, 23 August 2004, para. 16.

[63] The Weberian conception of the "autonomous state" has had a huge impact in the state-building literature. For instance, Joel Migdal, a leading contributor to the state-society distinction, contends that "the progress of state-building can be measured by the degree of development of certain instrumentalities whose purpose is to make the action of the state effective: bureaucracy, courts, military." For him, state capabilities include the capacities to penetrate society, regulate social relationships, extract resources, and appropriate or use resources in determined ways. Non-Western states are weak in relation to the strong societies the try to control. Joel Migdal, Strong Societies and Weak States : State-Society Relations and State Capabilities in the Third World (Princeton: Princeton University Press, 1988), 35. However, Joel Migdal later put forth a different concept, the "state-in-society" model. If this new model does not radically differ from his past work, he nevertheless proposed to abandon the Weberian inspired analysis of the state for he judges that it has hitherto disconnected theory from practice. Joel Migdal, *State in Society: Studying How States and Societies Constitute Each Other* (Cambridge: Cambridge University Press, 2001). On a different front, Evenly Davidheiser also exemplifies this approach, arguing that "in defining the state as an actor, it is more useful to focus on the structures which comprises the state." She then offers three criteria for evaluating the strength of the state: depth of penetration of society by the state, breadth of penetration, and state autonomy, or penetration of the state by society. Evenly Davidheiser, "Strong States, Weak States: The Role of State in Revolution," *Comparative Politics* 24, no. 4 (July 1992), 463. One last example is Stepan, who defines the state as "the continuous administrative, legal, bureaucratic and coercive systems that attempt not only to structure relationships between civil society and public authority but also to

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Theda Skocpol, Randall Collins, Michael Mann or Charles Tilly.[64] Whether this is an accurate interpretation of Weber's work is a question that remains open. For example, John Hobson and Leonard Seabrooke emphasized that "the concept of pure 'autonomous' state is often deemed to be synonymous with Weber. One of the reasons why this conception is equated with Weber is because it is deemed to be one of the *leitmotifs* of neo-Weberian scholarship."[65] Other authors have asserted that we should understand Weber's political theory in conjunction with his other sociological works, particularly his *The Protestant Ethic and the Spirit of Capitalism*.[66] Is it true that Weber's definition of politics is very broad: "[it] comprises any kind of *independent* leadership in action;"[67] however, as he continued in the same breath: "we wish to understand by politics only the leadership, or the influencing of the leadership, of a political association, hence today, of a state."[68] Thus, it could be argued that Weber's conception of politics, and political legitimacy, is closely linked to his own conception of the state.[69]

If Weber is rightly regarded as one of the founding father of twentieth-century social science and if Weber's influence across a wide range of disciplines and subjects has been enormous, he is nevertheless considered by some authors as the source of the confusion regarding the concept of legitimacy.[70] Weber conceives legitimacy as a

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structure many crucial relationships within civil society itself." Alfred Stepan, *The State and Society: Peru in Comparative Perspective* (Princeton: Princeton University Press, 1978), xii.

[64] Randall Collins, *Weberian Sociological Theory* (Cambridge: Cambridge University Press, 1986);, Michael Mann. *States, War and Capitalism* (Oxford: Basil Blackwell, 1988); Theda Skocpol, *States and Social Revolutions* (Cambridge: Cambridge University Press, 1979); Tilly, *Coercion, Capital and European States*.

[65] John Hobson and Leonard Seabrooke, "Reimagining Weber: Constructing International Society and the Social Balance of Power," *European Journal of International Relations* 7, no. 2 (June 2001), 256-257.

[66] David Beetham, *Max Weber and the Theory of Modern Politics* (Cambridge: Polity Press, 1985), 151; Max Weber, *The Protestant Ethic and the Spirit of Capitalism*, tr. Talcott Parsons (New York: Scribner, 1958).

[67] Max Weber, "Class, Status and Party," in *From Max Weber: Essays in Sociology*, ed. Hans Gerth and C. Wright Mills (New York: Oxford University Press,1948), 77.

[68] *Ibid.*

[69] Moreover, the Weberian conception of the state needs to be understood in conjunction with the historical context in which Weber publishes his major works, especially his relation with the Marxist literature on the state. As Kate Nash observes, "the autonomy of the political at the level of the state is central to Weber's political sociology. In fact, Weber's work stands at the beginning of a tradition of thought which is explicitly anti-Marxist on just this issue of the autonomy of the state and the importance of liberal democratic politics." Kate Nash, *Contemporary Political Sociology* (Oxford: Blackwell, 2000), 10. For other parallels between Weber's and Marx's works, see: Tom Bottomore, *Political Sociology* (London: Pluto Press, 1993), 10-11.

[70] For David Beetham, "on the subject of legitimacy, it has be said that his influence has been an almost unqualified disaster." David Beetham, *The Legitimation of Power* (Houndmills:

necessary condition and a means for a government to exercise authority over society. This could be done either by charismatic, traditional or rational-legal principles, to take up the three well-known ideal types presented by Weber[71]. In that sense, legitimacy principles are in fact principles of legitimization of the central authority. For Weber, the claim of legitimacy serves a bid for a justification of support, and its success consists not in fulfilling normative conditions but in being believed. Weber defines legitimacy as "the prestige of being considered exemplary or binding,"[72] which led Hanna Pitkin to argue that "Weber's definition is essentially equivalent to defining 'legitimate' as 'the condition of being considered legitimate,' and the corresponding 'normative' definition comes out as 'deserving to be considered legitimate.'"[73] It is also on that ground that Peter Blau states that Weber "takes the existence of legitimate authority for granted and never systematically examine the structural conditions under which it emerges out of other forms of power."[74] Carl Friedrich affirms that statement, saying that Weber's analysis "assumes that any system of government is necessarily legitimate."[75] Moreover, "the Weberian definition not only misrepresents the role that beliefs play in legitimacy. In making legitimacy primarily a matter of belief, it also ignores those elements which are not really to do with beliefs at all."[76]

Weber's conception of legitimacy has been quite influential, a good part of the social scientists in the twentieth century following Max Weber in defining legitimacy as

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MacMillan, 1991), 8. However, he qualifies that statement later, when he writes that "what is mistaken, it could be said, is to divorce people's beliefs about legitimacy from their *grounds* or *reasons* for holding them (…). The mistake, in other words, is not Weber's, but that of those social scientists who have reduced the explanation of beliefs to the processes and agencies of their dissemination and internalisation, rather than an analysis of the factors which give people sufficient grounds or reasons for holding them." *Ibid.*, 10.

[71] Max Weber, *The Theory of Social and Economic Organization*, tr. A. Henderson and Talcott Parsons, ed. Talcott Parsons (London: William Hodge, 1947), 130.

[72] Max Weber, *Basic Concepts in Sociology*, tr. H. Secher (New York: Citadel Press, 1962), 72.

[73] Hanna Pitkin, *Wittgenstein and Justice* (Berkeley: University of California Press, 1972), 281.

[74] Peter Blau, "Critical Remarks on Weber's Theory of Authority" in *Max Weber*, ed. Dennis Wrong (Englewood Cliffs: Prentice-Hall, 1970), 149.

[75] Carl J. Friedrich, *Man and his Government: An Empirical Theory of Politics* (New York: McGray-Hill, 1963), 186. Friedrich argues that Weber actually confuses the concepts of legitimacy and authority (chapter 12-13, 216-246). Habermas agrees, stating in his debate with Luhmann that: "the unobjectionable manner in which a norm comes into being, that is, the legal form of a procedure, guarantees as such only that the authorities which the political system provides for, and which are furnished with certain competencies and recognized as competent within that system, bear the responsibility for valid law. But these authorities are part of a system of authority which must be legitimized as a whole if pure legality is to be able to count as an indication of legitimacy." Jürgen Habermas, and Niklas Luhmann, *Theorie der Gesellschaft oder Sozialtechnologie* (Berlin: Suhrkamp, 1973), 243 [quoted in Jürgen Habermas, *Legitimation Crisis*, tr. Thomas McCarthy (Boston: Bacon Press, 1973), 100.]

[76] Beetham, *The Legitimation of Power*, 12.

the *belief in legitimacy*. For example, Seymour Lipset defines legitimacy of a political system as its capacity "to engender and maintain the belief that the existing political institutions are the most appropriate ones for the society."[77] Richard Merelman calls legitimacy "a quality attributed to a regime by a population. That quality is the *outcome* of the government's capacity to engender legitimacy."[78] Charles Tilly is also resolutely Weberian when he states that "legitimacy depends rather little on abstract principle or assent of the governed. (…) Legitimacy is the probability that other authorities will act to confirm the decisions of a given authority."[79] As David Beetham caustically asserted, "taken to their logical conclusion, such definitions would imply that the reason for the collapse of the communist regimes in Eastern Europe in 1989 lay in a deficiency of public relations, rather than anything actually wrong with the system of rule itself."[80]

The tenants of the institutional approach, following Weber steps, treat legitimacy either as a mere consequence of functioning institutions or as a process of legitimization. This naturally stems from the implicit Weberian approach of legitimacy; as Robert Grafstein states, summarizing incidentally the two aforementioned tendencies of the institutional approach: "Weber virtually identifies legitimacy with stable and effective political power, reducing it to a routine submission to authority."[81]

Rotberg is certainly a good example of the tendency to reduce legitimacy to a consequence of "stable and effective political power." Mentioning legitimacy only as consequence of good delivery of public goods, he argues that public goods "give content to the social contract between ruler and ruled."[82] The author notes that "there is no failed

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[77] Seymour Lipset, "Some Social Requisites of Democracy," *American Political Science Review* 53, no. 1 (March 1959), 86.

[78] Richard Merelman, "Learning and Legitimacy," *American Political Science Review* 60 (September 1966), 548.

[79] Charles Tilly, "War Making and State Making as Organized Crime," in *Bringing the State Back In*, ed. Peter Evans, Dietrich Rueschemeyer and Theda Skocpol (Cambridge: Cambridge University Press, 1985), 171. Tilly's treatment of legitimacy is based on Arthur Stinchcombe's work. Arthur Stinchcombe, *Constructing Social Theories* (New York: Harcourt, Brace and World, 1968), 150.

[80] Beetham, *The Legitimation of Power*, 9. J. Schaar writes that these definitions "all dissolve legitimacy into belief or opinion. If a people holds the belief that existing institutions are 'appropriate' or 'morally proper', then those institutions are legitimate. That's all there is to it." John Schaar, "Legitimacy in the Modern State", in *Power and Community*, ed. Philip Green and Sanford Levinson (New York: Random House, 1969), 284.

[81] Robert Grafstein, "The Failure of Weber's Conception of Legitimacy: Its Causes and Implications," *Journal of Politics* 43 (1981), 456.

[82] Rotberg, "The Failure and Collapse of Nation-States," 2-3.

state without disharmonies between communities,"[83] but treats these "disharmonies" as consequences of the failure of state institutions. In yet another article, the author mentioned that "nation-states fail because they can no longer deliver positive political goods to their people. Their governments lose legitimacy and, in the eyes and hearts of a growing plurality of its citizens, the nation-state itself becomes illegitimate."[84] Hence, legitimacy in that regard is treated as a natural by-product of successful state institutions. Once again, it all comes back to the definition of the state that one adopts. The author mentions that "a nation-state also fails when it loses legitimacy, that is, when its nominal borders become irrelevant and autonomous control passes to groups within the national territory of the state, or sometimes even across its international borders."[85] The Weberian definition of the state cannot be more emphasized in that regard.

The other tendency, "reducing legitimacy to a routine submission to authority," is encompassed in Fukuyama's work, with the specific emphasis the author puts on democracy as a legitimizing factor for the institutionalization process in a weak state. Interestingly enough, Fukuyama's analysis, especially in his "strength and scope" distinction, draws heavily from Samuel Huntington's seminal book *Political Order in Changing Societies*, which argues that "the degree of community in a complex society depends on the strength and scope of its political institutions."[86] However, for Huntington, the key to state stability is not the *strength* of the institutions per se, but the relationship between these institutions and the overarching society they are supposed to represent, as expressed through the ability of state authorities to generate a domestic consensus and a legitimate public order. This is a major distinction between the two authors. For Fukuyama, legitimacy is encompassed in the process of legitimization of the authority exercised by the government over society.[87] According to him, the only viable and durable source of legitimacy in today's world is liberal democracy.[88] For Huntington, legitimacy is itself an important criterion of state strength.

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[83] Robert Rotberg, "Failed States, Collapsed States, Weak States: Causes and Indicators," in *State Failure and State Weakness in a Time of Terror*, ed. Robert Rotberg (Washington: Brookings Institution Press, 2003), 4.

[84] Robert Rotberg, "The New Nature of Nation-State Failure", *The Washington Quarterly* 25, no. 3 (Summer 2002), 85.

[85] *Ibid.*, 9.

[86] Samuel Huntington, *Political Order in Changing Societies* (New Haven: Yale University Press, 1968), 10.

[87] It is also an approach adopted by Eizenstat, Porter and Weinstein: "to foster legitimacy a government needs to protect the basic rights and freedoms of its people, enforce the rule of law, and allow broad-based participation in the political process." Eizenstat, Porter and Weinstein, "Rebuilding Weak States," 136.

[88] "What we are witnessing is not just the end of the Cold War, or a passing of a particular period of postwar history, but the end of history as such: that is, the end point of mankind's ideological evolution and the universalization of Western liberal democracy as the final form of human

Hence, one can assert that insisting on the political concept of legitimacy allows us to concentrate our attention on the state and society as distinct in terms of "actors" though not necessarily autonomous institutions and activities.[89] As Alexander Wendt stated, "(…) it seems impossible to define the state apart from "society." States and societies seem to be conceptually interdependent in the same way that masters and slaves are, or teachers and students; the nature of each is a function of its relation to the other."[90] In that regard, it appears crucial to understand state and society in their mutually constitutive relationship, where legitimacy conditions state strength and is, at the same time, an element of state strength.[91] As Beetham stated, "a given power relationship is not legitimate because people believe in its legitimacy, but because it can be *justified in terms of their beliefs*."[92] If no definition of legitimacy is optimal, we believe that Mary Kaldor's definition has the merits of being clear. She defines legitimacy as "the extent to which people consent to and even support the framework of rules within which political institutions function, either because the political institutions are seen as having gained authority through some legitimate process, and/or because they are seen to represent ideas or values widely supported."[93]

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government." Francis Fukuyama, "The End of History?" *The National Interest* 16 (Summer 1989), 3; See also: Fukuyama, *State building*, 26.

[89] Rodney Barker, *Political Legitimacy and the State* (Oxford: Clarendon Press, 1990), 28.

[90] This interrelation creates a "state-society complex" according to the author, which is different from the autonomous state perspective. "To say that states and societies are internally related in a state-society complex means that not only is the state constituted by its relationship to society, but so is society constituted by the state." Alexander Wendt, *Social Theory of International Politics* (Cambridge: Cambridge University Press, 1999), 199, 210.

[91] Some see a parallel with the human security concept; for example Shahrbanou Tadjbakhsh stated in a conference that "mirroring the human security motto, the strength of the state is more in the eyes of the population (citizens) than in the solidity of state institutions." Shahrbanou Tadjbakhsh, 27 Mars 2007, Presentation, CERI Conference "Les 'États fragiles' constituent-ils une menace pour la sécurité internationale." See also : Shahrbanou Tadjbakhsh and Anuradha M. Chenoy, *Human Security: Concepts and Implications* (London: Routledge, 2007). However, David Chandler reminds us that like the "state-building" parlance, one of the vulnerabilities of the human security discourse is to be shaped by powerful actors, replacing political stakes between opposing groups with non-political, "technical" considerations. David Chandler, "Human Security: The Dog that Didn't Bark," *Security Dialogue* 39, no. 4 (August 2008).

[92] Beetham, *The Legitimation of Power*, 11.

[93] Mary Kaldor, "Governance, Legitimacy, and Security: Three Scenarios for the Twenty-First Century" in *Principled World Politics*, ed. Paul Wapner et Edwin Ruiz (Lanham: Rowman and Littlefield, 2000), 285. One has to emphasize the subjective element peculiars to this definition of legitimacy. As Ian Hurd stated, "legitimacy refers to the normative belief by an actor that a rule or institution ought to be obeyed. It is a subjective quality, relational between actor and institution, and defined by the actor's perception of the institution." Ian Hurd, "Legitimacy and Authority in International Relations," *International Organization* 53, no. 2 (Spring 1999), 381.

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Conclusion: The "more is better" approach and other avenues for state-building

In the previous discussion, I tried to underscore the need to understand legitimacy of the outside intervention and the way an outside contributor can nurture and foster support for the operation among the local population. Indeed, external actors necessarily affect the socio-political process of the target state. It is not the case that nation-building implies interference while state-building focused on institutions does not; no matter how one defines the terms, an international intervention necessarily imply a degree of interference. In that regard, the common cliché saying that it is possible to undertake state-building without embarking in nation-building activities appears misguided.[94] Similarly, to use the theoretical distinction proposed earlier, the legitimacy and the institutional approaches both imply interference, however on their own specific terms.

Except for some specific authors, there is a wide consensus that reconstruction of the sovereign state is necessary and that state collapse necessitates external assistance in a transitional period.[95] As Zartman posits, "it is necessary to provide a large, informally representative forum, and if the contenders for power do not do so, an external force to guarantee security and free expression during the legitimization process may be required. [...] In all three areas – power, participation, and resources – it is hard to get around the usefulness, if not the outright need, of external assistance."[96] However, the exact nature

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[94] Nicolas Lemay-Hébert, "Statebuilding Without Nationbuilding? Legitimacy, State-Failure and the Limits of the Institutional Approach," *Journal of Intervention and State-Building* 3, no. 1 (2009): 21-45.

[95] See for instance those defending the theory of the "fresh start." Andreas Mehler and Claude Ribaux state that "the collapse of states in crisis need not be prevented, since a 'better state' cannot emerge until that collapse has taken place." For Samuel Eisenstadt, "collapse, far from being an anomaly, both in the real world and in social evolutionary theory, presents in dramatic form not the end of social institutions, but almost always the beginning of new ones." Finally, Timothy Raeymaekers argues that "we should start thinking hard about the possibility that state collapse presents a plausible, and perhaps even likely, outcome for some states in the system." Andreas Mehler and Claude Ribaux, *Crisis Prevention and Conflict Management in Technical Cooperation: An Overview of the National and International Debate* (Wiesbaden: Universum Verlangsanstalt / Deutsche Gesselschaft für Technische Zussamenarbeit, 2000), 107; Samuel Eisenstadt, "Beyond Collapse," in *The Collapse of Ancient States and Civilizations*, ed. Norman Yoffee and George Cowgill (Tucson: University of Arizona Press, 1988), 243; Timothy Raeymaekers, "Collapse or Order? Questionning State Collapse in Africa?" Conflict Research Group, Working Paper no. 1, May 2005, 7. See also: Martin Doornbos, "State Collapse and Fresh Starts : Some Critical Reflections," in *State Failure, Collapse and Reconstruction*, ed. Jennifer Milliken, 45-62. Oxford: Blackwell, 2003; Nicholas van Hear, "Re-Casting Societies in Conflict," Center on Migration, Policy and Society, Oxford University, Working Paper no. 22, 2005; and the proponents of the laissez-faire approach: Luttwak, "Give War a Chance" and Herbst, "Let Them Fail."

[96] William Zartman, "Putting Things Back Together" in *Collapsed States: The Disintegration and Restoration of Legitimate Authority*, ed. William Zartman (Boulder: Lynne Rienner, 1995), 270-272. The three areas the author refers to are 1) reconcentring central power (the powerful must be recognized as legitimate, or the legitimate must be made powerful); 2) increasing state legitimacy through participation; and 3) raising and allocating economic resources in support of peace.

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of this external assistance is still widely debated. One of the implications of the institutional approach's extensive influence over the state-building literature is the prescription that "more is better" in terms of state-building, where "the more intrusive the intervention, the more successful the outcome."[97] This is a by-product of two tendencies of the institutional approach that we have broached earlier, which is either to isolate theoretically state-building operations from so-called nation-building activities, or to discard or ignore legitimacy aspects pertaining to state-building.

One of the best examples of the "more is better" framework is the widely-quoted RAND study on US-led state-building operations, directed by James Dobbins. The study identifies five case studies (Somalia, Haiti, Bosnia, Kosovo and Afghanistan), and contrasts these cases with the historic cases of Germany and Japan, that have according to them "set a standard for post-conflict nation-building that has not since been equalled."[98] Their conclusion is that a high level of economic assistance and high numbers of troops deployed for a long time were crucial for the success of the two historic operations and can explain why recent operations showed little success: "the higher level of input accounts in significant measure for the higher level of output measured in the development of democratic institutions and economic growth."[99] Needless to say, the authors do not seem to acknowledge the sharp contextual differences existing between the cases, varying across nearly fifty years and taking place in substantially different international context.[100] Moreover, the most recent study made by Dobbins et al., this

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[97] Christoph Zuercher, "Is More Better? Evaluating External-Led State Building After 1989," CDDRL Working Paper number 54, Stanford University, April 2006, 2. It is an assessment supported generally by a military perspective of state-building. For instance, Zachary Selden of the US Army College writes that "in short, more is better; this equation underscores the need to have reserves of deployable personnel capable of spanning the spectrum between "hard" and "soft" capabilities." Zachary Selden, "Stabilization and Democratization: Renewing the Transatlantic Alliance", *Parameters* 37, no. 4 (Winter 2007-2008), 97. The "more is better" perspective also echoes the Powell or Weinberger doctrine, which states that every resource and tool should be used to achieve decisive force against the enemy, minimizing US casualties and ending the conflict quickly by forcing the weaker force to capitulate. Colin Powell, "U.S. Forces: Challenges Ahead," *Foreign Affairs* 72, no. 5 (Winter 1992-93); Caspar Weinberger, *Fighting for Peace: Seven Critical Years in the Pentagon* (New York: Warner Books, 1990), 453-454. It also presents interesting parallels with the Clauswitzian logic, for which war is an act of force, the application of which knows no logical limit by virtue of its escalatory dynamics. Peter Paret, "Clausewitz" in *Makers of Modern Strategy: From Machiavelli to the Nuclear Age*, ed. Peter Paret (Princeton: Princeton University Press, 1986), 199.

[98] James Dobbins et al. *America's Role in Nation-Building : From Germany to Iraq* (Santa Monica : Rand Report MR-1753-RC, 2003), 160.

[99] *Ibid.*, 161.

[100] It seems to be the case with various studies taking Japan and Germany as a yardstick to compare other state-building ventures. See for instance: Nina Serafino, Curt Tarnoff and Dick Nanto, U.S. Occupation Assistance: Iraq, Germany and Japan Compared, Congressional Research Service Report for the US Congress, 23 March 2006. According to Jan-Werner Müller, "Analogical reasoning is likely to have poor results for reasons rooted in cognitive psychology."

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time on UN's role in nation-building and meant to complement their previous study, goes along the same lines. While the authors recognize that the UN has shown, *mutatis mutandis*, better results with a "light-footprint" approach, they wrote that "the United States would be well advised to leave the small footprint, low profile approach to the United Nations, and resume supersizing its nation-building missions."[101] This prescription echoes Steven Ratner's remarks, when he said that "interveners ought to err on the side of more rather than less even though the empirical evidence to date does not obviously support a more is better perspective."[102]

State-building has significant limits when unrelated to the needs and perceptions of the local society targeted by the intervention - in that regard, more is not necessarily better. This is nothing surprising or new for researchers working on development issues, but it has to be restated in the wider context of state-building. Various studies have highlighted the limits of top-down approaches, especially in the context of Iraq,[103] Kosovo[104] and Timor-Leste.[105] Lessons drawn from these two last missions have also led

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Analogies reduce the complexity of the situation at-hand for a decision-maker; analogies also serve to create a sense of "instant legitimacy" for the advocate's policy prescriptions. Yuen Foong Khong concurs, stating that American policy-makers all too often rely on faulty, simplified historical analogies to justify commonalities that simply do not exist. Jan-Werner Müller, *Memory and Power in Post-War Europe: Studies in the Presence of the Past* (New York: Cambridge University Press, 2002), 27; Yuen Foong Khong, *Analogies at War: Korea, Munich, Dien Bien Phu and the Vietnam Decisions of 1965* (Princeton: Princeton University Press, 1992), 7 [quoted in Daniel Allen, "The Impact of War and Successful Reconstruction: Evaluating the Bush Administration's Germany-Japan-Iraq Analogy", Paper Presented at the International Studies Association Annual Conference, 3 March 2005, Honolulu, 4].

[101] James Dobbins et al. *UN's Role in Nation-Building: From the Congo to Iraq* (Santa Monica: RAND report MG-304, 2005), 245. Similarly, for Michael Doyle and Nicholas Sambanis, whose work has had a tremendous impact on the state-building literature, "the deeper the hostility, the more the destruction of local capacities, the more one needs international assistance to succeed in establishing a stable peace." Michael Doyle and Nicholas Sambanis, *Making War and Building Peace: United Nations Peace Operations* (Princeton: Princeton University Press, 2006), 4.

[102] Stephen Krasner, "Sovereignty and Governance," Lecture at the Legatum Prosperity Symposium, Brocket Hall, United Kingdom, 20-22 June 2008, 23.

[103] Toby Dodge, *Inventing Iraq: The Failure of Nation-Building and a History Denied* (New York: Columbia University Press, 2003); David Philips, *Losing Iraq: Inside the Postwar Reconstruction Fiasco* (New York: Basic Books, 2005); Thomas Ricks, *Fiasco: The American Adventure in Iraq* (New York: Penguin Press, 2006).

[104] Aidan Hehir, "Autonomous Province Building: Identification Theory and the Failure of UNMIK," *International Peacekeeping* 13, no. 2 (June 2006): 200-213; Nicolas Lemay-Hebert, "State-Building From the Outside-in: UNMIK and its Paradox," *Journal of Public and International Affairs* 20 (Fall 2009): 65-86; Besnik Pula, "The UN in Kosova : Administering Democratization" in *Understanding the War in Kosovo*, ed. Florian Bieber and Zidas Daskalovski (London: Frank Cass, 2003).

[105] Joel Beauvais, "Benevolent Despotism: A Critique of UN State-Building in East Timor," *New York University Journal of International Law and Politics* 33 (2001): 1101-1178; Jarat Chopra,

to the birth of a concept inside the organization, the "light footprint approach" that came to be associated with the work of the UN official Lakhdar Brahimi. The light footprint approach - a term that was coined during the planning of the United Nations Assistance Mission in Afghanistan (UNAMA) - advocates that UN activities should be limited to those that are appropriate to the local needs and context, and that international staff should be limited to the minimum required, with an effort to ensure local capacity-building, so that nationals can take over from the UN as soon as possible. Hence, for David Malone, "Brahimi's approach is designed in reaction to many things he did not like in East Timor and Kosovo, mainly the idea of the UN governing, rather than assisting local leaderships in governing."[106] It does not mean the end of intervention, it rather implies a different form of exercising authority in a foreign setting: "to underscore the primacy of local over foreign concerns in no way means that the international partners have to accept the views of the local parties unconditionally and without discussion. But it does mean that arrogance is not acceptable, and humility and genuine respect for the local population indispensable."[107]

Hence, the goal here is to prevent the establishment of what David Chandler dubbed "phantom states," whose governing institutions may have extensive external resourcing but lack social or political legitimacy.[108] As noted by Marina Ottaway, outsiders can set up governmental organizations, but "such organizations will only become significant and established – hence institutions – when the relevant actors believe

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"Building State Failure in East Timor," *Development and Change* 33, no. 5 (2002): 979-1000; Anthony Goldstone, "UNTAET with Hindsight: The Peculiarities of Politics in an Incomplete State," *Global Governance* 10, no.1 (January/March 2004): 83-98; Paulo Gorjão, "The Legacy and Lessons of the United Nations Transitional Administration in East Timor," *Contemporary Southeast Asia* 24, no. 2 (August 2002): 313-336; Nicolas Lemay-Hebert, "UNPOL and Police Reform in Timor-Leste: Accomplishments and Setbacks," *International Peacekeeping* 16, no. 3 (June 2009): 393-406; Astri Surkhe, "Peacekeepers as Nation-Builders: Dilemmas of the UN in East Timor," *International Peacekeeping* 8, no.4 (2001): 1-20.

[106] Interview with David Malone, quoted in: Kreilkamp, "UN Postconflict Reconstruction," 664.

[107] Lakhdar Brahimi, "State-Building in Crisis and Post-Conflict Countries," Lecture at the 7th Global Forum on Reinventing Government, 26-29 June 2007, Vienna, Austria, 3. As Brahimi argued, "it is *precisely* through recognizing Afghan leadership that one obtains credit and influence." Quoted in: Simon Chesterman, "Walking Softly in Afghanistan: the Future of UN State-Building," *Survival* 44, no. 3 (Autumn 2002), 5. As Yama Torabi states, "The consent-based model allowed the UN to be not only the impartial actor who could be called upon in times of difficulty, but also the actor that enjoys in return the kind of legitimacy to monitor, advice and even discipline." Yama Torabi, "'Light Footprint', Leadership and Legitimacy Through the International Intervention in Afghanistan," Paper presented at the ISA 49th Convention, San Francisco, March 26 2008, 4.

[108] David Chandler, *Empire in Denial: The Politics of State-Building* (London: Pluto Press, 2006), 9. In other words, as Oliver Richmond noted, "the liberal peace is a virtual peace that looks far more coherent from the outside than from the inside, and effectively builds the empty shell of a state, but neglects any notion of social contract between that shell and its constituencies." Oliver Richmond, *Peace in International Relations* (London: Routledge, 2008),112.

that they provide solutions to real problems."[109] The imposition of solutions from a top-down perspective can be effective only to a certain extent – it can certainly contribute to a restoration of peace and order, a negative peace to use Galtung's terminology, but has definite limitations in terms of state-building more broadly defined, as this study has attempted to demonstrate.[110] In this context, there is a genuine need to find a durable solution, where legitimacy conceptions from the inside are taken into account. The concept of "participatory intervention" could provide an interesting way to alleviate some of the most troubling aspects linked to state-building processes.[111] However, it entails a significant normative shift on the part of a segment of the international community and the Academia, from the institutional and restrictive approach to a more comprehensive approach of state-building processes.

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[109] Ottaway, "Rebuilding State Institutions in Collapsed States," 248.

[110] Johan Galtung, *Peace : Research – Education – Action. Essays in Peace Research Vol. 1.* (Copenhague: Christian Ejlers, 1975), 245.

[111] Jarat Chopra and Tanja Hohe, "Participatory Intervention," *Global Governance* 10, no. 3 (July-September 2004): 289-305.