The Legitimisation of Peace Negotiations

A Role for Civil Society?

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Franzisca Luise Zanker, M.A.

aus Tübingen

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Dekan: Professor Dr. rer. soc. Josef Schmid

1. Gutachter: Prof. Dr. Andreas Hasenclever

2. Gutachter: Prof. Dr. Andreas Mehler

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Abbreviations

AU: African Union
AU Panel: AU Panel of Eminent African Personalities
4Cs: Kenya Tuitakayo (*the Kenya we want*) - Citizens Coalition for Constitutional Change.
CCP: Concerned Citizens for Peace
CIPEV: Commission of Inquiry on Post- Election Violence or the 'Waki Commission'
CLO: Coordination and Liaison Office
CPA: Comprehensive Peace Agreement
CSA: Civil Society Actor
ECOWAS: Economic Community of West African States
ECOMOG: Economic Community of West African States Monitoring Group
ECK: Electoral Commission of Kenya
ICC: International Criminal Court
ICGL: International Contact Group on Liberia
IFMC: Inter-Faith Mediation Committee
INCHR: Independent National Commission in Human Rights
INPFL: Independent National Patriotic Front of Liberia
IRCL: Inter-Religious Council of Liberia
IREC: Independent Review Commission or 'Kriegler Commission'
KANU: Kenya Africa National Union
KNDR: Kenya National Dialogue and Reconciliation
KPTJ: Kenyans for Peace with Truth and Justice
LDF: Lofa Defence Force
LURD: Liberians United for Reconciliation and Democracy
LPC: Liberian Peace Council
LWI: Liberian Women's Initiative
MRU: Mano River Union
MARWOPNET: Mano River Women's Peace Network
MODEL: Movement for Reconciliation and Democracy
MOJA: Movement for Justice in Africa
NARC: National Rainbow Coalition
NCCK: National Council of Churches of Kenya
NPFL: National Patriotic Front of Liberia
NPP: National Patriotic Party
ODM: Orange Democratic Movement
PEV: Post-Election Violence
PNU: Party of National Unity
R2P: Responsibility to Protect
TJRC: Truth, Justice and Reconciliation Commission
TRC: Truth and Reconciliation Commission
ULIMO-K: United Liberation Movement for Democracy in Liberia Kromah faction
ULIMO-J: United Liberation Movement for Democracy in Liberia Johnson faction
UNMIL: UN Mission to Liberia
WANEP: West Africa Network for Peacebuilding
WIPNET: Women in Peacebuilding

<h1 style="text-align: center;">Glossary of Key Concepts</h1>

Beneficiaries of Legitimacy: Those who benefit from legitimate peace negotiations, hypothesized to be the general population. The beneficiaries play both a passive and an active role in the legitimisation process.

Collective Concerns: A feature of legitimisation proposed by the heuristic model, which concerns *what* is being discussed in the negotiations (and included in the final agreement) as a reflection of collective grievances or concerns.

Comprehensive Process-Tracing: A form of process-tracing developed for this research which, on the basis of a constructivist ontology and mixed epistemology, combines a constitutive analysis (i.e. what constitutes the legitimisation process) and a causal analysis (i.e. why do the constitutive components occur).

Constitutive Components of the Legitimisation Process: The findings from the main analysis of the comprehensive process-tracing, which shows that six components constitute the legitimisation process. These are ending violence, a civilian counterbalance, feeling represented, recognised guarantors of legitimacy, feeling involved and ensuring implementation.

Causal Conditions: These show why the constitutive components are possible in the first place and are part of the comprehensive process-tracing, see above.

Guarantors of Legitimacy: Actors, especially civil society actors but also mediators, that act on behalf of the beneficiaries of legitimacy or the general population. According to the heuristic model, they seek to address collective concerns, be subjectively representative and communicate transparently. In reality, their role is more complicated. A recognised guarantor of legitimacy is one of the components that constitutes the legitimisation process.

Heuristic Model of Legitimate Peace Negotiations: Developed as part of the abductive research process, three features are proposed as heuristic tools for developing an understanding of what constitutes the legitimisation process and the reasons for this: Collective concerns, subjective representation and transparent communication.

Legitimate Peace Negotiations: Empirically, peace negotiations are more legitimate when the beneficiaries are satisfied with the process as such, because the six components that constitute the legitimisation process have been achieved. Theoretically, peace negotiations are more legitimate on the basis of three assumptions: The outcome and participation based-characteristics are fulfilled; civil society

actors are not ubiquitous in the legitimisation process and the legitimisation occurs both at the negotiations and in the public arena.

Legitimation: Concerns the legitimation of individual actors (such as civil society representatives), i.e. how actors show or argue for their own legitimacy. This is one part of the legitimisation process and is related to the self-referential legitimation narratives (see below).

Legitimisation Process/Process of Legitimisation: All the different components (see above) that together make the ad-hoc, dynamic and non-institutionalised process of peace negotiations more legitimate.

Outcome-Based and Participation-Based Characteristics of Legitimisation: One of the defining assumptions of the theory of legitimate peace negotiations. The outcome is based on what happens during and after the negotiations with regards to ending violence, ensuring implementation and a civilian counterbalance. The participation-based characteristics include representation, but also recognised guarantors of legitimacy because of symbolic attachment and the involvement in the negotiations by the beneficiaries of legitimacy.

Participative Communication: Participation in the legitimisation process through communication. This can be on a dualistic basis, where the guarantors of legitimacy engage the public within a communication process that contributes to circular information flows. Alternatively, one-sided participative communication occurs through the (artistic) expression of grievances or reflections of the negotiation process.

(Recognised) Self-Referential Legitimation Narrative: A consistent narrative in reference to their own characteristics, which legitimates particular actors. These narratives legitimate the actors (and the roles they play) because they are widely recognised.

Subjective Representation: A feature of legitimisation proposed by the heuristic model that considers *who* is taking part in the negotiations, looking at contextually relevant interpretations of representation, legitimation strategies of individual actors and forms of symbolic representation.

Transparent Communication: A feature of legitimisation proposed by the heuristic model, which considers the efforts made by civil society to communicate with the population during the negotiations and afterwards, or *how* the civil society actors (and others) respond to those they believe to represent.

SECTION 1:

INTRODUCTION, RESEARCH DESIGN AND HEURISTIC MODEL

Chapter 1

Introduction

1   Introduction

'Diplomats can generate an agreement, but without some form of public involvement it is not possible to know whether the agreement is legitimate' (Ron 2010, 354).

Setting out to conduct research on the link between participative or 'locally owned' peace processes and their link to peace sustainability, I was surprised with the first results of my empirical fieldwork. The literature to date had assumed that because of the participation of members of civil society, peace agreements become more sustainable (e.g. Nilsson 2012; Wanis-St. John and Kew 2008). This, the authors argue, is at least partly due to the fact that as a result of civil society participation there is 'public buy-in' ensuring the legitimacy and the implementation of the peace agreement. Nevertheless, during my fieldwork in Liberia, a case where civil society had a particularly proactive engagement throughout the entire peace process, I found that neither interview partners nor focus groups discussant knew much about the role of civil society actors or in fact the negotiations themselves. I began to question what public buy-in or legitimacy actually means and what this has to do with the knowledge of a process.[1] What had started out as a question of representation and local ownership was no longer feasible without taking a step back. How exactly does public buy-in work? And when does a process become more legitimate? The empirical findings let me on a hermeneutic research quest, where I had the chance to repeatedly revise my own thoughts and interpretations of even the very question I was trying to answer. The outcome is a dissertation that couples new and original empirical research data from Liberia and Kenya with extensive reflection on both methodological and theoretical foundations.

The local ownership of peace processes and public participation has become a popular rhetoric amongst politicians, policy makers and development organisations. Former British Prime Minister Tony Blair and currently peace envoy in the Middle East for example, calls for the need to give the 'ordinary population the sense they have a stake in the future,' surmising a peace process to be the 'curious symbiotic dance between the leaders and led' (2013).[2] International organisations call for 'inclusive political settlements and conflict resolution' (OECD 2011), the 'importance of legitimacy in relation to … ending violent conflict' (The World Bank 2011) or more specifically the necessity of civil society inclusion (UN General Assembly 2011; UN Secretary General 2012; UN Security Council 2009). Examples of peace talks that include civil society, be it explicitly or implicitly, exist all over the world from Columbia (Bouvier 2014) to Mindanao (Busran-Lao 2014) to the Basque Region in Spain (Rios 2014). So do those seeking out such inclusion, including one of the attempted peace talks on Syria conducted in Geneva in 2014

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[1] Elizabeth Wood describes new research questions as one of the benefits of conducting field research (2007).
[2] Note that his future in this role is unclear due to increasing criticism. See BBC (2015).

(WILPF International 2014; more generally see World Movement for Democracy 2008). Yet, inclusivity or the call for civil society inclusion becomes meaningless without a thorough understanding of how a process actually becomes more legitimate in the first place.

As a result, this dissertation seeks to answer the question of how peace negotiations are made more legitimate through the inclusion of civil society in an empirically and methodologically abductive manner. This entails both the answering of what the constitutive components of a legitimisation process are and why they may be occurring. Two case studies - Liberia and Kenya - are considered in order to answer this question, using original empirical sources from fieldwork conducted between 2011 and 2014.[3]

The rest of this introductory chapter is organised as follows: the research question is positioned within the broader research on peacebuilding, negotiations and power-sharing agreements. The exact research gap is then presented before critiquing civil society research, in order to avoid conceptual assumptions in this research. Some key definitions are then introduced as well as the layout of the rest of the dissertation, detailing the structure and layout of the work to follow.

1.1   Positioning the Research Question in Current Peace Research

The research is to be understood in terms of current peace research, which looks at ways in which violent conflict is ended sustainably and conflict divisions can be transformed. There are three areas of research that are particularly relevant and provide the broader framework for the research question at hand: Namely communitarian peacebuilding and local ownership, negotiations research and the work on power-sharing agreements as a solution to ending violent conflicts. These are outlined in the next sections.

1.1.1   Peacebuilding and Local Ownership

In order to understand the framing of civil society inclusion in the debate on local ownership the differences between liberal and communitarian or emancipatory peacebuilding are outlined, before discussing ideas on local ownership more directly. Whilst peacebuilding as an idea was already discussed from the 1970s onwards both by Johan Galtung and later by John Paul Lederach, the idea gained popular prominence after UN Secretary General Boutrous Boutrous-Ghali's Report entitled 'An Agenda for Peace' (1992). Oliver Richmond in fact discusses four generations of peacebuilding, namely: Conflict management (stopping violence at all costs); conflict resolution; liberal peacebuilding and what he calls emancipatory peacebuilding (2010, 19–30; see also Chufrin and Saunders 1993, 155–156). Whilst the

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[3] A preliminary version of this research has been published previously, though this focuses more on the practical repercussions for mediation (Zanker 2013) and provides a more basic version of the theoretical framework (Zanker 2014a).

second generation of peacebuilding advocates for a role for civil society, the focus of this research is on the latter two generations. The end of the Cold War and the explosion of UN-led peacebuilding operations in the 1990s led to a plethora of academic work on what became to be known as the liberal peacekeeping paradigm. The idea behind the paradigm is to promote peace through the encouragement of political and economic liberalisation. Important elements are for example democratisation, institutional reform, good governance, human rights, development and free market reform (Krause and Jütersonke 2005, 454; Paris 2010, 341). Richmond[4] argues that liberal peacebuilding is founded on the belief that 'a universal version of peace is normatively possible through a scientific perfection of the strategies to be deployed' and works towards a system of governance rather than a process of reconciliation (2010, 22–25).

This liberal peacebuilding framework has been criticised for numerous reasons, most notably for the fact that (political) participation and locally driven reform does not fit in. At worst, this can mean that the end product is something that is not desired, affecting the chances for sustainable peace (Lidén, Mac Ginty, and Richmond 2009, 592). A consensus has grown that top-down liberal peacebuilders use technocratic blueprints which fail to incorporate the local context (Autesserre 2014a, 294). In addition, liberal peacebuilding risks conflating peacebuilding with statebuilding, resulting in the construction of 'empty shells' of states or a 'virtual peace' (Richmond and Mitchell 2011, 5). The problem with statebuilding, argues Charles Call, is the focus on institutionalisation and professionalization of state organisations, downplaying 'the role of civil society. The crucial vectors of state society relations and trust at the local level remain deemphasised' (2012, 233). As a counter-framework to liberal peace, most notably Lederach promotes 'communitarian peacebuilding', emphasising the importance of traditional and social context and making a choice of peacebuilding irrelevant of international norms (1997). This type of peacebuilding also called bottom-up peacebuilding or peacebuilding from below has overlaps to the emancipatory peace of Richmond, which advocates a peace that moves beyond a replication of Westphalian forms of sovereignty and reflects the interests, identities, and needs of all actors, a new social contract, developed through discourse and participation (2010, 28–30). A 'peace constituency' is needed in order to attain a just and sustainable peace agreement (Lederach 1997, 94–95). The crux of peacebuilding is at the 'everyday', and necessitates the cultivation of understanding, empathy and trust (Bleiker 2012, 298; see also Call 2012, 223).

As a result of this development in peace research, there have been several avenues of research: The more practical application of communitarian peacebuilding regarding levels of participation or 'peace infrastructure' or 'architecture' and the broader discussion of local ownership and participation. Concerning the former, the three-tiered peace architecture which Lederach developed as part of his ideas on communitarian peacebuilding, proposes a middle-out approach to peacebuilding, where mid-level

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[4] The full name will only be used the first time an author is mentioned.

actors influence peacebuilding through their interaction with top-level leaders and the grassroots (Lederach 1997; see also Paffenholz 2014b). I return to this below, but in fact much more attention has been paid to local ownership or participation more broadly. The impetus for local ownership or inclusion is that any peace process 'not embraced by those who have to live by it is likely to fail' (Donais 2009, 3). In fact, ownership of a peace agreement needs to be created (Funk 2012, 408; Lederach 1997; Prendergast and Plumb 2002). Thus, the idea of local ownership is clearly rooted in communitarian or emancipatory peacebuilding. The message is that 'local' actors needs to be part of the solution, broader participation is required for the task of emancipatory peacebuilding. It puts agency to the forefront, moving away from passive victimhood (Donais 2012, 60; see also Clark 2014).

Despite much policy work in this direction, the overall contribution of local ownership to peacebuilding in practice still remains scant. The general trend seems to be that local agency is proposed to either be a deficit or a problem to be overcome (Schroeder and Chappuis 2014, 137). Moreover, dissent from local actors about 'the appropriateness of the liberal prescriptions … conversely … reinforce outsider perceptions that locals lack the maturity to be entrusted with real political authority' (Donais 2012, 36; see also Paffenholz 2014b). As a result, the notion that local ownership is crucial to peacebuilding has been accepted per se, the meaning of local ownership - including who the actors are, where they are involved, how they are involved, the effects any involvement or exclusion has, the normative nature of participation models and so on - continues to be the subject of much discussion in what has become known as critical peacebuilding research (e.g. Autesserre 2014a; Bleiker 2012; Call 2012, 274; Richmond 2010, 29–30; Richmond and Mitchell 2011, 12; Simons and Zanker 2014; Watson 2012). What merits underlining is that the peacebuilding process is argued to be 'political not a technical process' (Christie 2012, 201–204).

The conclusions that can be drawn from this very brief venture into the peacebuilding debates are as follows. Firstly, local agency is often equated to civil society: 'The very idea of bottom-up peacebuilding is rooted in a conception of an active, organized, locally grounded civil society' (Donais 2012, 11; 60; see also Paffenholz 2010, 189). Secondly, the nature of the dissertation is the civil society interaction at the national, formal level of peace negotiations. Others like Andries Odendaal for example, focus on local peace mechanisms as part of the broader peace architecture (2010). Critical peacebuilding scholars have pointed to the importance of going beyond the study of formal or national-level processes like negotiations in order to avoid only addressing 'liberal' peacebuilding. However, the question of what local agency actually is, how they interact and so on remains unclear with scholars taking on divided positions (see e.g. Peterson 2012; Richmond and Ginty 2014; Simons and Zanker 2014). In addition, focusing exclusively on the everyday will obscure important processes. I argue that in order to be able to question liberal notions of peacebuilding, a better understanding of what is actually taking place is required, taking into account both the everyday *and* more formal elements of peacebuilding like peace negotiations. The negotiations of peace agreements generally and power-sharing specifically are discussed in the next two sections.

1.1.2 Negotiations and Peace Agreements

The tensions of inclusivity and exclusivity in negotiation practice as well as different tracks of negotiations are shortly discussed in order to further outline the context of the research in question.

Increasingly, since the end of the Cold War a negotiated end to civil wars has become a norm (Call 2012, 184). Yet, mediation research and negotiations - though it has evident importance for peacebuilding - has largely been the subject of a whole separate scholarship. Studies have focused on behavioural elements of negotiations, namely the skills of mediators and reactions of conflict parties and more generally the policy implications of negotiations and mediations (e.g. Bercovitch 1997; Bercovitch and Jackson 2001; Cunningham 2011; Sisk 2010). In addition, the conditions for negotiations have been analysed, most notably by I. William Zartman who developed the ripeness theory for negotiations, whereby the best time to conduct them is when there is 'mutually hurting stalemate' (e.g. 2000).

A major point of discussion has been the balance been inclusive and exclusive negotiations in multi-party mediation (e.g. Wanis-St John 2008). The idea behind inclusive negotiations in a narrow sense is to avoid later 'spoilers' to a peace process, actors that are essentially bought off via their inclusion in a peace agreement (e.g. Stedman 1997). In a wider sense, this also means the inclusion of people beyond the conflict (and potential conflict) parties, relating also to the broader population in line with communitarian peacebuilding. Instead of the three-tiered peace architecture (Lederach 1997), the negotiation literatures speaks of different tracks of negotiations. A model for 'multi-track diplomacy' was developed to understand conflict resolution, wherein Track II specifies nongovernmental activities including the work of civil society. These Track II practitioners supplement formal negotiators (Track I) in a variety of ways, such as offering advice and possible solutions, engaging in public advocacy and mobilisation, or acting as temporary intermediaries by keeping the lines of communications open when Track I negotiations are failing (e.g. Fisher 1997, 261; Wanis-St. John and Kew 2008, 19). All tracks of diplomacy are treated as equally important (see Hemmer et al. 2006, 136). The benefit of Track II involvement is to provide a representation of the broader interests of citizens which is discussed in more detail in the next section (e.g. Barnes 2002; Pouligny 2009; Ron 2010). Whilst much academic research has therefore favoured the inclusion of Track II actors or civil society (even as Track I actors), practitioners have still tended towards exclusion (Paffenholz 2014a, 70). This is also because academic scholars tend to focus on sustainability of peace arguments and mediators on issues of effectiveness (Paffenholz 2014a, 73).

Reasons for the exclusion of civil society actors have to do with incentive structures, the practicalities of negotiation with too many actors (leading to a reduction in efficiency known as the vertical dilemma) and the tense nature of peace negotiations which often necessitates secrecy (e.g. Lanz 2011; Sisk 2010; Wanis-St John 2008). One of the major dilemmas for mediators involved in peace negotiations is

therefore who gets a seat at the table and when? There is without a doubt a deep-founded tensions between inclusivity and exclusivity in negotiations (Lanz 2011; McClintock and Nahimana 2008). Call argues that norms are changing in peacebuilding, which means that 'elites can no longer get away with cutting static deals amongst themselves without a recognition of the need to involve mass levels of constituents' (Call 2012, 227). The literature on negotiations gives a foundation to the inclusion of civil society actors in the first place, though the exact repercussions that result from this are still the subject of much debate. The more relevant research is the literature on civil society in negotiations in relation to sustainable peace, which goes some way to combining the two strands of research of negotiations and peacebuilding. Before the involvement of civil society is discussed in particular, delineating the research gap, one *type* of negotiations or rather agreement is considered: Power-sharing.

1.1.3   Power-Sharing Agreements

Power-sharing agreements are particularly interesting for the discussion of local ownership because of their inherently elitist nature. To date the power-sharing literature has not been combined with the findings on civil society involvement in peace processes, despite the potential relevance this has because of a likely democratic deficit. The characteristics and critique of power-sharing are spelled out in the following.

Power-sharing agreements have been increasingly used to end conflicts, especially in Africa, and examples include agreements in Burundi, Côte d'Ivoire, DRC, Nepal and Zimbabwe. A major reason for power-sharing agreements follows on the rationale of narrow inclusion, namely to avoid (violent) spoilers to the peace process emerging. In essence, conflict parties are given a reason to put down their guns. Walter proposes that parties are more likely to sign (a peace agreement) if they are guaranteed a position in the future, thus helping to overcome the commitment problem (2002, 80; see also Le Van 2011, 37). Caroline Hartzell and Matthew Hoddie additionally found that the more elements of power-sharing there are, the higher the likelihood of peace (2003, 319), though Anna Jarstad and Desiree Nilsson add that power-sharing pacts need to be implemented if they are to have a positive effect on durable peace (2008). Much research since then has focused on the different definitions of power-sharing and their proposed effects (e.g. Hartzell and Hoddie 2007; Norris 2008) as well as more recently the effect on the local level and the informal dimensions of power-sharing (e.g. Simons et al. 2013; Zanker, Simons, and Mehler 2015).

Nonetheless, power-sharing agreements have been criticised. Firstly, power-sharing can actually contribute to the reproduction of insurgent violence (Tull and Mehler 2005, 375; see also Spears 2013, 42). Furthermore, the top-down orientation and perceived inflexibility of power-sharing agreements can reinforce ethnic, national or extremist tendencies (Jarstad 2008b). Thirdly, agreements fail to consider civilians' grievances, which are side-lined in favour of attention given to rebels (Mehler 2009, 455). The implicit message becomes that violence pays (Barnes 2002). In addition, the long-term consequences on

democracy and peace are not always considered by advocates of power-sharing (Jarstad 2008b; Mehler 2009, 453). Quick power-sharing agreements negotiated by outsiders, sometimes referred to as *cheap diplomacy*, are simply not enough. If we follow Call, there is a changing norm in line with communitarian peacebuilding which advocates for broader inclusion or participation (see above; 2012, 227). Whilst there is already a number of researchers looking at power-sharing agreements in terms of peacebuilding (e.g. Jarstad and Sisk 2008; Roeder and Rothchild 2005), the power-sharing literature has not been combined with the findings on civil society involvement in peace processes. This is despite the fact that previous research shows that on the one hand a democratic deficit occurs as a result of power-sharing agreements (Jarstad 2008b), and on the other hand civil society involvement becomes more important the less democratic a country is at the time of negotiation (Nilsson 2012; Wanis-St. John and Kew 2008). In fact, a further shortcoming of power-sharing would therefore be the conflicting coupling of local ownership and participation with exclusive elitist peace negotiations.

In conclusion, a brief introduction into several facets of current peace research shows that there is a foundation to the very idea of involving civil society at peace negotiations, but little research has been done on this especially in line with power-sharing agreements despite the potential importance of this. The precise research question is discussed in the next section.

1.2   Presenting the Research Question: Legitimate Peace Negotiations

The scholarship that this dissertation speaks to most directly is the literature that considers the role of civil society representatives during peace negotiations. The focus of this literature is on the effects of civil society inclusion, ranging from a formal Track I to a 'classic' informal Track II role, on the sustainability of peace, which for this dissertation serves as a starting point for the question of the legitimisation of peace negotiations. After outlining the key arguments, the shortcomings and gaps to be addressed are detailed.

The major starting point for the discussion on civil society comes from Anthony Wanis St. John and Darren Kew, who show a correlation between high civil society involvement in negotiations and durable peace (2008), complemented by a statistical study from Desirée Nilsson (2012). She uses data from 83 peace agreements to show that the inclusion of civil society actors increases the durability of peace. Nilsson concludes that 'when wider spectra of civil society become involved in a peace process this can increase [the] legitimacy of the process, which in turn may contribute to durable peace' (2012, 263).

As a starting point, the literature is about broad participation. Because it is not possible to invite all members of the aggrieved population to participate in peace negotiations or peace processes more generally for that matter, civil society actors become the representatives of the population (Call 2012, 269; Wanis-St. John and Kew 2008). Therefore, participation is (often implicitly) assumed to be ensured by civil society representation. There are both normative and practical reasons for the argumentation

that civil society leads to more sustainable peace, see Table 1.1 below. Normatively, the inherent right for the aggrieved population to participate through civil society representation is proposed (Barnes 2002; McKeon 2004; Paffenholz 2014a; Wanis-St. John and Kew 2008). There is in fact also a legal foundation to this normative idea. The universal right to take part in governance either directly or through representation is codified under Article 21 (1) of the Universal Declaration of Human Rights. Since agreements often create new political structures and relationships, the right to participate can be argued as applicable in this instance (Barnes 2002; McKeon 2004). The participation of civil society actors is also argued to lead to a societal ownership of the peace agreements since people feel like they are included, which has a positive effect on sustainable peace (Barnes 2002, 11–12; Donais 2009; Edwards 2009, 70; Jarstad 2008b, 127; McKeon 2004, 6; Wanis-St. John and Kew 2008, 18; see also Prendergast and Plumb 2002, 328).

Table 1.1: Overview of Arguments Made in Current Literature on Civil Society Involvement in Peace Negotiations

	Reasons Why Civil Society Involvement in Peace Negotiations is Supposed to Have a Positive Effect on Sustainable Peace
Normative Reasons	- Right to participate - Create societal ownership of peace agreements
Practical Reasons	- Influence the conflict parties and holds them accountable - Avoid potential 'spoilers' to the talks - There is 'public agenda' included in the content of the agreement - Transforms relationships and re-orientates society - Public buy-in increases pressure for implementation

Several practical reasons are additionally proposed by the literature on the topic, including the influence on the conflict parties and content of the agreement, the effect there is on the transformation of social relationships and the pressure for implementation which results because of civil society participation. In more detail, firstly, it is argued that civil society has a particular capacity to influence conflict actors so that they sign an agreement in the first place and holds them accountable (Belloni 2008; McKeon 2004, 571; Nilsson 2012, 250; Paffenholz 2014a, 74; Wanis-St. John and Kew 2008, 24). Related to this, the inclusion of civil society will avoid leaving out any potential 'spoilers' in the future (Nilsson 2012, 250; Nilsson and Kovacs 2005; Paffenholz 2014a, 73; Sriram and Zahar 2009, 23). Secondly, because of civil society participation a 'public agenda' is included in the agreement, improving the content of the agreement (Barnes 2002, 12; Odendaal 2010, 20; Wanis-St. John and Kew 2008, 23). This also relates to the expertise and knowledge assigned to civil society (Paffenholz 2014a, 74). Thirdly, in the long-term societal relationships are transformed, which leads to a reorientation of society (away from violent conflict divisions) and as a result further improves the chances of sustainable peace (Barnes 2002, 12; Hemmer et al. 2006, 133; Jessop, Aljets, and Chacko 2008). Lastly, because of the participation of civil society actors there are greater chances for implementation (Bell and O'Rourke 2007, 301; Jarstad 2008b, 127; McClintock and Nahimana 2008, 90; McKeon 2004, 5; Nilsson 2012, 247; Wanis-St. John and Kew 2008, 23).

The likelihood of implementation, aside from the greater accountability to conflict actors, is primarily linked to the idea of 'public buy-in,' which is a side effect of greater participation and the inclusion of a 'public agenda.' The idea of 'public buy-in' is interlinked to legitimacy whereby 'engaging civil society… can promote … a sense that the negotiations have greater legitimacy, which can lead, in turn, to a shift in public opinion about the process' (Paffenholz 2014a, 74; see also Belloni 2008, 199; Nilsson 2012, 247). This makes it a circular argument: Public buy-in results in legitimacy, and because of legitimacy there is public buy-in. In fact, links are made to legitimacy by several authors, yet the exact mechanisms of how legitimisation works in practice has been left unaddressed by this research. Instead, vague statements are made like 'broader participations means more legitimacy' (McKeon 2004), there is 'increased legitimacy … through inclusion of civil society' (Belloni 2008, 199) or 'effective participation … made a difference in the legitimacy' (Barnes 2002, 12). This dyad of participation (through representation) and legitimacy has become a common presumption not only amongst scholars looking specifically at the role of civil society in peace negotiations, but beyond. Most of the literature which has followed has concentrated on the degree and timing of involvement for civil society actors.

This direction of research relates back to a second major finding in the civil society-participation research, which as previously mentioned argues that the less democratic the country where the peace negotiations take place is, the more important the role of civil society actors (Nilsson 2012; Wanis-St. John and Kew 2008, 12). Two research interests have followed as a result: On the vertical dilemma of inclusion (as a problem) and different ways of inclusion (as a solution). The vertical dilemma relates to the fact that inclusion enhances legitimacy (though how is unclear) but reduces efficacy (Jarstad 2008a, 23; see also Belloni 2008, 183). At worst, including too many extra actors at negotiations can lead to a 'cognitive overload' as effective communication deteriorates (Wanis-St. John and Kew 2008, 21). In addition, it could result in a reduction in the number of concessions offered to conflict parties, giving them altogether fewer incentives to stop fighting (Cunningham 2011, 215–218). Accordingly,, the question of who gets a seat at the table and when has become a crucial one (McClintock and Nahimana 2008, 75). Because of the vertical dilemma of inclusion and the democracy argument it has been argued that civil society does not necessarily need to be formally included in the peace negotiations, but can have multiple and alternative (types) roles, even after the peace agreement has been signed (e.g. Jarstad 2008a). This research on the different types of roles has since been the focus of most of the recent work and has been repeatedly argued as an area for future research (Barnes 2002; Hemmer et al. 2006; Nilsson 2012, 263; Paffenholz 2014a).[5] The inherent contradiction is of course that the less democratic a country

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[5] The different ways and time periods of participation are also discussed in the peacebuilding process more broadly (Paffenholz et al. 2010; see also Kanyinga 2011, 88). A variety of different participation models have been proposed including: Consultations, representation /representative decision-making at the talks and direct participation (Nilsson 2012, 248) which is quite similar to representative participation (through political parties), consultative mechanisms (civil society has an opportunity to voice views and formulate recommendations) and direct participation (interested individuals involved) (Barnes 2002, 8) or monitoring, advocacy, socialization, social

is, the more difficult it becomes for a vibrant and strong civil society sector to develop and grow (Belloni 2008, 208; see also Chabal 1994, 86). The practicalities of civil society activism in a war or post-war context further accentuate this problem (Christie 2012, 194; Donais 2012, 10; Spurk 2010, 18). In effect it becomes a chicken or egg situation - is civil society a source or a product of a well-functioning state (Donais 2012, 67)?

There are several shortcomings in the previous literature that equally merit attention, related to theoretical and conceptual assumptions as well as methodological limitations. Firstly, there are serious theoretical assumptions being made between 'public buy-in' and legitimacy and sustainable peace as result of this. Secondly, and related to this, the current understanding of legitimacy and the legitimisation of peace negotiations is superficial. Amit Ron also problematizes that the public sphere in peace processes is under-theorized (2007, 3). There are further conceptual assumptions being made about the kind of civil society and levels of influence they potentially have, safe for some exceptions like a discussion on the different types of civil society in Burundi (e.g. McClintock and Nahimana 2008) or more broadly speaking the paradox of civil society in peacebuilding (Christie 2012, 194). Lastly, the literature to date has been methodologically limited to one basic correlation and statistical analysis (Nilsson 2012 respectively; Wanis-St. John and Kew 2008), individual case studies and for the large part - grey literature and policy documents on the matter (e.g. Ramsbotham and Wennmann 2014). Little attention has been paid to analysing empirical sources beyond the elite actors that are involved. As Andreas Mehler surmises 'an effort to ask communities about their sense of the problems and the legitimacy of those sitting at the table … cannot be detected' (2009, 472). Whilst he is speaking of the legitimacy of the conflict parties at the table, the same can be said about the question concerning the role of civil society actors and the effect this has on the legitimisation of the talks.

In summary, whilst the research on the type of role for civil society and the link to sustainable peace is no doubt of great significance, without an understanding of peace negotiations become more legitimate, theoretical and conceptual assumptions are being made. This dissertation seeks to specifically address these.[6] The focus of this dissertation is not on the link between civil society involvement and peace sustainability but rather on how peace negotiations become more legitimate in the first place.

Before the layout of the rest of the dissertation and some definitions are detailed, the meaning and challenges of civil society research are outlined in the next section.

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cohesion, facilitation, and service delivery (Paffenholz et al. 2010; Pearce 2011, 412). Most recently, Thania Paffenholz proposes nine models of participation: Direct representation of civil society groups at the negotiation table, observer status, official consultative forums that run parallel to official negotiations, less formal consultations, inclusive post-agreement mechanisms high-level civil society initiatives, public participation, public decision making and mass action (2014a; see also Spurk 2010, 24).

[6] The shortcomings in relation to current theoretical understandings of legitimacy are discussed in detail in the next chapter.

1.3   The Challenges of Civil Society Research: A Critique

As argued above, the way that civil society is often used in this literature makes conceptual assumptions that do not always portray an accurate empirical picture. In order to avoid such assumptions, the major conceptual shortcomings of civil society as an idea are reviewed in the following. Civil society is not only badly defined more generally, but in the post-conflict context also frequently viewed from a western, 'civil' and 'representative' perspective, which makes certain normative assumptions. Having a clear understanding of what civil society as a concept and phenomena to be studied entails, helps to use the idea in an appropriate manner.

Mostly, civil society tends to be vaguely defined as the middle sphere (of ideas, values, institutions, organisations, networks) between the (free) market and the nation state (Anheier, Glasius, and Kaldor 2001; Kopecký and Mudde 2003, 5; Lewis 2002, 570; Wanis-St. John and Kew 2008, 15). Michael Edwards, who has done extensive research on civil society, speaks of 'un-coerced human association … in which people undertake collective action for normative and substantive purposes, relatively independent of government and market' (2011, 4). This is not the sole definition of civil society. Edwards differentiates between three types of definitions: Civil society as a part of society (the associational life model already described), civil society as a kind of society (namely characterised by normative norms and values in order to meet certain social goals) and civil society as the public sphere (2009, 10). The contested nature of the term, the 'chameleon like qualities' and difficulties in using it as a unit of analysis have been widely noted (e.g. Brühl 2010; Chabal 1994, 84; Christie 2012, 38; Edwards 2009, 3; Lund 2006, 686–687; Spurk 2010, 20–21).

A major difficulty that results from the associational life definition is the fact that three spheres are unlikely to be completely autonomous to each other and in fact overlap in different ways and are mutually constitutive of each other (Chandhoke 2001, 22; Christie 2012, 199; see also Utas 2012, 3). More often than not civil society organisations are dependent on state structures, and in a global context this includes funding from external states and state-related donors (Kopecký and Mudde 2003, 7). Because of the interdependence of these spheres, civil society is interpreted to be both reducing conflict with the state as local communities are empowered (especially in peacebuilding), as well as a check and balance on the state, hence being in tension with it (Christie 2012, 10). These overlaps and tension also makes intermediaries between the spheres difficult to classify, especially the media and political parties (Spurk 2010, 8). Does the media need to be independent from the state (and the market for that matter) in order to count as civil society? Are political parties always part of the state even when they are not part of any formal state institutions through elections or otherwise? In addition, the heterogeneous nature and organic nature of civil society actors and organisations, means they are likely to constantly evolve and change (Edwards 2011, 8; Kopecký and Mudde 2003, 9; Ron 2007, 5).

Related to the discussion of emancipatory or communitarian peacebuilding outlined previously, the type of civil society has also been a major point of discussion. Much of the discussion on civil society actors stems from a western notion of associational life inspired by the project of Enlightenment (Pearce 2011, 407). Empirically, a lot of work has focused on anti-authoritarian activists civil society in Eastern Europe throughout and after the Cold War and the fight against military dictatorships in Latin American at the end of the 1960s (Kopecký and Mudde 2003; Spurk 2010). In the Middle East, civil society groups have been dependent on state patronage and in Asia such groups only became noticeable in the 1980s did such (Spurk 2010, 13–14). Both in Asia and in Africa, civil society has been linked to waves of democratisation and more generally is tightly linked to the concept of democracy (Ndegwa 1996). Nonetheless, in both Asian and African countries, associational life through communal networks has existed since before colonial times. As Mahmood Mamdani shows at length in his book, a small urban class of civil society developed in the colonial settings. However, even the rural population or 'subjects' can be seen as participants in civil society if we accept a broad understanding of the idea (1996).

Such different understandings of civil society show for example, that these groups are not necessarily characterised by voluntary association, but rather are dominated by ascriptive groups controlled by a strong charismatic leaders (Lewis 2002; Obadare 2011, 185; Spurk 2010, 10–13). In conflict and post-conflict settings, a mushrooming of non-governmental organisations offering basic public services is also documented (Donais 2012, 11; Pouligny 2009, 184). In addition, in these settings civil society is likely to be weak, divided and diffuse - just as much a casualty of the preceding violence as other agents, infrastructures or institutions (Donais 2012, 60–66; Orjuela 2003; Prendergast and Plumb 2002; Spurk 2010, 19). Non-western types of civil society are likely to exist, even if weakened over time and by conflict, yet the question is whether these are the types of organisations that mediators actively engage with (Christie 2012, 193; Donais 2012, 69; Pouligny 2005; Watson 2012, 40).

As Thania Paffenholz points out, civil society reflects characteristics present in society and as such it can be divided along lines of power, hierarchy, ethnicity and gender. In addition, civil society actors display moderate as well as radical images and behaviours (2010, 414; see also Donais 2012, 37 on the diversity of local actors; as well as Atuobi 2010; Hultin 2014; Schaefer 2010). In Burundi it has even been suggested that the inclusion of civil society would have made the peace process even more polarized (McClintock and Nahimana 2008; see also Odendaal 2010, 20). Civil society can in fact be partisan, non-neutral and 'uncivil', and even use violent means to achieve their goals (Kopecký and Mudde 2003, 3; Wanis-St. John and Kew 2008, 32). Moreover, it has been suggested that uncivil society will tend to have more grassroots influence rather than larger international civil society organisations, which will have much less of an idea of what exactly the issues at stake are (Kopecký and Mudde 2003:4-5). Mary Moran and Anne Pitcher recognise that the role of civil society in a peace process is not only complex, but often contradictory (2004, 516; see also Hasenclever and De Juan 2009). What it comes down to, is that there is normative circumscription to the type of civil society which is discussed and in fact norms like

trust and cooperation will have different values for people in different circumstances (Bob 2011; see also Bolzendahl and Coffé 2011; Edwards 2009, 52). As a result, what counts as uncivil for one will not necessarily be so for others.

The reality is that most of the civil society actors likely to be involved as Track II or Track I actors are urban elites who receive external donor funding (Paffenholz 2014b, 20–21). In this line of argumentation, civil society are part of and help to implement neoliberal peacebuilding (Christie 2012, 195; Taylor 2010; Richmond and Mitchell 2011, 13; see also Schrader and Denskus 2010, 46). Regarding civil society involved in the peace process, normative expectations are frequently posited whereby civil society should be *peace-oriented* or *civil* as opposed to 'uncivil' (McClintock and Nahimana 2008; Orjuela 2003). As a result, civil society actors are often criticised as elites who are more accountable do international donors than the grassroots they may or may not claim represent (Belloni 2008, 209; Brühl 2010, 187; Calhoun 2011, 318; Daley 2006, 317; Edwards 2009, 99; Pouligny 2005; Spurk 2010, 15; Steffek and Hahn 2010, 11). Civil society is both civil and uncivil, in opposition to the state and helping the state, so broad that debates on what counts as civil society and what does not continue to be discussed, ranging from their emancipatory potential to being a further straightjacket tool of liberal peacebuilding. One thing is sure: Civil society is both a normative and an empirical concept (Pearce 2011, 404).

Despite all these problems of conceptualisation, voluntary associations have been shown to curb power of central institutions, and to nurture social norms like trust and cooperation (Edwards 2009, 7; see also Donais 2012, 77). For the purposes of this dissertation, the definition of civil society is seen as associational voluntary organisations as well individuals involved in them, which are broadly speaking not part of the state or the free market, and act in a public sphere. The civil society actors are assumed to contribute to the legitimacy of the talks because of their actions. In order to avoid any normative connotations, both the understanding of legitimacy and civil society is primarily an empirical one: Which organisations or actors were present, what did they do and what does this means regarding legitimacy? This empirical understanding of civil society is similar to Christoph Spurk who proposes using civil society as a descriptive rather than an analytical tool (2010, 23). This is based on the argument that, 'normative expectations about ... civil society should not derange our analysis of actually existing civil society' (Chandhoke 2001, 5) nor should civil society be romanticised (Donais 2009, 14; Pouligny 2005).

Some further definitions of concepts that are used throughout this dissertation are defined in the next section, as well as outlining the focus of the research question.

1.4   Key Concepts and Research Focus

The aim of the research questions is to consider how peace negotiations become more legitimate, through (if at all) the participation of civil society actors. The two major areas of interest concern negotiations on the one hand and legitimacy on the other.

Regarding negotiations, the focus is on power-sharing negotiations specifically, a sub-type of peace negotiations. Therefore, when the term 'peace negotiations' is used throughout the text it in facts refers to the specific type of power-sharing agreements that seek to end violence. This definition also includes agreements made to end post-election violence in Kenya, which I will include on the basis of a broad understanding of *peace* negotiations because the end result or aim is still to end violence through a power-sharing agreement. This definition allows a coupling of legitimacy to (sustainable) peace, which is the starting point for this research question, albeit not the focus of this research. In other words, the legitimacy of peace negotiations is reviewed as part of a question of peacebuilding and sustainable peace, but the focus of the research at hand is only on the negotiation process itself and how this is made more legitimate, not on the link to more sustainable peace.

Two further points are relevant for the concept of peace negotiations. Such talks are usually facilitated by mediators and may include negotiators who either are the conflict parties themselves or act on behalf of the conflict actors. This distinguishes two types of actors involved in peace negotiations that are not civil society actors: Those who are trying to make gains by participating favouring their own group (negotiators) and those who are ensuring the smooth running of the talks (mediators). This does not mean however, that mediators do not have their own interests (e.g. Bercovitch 1996, 9).

In addition, the negotiations refer to the actual talks themselves *and* the agreement that is signed at the end of the negotiations. This research focuses exclusively on negotiations with final signed agreements. More generally, peace processes involve several stages. This includes the pre-negotiations phase, hugely important in getting conflict parties to the table. The actual negotiations are followed - in the best-case scenario - by an agreement. After this, the open-ended process of implementation starts. All these stages have formal and informal dimensions. The focus of this dissertation is the actual negotiation stage coupled with the final agreement. Yet the other stages are reflected in the analysis whenever necessary. Thus, the terms peace negotiations or peace talks are used interchangeably throughout but refer to the negotiation period including a final agreement, unless stated otherwise.

With regards to legitimacy, the concept is discussed at length in the next chapter but a few definitions are outlined here. The research questions looks at how peace negotiations become (more) legitimate. Legitimate peace negotiations are equated to a process of legitimisation. This is because peace negotiations are conceptualised as an ad-hoc, dynamic and non-institutionalised process. Peace negotiations do not simply become legitimate or not one day, when the peace agreement is signed, but

more or less legitimacy is achieved in a *process of legitimisation*. The legitimisation process considers all the different factors or components that together make this ad-hoc, dynamic and non-institutionalised process of peace negotiations more legitimate. Scholars working on procedures as advancing legitimacy, speak of the legitimation of procedures (e.g. Luhmann 1983). I differentiate between legitimisation and legitimation however, in order to contrast the *legitimisation* of a process with the *legitimation of individual actors* (such as civil society representatives). Individual actors will legitimate themselves, i.e. show or argue for their own legitimacy, but this does not on its own translate into the entire process of legitimisation. In other words, one part of the legitimisation process may be individual actors that are legitimate or can legitimate themselves, but this is not the whole process. Calling it a process of legitimation like other scholars do, would risk conflating a partial component with the overall process.

The legitimation of the individual civil society actors gives way to two further accentuations - the beneficiaries and the guarantors of legitimacy. That is, the legitimisation process is not only in part made up of the legitimation of individual actors, or individually legitimate actors, but also the whole idea of considering how peace negotiations are made more legitimate is to consider the interaction with the general population. Accordingly, firstly, there are people who gains or benefit from the legitimate actors and the legitimisation process itself (*the beneficiaries of legitimacy*), mainly relating back to the general population, who as is shown throughout the research are both passive and more active in this role. This is a rather abstract definition, which is discussed in more detail in the next chapter. Secondly, there are those that act on behalf of the beneficiaries of legitimacy or the general population: *The guarantors of legitimacy*. This relates mainly to the civil society actors involved in the peace negotiations. These definitions are also summarised in the glossary of key concepts at the beginning of this dissertation. The structure and layout of the rest of the dissertation is outlined below.

1.5 Overview of the Dissertation

The aim of this dissertation is to address the theoretical and conceptual assumptions, presumed by the current research on civil society involvement in peace negotiations regarding legitimacy, and is as such a theory-building exercise. The dissertation will in a final part describe a theory of legitimate peace negotiations, giving a theoretical foundation to the legitimisation of processes more generally. Seeking to answer the question of how peace negotiations are made more legitimate through the inclusion of civil society in an empirically and methodologically abductive manner, the research looks at both constitutive components of a legitimisation process are and why they may occur in two case studies, before deducing the theory from these cases. The layout is as follows:

In the next chapter (Chapter 2), the current theoretical approaches on the topic of legitimacy are reviewed. This includes literature on the sources of legitimacy, a system analytic approach to legitimacy and normative and contextual notions of legitimacy. In addition, the ideas on deliberative democracy and

public sphere research are outlined. Drawing on this, a heuristic model for legitimate peace negotiations is proposed on the basis of two features, collective concerns and subjective representation.

Following on from the heuristic model, the methodology and research design of the dissertation is addressed in the next chapter (Chapter 3). Discussing the constructivist ontology and mixed epistemology as a foundation, the method of 'comprehensive process-tracing' is adapted from other forms of process-tracing. The way this is applied using the heuristic model in an abductive research process is presented. In addition, the two case studies are introduced as well as reviewing the empirical fieldwork.

The next section of the dissertation contains the two empirical case studies, which makes up the main part of the research. The chapter on Liberia (Chapter 4) covers the third and fourth step in the abductive process by applying and amending the heuristic model on the basis of one empirical account. A third feature of the heuristic model is shown as relevant – transparent communication. After outlining the details of the civil wars, the peace negotiations and the actors involved, the comprehensive process-tracing is carried out for each of the features of the heuristic model. This analysis shows the constitutive components that make up the legitimisation of the process and explains the reasons why some of these components were possible through a causal analysis, before discussing the context factors that may affect and further explain the comprehensive process-tracing. The same is then applied in the chapter on Kenya (Chapter 5), except with regards to the three features of the revised heuristic model. After reviewing the post-election violence in Kenya, the negotiations process that was carried out to come to a political solution and the actors involved, the comprehensive process-tracing method is applied to the extended heuristic model.

The final section of the dissertation concludes with a theory of legitimate peace negotiations following on from the case studies (Chapter 6) and makes final conclusions (Chapter 7). The theory of legitimate peace negotiations is based on three assumptions: The process is legitimised when outcome and participation based-characteristics are fulfilled; civil society actors are not ubiquitous in the legitimisation process and the legitimisation occurs both at the negotiations and in the public arena. In the conclusion chapter, the major findings of the dissertation are summarised, the contributions to literature is discussed along with practical implications and avenues for future research.

Chapter 2

A Heuristic Model for Legitimate Peace Negotiations

2   A Heuristic Model for Legitimate Peace Negotiations

Before presenting the research design of this dissertation in the next chapter, a heuristic model of legitimate peace negotiations is proposed in the following. In order to answer the question of how peace negotiations are made more legitimate, the current theoretical approaches on the topic of legitimacy are reviewed. This chapter is divided into three parts, two outlining the theoretical debates on the topic of legitimacy and one that lays out the heuristic model. The first section on theoretical debates considers the meaning of legitimacy by looking at the way it has been discussed in the literature on civil society participation in peace negotiations on top of outlining major theories of legitimacy, as well as the normative and contextual nature of legitimacy. The second section on theoretical debates looks more concretely at what makes a process considered as legitimate, focusing on the Habermasian public sphere. Using a broadly empirical understanding of legitimacy, the heuristic model conceptualises two features of legitimacy: Collective concerns and subjective representation. These features are introduced in the last part of this chapter.

2.1   What is Legitimacy?

This section considers the meaning of legitimacy more generally, as well the difficulty of the concept in social science research. The way it has been used (and under-conceptualised as argued in the introduction) in the literature on civil society participation in peace negotiations will then be considered, before spelling out the most prominent theories of legitimacy. In a final section, the contextual nature and normativity of legitimacy are discussed.

What do we know about legitimacy? Critics have noted that little empirical examination of legitimacy tends to leave it as a concept which is 'a magical one to be invoked when our power of explanation otherwise fails us' (McEwen and Maiman 1986, 258). Theories of legitimacy - going back over centuries - are for the large part based in Western traditions, both political philosophy (Thomas Hobbes, John Locke, Edmund Rousseau) and political science or sociology (most notably from Max Weber and David Easton). Furthermore, ideas on legitimacy are mostly linked back to the authority of the state (or state leaders) as a unit of analysis, as well as the more recent focus on the legitimacy of international, transnational organisations or social movements (e.g. Brühl 2010; Lakitsch 2014). Further work on legitimacy based on system analysis considers how the idea functions for a complex system like the political integration of the European Union (e.g. Scharpf 1997, 2009).

Despite becoming the 'master question of political research' or 'the key to politics' (Jost and Major 2001, 4; see also Beetham 1991, 41), legitimacy remains ambiguous and ill-defined (e.g. Easton 1965, 279; Steffek and Hahn 2010, 3–7). The often cursory approach to legitimacy in social science research (despite its importance) is related to its controversial and complex nature (Cook 2003, 124). Legitimacy is inherently difficult to measure (Levi 2006, 13) and as the sociologist Morris Zelditch notes, it is one of the oldest problems in the intellectual history of western civilisations, spanning twenty-four centuries of ideas (2001, 33). What is considered to be legitimate, will always vary between and within cultures, over time, and be continuously renegotiated. Nevertheless, a few major definitions and ideas have been proposed.

According to the Oxford dictionary, 'legitimate' means to conform to the law or rules, or as a verb to make lawful or justify. This legalistic definition derives from the original Latin word *legitimatus*, 'made legal'. David Beetham, in his work on the legitimation of political power, argues that legitimacy not only includes a consideration of the legal validity of the acquisition of power, but rather is a multidimensional concept which also includes the study of the moral justifiability of power relations (the favoured discussion of political philosophers) and consent derived from actions expressive of legitimacy (1991, 12–13). Political legitimacy is thus tightly linked to ideas on authority and power or 'the popular acceptance of political authority' (Ramsbotham and Wennmann 2014, 6; see also Beetham 1991, 3; Easton 1965, 278; Tyler 2006; Zelditch 2001, 38). Whilst it may be possible to exercise power without authority, it is much harder to do so. Authority itself is only possible with the acquiescence of those subject to it (see e.g. Chabal 2009; Gilley 2009). As Easton proposes, 'if there is a strong inner conviction of the moral validity of the authorities or regime, support may persist even in the face of repeated deprivations attributed to the outputs of the authorities' (Easton 1965, 278). More broadly speaking then, political legitimacy is thought to explain social order or citizen's support for a policy, orders and regimes (Hanberger 2003, 274; Hechter 2009, 280). Before discussing the major theories of legitimacy in more detail, the literature on civil society actors in peace negotiations is briefly revisited in order to verify what has been said on the topic of legitimacy.

2.1.1 Legitimacy and Civil Society Actors in Peace Negotiations

As discussed in the introduction, since not all members of the public can be present at the negotiation table 'civil society can offer … voices of the public interest that may prompt greater societal stakes in the deal that is reached' (Wanis-St. John and Kew 2008, 33; see also Nilsson 2012). Scholars argue that sustainability or durable peace is achieved by the involvement of civil society actors (CSAs[7]) for several practical reasons, which have been previously outlined, including that the content of the peace agreement is improved, that conflict parties are held accountable and that spoilers to the peace process

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[7] The usual abbreviation is civil society organisations or CSOs but the focus in this dissertation is mostly on individual (or groups) of actors so the abbreviation used throughout the text is CSA.

can be avoided. In addition, there are normative reasons for arguing for participation, mainly related to the right of participation.

One major ingredient frequently mentioned is legitimacy. Legitimacy it is argued is a result of more participation or public buy-in. The more public buy-in and legitimacy there is, the stronger the pressure for implementation. As a result, more legitimate agreements can be linked to more durable peace: 'engaging civil society … can promote … a sense that the negotiations have greater legitimacy, which can lead, in turn, to a shift in public opinion about the process' (Paffenholz 2014a, 74; see also Barnes 2002; McKeon 2004; Nilsson 2012; Wanis-St. John and Kew 2008). In other words, 'all parties need to have trust and confidence in the legitimacy of a peace process. The slightest sense that the peace process is illegitimate, imposed or going against the grain of locality will mean it is unlikely to have a positive impact' (Clements 2014, 15). Yet what legitimacy actually means, beyond the fact it results from participation and adds to more sustainable peace is not clear. As previously mentioned, the current explanations of the idea of legitimacy rest on vague statements including 'effective participation … made a difference in the legitimacy' (Barnes 2002, 12), 'broader participations means more legitimacy' (McKeon 2004), or there is 'increased legitimacy … through inclusion of civil society' (Belloni 2008, 199). One of the only concrete definitions of legitimate peace processes - which comes from a policy-orientated study of the peacebuilding organisation Conciliation Resources - considers the extent of popular support for both the process itself and the outcome, arguing for participation, inclusion and representation (Ramsbotham and Wennmann 2014, 6–7).

The theoretical understanding of the legitimacy of peace negotiations is still in its infancy. Even from the cursory overview of the meaning of legitimacy above, there is a disconnect to the presentation of legitimacy in this scholarship, which on the whole simply merges legitimacy with participation, and participation largely with representation. Rather than taking the idea of inclusionary measures as a direct translation of legitimacy at face value, the way (or how) this process actually works is questioned. This conceptualisation problem of legitimacy is also confirmed by Call, who argues for 'legitimate peacebuilding', noting however that 'sustained peace requires more than legitimacy via either well-articulated long-term state-society relations or broad calls for popular participation or simplistic prescriptions of democracy or elections' (2012, 233). A theoretical understanding of legitimate peace negotiations is developed by proposing features as part of a heuristic model, based on the theories of legitimacy, which are in fact wide-ranging as they are extensive.

2.1.2   Theories of Legitimacy

As outlined above, the most frequent definition of political legitimacy concerns the validity of rule or authority. Muthiah Alagappa, writing on legitimacy in South-East Asia for example, speaks of the 'right to rule, the belief in the rightfulness of the state' (1995, 2; see also Jachtenfuchs, Diez, and Jung 1998,

413). Bruce Gilley, in his book 'The Right to Rule' defines rightfulness along three subtypes: Legality, justification within shared norms of conduct and consent (2009, 5). But where do these definitions come from? What do the theories of legitimacy that already exist help us to understand about the process of legitimisation with regards to peace negotiations? In the following, theories on legitimacy are discussed in terms of the foundation of the idea, sources of political legitimacy and the understanding of legitimacy in the study of system analysis.

The consensus theory, one of the oldest theories explaining legitimacy, argues that legitimacy is ensured by consent. In other words, anything is legitimate if it is in accord with the norms, values, beliefs, practices and procedures accepted by a group (Kelman 2001, 55; Zelditch 2001, 33). Where consent for norms or values comes from continues to be a subject for debate both regarding its normative nature (more on this below) and the measurement of consent. Early theories on consenting to authority related back to divine authority and natural law. Later, rationalities for consenting changed to ones of public reason, as proposed by Immanuel Kant, or the theory of democratic approval initially put forward by Rousseau. The nature of consent continues to be under discussion though often the focus is on measurement. For example do elections count as consent and thereby as a legitimising tool? Some argue elections do not constitute consent (Alagappa 1995, 23), whilst for others voting displays the acceptance of the states right to rule (Gilley 2009, 7). Obedience or compliance is often used as a sign for consent, but this too has been criticised. It is a circular argument the critics claim, obedience is supposed to be a translation of consent, but consent is also used to explain obedience (Barker 2001, 10). Likewise, even if people do not comply or are not obedient (and by inference not consent), this does not necessarily mean they believe something to be illegitimate (Hechter 2009, 280; Zelditch 2001, 40, 48; see also Call 2012, 42; Patberg 2013, 167).[8]

Regarding the sources of legitimacy, one of the most prominent discussions comes from the sociologist Weber, who proposes that legitimacy can be derived from people's (subjective) belief in it. He suggests that there are three ideal-types of legitimate rule; based either on rational norms (legal authority), or on personal authority, which includes both traditional and charismatic grounds (Weber 1978a, 215; 954). These three ideal-types are not to be seen as separate types of legitimacy, but simply elements that contribute to the overall belief in legitimate rule. As a result, legal authority derives from the rational belief in the 'legality' of patterns of normative rules and the right of authorities to issue commands, as the dictionary definition of legitimacy outlined above. Traditional authority is rooted in the sanctity of immemorial traditions and the legitimacy of those exercising authority under these traditional rules.

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[8] An alternative foundational theory on legitimacy is the conflict theory, focusing on the economy of legitimacy. Since pure power is unstable unless legitimated, legitimacy is a prerequisite of any social order (Zelditch 2001, 41–42). Most scholars use a combination of these two foundational theories, speaking for example of consent based legitimacy alongside performance and procedural elements of legitimacy – i.e. the conformity to established rules and effective use of state power (Alagappa 1995, 24).

Lastly, charismatic authority, the antithesis of the other two, considers the 'irrational' exceptionalism of an individual, who is obeyed by the virtue of personal trust (Weber 1978a, 215–245).

Since the work of Weber, scholars writing on legitimacy for the large part position themselves on these very influential sources. Both critique and defence of Weber's ideas on legitimacy have been abundant. One typical critique has been that the threefold typology is 'a straightjacket into which every definition needs to be forced into' (Beetham 1991, 24). Weber however emphasised that his dimensions of legitimate authorities as *ideal* types (e.g. 1978a, 216). The reality is likely to be a mixture of these different sources, as for example Gero Erdmann and Ulf Engel argue for their definition of neopatrimonialism, based on a mixture of the Weberian legal-traditional and patrimonial types of rule (2007, 104). Following Weber therefore, several conceptions of order and legitimacy will always overlap coexist and complement each other, whilst also competing for validity.

Expanding the work of Weber, David Easton divides sources of legitimacy (for either regimes or authorities) into the ideological, structural or personal. Referring to the latter source, his definition of personal legitimacy is the extent to which members see the occupants of authority roles as personally worthy of moral approval, either through their behaviour and/or symbolism (Easton 1965, 302–303). This, he argues, is one of the basic grounds on which a belief in legitimacy is established or reinforced. He adds, it refers to more than what Weber includes in his conception of charisma (1965, 303).

Because of the nature of this research question, which focuses on a negotiation process and CSAs, the ideological-structural (Easton) or legal-rational (Weber) sources of legitimacy hold less relevance. This is not least because they work on the basis of a functioning system, which the dynamic, ad hoc and short-term peace negotiations simply cannot amount to. The sources of legitimacy based on personal authority are however more relevant, both based on tradition (more on this below) and charisma. Charismatic authority in Weber's opinion is not a natural gift, but the freely given recognition of 'followers' towards someone they believe is 'endowed with supernatural, superhuman, or at least specifically exceptional powers or qualities' (1978a, 241–242). One of the problems related to charismatic authority is that it is vulnerable to collapse because of everyday routines or problems: 'In its pure form charismatic authority may be said to exist only *in statu nascendi*. It cannot remain stable, but becomes either traditionalised or rationalised, or a combination of the both' (Weber 1978a, 246; see also Alagappa 1995, 46). This is however, unlikely to be a drawback in the fast-paced environment of peace negotiations where the charismatic source of authority only needs to last for a short time. Weber himself noted that charismatic leaders usually emerge in times of crisis and inspire people to action (1978a, 244–5; see also Steady 2011, 5). Related to this, a newer field of study has emerged that looks at the legitimation of authority as an observable activity - the study of the self-justifying characteristics of rulers (e.g. Barker 2001). This understands authority not to be in possession of legitimacy but rather engaged on the activity of

legitimation, and thus moves from describing the elements of legitimacy to analysing how it is constructed.

Easton considered the sources of legitimacy as part of his work on a system analysis of political life. This comes closer to describing a process of legitimisation by looking at why there would be a belief in the legitimacy of a political system. Easton argues that political life entails both inputs (demands and supports) and outputs (political strategies, actions, decisions etc.). Outputs will affect future inputs sequentially. Systematising Weber's ideas on legitimacy, Easton also differentiates between specific and diffuse support, the former relating to interests in a particular policy, the latter in the belief of the system itself (1965, 278–285). More recently, Fritz Scharpf takes this as a basis for the proposition that legitimate democratic self-determination is a two-dimensional concept, referring to the legitimacy of decision-making processes in the European Union. Legitimacy, Scharpf argues, comprises of both an input and an output element (1997, 2009).

The input side of legitimacy, 'presupposes that, in principle, every citizen should have the ability to participate in ... public discourses' (Scharpf 1997, 29). This notion of input-legitimacy is based on fairness, giving an equal opportunity for all relevant stakeholders to participate and influence the outcomes of policies (Boedeltje and Cornips 2004, 8; De Waal 2014, 20). Usually, input legitimacy is conceptualised as collective demands made by citizens or their representation via elections. In psychology this idea is also picked up and expanded upon, for example by the social psychologist Herbert Kelman who makes the case that the ultimate source of legitimacy is the extent to which a process reflects the identity, needs and interests of its members (2001, 55). Nonetheless, input legitimacy does not work on its own: 'If interactive processes completely live up to the ideal of fairness but are not capable of producing effective outcomes, citizens might be disappointed' (Boedeltje and Cornips 2004, 13).

As a result the other side, output legitimacy, is described by Scharpf as effective fate control, explaining that 'democracy would be an empty ritual if political choices were without a high degree of effectiveness in achieving the goals ... citizens collectively care about' (1997, 19). The broader idea here is that the results of processes rest on a common understanding of what is right, or the common welfare (Alagappa 1995, 31; Gilley 2009, 5; Zürn 2011, 71). It is argued that output legitimacy should be measured both objectively, namely that a policy effectively solves a social problem, as well as subjectively - that citizens are satisfied with the actual content of a policy (Boedeltje and Cornips 2004, 6; see also Patberg 2013; Zürn 2013). Political psychologists also support this and find that substantive determinants of legitimacy are indicated by the *effectiveness* of government's provisions of public goods, or government performance (Hechter 2009; see also Jost and Major 2001).

Other scholars working on the EU develop three principle dimensions of legitimacy that serve as a an analytical tool, namely participation, output and identity (Jachtenfuchs, Diez, and Jung 1998). The approach to legitimacy based on a system theory, and variations thereof, has not only been recognised by scholars of EU integration and psychologists, but also by development agencies and international organisations (e.g. Ingram 2010). In the recent policy brief on legitimacy in peace processes by Conciliation Resources, the editors also argue for a 'legitimacy lens', that considers both the process and its outcomes (Ramsbotham and Wennmann 2014, 6–7).

Whilst some of the sources of legitimacy may be appropriate for the analysis of the legitimation of civil society actors, current theories do not come close to enabling a detailed picture of how a process like peace negotiations may become legitimised. The two-sided notion of legitimacy gives some initial ideas as to what a process of legitimisation may entail. Nevertheless, for Easton the way that the inputs were transformed into outputs remains a black box, or the 'black box of governance' (Schmidt 2013, 5). Moreover, the way it has been used in the literature on the EU focuses on a system, which may be a complex one, but is nevertheless a larger long-term infrastructure, on a continuous trajectory of further establishment. The sociologist Niklas Luhmann, another system theorist, proposed a notable theory on legitimation by procedure. He makes the argument that procedures such as a court of law, elections or bureaucracies allow for many options to be narrowed down to one, where the legitimacy is established not by the content, nor the normative justifiability of the actors or decisions but a belief in the decision-making process or procedure itself (Luhmann 1983).[9] Similarly behavioural psychologists have written about procedural legitimacy, which consider why people belief in the legitimacy of not only government or leaders but also processes or procedures (e.g. Levi, Sacks, and Tyler 2009). The difficulty here again is the fact that the procedure or process of peace negotiations is so short-lived and dynamic that such a system theory is unfeasible to apply as a theoretical framework. In other words, it relates to a non-institutionalised setting. In addition, at the time of peace negotiations there will have been a rupture of long-term civil war or post-election violence beforehand, further moving away from the plausibility of studying the legitimisation in terms of a system. More useful as a result are theories on deliberative democracies, which are discussed in more detail below. Before this, the normative and contextual nature of legitimacy is presented.

One of the biggest divisions amongst legitimacy scholars has been in arguing whether legitimacy stems from *empirical* reasons for believing in the legitimacy of something or the *normative* justifiability or moral appropriateness of what is happened. Empirical (or descriptive) legitimacy on the one hand, refers to the beliefs people hold about political authority. From this, the study of popular attitudes towards and supports for rulers has evolved (Barker 2001, 8; Steffek and Hahn 2010, 7). Normative legitimacy on the other hand, refers to the reasons and justifications behind political authority. This has evolved into the

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[9] '*Man kann Legitimität auffassen als eine generalisierte Bereitschaft, inhaltlich noch unbestimmte Entscheidungen innerhalb gewisser Toleranzgrenzen hinzunehmen*' (Luhmann 1983, 28).

study of normative assessments of the legitimacy of governments (Barker 2001, 8; see also Cook 2003, 109–110).

Weber is generally seen to propose an empirical understanding of legitimacy, since the sources of legitimate domination he describes come from being there for a long time (tradition), because people trust and believe in the legality of something, or have faith in the leader (e.g. Schrader and Denskus 2010, 31). Beetham, who criticises Weber and his avoidance of normativity, offers a mid-way between the two, since for him power is deemed as legitimate when it conforms to established rules, that can be 'justified by reference to beliefs shared by both dominant and subordinate', along with evidence for consent (1991, 15–16; see also Alagappa 1995, 14).

On the normative spectrum, scholars like the philosopher Jürgen Habermas propose a cognitive position, whereby legitimacy of laws and states can be accepted or rejected on the basis of 'rational' grounds (Cook 2003, 122; see also Crowell 2012, 151). Nevertheless, such ideas have been criticised for being based on a very particular reading of 'rationality', rooted in linear thinking of the enlightenment period (Edwards 2009, 67). This is the problem of normativity or normative legitimacy and is discussed in more detail in the next section. An empirical understanding of legitimacy will guide this work, though the 'grounded' nature of legitimacy means that certain values and beliefs are likely to play a role. Indeed, whether legitimacy can be judged without normative theories and is ever exclusively empirical continues to be under discussion (e.g. Patberg 2013; Zürn 2011, 2013).

2.1.3 Normativity and the Contextual Nature of Legitimacy

One of the most critical points in the study on legitimacy has been a perceived western bias in its development and normative understanding. This is despite the fact that alternative notions of legitimacy have advanced, including those related to traditional sources of legitimacy or the language and imagery of parents to children. These are reviewed in the following, in order to highlight the contextual nature of legitimacy and argue for an empirical understanding of legitimacy, though the 'grounded' nature of legitimacy, related to particular values and beliefs, is a part of this.

In modern political discourse, (state) legitimacy is nearly always normatively linked - be it tacitly or not - to (western) political democracies.[10] Related to this, when legitimacy of peacebuilding is discussed in terms of the ambiguous notions of local ownership 'it is the local that is part of the western civil society imaginary, not the actual local' that is preferred (Richmond and Mitchell 2011, 13; on Eurocentrism in

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[10] Though some empirical examples contradict this point. For example, Steven Levitsky and Lucan Way discuss the legitimacy and authority of leaders from successful liberation struggles in revolutionary regimes (2013, 9) and Alagappa notes that 'even tyrannical leaders wish to appear legitimate' (1995, 4). In addition, Johannes Gerschewski writes on the legitimising strategies of autocratic regimes for their own stability (2013).

peacebuilding studies more generally see Sabaratnam 2013). Yet, somewhat obviously western ideas of (democratic) legitimacy are not ubiquitous.

Whilst a lot of research focuses on western contexts, exceptions do exist though they often focus on empirical understanding of legitimacy within a western normative framework (e.g. Alagappa 1995; Protopapas 2010).[11] Traditional sources of legitimacy in the Weberian understanding can be read as contrasting the idea of democratic-consensus based legitimacy. For example, in patrimonial systems of governance people may not vote because they support specific programmes or manifestos, but because their patron demands it (Randall 2007, 86). As Weber understood the idea however, patrimonialism is a sub-strand of traditional authority (1978a, 231), which still includes notions of reciprocity and voluntary compliance (see also Moran 2008, 32–34).[12] Traditional authorities are of course historically very complex and seen differently by various sections of society. Accordingly, 'the essential question is not … whether … traditional authority … is legitimate. Rather … who claims 'legitimacy', by what argument, who is persuaded and why?' (West and Kloeck-Jenson 1999, 489). Examples of legitimacy based on cultural belonging, organisational skills or threat of violence have been noted (e.g. Förster 2010) as well as the illegitimacy of elected officials of peace committees in northern Kenya (T. Chopra 2009, 540).

Another alternative understanding of legitimacy comes from the work of Michael Schatzberg. He considers political legitimacy in several African states, from Senegal to Kenya, which he calls Middle Africa. Schatzberg finds that political legitimacy rests on the tacit normative idea that the government and indeed the ruler of a country stand in the same relationship as a father to his children (2001). When political leaders behave like responsible fathers where they care, nurture and nourish, when they do not seek eternal power, when they respect and listen to their 'mothers, wives and daughters', and refrain from 'eating' too much, they are deemed to be unchallengeable legitimate actors (Schatzberg 2001, 203). This language and imagery of the father and family are widespread in the countries he investigates and are found in both the private and public realm (Ibid, 23). Interestingly, Filomina Chioma Steady found a similar metaphor in motherhood for female leaders. She explains that this concept of motherhood is not limited to reproductive and nurturing roles, but rather reflects normative values and humanistic ideologies: Motherhood is viewed as a metaphor for humanizing the state (2011, 22). She goes on to point out that the prominence of motherhood as the cornerstone of good leadership 'deviates from the Eurocentric view and challenges a major plank of the Western feminist discourse which sees motherhood as a hindrance to leadership … From an Afro-centric perspective, motherhood empowers and does not subordinate women' (2011, 218). Therefore, legitimacy can also be derived from a complex

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[11] That is not to say that similar normative framework do not play a role outside the western context. Examples may show the differences in the construction of legitimacy, but this does not mean similar normative frameworks are out of the question (see Sabaratnam 2013).
[12] Though this idea is often lost in the work on (neo-) patrimonialism, applying the concept to such a variety of contexts and purposes, it has arguably lost its meaning as an analytical concept (for this point see Pitcher, Moran, and Johnston 2009; Erdmann and Engel 2007, 103, 113–114).

and mostly unarticulated moral matrix of legitimate governance, which is abstracted from an idealised vision of authority and behaviour within a family (Schatzberg 2001, 23), be it paternal or maternal.

These alternative visions of legitimacy are still broadly based on a consent based foundation, it is just that the justification for this consent is at times different to the norm that has evolved in western dialogues on legitimacy. On a side note but importantly, these differences should not be fetishized. Mary Moran for example cautions, 'local authorities should not bear the blame for national presidents whose criminal, dictatorial, and repressive rule is bolstered far more by the economic and political agendas of western aid donors than by local constructions of legitimacy' (2008, 34; see also Barker 2001, 120–121).

Two further points can be made from this brief review. Firstly, that legitimacy is inherently contextual and not based on a universal understanding of legitimacy, but secondly that the context is also dynamic and changing. On the first point, legitimacy 'is dependent on particular contexts, circumstances and communities' (Clements 2014, 13; see also Arnault 2014, 13; Barker 2001, 25; Severs and Mattelaer 2014). This is why Beetham focuses not merely on a belief in legitimacy, but also the reasons or justifications for such findings. However, these justifications are not to be sought out in theoretically constructed normative ideas, but rather in empirical standards of the citizens, what Beetham refers to as 'legitimacy-in-context' (1991, 10: 14; see also Patberg 2013, 156–559). A more normative take comes from the policy-orientated study on legitimate peace negotiations from Conciliation Resources, where Kevin Clements argues for a 'grounded legitimacy' which is context sensitive and responds to values and beliefs (2014, 15).[13] The problematic nature of normativity is the assumption of universality, rather than normativity per se (see also Zaum 2013). On the second point, the context where a peace process or negotiations are taking place is not homogenous, but is dynamic in relation to the cultural, social and political changes occurring (see also Hemmer et al. 2006, 157).

In conclusion, the basis of this work is an empirical understanding of legitimisation in reference to the specific context of the peace negotiations. This means that specific beliefs or values ('grounded legitimacy') also play a part. In addition, both the empirical and normative nature of legitimisation is dynamic and subject to change.

The research discussed so far focuses on the legitimacy of authority within the Westphalian understanding of nation states, governance, or on the basis of specific structures or procedures being in place. Newer research has also focused on the legitimacy of specific organisations or organisational structures (Steffek and Hahn 2010; Zaum 2013). Elements of this research are useful for the heuristic

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[13] This interplay between 'grounded legitimacy' and western understanding of legitimacy can also be found in the literature on hybrid governance. For example, in the context of the debate on 'fragile' states Volker Boege suggest that's the legal-rational dimension of legitimacy is often overemphasised to the detriment of traditional and charismatic sources of legitimacy, which if considered can point to hybrid forms of governance (2006; see also Boege et al. 2009; Bagayoko 2012). In more recent work the idea of hybrid governance - warned not to be a panacea for peacebuilding - has also become specifically relevant for legitimate peace processes (Clements 2014, 13–15; Ramsbotham and Wennmann 2014, 9).

model on legitimate peace negotiations, including the charismatic source of legitimacy and the discussion of legitimacy in context. Nevertheless, peace negotiations are neither a state nor an organisation, which is why before spelling out the heuristic model the next section considers what in fact makes a process be seen as legitimate.

2.2   The Public Sphere: What Makes a Process Legitimate?

A closer look at deliberative democracy and especially the ideas on the public sphere is useful in understanding what causes a process to be legitimate. Whilst this scholarship is not directly concerned with processes of legitimisation, it highlights relevant elements. The idea of the public sphere maintains the importance of free and fair participation and rational discourse for legitimacy. After outlining this in more detail, the participation criterion is considered in light of legitimate representation and the rational discourse is discussed in terms of inequality and power structures that affect it.

2.2.1   Discursive Deliberation and the Public Sphere

The scholarship on deliberative democracy helps us to marry the notions of consensual legitimacy with participation. The deliberative turn, which comes from critical studies on democracy, focuses on the idea that all citizens should take part in decision-making processes that affect them. It was increasingly discussed especially in the 1990s as a challenge to the liberal models of democracy, leading to innovative ideas about alternative institutional arrangements in a globalised world (Dryzek, Honig, and Phillips 2008; Scheuerman 2008). Deliberative theorists proposes that the validity (and hence legitimacy) of any social norm or institutional arrangement is based on whether it came to place through open deliberation - agreed upon by those subject to it (Ron 2010, 355, 2009, 5). They equate political legitimacy with a complex system of consensus, which is arrived upon through open and critical discourse. Two major elements play a role in discursive democracy: Free and fair participation and discourse.

One of the most important scholars on deliberative democracy, Habermas, suggests that the legitimacy of the modern state depends on guarantees of democratic discourse. His foundational work on the topic is inspired by the idea of a *public sphere*, based on the unconstrained discussions amongst equals in the coffee houses and salons in bourgeois European societies from the 18th century onwards, who together formed a conception of the common good (Habermas 1991).[14] Habermas describes the public sphere, as '… a forum in which the private people, come together to form a public, [and] readied themselves to compel public authority to legitimate itself before public opinion' (1991, 25–26; see also J. Cohen 1997, 73). Nowadays, the public sphere has fundamentally altered but remains an ideal as a place where citizens can debate and revise their various interpretations of the world. As a result, the idea of the

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[14] Though ideas date back to Aristotle's vision of a good citizen who seeks the company of others and searches for the common good (Edwards 2009, 65).

'public sphere as a site of legitimating practices was *normatively* 'indispensable' for democratic theory' (emphasis in original; Crowell 2012, 147). With the transformation of the public sphere the emphasis moved from private individuals to the civil society, becoming a vehicle for creating new solutions where 'societal differences … are developed and debated' (Edwards 2009, 64; see also Alagappa 1995, 29; Donais 2012, 37). Due to the inherently discursive nature of peace negotiations the ideas of the public sphere are of particular interest for the heuristic framework. These ideas of deliberation have also been described as the 'social dynamics of legitimacy' (Severs and Mattelaer 2014). Deliberate democracy, founded on the public sphere, stands for both free and fair participation as well as the reasoned reflection and discussion.

Firstly therefore, as developed throughout his scholarly work including his later work on political theory (1996), Habermas argues that the criterion for legitimacy through deliberation is fair and free participation of all those affected by the decisions to be taken (1996, 110). Habermas may be guided by ideas of normative legitimacy, but behavioural psychologists working with empirical legitimacy make similar findings. Accordingly, procedural determinants of legitimacy maintain that a system or procedures within a government structure must be perceived as fair, so that no individual or groups are systematically disadvantaged (Call 2012, 226; see also Jost and Major 2001, 12; Levi, Sacks, and Tyler 2009, 354). It has even been suggested that the perceived fairness of the decision making process is more important for legitimacy than the provisions of resources, opportunities or outcomes (Hechter 2009, 281; Tyler 2006).[15] As a result, Luhmann argues if everything runs according to procedures that are perceived as suitable, even outsiders and those who lose out from decisions taken by those procedure, will have to accept the outcomes (Luhmann 1983; though reliance on procedural legitimacy can be more difficult in developing countries see Alagappa 1995, 31; see also Schrader and Denskus 2010, 36). Since peace negotiations can never amount to a fairly perceived decision-making process, due to its ad hoc short-term nature as argued previously, the starting focus is on fair participation through representation by CSAs, which has been the assumption of most of the previous literature to date. I return to this below.

Secondly, the Habermasian public sphere encapsulates more than mere procedural fairness, which in any case only exists in principle rather than in practicality (2005, 12).[16] It is the discourse within the deliberation, which becomes the means to determine what is rational (and 'good') in society. Such discourse can also set the limits of what is legitimate (Diez 2014). Hence, the political legitimacy of

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[15] Here Moran for example points to the US elections in 2000 which showed a rigid adherence to the procedure of holding elections that conferred legitimacy, despite the fact the outcome did not represent the will of the people (2008, 105).

[16] Whilst Habermas speaks of the participation in the public sphere as principled rather than practical inclusion (the bourgeois public sphere comprised male property owners) the argument of free participation in the public sphere has been the subject of debate, e.g. Fraser (1993). Habermas later revisits the patriarchal nature of the public sphere when commenting on his earlier work, which incidentally had been written over three decades earlier (1968) before it was translated into English (1993, 427).

deliberative processes is not only based on free and fair participation representing the will of the people, but also on collective reasoned reflection (Boyte 2011, 328; J. Cohen 1997, 74–75; Ron 2009, 5; Scheuerman 2008, 85; Valadez 2000, 32). The quality of discussions in the public sphere, where arguments are exchanged, examined and justifications given, plays a vital role in ensuring the legitimacy of the process (Ron 2010, 351–352). Only the better argument and most notably the 'common good' will survive deliberation (J. Cohen 1997; Valadez 2000, 5). This also relates to Habermas ideas on communicative rationality. When Habermas proposed that legitimacy is a rational venture that can be justified through reason, this is because he expects a process of discursive validation to create such reasoning (Cook 2003, 114–115). Discourse ethics and communication have as a result been the emphasis for most of Habermas work (e.g. 1996). If negotiations are conceptualised as deliberative processes, then another element of the legitimisation process is the input in terms of arguments and justifications.

In peacebuilding literature the deliberative turn has received some attention, at least to the extent that the ideas have often been linked to local ownership considerations or a consensual process (Donais 2012, 37; Ramsbotham and Wennmann 2014; Ron 2010). Moreover, there is a supposed link between public participation and improved inter-personal relationships because of social-psychological benefits related to this inclusive interaction (Ron 2010). Furthermore, the idea has emerged that a more inclusive process creates societal ownership or legitimacy as outlined previously. More closely in line with the ideas on the public sphere, this would suggest that there should be equal opportunities for all stakeholders to present their views, participate and influence the outcomes of the given process in order to make it legitimate (see also J. Cohen 1997, 74).

As Wanis-St. John noted however, it would be unfeasible to invite everyone to peace negotiations 'as if they were a festival' (2008, 4). There is also the problem of efficacy or the vertical dilemma of inclusion: Fairness through participation may also be counterproductive as more equality will decrease the chances of individuals effectively influencing ideas (Boedeltje and Cornips 2004, 16; see also Jarstad 2008b, 23). It perhaps comes to no surprise then that Habermas suggests that civil society, who in his later work he speaks of as the informal sphere which certainly overlaps with the public sphere as an idea, can in fact function as a filter of suggestions and a generator of communicative power in influencing political decisions. 'Voluntary associations represent the nodal points in a communication network that emerges from the intermeshing of autonomous public spheres' (Habermas 1997, 57; see also Edwards 2009, 63–64; Ron 2010, 356).[17] Having only CSAs present will allow for some counteraction of the vertical

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[17] Edwards' distinction between the different understandings of civil society is interesting to revisit here. Civil society is seen either *as a part of society* (associational life outside state and market), or *as a kind of society* (characterized by normative norms and values) or as *the public sphere* .The latter stems from scholars like John Dewey and Hannah Arendt who took Gramsci's ideas about civil society as an arena of contestation and developed around them a theory of the 'public sphere' an essential component of democracy, later taken up by Habermas. Civil society in this definition is seen as a vehicle for creating new solutions (Edwards 2009, 9–14).

dilemma (by reducing those present). This introduces the need for (civil society) representation, so that all relevant arguments and viewpoints are represented at the negotiations (see Boedeltje and Cornips 2004, 8–10; Ramsbotham and Wennmann 2014; Ron 2010, 356). Patrick Chabal already pointed out over two decades ago that without effective representation there is little legitimacy (1994, 142). The relevance and shortcomings of the public sphere, both with regards to free and fair participation and rational discourse is considered in more detail in the following two sections.

2.2.2 Participating in the Public Sphere: Legitimate Representation

The understanding of representation is outlined, before focusing on one sub-type, which has been noted as especially relevant in the African context – descriptive representation. Discussing the challenges and pitfalls of descriptive representation, the idea of the audience or beneficiary of legitimacy as opposed to the guarantor of legitimacy is introduced in more detail.

One of the most classic definition of modern political representation comes from Hanna Pitkin, who explains that to represent is to 'make present again' (1967, 8). In other words, making opinions and voices present in their actual absence. The paradoxical nature of this definition underlines the complexity of the term. Pitkin argues that representation needs to be contextualised and as a result she distinguishes four types of representation: Formalistic, descriptive, symbolic and substantive representation.

First, formalistic representation, taking into consideration ideas from Thomas Hobbes, looks at institutional arrangements that surround representation. This includes rules regarding where the authorisation to represent comes from, as well as the accountability those represented have in relation to their representatives. In his study of the legitimisation of power, Beetham had argued that the distribution of power needs to serve the interest of the subordinate also and not merely the powerful alone (1991, 82). A formalisation of this would lead directly to what Pitkin supposes to be formalistic representation (in the sense of accountability rules etc.). Second, symbolic representation concerns what the representative actually 'stands for', namely the meaning or created symbol the representative has for those being represented. This includes for example symbolic heads of states, like the Queen in Great Britain. Third, descriptive representation considers representation to be like a mirror or piece of art - resembling those being represented. This is one of the most discussed classifications of Pitkin, especially in relation to minority representation of race and gender. The idea is that ascriptive characteristics are shared by the representative, i.e. a woman representing women rights or someone from an ethnic minority representing those people from the same community (Piscopo 2011, 449; Runciman and Vieira 2008, 111). Both symbolic and descriptive representation is sometimes called 'standing for'. This is in contrast to the last category of substantive representation, which is also known as 'acting for'. This is because the latter concerns the activity of the representatives, and whether actions taken or interest

presented, are 'in the interest of the represented, in a manner responsive to them' (Pitkin 1967, 209). Vicky Randall refers to this as responsive representation (2007; see also Schrader-Rashidkhan 2011, 34).[18]

The assumption is that there is a link between those to be represented and those who claim to represent them, be it an organisation or a person. How would this work for civil society? As Cecilia Lynch spells out, civil society organisations are not answerable to the general public (like liberal governments), rather only to their own constituencies (2008, 713). This makes the question of whom they deem to represent and in what ways a fundamental one. Moreover, it suggests that formalistic representation is not relevant for the research in question, putting the emphasis on descriptive, symbolic and substantive representation. In his work on representation in Africa, Chabal notes that *inter alia*, representation 'has to possess the identity markers of the group', and 'display those qualities … that are believed ... to matter most in material and symbolic terms' (2009, 52–54, see also 1994, 146). Both Randall and Mehler argue in their work on African political parties and rebel groups in the Central African Republic respectively, that there seems to be more focus on 'standing for' representation (i.e. descriptive and symbolic) rather than substantive representation, or 'acting for' (Randall 2007, 84–85, 101; Mehler 2011, 134–135; see also Phillips 1994, 88). If descriptive representation is more important in the African context, as these writers suggest, a closer look at this type of representation is useful.

Particularly feminist writers have seen the value in descriptive representation for two major reasons. Firstly, only as member of a specific group can you really understand the group, what philosopher Anne Phillips coined the politics of presence, as opposed to the politics of ideas (1995, 5). The descriptive characteristics introduced by Pitkin allow for the 'rendering' of the opinions, needs and interests of the constituents which the representatives resemble. This politics of presence argues Phillips is because 'shared experience ... takes precedence over shared ideas; more precisely, no amount of thought or sympathy, no matter how careful or honest can jump the barriers of experience' (1994, 89; see also Moran 2008, 116). Secondly, descriptive representation is valuable as a means to correct a past or present injustice and serves as a valuable symbolic message (Randall 2007, 83). David Runciman and Monica Brito Vieira add that through this type of representation, previously overlooked interest may be addressed and democracy is revitalised, as formerly disempowered groups will recognise the political legitimacy of their institutions. Moreover, group members will also find it easier to trust their representatives (2008, 113–114). Interestingly procedural legitimacy scholar Tom Tyler also notes that the fairness of the decision-making process is linked to the notion of social identity. In other words,

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[18] Another definition proposes three idioms for thinking about representation: Pictoral representation (resembling and standing in the place of the represented); theatrical representation (speaking and acting for those represented) and juridical representation, (acting for the represented with their consent or in their interest) (Runciman and Vieira 2008, 7). Gayatri Chakravorty Spivak distinguishes between *Vertretung* ('stepping in someone's place' or speaking for the needs and desires of somebody), and *Darstellung* ('placing there' or to 'proxy and portray') (1990, 108). The overlap of these alternative definitions to descriptive, substantive and formalistic representation is clear.

legitimacy is rooted in identity concerns (Tyler 2001, 432). Nevertheless, there are several challenges inherent in creating such a connection between identity and representation. This also is related to the separate discussion on the audience of legitimacy.

The challenges of descriptive representation are as follows: First of all there is the issue of essentialising and constructing identities. Not every characteristic can be put into neat and clear ascriptive characteristic categories. Indeed, the idea of a single identity is in itself misleading. Chabal therefore finds it more useful to think of overlapping circles of identity (2009, 31). Essentialising identities can furthermore be misleading and deny internal heterogeneity of identity categories (Runciman and Vieira 2008, 122). The argument of Phillips for example - that women uniquely share the experience and interest of childbirth - can easily be contravened: How can you for example find any substantive common ground between how middle class South African women and rural women experience childbirth (Randall 2007, 97)? In addition, trying to protect a group by formalising their identity[19] - like gender or race - may also stifle internal diversity amongst the groups (Rebouché and Fearon 2005, 155). In a similar manner, it cannot be assumed that there are objective groups of people out there or self-conscious, cohesive entities with clear understandings and perceptions of their own interests (Randall 2007, 84; see also Donais 2012, 37 on the diversity of local owners). At worst, this can mean that the groups being represented are not aware of their interests, and those claiming to represent the respective groups in fact construct these. As such, Randall suggests that African political parties themselves create the ethno-regional groups they claim to present (2007, 85), and Mehler adds this could also be true for rebels in the Central African Republic (2011, 133).

Second, Pitkin herself was sceptical about descriptive representation, since there is no guarantee that a representative will actually act in the interest of the group whose characteristics they share. In the Kenyan peace negotiations, female participation did not necessarily mean that gender concerns were being represented. Unsurprisingly, just because someone is a woman does not mean that she will represent gender goals (McGhie and Wamai 2011, 7; see also Runciman and Vieira 2008, 114; Pitkin 1967, 226; Phillips 1994, 1995). This brings me to the related debate on the audience of legitimacy or what I label the beneficiaries of legitimacy. Individuals give consent in the dynamic process of legitimacy. Nonetheless, elite groups have a greater control of power resources and tend to be more engaged in political processes than the general population (e.g. Alagappa 1995, 23–28; Fishman 1990, 437; Gilley 2009, 9). This may make them the primary beneficiaries of legitimacy. Nevertheless I argue, just because access is more difficult, does not mean that the general population plays no role at all, in fact the research in question aims to find out how the peace negotiations where made more legitimate *for the*

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[19] In (post) conflict settings underlining the representation of strict identities can also reinforce conflict divisions, of us vs. them.

general populations themselves. Who the population is, remains a question in itself.[20] The beneficiaries of legitimacy are in a relationship of dependency with their representatives, the so-called guarantors of legitimacy.[21] How the guarantors of legitimacy choose to represent the beneficiaries of legitimacy is likely to depend on the individual circumstances. The next section revisits the public sphere, regarding the discourse-element, in order to discuss the inequality and power structures that may hinder such (rational) discourse.

2.2.3   Discourse in the Public Sphere: Inequality and Power Structures

The discourse element of the public sphere translated to the legitimisation process would suggests that peace negotiations are based on a (rational) discourse concluding in a common good, counteracting the demands of conflict parties at the talks (as Track I participants) or coming up with alternative or additional post-conflict programmes besides power-sharing (as Track II participants). The aim of the research of this dissertation is not to carry out a discourse analysis, but to explore how the civil society in a public sphere contributes to the content of policy. Thus, the focus is on the end result of the discourse or the outcome. The way content, or substantive representation or 'acting for', is introduced to the peace talks by civil society actors however, is affected by the power dynamics at peace negotiations. Whilst such power dynamics do not necessarily directly affect the legitimisation of a process, they do so indirectly. Power imbalances will mean that open and free discourse from the civil society is at least partially impeded, not least by stipulating who exactly will attend (who are the guarantors of legitimacy) which can affect what is actually brought to the table (in terms of the content); thereby affecting the overall legitimisation of the process.

It is unlikely that fair proceedings not predetermined by the use of power, stipulated as a prerequisite for legitimisation, are feasible criteria in peace negotiations (Menkhaus 2014, 76; Schrader and Denskus 2010, 35). Public participation is inherently linked to factors of education, income, free time, information and interest (Hemmer et al. 2006, 142). Thus, a flaw of Habermas' public sphere theory is that power resides with those that have the best communicative skills and immaterial resources like knowledge and reputation or - as he stated in his book on the public sphere - the unspoken conditions of participation, which are property ownership and education (Finlayson 2005, 12; see also Brühl 2010, 188; Edwards 2009, 65; Scheuerman 2008, 100; Payrow Shabani 1998). As a result, scholars like Michel Foucault think

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[20] Does the population include all those living in Liberia or Kenya? What about the refugees living elsewhere? Are foreign investors or mercenaries also living in Liberia part of the population? Does this mean only those who are deemed as citizens of the two countries? What about the controversial policies of the Kenyan government regarding Somali refugees or that of the Liberian government in regards to citizenship (e.g. see Yarnell 2014; Pailey 2013 respectively). For the purpose of this research, the population is argued to include all those who were either living in Liberia/Kenya or in the neighbouring countries or further abroad, who felt directly or indirectly affected by the civil wars/post-election violence in Liberia/Kenya and were not represented by the conflict parties at the peace talks.

[21] And the guarantors of legitimacy can also benefit from the legitimisation. The division between the two is arguably artificial, but necessary for analytical purposes.

of legitimacy as a social construct, characteristic, like every other relationship, of power and domination (e.g. Crowell 2012, 151). Those that succeed in gaining acceptance for their arguments are simply using adequate discourse or political strategies, constructing something as true, even in the face of conflicting claims. They then have to make this truth acceptable to all those concerned, via its reproduction and transformation (Schrader and Denskus 2010, 44).

Whilst the power imbalances of government figures and rebels compared to the civil society actors might be easily reconstructed, the power-imbalances between the different civil society actors should also not be neglected (Brühl 2010, 183). Power and influence will undoubtedly play a role in the debate of who gets invited to attend in the first place as well as how they interact with each other. Whilst Ron considers small-scale microcosms of peace negotiations, or 'mini-publics' in his work, the difficulties of limited budgets and hostile environments he outlines are just as relevant for the formal negotiation context (2010, 348). As Tanja Brühl argues, civil society is not only a space of representation, but also one of exclusion and control, with internal conflicts about who is being empowered or what is being resisted (2010, 193). The honour of an invitation to the peace talks is likely to be - unsurprisingly - reserved for those organizations that can fund their place at the negotiations, especially likely to be those in the diaspora. According to the influential work of Gayatri Spivak, the subaltern are not only heterogeneous in their composition, but also removed from the lines of social mobility, and thus cannot 'speak' (1988). As such, even NGOs from the global south are merely 'old colonial subjects transformed into the new domestic middle-class urban radical' (Spivak (2004) quoted in Brühl 2010, 193; see also Hultin 2014, 208; Richmond and Mitchell 2011, 13). This has been noted elsewhere, including on the literature more critical of the 'authentic local' as a panacea to peacebuilding (Menkhaus 2014, 74; Simons and Zanker 2014; see also Hirblinger and Simons 2014).

Inequalities exist not only between the different negotiation participants or guarantors of legitimacy but also in a society at large, the beneficiaries of legitimacy. What Valadez says for minority groups is very relevant in conflict-ridden polarised societies:

> 'Low levels of formal education and lack of access to information technologies for example, can significantly hinder the capacity of some cultural minorities to compete on equal footing with other cultural groups in public deliberations' (2000, 6; see also J. Cohen 2006, 160; Edwards 2009, 66–67; Menkhaus 2014, 76).

The potential inequality of access in turn affects the contribution to the discourse and its outcome. Even in a public sphere in 'normal' circumstances (i.e. non-war situations), inequality and domination will distort collective communication (Calhoun 2011, 312). Deliberations in the public sphere, relying on the capacity of abstraction for a neutral and impartial debate where the most rational argument wins, becomes increasingly difficult in conflicted groups with deep, incommensurable differences (Valadez

2000, 61–62; see also Calhoun 1993). Moreover, the fact that 'it is the best ideas that will triumph, not the loudest … [is] somewhat quaint given the inequalities that characterise all contemporary societies' (Edwards 2009, 66–67). The fact that emphasis in the public sphere is placed on not only who should participate, but also the quality of exchange therefore poses several challenges (see also Ron 2010, 357). Especially in the context of a highly polarised society and violent conflict, conditions for participation could not be further removed from those of a public sphere, especially when considered with regards to the 18th - century bourgeois coffee houses and salons (and the enlightenment era) that Habermas found to be no longer applicable to the modern political world. Discursive reasoning amongst potential enemies is likely to be difficult (Ron 2009, see also 2010, 359; Calhoun 2011, 319; Donais 2012, 63). That is not to say that scholars like Habermas and Joshua Cohen do not acknowledge that they are talking about ideal-type situations currently not taking place, but it seems especially unfeasible in the setting of peace negotiations. As a result, structural inequalities are likely to have at least an indirect effect on the legitimisation of processes.

In conclusion, having agreed upon a largely empirical understanding of legitimacy, the ways a process can be seen as legitimate has been shown by considering the literature on deliberative democracy and the public sphere. The two sources of legitimacy for a process that follow from this research are free and fair participation (though representation) and the end result of (rational) discourse. These sources are empirically difficult to enact, due to the difficulty in representing a broad section of the population, the beneficiaries of the population and the inequalities and power structures inherent in the public discourse affecting who gets invited to be a guarantor of legitimacy. This is perhaps why Habermas distinguishes between the 'strong public', the formal political system, compared to the 'weak public', the informal (public) sphere. The political system is still required to make decisions, whilst the public sphere has the responsibility to identify, interpret and address social problems (Habermas 1996, 274–5). So even if we think of civil society participation in peace negotiations as the 'weak' public, how do we envisage a legitimisation process for peace negotiations? This is presented below.

2.3   A Heuristic Model for Legitimate Peace Negotiations

Whilst a lot has been written on legitimacy, most of the work looks at the authority of leaders or regimes, or the system analysis of well-established systems or procedures. A western bias no doubt exists, though a number of authors have also considered legitimacy in non-western contexts (e.g. Alagappa 1995; Förster 2010; Schatzberg 2001). The discussion on the public sphere goes some way to explaining why peace negotiations may become legitimate: There is free and fair participation (through representation) and involvement in the discursive negotiations process including in its output. From this, two features of legitimacy are deduced that make the basis for a heuristic model. On the one hand, civil society actors are involved in the discursive peace process and relating back to substantive representation ('acting for'), they address specific collective concerns. On the other hand, free and fair participation is

ensured through representation by CSAs, which in line with the symbolic and descriptive elements of representation are subjectively representative for the beneficiaries of legitimacy.

The heuristic model is built on an empirical understanding of legitimacy, though locally relevant beliefs of values are thought to affect the experience or construction of legitimacy, the 'grounded legitimacy'. The process of legitimisation is dynamic, on going and started on an ad-hoc basis. Due to the dynamic nature of this belief on legitimacy, there is not a dichotomous belief in either legitimacy or illegitimacy. Rather, the belief in legitimacy is continuous on a scale of more or less legitimate and can change over time (see also Alagappa 1995, 25; 45; Gilley 2009, 10–11; Jachtenfuchs, Diez, and Jung 1998, 413). As explained previously, peace processes more generally involve several stages. This includes the pre-negotiations phase, hugely important in getting warring parties to the table. The actual negotiations are followed - in the best-case scenario - by an agreement. After this, the open-ended process of implementation starts. All these stages have formal and informal dimensions. The focus of this dissertation is the actual negotiation stage coupled with the final agreement, though the other stages are also addressed. The two features of legitimacy that make up the heuristic model will now be introduced.

2.3.1   Addressing Collective Concerns

Using the output-side of legitimacy as a basis would suggest concentrating on the output of a peace negotiation, namely a stable peace agreement. Whilst this no doubt plays a role, it underlines an essentially tautological argument. Moreover, in line with the discourse element of the public sphere, addressing collective concerns also plays a role during the actual peace negotiations, and is not just a measurement to be made at the end. This is the basis for the feature of addressing collective concerns, which is now sketched out.

In order for the negotiation process to be perceived as legitimate, from the previous discussion on substantive representation and the discursive element of the public sphere, it would follow that the population must feel like their grievances and concerns were included, and be satisfied with the outcome of the final agreement at the end of the negotiations. In Guatemala for example, a Civil Society Assembly ensured the development of the 'broad national agenda covering a gamut of interests and issues, and in particular those ethnic, social and economic fractures that had plagued the formation of the Guatemalan society and state' (Arnault 2014, 22). Negotiations (and ensuing agreements) will therefore be more legitimate when grievances are addressed that the public collectively care about. This is enhanced by ideas of substantive representation, or acting for, which also means acting in the interests of the population, in a manner responsive to them (e.g. Pitkin 1967; Randall 2007; see also Odendaal 2010, 20).

The feature of collective concerns encapsulates *what* is being discussed in the negotiations (and included in the final agreement) as a reflection of collective grievances. Collective concerns are therefore made up of grievances from the populations. These issues in turn need to be addressed by civil society actors in the discursive process itself, and the actual agreement. In theory, addressing collective concerns is interesting because it does not necessarily follow that civil society needs to be directly included in the peace negotiations for collective grievances to play a role. In that sense, even track two or parallel negotiations could suffice if they provide an opportunity for a broad set of concerns to be heard and ultimately considered for the final agreement (Paffenholz 2014a, 81). Due to the inherent power imbalance in a negotiation setting, the civil society need to be influential in taking part in the discursive process (be it as Track I or Track II actors) for it to be effective as a legitimisation feature, in relation to a role for CSAs.

Focusing on the output-side of legitimacy based on a system analysis, it has been argued that the output as regards policies, and acceptance by the affected population of these, is the key element to determining legitimacy, even at the cost of fair input into the decisions made (e.g. Boedeltje and Cornips 2004; Gilley 2009; Kratochwil 2006). Anders Hanberger for example defines legitimacy as the 'product of satisfying felt needs and solving perceived and observed local problems' (2003, 270). This would mean that the key to legitimisation of peace negotiations is the output of a peace agreement, preferably one that lasts. The risk would be in creating a tautological argument: With a lasting peace agreement, legitimacy is ensured. When the peace agreement fails, then the process becomes illegitimate.

Whilst no doubt an end to violence is a prominent collective concern or grievance to be addressed, it is arguably not the only one. In other words, the absence of violence is not thought to be the sole criteria for legitimisation. In a policy brief on legitimate peace processes, Jean Arnault argues that 'a peace process cannot rely on legitimisation brought about by the unbearable cost of war; it is required to address squarely the task of constructing the legitimacy required to prevail over the supporters of the continuation of conflict' (2014, 22). Thus, a peace agreement that lasts amounts to much more than simply ending violence. It also includes the participation in the discursive peace process itself. As a result, when a peace agreement fails this is likely to have an effect on the belief in the legitimacy of the negotiations, but does not entirely delegitimise the process either. The construction of legitimacy does not exclusively relate to the output of ending violence. This supports the idea of legitimacy as a continuous concept not a dichotomous one and the reason why the input/output models of legitimacy are not wholly appropriate. In summary, as shown in Figure 2.1 below, collective concerns are addressed during the talks, which includes the final peace agreement.

2.3.2 Subjective Representation

In his book on why wars recur, Call considers legitimacy in peacebuilding arguing for 'legitimacy-focused peacebuilding' which depends on a state offering the main social groups acceptable levels of representation and participation (2012, 226). Whilst Call focuses on the post-war setting rather than the negotiations, the finding is still relevant. Building on what has been outlined on the public sphere, it reinforces the idea of free and fair participation through representation. It builds on the assumption, that at least in principle, 'every citizen should have the ability to participate in ... public discourses' (Scharpf 1997, 29).

Because elections are not possible in the setting of peace negotiations (or have limited influence regarding legitimisation as is discussed in the later chapter on Kenya) and there are no established procedures in place, the participation is ensured through the representation of civil society participants. This idea is no doubt widely accepted, but has as of yet been conceptually and theoretically understood only to a limited degree. Who is involved and what kind of relationships exist between the beneficiaries of legitimacy and their guarantors? What interpretations of representation are relevant in the different contexts?

Considering the theories of legitimacy and representation, it has already been argued that Weber's traditional and charismatic sources of legitimacy are likely relevant for individual civil society actors. This also includes any legitimation strategies of individual civil society activists involved in peace negotiations is also considered (see Barker 2001). Moreover, in line with Pitkin, it is not the formal representation that is plausibly replicated in the context of peace negotiations (much like Weber's legal-rational source of legitimacy) but rather the symbolic and descriptive forms of representation. Substantive representation is already included in the feature of collective concerns alone.

The feature therefore considers *who* is taking part in the negotiations, not least because of contextual interpretations of representation, legitimation strategies of individual actors and other forms of obvious descriptive and symbolic representation. This may include non-conventional representative qualities, such as maternal or paternal metaphors. Because representation depends on the relationship between the guarantors of legitimacy and their beneficiaries (or in other words representatives and those they deem to represent), the feature is labelled subjective representation.

Whilst at first glance, the feature of subjective representation may seem to be a simple question of input legitimacy this is in fact difficult to apply so restrictively in the context of peace negotiations. Subjective representation certainly plays a role during the negotiations, after all this is where participation via representation takes place. But representation does not come out of the blue, thus the pre-negotiation stage is also relevant as well as after the talks. In other words the symbolic attachment or descriptive

identity is prevalent during the talks, but also plays a role before and after as part of an on-going process of legitimisation. The complete heuristic model based on these two features, is summarised in Figure 2.1 below.

Figure 2.1: Heuristic for Legitimate Peace Negotiations

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┌─────────────────────────────────────────────────────────────┐
│                  Subjective Representation                    │
└─────────────────────────────────────────────────────────────┘
          ┌──────────────────────────────────────┐
          │      Addressing Collective Concerns   │
          └──────────────────────────────────────┘
──────────────────────────────────────────────────────────────►

  Before the Talks      During the Talks           After the Talks
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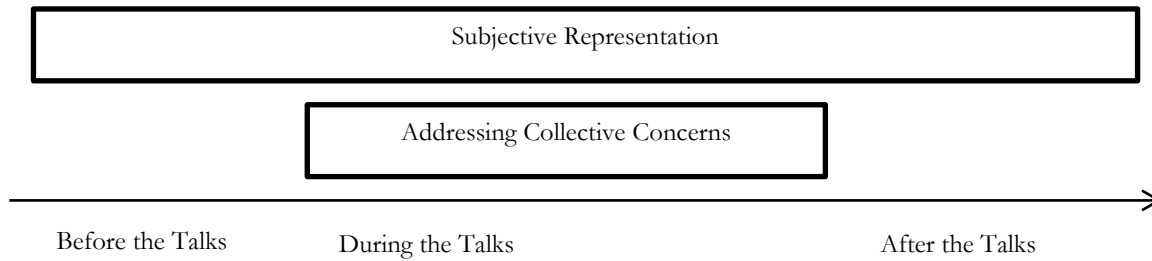
Before the heuristic model is applied in two separate case studies, the research design of the rest of the dissertation is outlined in the following chapter.

Chapter 3

Methodology and Research Design

3   Methodology and Research Design

Having presented the heuristic model in the previous chapter, the starting point to answer how peace negotiations are made (more) legitimate, this chapter sketches out the methodology and research design of the dissertation. On the basis of a constructivist ontology and a mixed epistemology a 'comprehensive process-tracing' method of analysis is developed, that includes both constitutive and a causal analysis for the theory building in question. This method uses an abductive research design to trace the features of the heuristic model in two cases of peace negotiations, namely in Liberia and Kenya. The methodological foundations of the research and the method of comprehensive process-tracing is addressed in the following, before considering the empirical fieldwork methods of the research in more detail. The next section concentrates on the importance and relevance of case study research today, as well as the methodological assumptions made for the dissertation.

3.1   The Methodology of Case Study Research

Case study research remains highly relevant and important, despite a trend that seems to state the opposite. This trend is in fact based on a flawed understanding of the ontological and epistemological foundations of case study research. A question concerning a notion like legitimacy, constructed on the basis of beliefs and highly contextual and dynamic, arguably works best with a constructivist ontology and a pluralist epistemology. The reasons for this are outlined by considering both causal and constitutive perspectives. First of all however, the relevance of case study research is reviewed.

In social sciences, and political sciences especially, there has been a trend to view small-N case study methods as something akin to the younger unloved brother of quantitative research. Whenever possible, it is argued that a statistical analysis should be undertaken, at the very least to complement case study research (Lijphart 1975, 165). Case study research in fact has a long evolving history. What had started out as the study of single contextually embedded case studies was later changed to more comparative analysis with abstract theoretical concepts in mind. By the 1970s there was a trend towards 'solving' the small-N problem of single or a small number of case studies by focusing on a variable-centred logic of causality. Increasing the number of variables to be observed, it was argued, also increases the number of observations to draw inferences from (Bevir and Kedar 2008, 514; Blatter and Haverland 2012, 15). This was further cemented by a book, published in 1994, on qualitative research, which suggests that qualitative research should be built on the same logic of inference as quantitative science (King, Keohane, and Verba 1994). The ideas in the book have received so much attention, that they and the work itself are widely referred to simply as 'KKV', after its three authors, Gary King, Robert O. Keohane and Sidney Verba. As a result, qualitative work changed from being known as 'meaning-

focused or lived experience-focused research' to 'small 'n' studies that apply large 'n' tools' (Yanow and Schwartz-Shea 2006, xvi). Whilst the KKV book is still used as a corner stone in the training of political scientists, it has also faced significant critique (most notably Brady and Collier 2004).[22]

Post-KKV work on qualitative case studies nevertheless only gives partial accounts of the full potential of case studies and conceivable epistemological and ontological foundations. This includes the effectively positivist account of John Gerring (2007) and the more critical realists work of Alexander George and Andrew Bennett, which also includes a chapter on process-tracing (2005). As a result, confusion about case study methods is pervasive, particularly regarding the method of process tracing. Moreover, there has been insufficient reflection on both the ontological and epistemological frames of the work discussed (Beach and Pedersen 2013, 9). As a result, case studies have a relatively low stature among positivists (see below), despite the fact they are one the most frequently employed research designs (Moses and Knutsen 2012, 132).

More recently, there has been a new wave of methodological textbooks that seek to reconsider case studies (Blatter and Haverland 2012) and the particular method of process tracing more concretely (Beach and Pedersen 2013). They argue for the revival of case study research because of changes both in social reality as well as in the social sciences disciplines. On the one hand, with the advances of globalisation, social reality has become even more complex. On the other hand, considering all the sub-strands of disciplines like International Relations means that political scientists need to account for more theories in their work (Blatter and Haverland 2012, 1–7; see also Yanow and Schwartz-Shea 2006). As a result, single case studies are thought to yield more insight than what is possible through cross-comparison or larger statistical studies (della Porta and Keating 2008c, 4). Critics of KKV have long acknowledged the usefulness of case studies for exploratory work, theory building, testing and uncovering causal mechanisms instead of causal effects (e.g. Eckstein 1975; George and Bennett 2005, 213; Gerring 2004, 349–350; Brady and Collier 2004, 277). In addition, the newer books have argued that case studies are especially useful for their ability to include both idealistic and material understanding of the world and a consideration of both structures and agency, essentially 'overcoming the incommensurable difference between constitutive and causal approaches in explaining social reality' (Blatter and Haverland 2012, 8).

This dissertation looks to answer how peace negotiations are or can be made more legitimate related to the involvement of civil society. Because of the nature of current theories of legitimacy as reviewed in the last chapter (primarily focusing on the state as a unit of analysis) and the literature on participation in

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[22] Though Brady and Collier argue their work is founded on an 'essentially similar epistemology' (to KKV), and warn that an exploration of epistemology 'may sometimes lead researchers .... to take sides and to engage in polemics' (2004, 7). Bevir and Kedar counter however that the 'absence of philosophical reflection has been filled by an over-emphasis or perhaps even fetishization of methodology' (2008, 514).

peace negotiations with little theoretical rigour, the question is essentially one of theory building. Case study research, and more specifically process-tracing, are ideal for dealing with 'complex, abstract phenomena' (Blatter and Haverland 2012, 19) under which legitimacy certainly falls. Accordingly, case study research is important and insightful, not merely as a second-best additional method of inference, but in its own right. It is particularly useful for researching something as abstract yet complex as legitimate peace negotiations.

The recent work not only strengthens the argument for case studies as a method, but also clarifies the difference between methods on one hand and epistemology and ontology on the other. Methodologies implicate certain ontological and epistemological foundations but this is not strictly speaking the case for methods. In other words, methods, especially qualitative ones, can - in theory - be used with any philosophical stance (Bevir and Kedar 2008). This qualification differentiates between methodology (as a well equipped toolbox) and methods (as tools) (Moses and Knutsen 2012, 4). Thus, before the method of comprehensive process-tracing is described further below, the methodology of the research is further explained in the next section.

3.1.1   Causal and Constructivists Perspectives

This section will outline three broad perspectives in the philosophy of science, namely positivists, (critical) realists and constructivists who work with different ontological and epistemological premises. Their ontological differences (as naturalists or anti-naturalists) and pursuant epistemological assumptions on causality is considered in order to show the relevance of a constructivist ontology and epistemological pluralism for this research in the next section.

Different researchers have different views on causality, informed by their ontological and epistemological approaches, which will inform the research methods that they choose to follow. Whilst numerous groups of scholars exist, all with different perspectives on the philosophy of science (and degrees of willingness to discuss this), three broad perspectives that are widely used are particularly useful to explain the methodology of this research. These are the positivist, (critical) realist and constructivist schools of thought. They can also be divided - ontologically - into naturalists and anti-naturalists camps (Bevir and Kedar 2008; Moses and Knutsen 2012).

The first school of thought, the positivists are furthest along the naturalist spectrum. The ontological premise for this group is that an objective reality exists in the world, which means that law-like generalisations and the (probabilistic) establishment of causal relations is possible (Sil 2004, 314). Epistemologically, the aim is to discover and explain patterns that are assumed to exist in the real world. This research supposes that definitions are and must be value free and that concepts can be operationalised in a non-prescriptive manner (Hawkesworth 2006, 48; Moses and Knutsen 2012, 8).

The second group, the realists, still makes the ontological assumption that reality is objective (e.g. George and Bennett 2005, 131). Nevertheless, epistemologically speaking there is a degree of uncertainty with regards to knowledge gaining. Some elements in the social world, whilst they do exist, are not observable. Karl Popper was a critical rationalist who argued in his falsification theory that things can never be proven to be true but merely disproven (Hawkesworth 2006, 32). Causal knowledge may be possible for realists much like for positivists, but causal laws do not govern everything. Here, as elsewhere, the epistemological preference depends entirely on where on the spectrum the researcher finds herself in. A more critical variation of realists will propose that knowledge is socially conditioned and subject to challenges and reinterpretations (della Porta and Keating 2008b, 24). This includes some constructivist scholars.

Usually though, constructivists prefer to be aligned to the constitutive philosophical approaches, which stand firmly in the anti-naturalists camp and is the third school of thought which is discussed. The ontological assumption for constructivist research implies that there is no independent objective reality that can be observed; rather such reality can only be accessed by seeking to understand its subjective construction. As a result, a constructivist looks at what *constitutes* the world. There is no causality per se; at best regularities of meaning that enable and constrain interpretations and actions can be uncovered. Epistemologically, the aim is to reconstruct meaning or understand ('verstehen') the meaning of human behaviour or actions within a certain cultural and social framework (della Porta and Keating 2008b, 26; see also Halperin and Heath 2012, 49; Sil 2004, 317). Note that understanding is arguably an inadequate term, as at best the aim is to reconstruct or deconstruct interpretations of meaning. At the most extreme, post-fundamentalists would even argue that the 'subjectivity inherent in each and every human act makes it impossible to establish the 'truth' of even the most basic observational statement about the social world' (Sil 2004, 317; see also George and Bennett 2005, 130). Whilst there is a spectrum of different epistemologies amongst interpretivist researchers, a few epistemological characteristics are widely accepted: Knowledge is socially situated; closely associated to power and is inter-subjective, carried by individuals but anchored in the collective. Thus knowledge can be obtained, but only very carefully, and with great self-awareness and scepticism (Moses and Knutsen 2012, 194).

Whilst it is argued that methods are in theory simply tools that can be used with any type of methodological approach, in reality ontological and epistemological preferences are usually inclined towards certain methods. As such, positivists are most known for using quantitative methods and on the other end of the spectrum constructivist researchers primarily for using qualitative methods, often based on textual analysis. This is also related to the assumptions on causal or constitutive logic, which work best in relation to certain research methods. In fact, the three schools of thoughts broadly relate to the three types of epistemological assumptions - Humean causality, mechanistic causality and a constitutive approach.

The 'classic' interpretation of causality - which positivists relate to - is based on the work of the empiricist David Hume who considered causality as a conjunction between factors regarding their regular association or regularity (Beach and Pedersen 2013, 24).[23] Law-like generalisations are made through correlations and as a result causal relations are seen to be probabilistic. The idea is to make general or nomothetic statements about the world, rather than particular ones (Moses and Knutsen 2012, 9). These positivist standards of causality have often been applied to qualitative work, largely because of the influence of KKV on research design (1994 see above). Only a decade later did scholars begin to criticise these assumptions, which hugely affected the perceived relevance of case studies.

The critics from the realist camp argued that causal relations refer to more than just variables, as KKV depicted them. Instead, there are causal *mechanisms* that include the linkages between the variables, which thus requires an unpacking of the black box of causality to understand the entire process taking place (see e.g. Beach and Pedersen 2013, 37; George and Bennett 2005, 138–9; Sil 2004, 313–4). This critique has resulted in a return to a mechanistic understanding of causality. Incorporating ideas from René Descartes, the emphasis of knowledge creation is on understanding dynamic interactive influences of causes on an outcome - an entire mechanism (Beach and Pedersen 2013, 25). Spatial and temporal contingencies are of importance in order to gain deeper explanatory knowledge (George and Bennett 2005, 140). These mechanisms are underlined by a deterministic causality, there are no error terms like with the probabilistic correlations in Humean causality, instead there are necessary and sufficient causes. George and Bennett define causal mechanisms as 'ultimately unobservable physical, social or psychological processes through which agents with causal capacities operate, but only in specific contexts or conditions, to transfer energy, information or matter to other entities' (2005, 137). The renewed focus on mechanistic causality has been linked to process tracing and has also led to the differentiation between data-set observations, applicable to the frequentist logic proposed by KKV, and causal-process observations. The latter observations can offer their very own distinct leverage regarding causal inference and provides information about the context, process or mechanism (see Brady, Collier, and Seawright 2004, 12; Collier, Mahoney, and Seawright 2004, 96; George and Bennett 2005, 147; Mahoney 2010).

Both Humean and mechanistic causality assumes a naturalist ontology. For researchers that make anti-naturalist assumptions neither a probabilistic Humean causality nor a deterministic mechanistic causality is feasible. Instead, the interpretive approach aims for a 'rehumanized, contextualised … scientific

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[23] Though this was because Hume argued that only patterns and regularities could ever be observed, not causality per se. Causality, he argues, is based on our imagination not perception, thus making him quite a sceptic naturalist (Moses and Knutsen 2012, 25–28; 170). Methods of finding such associations - whether through induction or through falsification have also been discussed at length in the philosophy of science, especially after Popper (Hawkesworth 2006, 31). This is another area where positivists and critical realists begin to differ, despite both holding court in the naturalist camp.

practice' (Yanow and Schwartz-Shea 2006, xii; see also Bevir and Kedar 2008, 503; C. Lynch 2006, 294). The roots of the interpretive approach can be traced back to the philosopher Kant, who although he believed in an objective world, noted that the patterns we study are of our own making and that social phenomena must therefore be interpreted in light of the relationships that surround it (Moses and Knutsen 2012, 165; 183; Yanow 2006, 10). Interpretive research focuses on reconstructing the meaning of subjective reality and deconstructing the power structures that are embedded in individual actors and actions. The end aim is to understand how events shape, and are shaped by actors and what the contextual meaning may be. Understanding is meant in the sense of meaning making through the reconstructing of interpretations. In other words, meanings - which cannot be reduced to allegedly objective facts - are constitutive of human actions (Bevir and Kedar 2008, 505; see also Yanow and Schwartz-Shea 2006). Actions are evidence of beliefs and desires, meaning that the observer and society have an important role in constructing the patterns we study (Bevir and Rhodes 2004, 159; C. Lynch 2008, 712; Moses and Knutsen 2012, 10).

Building on Kant and others, Weber was one of the scholars who promoted such a line of thinking by arguing that causal explanation relied largely on interpretive understanding of the subjective motivation of individuals, or 'verstehen'. This results in the need for 'rational understanding of motivation, which consists in placing the act in an unintelligible and more inclusive context of meaning' (Weber 1978b, 8).[24] This also means that any observations are theory dependent (Hawkesworth 2006, 31; Moses and Knutsen 2012, 182). Clifford Geertz, a cultural anthropologist develops his ideas, and cites Weber when he proposes, 'man is an animal suspended in webs of significance he himself has spun.' As a result, theory building concerns 'think description', in order to generalize within cases, not across them (Geertz 1973, 5). For interpretivists, causal explanations are feasible - yet they are always singular in the contextually specific causes of historical incidents. Generalisations may still be possible across diverse cases, but only in the acknowledgement that this will result in a loss of a deeper understanding of a particular social phenomena (Bevir and Kedar 2008, 506; Yanow 2006, 11). Unlike for Humean and mechanistic causality, the aim is not to make probabilistic or deterministic predictions. Rather, the epistemological focus is on reconstructing and understanding the - socially constructed - patterns and regularities of the world (Moses and Knutsen 2012, 12; 192). In other words, institutions, actors and norms are constitutive of each other, rather than mono-causal relationships bounded by scope conditions (C. Lynch 2008, 709).

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[24] In a nod to the general overemphasis of a more positivist logic, Kristin Luker notes that '*verstehen* ... has connotations of tea and sympathy - a methodology not quite masculine enough for a 'real' science. 'Rigorous' training in the social sciences is now defined as quantitative, and the more abstractly mathematical, the better' (2010, 25).

Having outlined these different schools of thought with regards to their ontological foundations and perspectives on epistemology, considering especially the possibilities of causality or constitutive logics, the assumptions made for this research are introduced in the following section.

3.1.2 Constructivist Ontology and Epistemological Pluralism

As the previous chapter on the heuristic model has shown, legitimisation is a dynamic continuous process, bounded by specific contexts. Though it is studied empirically, specific contextual values or norms are likely to play a role. Critical realists acknowledge layers of realities and thus epistemologically, they come close to interpretivist thought. Nonetheless, they still ontologically claim a natural world, which in light of the critique of a universal normativity applying to legitimisation makes this claim more difficult to uphold. Thus, ontologically, the research chooses to distance itself further away from a strict naturalist approach, acknowledging the constituted nature of at least parts of the 'real' world or the way it can be accessed (and hence a constructivist ontology). Epistemologically speaking, a mid-way between the two most extreme views is also best suited to the question at hand. Such an approach acknowledges that things we study can change in appearance when viewed from different contexts and perspectives and as a result, at least to a degree, social reality is constructed (Moses and Knutsen 2012, 147). Nonetheless, taking care to account for this construction of reality, knowledge can however also be generalised across cases. This is outlined further in the following, in order to show the pluralistic epistemology that allows for both a constitutive analysis and delineating the *possibilistic* causality of parts of the legitimisation process of peace negotiations.

Inspiration is taken from the 'pragmatist' or 'pluralist' understanding of epistemology, as part of the 'spirit of eclecticism' (della Porta and Keating 2008b; e.g. Sil 2004, 309). The onus for these pragmatists is on finding a middle ground, allowing for communication across the different research communities, and a rejection of fundamentalist views of the two extremes of positivism and constructivism. A 'flexible middle ground' is between 'objectivism and relativism, and between causal explanations and interpretive understanding' (Sil 2004, 317). Advocates for this pragmatic approach argue that this actually helps scientific progress as barriers are taken down to answer the question at hand (Moses and Knutsen 2012, 163). Social factors may be too complex for parsimonious explanations and generalisations but only understanding the motivations of actors with no attempt of explanation or causation is also redundant (della Porta and Keating 2008c, 14).[25] Hence advocates argue that reality is at least partly constructed, but we can still look at events, actors and mechanisms and interpret them according to our own

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[25] As is argued below, this division undertaken by Sil and others of either 'objectivism' or 'relativism' / either 'causal explanations' or 'interpretive understanding' can be rather simplistic in its attempt to make a neat dualistic explanation of the 'pragmatic approach' or the 'middle ground'. Depending on the individual researcher, they will argue that they are not carrying out relativism or also explain despite being constructivists, or as positivists also seek to understand etc. As such these definitions are only used to establish the idea of a middle ground with the delineation of plural epistemology for the work in question being explained in more detail in the following sections.

conceptual understanding of time and proximity (Blatter and Haverland 2012, 14). This makes a pluralistic epistemology particularly relevant for the research at hand.

Whilst an objective reality of legitimacy does not seem ontologically plausible, the construction of legitimacy can be assessed on the basis of different epistemological assumptions. The research seeks to answer the question of how peace negotiations are made more legitimate (through the involvement of civil society). This can be answered in two ways by considering a) what constitutes the legitimisation process and b) why these constitutive components were possible. For the first part, theoretically-framed interpretations of what was happening will help to understand what was taking place in the legitimisation process. The interpretation of meaning in communication, beliefs and ideas that give people reasons for action are essential to understanding political issues and, according to the philosopher Charles Taylor, especially legitimacy (Halperin and Heath 2012, 41).

The causal analysis of why the constitutive components of legitimacy were possible, which refers to the second part of the question, looks to explain what is occurring and is inspired by mechanistic causality, albeit without a positivist ontology. Rather, for the purposes of this work, within certain time and space constraints, which can be called 'natural', certain knowledge of the social world is possible. Within a certain space and time generalisation are deterministic, resulting in possibilistic generalisations. Therefore, a causal analysis allows for the tracing of the interaction between different conditions that together can make possibilistic generalisations (Blatter and Haverland 2012, 82). In summary, the causality referred to in this work is inspired by mechanistic causality, based on the aim of making possibilistic generalisations, and therefore is labelled *possibilistic causality*. Even when seemingly framed in deterministic language of causality or causal pathways, the determinism is related only to a certain space and time, according to the ontological assumptions of this work. Causality does not paint the complete analysis, but in fact helps to explain why the constitutive components of the legitimisation process were possible or enabled. This approach of epistemological pluralism allows for the inclusion of both agency-centred and structural reasons, as well as ideational and material accounts for explanations (Blatter and Haverland 2012, 13).

Mark Bevir and Roderick Rhodes argue that there is a false dichotomy between understanding and explanation, and that the combination of both allows for not just understanding action, but also explaining it (2004, 159; see also Wendt 1998).[26] In the same way, the plural epistemology is not a strict duality between the causal analysis as explanation and the constitutive analysis as providing understanding. Rather, the pluralist epistemological approach lets the question of how peace negotiations become more legitimate be answered in a comprehensive manner, through exploring the

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[26] Alexander Wendt also argues that 'rather than engaging in gate-keeping against each other as the purveyors of false epistemological gods, positivists and post-positivists in IR would do better instead to focus on the respective logics, explanatory potentials, and truth conditions of those questions' (1998, 117).

constitutive components of the legitimisation process and the causal reasons or conditions that enable these. Both of the different types of analysis in combination provide a better understanding and explanation of the legitimisation process. On the whole however, the constitutive analysis primarily contributes to an understanding (defined as meaning making through the reconstruction of interpretations) and the causal analysis provides explanation. In other words, the examination of the empirical data on the basis of the theoretical features of legitimacy from the heuristic model aims to provide understand what constitutes the legitimisation process ('verstehen'), through a constitutive analysis of the peace negotiations to end war in Liberia in 2003 and to stop post-election violence in Kenya in 2008. Additional explanation ('erklären') can be given by a causal analysis of why the constitutive components came to be. This takes place in the temporal and spatial bounds of possibilistic causality. The causal analysis allows for both an idea of how specific conditions interact as well as weighing the importance of different factors (see also Vennesson 2008).

Having outlined the methodological assumptions being made in this case study research - of both a constructivist ontology and a pluralistic epistemology - the next question is what type of methods to apply. The underestimation of case studies as a qualitative research method in recent years, alongside only limited discussion on the topic, means that the current work on process tracing does not adequately suit the elaborations on methodology as outline above. Hence, a new variation of the method of process-tracing is proposed, which is described in the next section.

3.2   Research Design

The research considers legitimacy of peace negotiations and the role of civil society actors, trying to uncover the 'black box' of their legitimising effects, ultimately answering *how* negotiations become more legitimate. What follows below is a description of the methods used to carry out the work, as well as the introduction of the two case studies that are considered in this research.

3.2.1   Comprehensive Process-Tracing

Having described the constructivist ontology and epistemological pluralism, the methodological assumptions will now be put into practice. No current method adequately covers these assumptions, which is why I develop a variation of process-tracing which I label comprehensive process-tracing. This adaption of process-tracing encapsulates both a constitutive analysis (i.e. what constitutes the legitimisation process) and a causal analysis (i.e. why do these constitutive components occur). After reviewing current ideas on process-tracing, the understanding and two parts of comprehensive process-tracing are sketched out, before showing how the process-tracing is carried out as part of a process of abduction.

Process-tracing, initially formulated by Alexander George is conceived as a within-case study method whereby the research can get closer to the 'mechanisms or micro-foundations behind observed phenomena' (George and Bennett 2005, 149). For others, process-tracing means linking events to outcome (della Porta and Keating 2008c, 13; Vennesson 2008, 231) or the tracing of causal mechanisms (and chains) between the independent and dependent variable (Beach and Pedersen 2013, 2; George and Bennett 2005, 206). It allows for 'gaining deep insights into the perceptions and motivations of important actors' (Blatter and Haverland 2012, 25; see also Vennesson 2008, 233). Whilst KKV saw process-tracing as a useful instrument to increase the number of observations (variables), in their eyes it does not on its own yield causal inference. As such, it is only plausible in combination with other methods (1994, 227–228). The work of their critics, including David Collier and Henry Brady, however propose the use of 'causal process observations' instead of 'data-set observations'. The former, as previously discussed, will give much more detail about specific context and mechanisms, allowing for 'distinctive leverage in causal inference' (Brady, Collier, and Seawright 2004, 12; see also Mahoney 2010, 123).

Process-tracing as a method has nevertheless long been underestimated at best, if not outright misunderstood, despite its usefulness in social science research. Apart from its description in the seminal textbook on case study research by George and Bennett (2005), which only gives a partial account, there has been little methodological consensus or interest. When applied or described, the conceptualisation has been much more standardised than the original formulation intended it to be, focusing mostly on causality, deduction and causal mechanisms (Vennesson 2008, 232). In the last few years however, in line with a revivalism of case study research more generally, there has been a renewed interest in process tracing. One of the key developments in the area comes from the book on the topic by Derek Beach and Rasmus Pedersen. They differentiate between theory-testing; theory-building and explaining outcome process tracing (2013, 9–22).[27] Only the latter two versions of process-tracing are relevant to the research question at hand, which is both outcome-oriented (explaining and understanding what constitutes a legitimation process) as well as trying to build (on) theory considering the broader research question: How exactly to peace agreements become more legitimate? The 'explaining outcome' type of process-tracing favours a case specific explanation with limited theoretical ambition beyond the case (Beach and Pedersen 2013, 15–19). The aim is to pinpoint conditions, which in the words of the authors requires an 'eclectic conglomerate mechanism … [whereby] it is usually necessary to include non-systematic parts in the causal mechanisms, defined as a mechanism that is case specific' (Beach and Pedersen 2013, 19). The process-tracing that emphasis theory-building is indubitably more theory-centric and generalizes beyond the question at hand, albeit to a spatially or temporally bounded context (Beach and Pedersen 2013, 16).

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[27] These different versions of one method also broadly speaking overlap in terms of the epistemological and ontological assumptions with the types of case studies as outlined by Blatter and Haverland: co-variational cases; causal process-tracing and congruence analysis (2012, 23–31).

As discussed previously, a rigid epistemological approach can constrain research work. This is why Vennesson proposes that 'combining a positivist and interpretivist perspective in process-tracing is a stimulating opportunity, both theoretically and empirically' (2008, 235). Trying to balance both explaining an outcome and building a theory is possible when using a pluralist epistemology. The process-tracing which is carried out in this research is comprehensive because it includes both a constitutive analysis of the legitimisation process and a causal analysis that considers why the constitutive components came to be in the spatial and temporal context of possibilistic causality. Neither of the two types of process-tracing suggested by Beach and Pedersen adequately respond to both of these types of analysis (though they do admit potential overlaps 2013, 16). If we consider the overarching research question once again - how are peace negotiations made more legitimate through the involvement of civil society actors - we can further break this down into two parts that mirror the plural epistemology in the way it has been argued above. Firstly, what constituted the legitimisation process (mostly '*verstehen*') and, secondly, why were these constitutive components possible or enabled (mostly '*erklären*')?

The first question is the central question in the case studies to follow. Using the features from the heuristic model, the components that constitute the legitimisation process are traced. A constitutive analysis depends very much on the subject matter, seeking to interpret and understanding the socially constructed patterns and regularities of the world. Therefore, the constitutive process-tracing is based on the theoretical features introduced as part of the heuristic model in the previous chapters. For collective concerns, the different collective concerns from the population are considered as well as more specifically any collective concerns addressed by civil society actors during the negotiations. For the theoretical feature of subjective representation, the focus of the constitutive process-tracing is on the interpretations of representation, legitimation strategies of individual actors and other forms of obvious descriptive and subjective representation. The aim for the constitutive analysis is not to show whether the process was legitimate or not, nor to trace out the degree of legitimisation, but rather to expand on the understanding of legitimisation by postulating what seem to be the components that constituted the legitimisation process in the respective cases. In that sense, perceptions are traced but these should be understood as interpretations of perceptions.

The interpretation and tracing of the constitutive components relies heavily on empirical data. Necessary to such work is serious and trustworthy empirical evidence, a thorough 'soaking and poking' and a research who acts like a detective and not a statistician (Blatter and Haverland 2012, 105). Intensive (open-ended) interviewing, participant observation and document analysis can help to uncover previously unknown factors in process tracing (Vennesson 2008, 234). The empirical sources for the constitutive process-tracing come primarily from my own interviews and focus groups which are detailed below. In addition, some newspapers, books, reports and academic work is also reviewed. Process-tracing manuals often speak of tests to be carried out to evaluate the strengths of certain mechanisms. More appropriate to a constructivist ontology are empirical observations which Joachim Blatter and

Markus Haverland propose in their discussion on process-tracing. One of these empirical observations is relevant for the constitutive process-tracing, namely what they call *confessions* (Blatter and Haverland 2012, 117–119). Tracing *confessions* is done in order to gain deeper insights into the perceptions and motivations of the beneficiaries and guarantors of legitimacy, including explicit statements that reveal motivations or anticipated consequences. When perception-based analysis is carried out, this is to be understood as a reconstruction of meanings given by persons that can give indications on how the legitimisation process may work. Just as much as perceptions and motivations can only be reconstructed with regards to the specific meanings found in the context, the ideas of collective concerns interpreted in the analysis are not to be taken as universal, but are reflections of an interpretation.

The second part of the comprehensive process-tracing seeks to explain why the constitutive components are possible. In other words, what are the causal conditions that enabled the constitutive components of the legitimisation process, or why did the legitimisation, via the components, occur? This uses the different epistemological framing in an advantageous manner whereby further depth is given by considering a (further) explanation of what occurred regarding the legitimisation process. Because the causal analysis is linked to the constitutive analysis it is not possible to carry it out for all aspects. Some of the constitutive components are not feasible to explain causally, especially perception related-understandings of legitimacy. In the heuristic model, subjective representation is by definition perception based. Since the constitutive analysis for this feature will focus on reconstructing the meanings in relation to representation, epistemologically a causal analysis does not make sense. Because, as argued above, there is not a strict dualistic choice between 'understanding' (from the constitutive analysis) or 'explaining' (from the causal analysis), it is not essential to carry out a causal analysis in order to have explanatory elements to the question of how peace negotiations become more legitimate with regards to the feature of subjective representation.

The same is not true for collective concerns. As discussed in the previous chapter, there is an inherent power imbalance in the public sphere more generally, but especially during peace negotiations. Because of this and the fact the research question not only considers the process of legitimisation but also the actors who contribute to this - especially whether and in what ways this entails civil society actors - the second part of the comprehensive process-tracing considers especially what the constitutive components mean in relation to the actors. For the feature of collective concern, this is the influence of the actors. Hemmer et al. make the argument that the success of Track Two negotiations 'depends on reaching those powerful enough to impose peace' (2006, 134). In the same way, the legitimisation process may further be explained by the influence the civil society actors had in addressing the collective concerns.

The causal analysis is considered in terms of possibilistic causality, but draws from the assumptions made for mechanistic causality in light of the plural epistemology. As a result, several steps are taken in the causal process-tracing of the influence of actors. First of all, what are the causal conditions, or can

anything be traced as being particularly relevant for the causal analysis? Here the empirical observations from Blatter and Haverland are revisited. This includes potential critical moments in the process that show the potentially relevant causal conditions, focusing on macro structural factors, what they call a '*comprehensive storyline*'. Moreover, so-called '*smoking guns*' allows for the observation of causal pathway or conjunctions (or the relationship between the causal conditions). This type of observation denotes a central piece of evidence within a cluster of observations at a central moment with which inductively strong causal claims can be made, strength being gained through a temporal and spatial connection between a cause and an effect. The focus here is more generally on the behaviour and capabilities of certain actors, in order to complement the structural focus of the comprehensive storyline (Blatter and Haverland 2012, 110–117).

Second, in order to show how the different causal conditions work together in a mechanistic understanding of causality, do the different conditions have a specific amount of causal power individually (additive configurations) or do they depend on the other conditions (interactive configuration) (Blatter and Haverland 2012, 94)? Third, do these additive or interactive configurations work in a specific sequence, related to path dependency, and form a causal chain? Or are they causal conjunctions, whereby the configurations work together in the specific time period? The temporal and spatial boundaries will also be traced as part of the causal-process tracing. The reasons for this also comes from Blatter and Haverland, who make the argument that causality plays out in time and space, which is in turn reflected in different contingencies that are relevant to this work. A space-time contingency is supposed or the structural environment in crucial moments allows for causal inference, it is the 'natural basis' for such inference (2012, 95)

Supplementing these two components of the comprehensive process-tracing, the context factors will also be detailed in order to enhance the explanation, relating back to both the constitutive and causal parts of the comprehensive process-tracing. Blatter and Haverland also argue for a multi-level contingency of causality. Accordingly, there are different types of mechanisms, both structural (material, ideational and institutional ones) as well as actor-centric mechanisms. This is also embedded into ideas of social mechanisms - situational, action-formation and transformational mechanisms (2012, 95). This is pertinent because the argument follows that - beyond merely the causal analysis - neither exclusively structural reasons (what Emile Durkheim would argue) nor exclusively agency-related reasons (what Weber would claim) matter. Rather, much like in the direction of what Bordieu and Giddens proposed: The mixture of both kinds of reasoning is relevant (see Alagappa 1995, 16). Clark makes a convincing case of how this may be the basis in a peacebuilding process of sorts, namely the Gacaca courts in post-genocide Rwanda (2014). He finds that the 'complex interaction between the state and citizenry in Gacaca highlight the importance of dialectical approaches to structure and agency' (Clark 2014, 208). Without going into further details about these foundational theories, it suffices to say that context conditions, relating to both structure and agency add further explanation and understanding to the

comprehensive process-tracing. This is also very much in line with the constructivist ontology of the research process. Table 3.1 below summarises the different elements of comprehensive process-tracing, which is essentially an analysis carried out in three - constitutive, causal and contextual - steps.

Table 3.1: A Summary of Comprehensive Process Tracing

COMPREHENSIVE PROCESS-TRACING	
Constitutive Process-Tracing	**Analysis**: What components constitute the legitimisation process? **Sources**: Interviews and focus groups along with secondary sources **Empirical Observations**: *Confessions* (individual perceptions and motivations)
Causal Process-Tracing	**Analysis**: Why did the constitutive components that led to legitimisation occur? What are the causal conditions that explain this? **Sources**: Previous constitutive analysis **Mechanisms**: Causal conditions; additive or interactive configurations; causal pathways or conjunctions; temporal and spatial boundaries **Empirical Observations**: *Comprehensive Storylines* (critical moments indicating the structural factors) and *Smoking Guns* (causal relationships between two conditions relating to behaviour and capabilities of actors)
Context Factors	Structure and agency-related context factors that further explain the constitutive components and causal conditions

As shown above, the comprehensive process-tracing is based on the heuristic model of the previous chapter. This is because the theory-building research question of this dissertation is based in a process of abduction. This is detailed in the next section.

3.2.2   Research Design: Process of Abduction

In the previous chapter the heuristic model was presented covering two features of legitimate peace negotiations, namely addressing collective concerns and subjective representation. How to move from that to a theory of legitimate peace negotiations through the method of comprehensive process-tracing is the subject of this section. Considering the benefits of using both inductive and deductive reasoning, the abductive nature of the research is presented.

One of the major bones of contention behind the different approaches to epistemology and ontology (and in turn methodology) is whether to work inductively or deductively. It is generally assumed that both the explaining-outcome and theory-building type of process tracing as described by Beach and Pedersen are more inductive, especially the latter (2013, 16). Blatter and Haverland also describe their causal process tracing case study as largely inductive (2012, 30). Process tracing is however lauded on the basis, that the method can be used to disclaim presumed causal mechanisms, thereby adding to theory development (Vennesson 2008, 234; see also Blatter and Haverland 2012, 141). Whilst this is also an inductive process, such theory development actually works best in combination with deductively working from a theoretical framework. Keeping this in mind, along with the added value of more than one case study (not in the sense of more *n* increasing the validity but because it can test the relevance of

specific factors in other individual cases), an abductive process is be carried out in this dissertation. This is based on a research model proposed by Frank Schimmelfennig (1995, 18–25).

In a first step, a heuristic model was deduced from pre-existing theories on legitimacy. A literature review, considered existing research on civil society actors in peace negotiations as well as some more general theories on legitimacy in order to outline the features of legitimacy (Chapter 2). In a second step, this heuristic model is deductively applied to the first case study, the Liberian case of peace negotiations, in the comprehensive process-tracing as outlined above. In a third step, the heuristic model is revised inductively on the basis of the empirical observations in the first case study. An empirical puzzle is shown that is not adequately covered by the two features in the original heuristic model, pinpointing to a third feature (Chapter 4). In a fourth step, an updated heuristic model is applied to the second case study, the Kenyan case, again carrying out the comprehensive process-tracing (Chapter 5). In a final step of the abductive process, the findings from this case study (as well as building on the previous step) is inductively used to propose a theory of legitimacy (Chapter 6).

This process of abduction is summarised in Figure 3.1 below. All deductive steps are shown with black arrows and the inductive steps with dotted arrows.

Figure 3.1. Proces of Abduction Towards A Theory of Legitimate Peace Negotiations
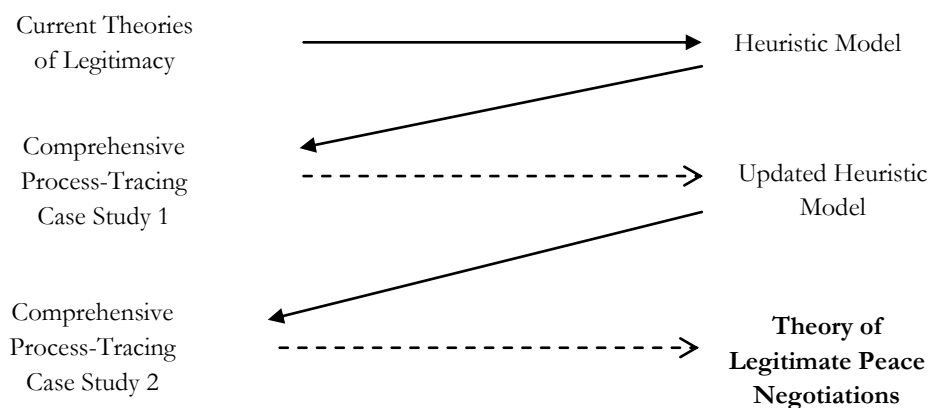
The final two sections of this chapter introduce the case studies as well as giving an outline of the empirical fieldwork methods.

3.2.3   Introduction to Cases

Much has been written about case selection and the possible repercussions of bias surrounding this difficult task (e.g. Geddes 1990; George and Bennett 2005, 83–84; Gerring and Seawright 2007). Since the basis of causal inference (or the constitutive process-tracing for that matter) is not based on the comparison of cases, but rather on within-case analysis, the case selection or potential bias is less

problematic (e.g. Collier, Mahoney, and Seawright 2004, 95; see also Blatter and Haverland 2012, 101). For an abductive research design there is therefore no case selection in the traditional sense (choosing a case from a universe of cases). Rather a case is chosen because of its inherent interest for answering the question at hand.

Interpretive social scientists also choose cases for what they can tell us about complex social processes (della Porta and Keating 2008a, 29; see also Blatter and Haverland 2012, 102; Moses and Knutsen 2012, 132). Since the interest is in explaining the legitimising process of peace negotiations through the involvement of civil society actors, it makes sense to find a case where there was a strong active role for civil society actors. History seldom gives as such cases, argues Eckstein, which is why 'most-likely' cases are the solution (1975, 158). That is, if a theory is true at all, than this would be the case where the theory would fit (Bennett 2004, 29). The 'most likely' or interesting case for this research is chosen according to certain conditions. Firstly, the research in question focuses on power sharing agreements to end violent conflicts as introduced in the first chapter. This is related to the inherent elitist nature of power sharing negotiations, making the question of legitimacy and participation especially interesting. Secondly, the focus is on African cases. This is because power-sharing agreements have been particular prominent in sub-Saharan African, with mixed results (e.g. Tull and Mehler 2005; Lemarchand 2007). If we consider prominent work on the involvement of civil society actors in peace negotiations, Wanis St. John and Kew, divide civil society involvement in peace agreement into intensity of involvement, there are four cases with high civil society involvement (2008). These are Guatemala, Liberia, Mozambique and Sierra Leone. The Sierra Leonean and Mozambican agreements date back to earlier time periods, making it even more difficult to gauge the perception regarding the legitimisation of the agreements, as memories are likely to fade over time. The Liberian example however, dating back to 2003 makes a good case where enough time but not too much has passed in order to study the legitimisation of process. The Liberian case has also been used by numerous studies as an example of the involvement of civil society actors having a positive effect on the legitimacy of a peace process (e.g. Dupuy and Detzel 2008; Hayner 2007; Hultin 2014, 205; Nilsson 2009, 2012; Wanis-St. John and Kew 2008). The Liberian Comprehensive Peace Agreement signed in Accra in 2003 was signed inter alia by 18 political parties and five civil society witnesses. If we consider one of the most recent collections of power-sharing agreements in Africa, collected by Mehler in 2009, only two of the agreements contain civil society signatories, even when the list is extended from 2007 to 2010 (see Appendix Table 1).[28] The Liberian case also shows particular social significance and complexity due to its lengthy civil war prior to the signing of the comprehensive peace agreement.

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[28] The Sun City Agreement in the DRC also includes the signature of 19 political parties and 45 civil society representatives but the role is not widely acknowledged or often criticised, e.g. '… by eventually aligning themselves with certain armed groups, the 'forces vives' and the political parties gave up the peacebuilding role they were expected to play by polarising further and reducing the scope of the talks' (Rogier 2003, 39).

Blatter and Haverland suggest that whilst choosing a case that shows a strong positive result with respect to the outcome of interest, a second step can be taken by looking at another case to test the relevance of specific factors that have been identified in the first study (2012, 25). This is similar to the building block technique, as suggested by Eckstein, and fits with the abductive process as outlined above. The building block technique works by confronting preliminary theoretical constructs with another case, allowing ways for amending and improving the initial findings, and hence a 'gradual' unfolding of a better interpretation (Eckstein 1975, 105). George and Bennett find the building-block technique of case studies particularly useful in emerging research projects, since the 'process can outline an increasingly comprehensive map of all the causal paths to an outcome' (2005, 262). Though the aim is not merely to show causality, but also constitutive components of the legitimisation process as outlined above, looking at another case does increase the relevance and potential generalizability of the theoretical findings in the case study. Differences in levels and duration of conflict prior to the signing of the power-sharing agreement might make a difference in the components of legitimisation, making for an interesting theory building-block.

The second case was chosen with the aim of broadening the applicability of the insights derived from the first case, by looking at a case where the level of violence preceding the peace negotiations was lower and the civil society did not have a direct Track I role in the negotiations. Since the current literature states that the more democratic a country is, the less important the role of civil society actually is, this is also a consideration in choosing the second case study of the building-block (Nilsson 2012; Wanis-St. John and Kew 2008). Power-sharing agreements are not only used as a tool to solve civil wars, but also other violent crises, such as instances of post-election violence. Research on power-sharing agreements regarding mitigating post-election violence is not as frequent as the studies on power-sharing after civil war (notable exceptions include Le Van 2011; Mehler 2009). This is despite the fact that '[power-sharing] agreements ... bestow external legitimacy on elite bargains that drive a wedge between politicians and citizens' (Le Van 2011, 32). Because such dynamics of actors involved in the negotiations of power-sharing agreements may have profound implications for the research question at hand, such an instance is used. Notable cases of power-sharing post-election agreements in the given time frame include Zimbabwe and Kenya. Since Kenya is particularly known for its vibrant civil society, it makes for a good second-step case study in order to refine the implications from the Liberian case. Unlike the Liberian case, civil society did not play a direct role in the negotiations, but in accordance with Wanis-St. John and Kew, a direct role for civil society is less import and will suffice to have a positive correlation to durable peace because of the higher levels of democracy in the country (2008, 30). Therefore, Kenya is something of a most likely case of an example of power-sharing agreements after a political crisis with short-term violence (and is more democratic than Zimbabwe). The Kenyan negotiations in 2008 have also been noted as an example of a positive contribution of civil society actors to such a process (e.g. McGhie and Wamai 2011). For both of these cases considerable fieldwork was conducted, which is outlined in the next section.

3.3   Empirical Fieldwork

According to Blatter & Haverland, data generation is the most important step for case study research (2012, 26; see also Wood 2007 who makes a similar argument for the importance of fieldwork data for process-tracing). Furthermore, inspired by an ethnographic approach, a researcher must focus on meanings that actors give to their actions and consider the contextual setting, giving the study a holistic, in-depth, framing (Bray 2008, 298; della Porta and Keating 2008a, 31). Therefore what is sometimes called 'thick description', the aim of which is 'studying a phenomenon in its own dynamic context' is also deemed relevant in this research. This is because allowing for elements of thick descriptions means that 'more can be intrinsically understood about it than by simply examining it in isolation' (Bray 2008, 302). For this dissertation, a total of seven months fieldwork was conducted in Liberia and Kenya, between 2011 and 2014.[29] Empirical evidence used in this dissertation comes from a total of 60 interviews and 6 focus groups in Liberia and 55 interviews in Kenya along with 6 focus groups.

3.3.1   Local Level Research: Introducing the Local Arenas

In a first phase in 2011, field research was conducted in Liberia and Kenya with the aim of understanding the motivations of civil society representation in peace negotiations. Though a number of elite-interviews were conducted in the respective capitals, the focus of the research was in so-called 'local arenas'. Kathrin Heitz argues that the local political arena is the key for a better assessment of the political strategies that are decided at the national level (2009, 110; see also Neumann 2011, 50).

Especially in the sub-Saharan African context it is argued that the 'local' level, or sub-national, plays a significant role in legitimisation. Discussing popular legitimacy in multi-ethnic states in sub-Saharan Africa, Robert Jackson and Carl Rosberg find that there has often been a system of 'virtual representation' to gain popular legitimacy, partially through for example the practice of receiving petitioners from different regions and localities in the country, encouraging rural people to bring their various needs and grievances to the personal attention of the rulers in question (1984, 193–4). Political weight of an individual actor is thus often related back to the mobilisation capacity she or he has at the local level, rather than on any social and ideological basis. As such, Chabal argues that there are two different types of legitimacy in the African context, the national and the local, which are governed by different rules. Even when politicians lose national legitimacy, they seek to retain local legitimacy (Chabal 2009, 52). If this line of argumentation was followed, there would be a theoretical basis to differentiation between local and national understandings of legitimacy. As I will show in the empirical chapters, whilst the beneficiaries of legitimacy (the population) is surely heteoregenous, the differentiation between 'local' and 'national' level is perhaps not as clear-cut as this would suggest. In fact, more artificial or obvious

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reasons (mainly related to infrastructure) will affect the perception of legitimisation, but this is not necessarily because of theoretical differences as the outlined literature suggests. Regarding the empirical research and the methodological approach however, it makes sense to conduct research at the so-called 'local' level. This is outlined in the following, albeit not as a theoretical argument but rather as a method of research. Local-level research as part of an empirical research method allows taking into consideration particular context conditions and previous conflict dynamics that may be harder to detangle in urban capitals.

The study of the so-called local level is in line with more recent developments in peace and conflict studies known as the micro-theoretic turn. According to one of the major proponents of the micro-theoretic turn, Stathis Kalyvas, 'urban bias is a serious problem because it distorts data and conceptualizations of civil war dynamics; it tends to privilege written sources, 'top-down' perspectives, ideological or normative motivations of participants, and fixed, unchanging identities and choices over oral sources, 'bottom-up' perspectives, non-ideological motivations of participants, and fluid identities and choices' (2006, 42, see also 2003). Recent years have seen a significant increase in studies characterised by a focus on sub-national dynamics and disaggregated conflict data projects.[30] The method-based argument for local level research does not mean, however, that the so-called 'local' level is easily defined. The idea of the local level has faced increasing attention not only because of the micro-theoretic turn, but also due to the local turn in critical peacebuilding (e.g. Mac Ginty and Richmond 2013). Building on the earlier work of Lederach on communitarian peacebuilding, this critical research endeavour tries to take the emphasis away from the national top-down liberal peacebuilding (often in line with external interventions) and focus on the bottom-up, 'every-day' and 'authentic' peace (e.g. Lidén, Mac Ginty, and Richmond 2009; Paffenholz 2014b). Nevertheless, the idea of the local tends to remain fuzzy and pertain to essentialised characteristics, harming its analytical value, as I have argued elsewhere (Simons and Zanker 2014; see also Hirblinger and Simons 2014).

Despite these shortcomings, assuming this local level or local arena to be a basic administrative unit at the sub-national level, an internal within country case selection was made. In each country, two cases or local arenas were therefore chosen elected on the basis of being former hotspots during the preceding violence, one being peaceful since the conflict has ended, and one less so, with recurring conflict or tension.[31] Fieldwork showed that this differentiation was somewhat artificial. This is not really surprising since a clear dichotomy of peaceful and non-peaceful former hotspots is not likely; arenas are much more likely to maintain levels of peacefulness on something akin to a continuum (Autesserre 2009).

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[30] The idea of subnational comparison is of course not entirely new. See for example Lijphart (1971, 689) and Snyder (2001, 104).

[31] The reason for such a case selection (and challenges related to this) was related to the other research being conducted simultaneously on the local arenas of power sharing. In term of the process of legitimisation, this differentiation is not argued to make a difference.

Again, theoretically the differentiation is not argued to make a difference with regards to the legitimisation process, but as a research method helps to give broader context factors more generally.

The case selection of the local arenas was carried out using a combination of conflict location data sets, further secondary sources and expert advice. It has been described at length elsewhere (see Simons and Zanker 2012). The case selection led to finding a total of four local arenas for the two countries, where most of the interviews as well as the focus groups were conducted.

In Liberia, the final case selection led me to two towns in central and north Liberia. Both former rebel strongholds, Gbarnga is in the centrally located Bong County and Ganta in northern Nimba County. Both the towns of Gbarnga and Ganta played prominent roles and were severely affected by violence throughout the Liberian conflict. The former, Gbarnga, became the headquarters of Charles Taylor, when he named it the capital of greater Liberia in 1990 (Ellis 2007, 92). The town was destroyed in the various phases of the civil war and continues to be fragile in the aftermath (for more on Gbarnga, especially after the war see Simons et al. 2013, 690–691). Ganta, a bustling border town, a short distance from the border to Guinea, was particularly affected by the second period of violent conflict (e.g. Munive 2010, 15). Persons associated to former pro-Taylor rebels still control the town, together with a high concentration of former ex-combatants and increasing urbanisation has led to post-war land conflicts (for more details see Simons et al. 2013, 691).

In the very different setting of Kenya, one region particularly affected by the post-election violence was the Rift Valley. Amongst the worst affected areas were those surrounding the towns of Nakuru (Nakuru District) and Eldoret (Uasin Gishu District), the two local arenas of research. The rural communities surrounding Eldoret were the scene of roadblocks, property looting and houses being burnt down. Most infamously, dozens of people were killed when a church in Kiambaa village close to Eldoret where they had taken refuge was set alight by an angry mob. Whilst most of the destruction and killings in Eldoret involved predominantly Kalenjin supporters as the perpetrators and Kikuyus as the victims, roles were reversed in Nakuru (see CIPEV 2008 Chapter 3). Further south in the Rift Valley Province, this town became the scene of violence perpetrated by Kikuyus against Kalenjins. The Kikuyu population boomed in Nakuru as Internally Displaced People came there fleeing from violence in other places.

3.3.2   Fieldwork Methods

In each of the two arenas in the countries, focus group discussions were conducted with market women, teachers and youth, with a total of 12 focus groups being carried out and analysed for this research. Focus groups are an important tool to study attitudes, perspectives and experiences, and 'the contrasting and comparing among the participants help to better elucidate motivations and reasoning' (Söderström 2011, 147; see also Lloyd-Evans 2006). The focus groups were conducted with groups of about six to

ten participants, and were organised and carried out with the help of moderators and research assistants in each of the countries.[32] The discussions groups usually lasted a few hours and included questions concerning what collective grievances were perceived during the violence and if these were addressed or not in the peace negotiations, and by whom. Participants were also asked if they feel these grievances remain today. The focus group discussions additionally acted as a more general forum to test whether there is knowledge about civil society representation in some of the areas which were most affected by the conflict. Whilst focus groups are not representative of a population, they are a useful method to develop an understanding of a concept as well as unusual or different angles that might be of importance. This makes it particularly conducive to be used as part of the comprehensive process-tracing method as outlined above, especially with regards to the constitutive analysis.

Semi-structured interviews with local stakeholders (as well as the major civil society actors usually based in Nairobi and Monrovia) supplemented the focus groups, allowing for a better understanding of any other grievances that may exist in the area, legitimacy of civil society actors and other issues involved in the negotiation process. Interviews are particularly useful in combination with other research methods such as focus groups. Furthermore, interviewing 'offers a unique method and source of information since it provides research with depth, detail and perspective on a certain research question, and at a certain moment in time' (Brounéus 2011, 131). A combination of both specific targeting as well as the snowball sampling technique was applied to choose interview partners who included local government officials, civil society representatives, religious leaders and other locally relevant stakeholders (for non-random sampling selection of interviewees see Bayard de Volo and Schatz 2004, 269; for the usefulness of snowballing in a volatile setting see Vlassenroot 2006, 195). In order to gain a better understanding of the proceedings of the negotiations and the role of civil society, civil society members were also asked about how much influence they think they had, whether they felt that their involvement increased legitimacy (and why/how), as well as what efforts were made to bring the content of the peace negotiations and agreement to the grassroots level. Both the focus groups and the interviews were later analysed and coded using Max QDA software. An overview of the question template for both the interviews and appendix are provided in the appendix.

To a lesser degree, participatory observation was also carried out. Whilst of course this was not done at the time of the peace negotiations, I attended major civil society stakeholder events in order to observe their function and behaviour in the peace implementation process. More closely linked to the research was the attendance at a follow-up conference organised by Kofi Annan for the Kenyan peace talks, the 'Kenyan National Dialogue and Reconciliation: Building a Progressive Kenya' Conference, held in

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[32] In Liberia Moderators were Felesu Swaray (Youth and Teachers in Gbarnga), Beatrice Duana (Market Women in Gbarnga and Ganta), Claudius Mehtua (Youth and Teachers in Ganta) and Magnus Marvey (research assistance). In Kenya, Dr. David Okeyo was the moderator and Leah Ngugi and Silas Kipchumba were research assistants in Nakuru and Eldoret respectively.

Nairobi in December 2011.[33] Less closely linked to the actual peace process, but equally illustrative of Liberian civil society was the participation at several meetings including one on Security Sector Reform (Monrovia, September 2013) and a civil society organisation Stakeholder Meeting with the Governance Commission to discuss decentralisation (Monrovia, January 2014). In a second phase of fieldwork (2013/14), which was carried out only in Liberia, the initial analysis and ideas were discussed with the major civil society stakeholders that had been part of the peace process. This was done in order to gauge whether the theoretical developments and heuristic model had any relevance for those who had taken part in the actual process. Lastly, the empirical analysis also uses secondary literature and newspaper sources wherever relevant.

3.3.3   Reflecting on Fieldwork in Post-Conflict Countries

Reflecting on fieldwork has garnered increasing attention in peace and conflict studies in the last decade. As a result there are a number of text books and articles discussing personal reflections related to issues of trust, access and ethics (e.g. Smyth and Robinson 2001; Sriram et al. 2009; Vlassenroot 2006). Others have focused on the usefulness of specific research methods in conflict or post-conflict settings (e.g. Höglund and Öberg 2011). Moreover, some have focused specifically on Africa (e.g. Thomson, Amsons, and Murison 2013) and include an entire panel dedicated to the subject at the European Conference on African Studies in 2013 (e.g. Henry 2013). Whilst all these make important contributions and prove invaluable learning tools for newcomers to the field, there is more generally speaking a fine line between reflecting on one's own research with regards to what this may mean for the interpretation of the research and putting too much emphasis on the reflection of the self. Particularly in the conflict or post-conflict setting, this can result in an overemphasis of the uniqueness of the researcher, trying to struggle with the emotional and sometimes physical toll of fieldwork. Ultimately, an over-emphasis of the researchers own role can potentially lead to a fetishisation of these very conflict settings, reinforcing a division between researcher and research subjects. Additionally, it can further add to the vicious circle of fear-creation of working in certain settings (see Autesserre 2014b, 223–226 for more on this).

Nevertheless, at least a degree of reflection is necessary in line with the epistemological assumptions of anti-naturalists, whereby the researcher cannot abstract themselves from their prior web of beliefs. As a result, social science will ultimately take place within a particular linguistic, historical and normative standpoint (Bevir and Kedar 2008, 506–7; see also Creswell 1998, 5). Other scholars have expanded on this, pointing to the existence of the hermeneutic circle in constructivist research (see C. Lynch 2008, 709; Hermann 2001, 78). This line of thinking supports the idea of the researcher's own role in interpretation. The hermeneutic circle stands both for the 'circular, iterative sense-making … [in order

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[33] For a detailed programme see
http://www.dialoguekenya.org/conference/kndr%20building%20a%20progressive%20kenya%202011.pdf

to] revises one's initial, provisional interpretation' over time (a method of interpretation) and the 'reading back and forth between text and context … the ever-circular process of meaning making' (the context of interpretation) (C. Lynch 2008, 709–710 citing from Yanow). In summary, the hermeneutic circle asks the research to think contextually and to interpret any results in a circular manner.

Therefore, applying the hermeneutic circle as a method begs for a constant interpretation and re-interpretation in light of the researchers own biases. Long before one sets out into the field, the worldviews and opinions of the researcher are likely to affect the research agenda (C. Lynch 2008, 708). Once in the field, sensibilities, interest and characteristics will make certain stories seem more plausible or their authors more sympathetic (see also Armakolas 2001, 171; Vlassenroot 2006, 197 for similar points). For my part, at the outset of this research was a political and personal belief that the idea of 'local ownership' - whatever this may mean - is of essence in any type of peacebuilding. The starting point was therefore a normative belief that civil society inclusion per se was a 'good thing' to be supported. This did not mean however, that I assumed research on civil society or local ownership or their definitions to be straightforward. Moreover, underlying this was the stronger commitment that only well founded, balanced research could ultimately contribute to the knowledge creation of this rather fuzzy topic. As Bevir and Asaf Kedar note 'an encounter with the beliefs or meanings of social actors always has the potential to send out ripples through a scholar's own beliefs, altering their understanding of, say, their research agendas, the traditions in which they work, or their normative commitments' (2008, 507). As my findings in later chapters ultimately show, my worldview was continuously challenged, which led me to re-think and re-analyse the findings over and over again, ultimately pushing me along in this hermeneutic circle.

In order to facilitate this 'two-way channel of knowledge construction' (C. Lynch 2008, 719), I was lucky enough to revisit the Liberian context on two further occasions after some time had passed, which gave me an opportunity to further discuss and contextualise my preliminary findings. This helps in contributing to the hermeneutic circle in its understanding as the context of interpretation. Abstaining from all reflections and taking empirical data as fact - especially data as subjective as the one presented here - would obfuscate the knowledge making process. When using empirical data the aim is to give an 'authentic insight into people's experiences' (Vlassenroot 2006, 194). Therefore the context matters. On one level this is addressed throughout the dissertation, which follows a multi-epistemological design exactly for this purpose. On another level, the context refers to the qualitative data collection process itself, transparently presenting any challenges that may affect the interpretation of the data or its context. This includes questions of access, trust and the narratives of respondents. Tamar Hermann suggests that the data-collection part is the hardest for 'outsiders' as supposed to 'insiders' (2001, 82). This is also why Dvora Yanow and Peregrine Schwartz-Shea speak of 'accessing data' rather than collecting it (2006).

Despite the history of extreme conflict intensity in Liberia compared to Kenya, research was more challenging in Kenya. My fieldwork in the wake of the arrest warrants from the ICC against - at the time six - persons accused of crimes against humanity during the 2007/8 post-election violence, translated into a highly politicised and ethnicised research setting. This resulted in some thinly veiled threats to not to talk to certain people, persistent phone calls to the same effect and some refusals to talk to me. It meant that in some parts of the focus group, participants felt too uncomfortable to speak openly. It also ensued that one of my research assistants overheard participants in another focus group debating in a local language in their lunch break, whether I was a spy for the ICC (see Vlassenroot 2006, 197 for a similar experience).

In post-conflict settings, like in many others, the often highly fraught political nature of events makes researchers immediately seem suspicious. Moreover, the question of neutrality - and whether it should be maintained at all costs - is a difficult one. The careful balancing act of listening to all sides and trying to remain neutral can be challenging. For the most part, I refrained from voicing my own opinions. However at times, I could not leave opinions and statements uncommented, especially when they second-guessed my own purposes. I also chose very deliberately not to talk to some people. For example, the Senior Senator of Nimba County, Liberia in 2011, Prince Johnson, could have been an interesting person to interview regarding his opinions on the social and political peace process that has unfolded in Liberia and also his very own attendance at numerous peace talks. I had talked to his counterpart, the Senior Senator of Bong County, Jewel Howard Taylor. I had several options and points of access to contact him. Nevertheless, considering his very publically known involvement in the torture and murder of former President Doe, I deliberately chose not to. It was after all not *necessary* for my research, so I made that choice that my personal opinion would allow me, in this case, to refrain from an interview.

Concerning access, my biological and sociological characteristics undoubtedly affected the respondents I could talk to and the way they interacted with me. Being a young woman made the entrance into patriarchal societies that are also built on age hierarchies challenging at times. Power hierarchies can also work in favour of research feasibility. Being a young women was therefore sometimes an advantage as some interviewees felt this meant they could talk particularly freely and openly as they did not feel threatened by me (see also Autesserre 2014b, 286). I found in addition, that my outsider status - being a white European - meant that I was nevertheless given a surprising level of access. This was especially the case in Liberia, where white Westerners walking around on foot or taking any forms of public transport were quite a novelty, so there was an interest in talking to me. At the same time, this underscores that power hierarchies are still firmly in place in many of the settings I worked in (see also Hermann 2001; Autesserre 2014b, 286). Ultimately, flexibility according to the context remains the best option, for example whilst most conversations were recorded in Liberia, due the politicised nature as described above this was not possible in Kenya. Nevertheless, the elite nature of most of those interviewed cannot be denied. In response to the post-colonial thinker Spivak - who noted the subaltern does not speak -

this regrettably remains true for much of this research. To a certain extent, conducting focus groups counterbalances this, but more extensive research would be needed in order to completely counter an inherent elite bias (and arguably the subaltern cannot speak by definition see Simons and Zanker 2014, 14)

I did not come across major problems with gatekeepers preventing me access to talk to people (Gokah 2006, 67). Not being tied to any on-the ground organisation or formal network helped me greatly in that sense, as I could seek out whomever I thought of as an interesting interviewee and make my own case as to why I would like to talk to them. More than gatekeeping, I faced problems of attempted manipulations from those I talked to. This of course underlines the importance of interpretive sciences that allow the analysis of the given context of any interview or focus group answers (see also Berckmoes 2013).

A number of points relating to the contextuality of the content of the conversations I had must be made. Firstly, at least to a degree those I talked to used what Autessere calls 'canned responses', or 'discourses manufactured for passing journalists or researchers' (2014b, 281). This meant that certain frames of references were used, often in the hope that this would ensure access to funding and help (Autesserre 2014b, 107; 123). On numerous occasions I was asked whether I know of any donors to fund certain projects or 'to tell your country' about certain situations. Secondly, people I talked to of course chose what aspects of their experiences, thoughts and ideas they wanted to share with me. Mats Utas shows that the narratives told depend on the given situation, in his case highlight the story of a woman who had a variety of roles during the war including as a perpetrator chooses to focus solely on the representation of her victimhood in interactions with external actors (2005). Thirdly, many of the most telling answers or clues are unspoken ones (see Fujii 2010). Thus for example the focus group with market women in Nakuru, Kenya insisted repeatedly that "tribalism was over" or that they "no longer thought in those terms" (of ethnic groups). Nevertheless, during the lunch break the group broke down into smaller ones to sit down and eat their meal - and the research assistant noted in surprise that they sat together according to their ethnic groups.[34]

Whilst these issues are of course all notable enough issues to mention, none were detrimental to my research. This is because the kind of question I am asking for example does not necessitate a holistic narrative of all angles of personal experience from those interviewed. Manufactured responses are more of an issue when tackling the legitimisation of a process like peace talks, but care was taken to explain the point of the research to try and get as varied responses as possible. I made my position as researcher clear at all times (see also Armakolas 2001, 169).

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[34] We never asked the participants to state their ethnic group but tried to recruit from different groups whenever appropriate in order to get views from varied perspectives. The moderator and assistants were usually able to ascertain the ethnicity from the name and accents of the participants. We preferred this method to asking the participants outright, especially since this was not necessary to know for the research question.

Lastly, the timing of the interviews will also affect the type of responses I was given. The original fieldwork in Liberia took place eight years after the peace agreement had been signed, in Kenya four years after the National Dialogue. Asking people about any event directly will of course guarantee a more detailed and reliable description than many years later (see also Beach and Pedersen 2013, 135). However, this builds on the presumption that these people took part in the first place and thus only applies to the civil society actors themselves. Generally, asking years after the process means that accounts and narratives are based on memories. Many studies on these kind of memories - the relation to trauma and the way information is stored and passed on - have been conducted by a variety of disciplines ranging from anthropologists to psychologists (for a good overview see Argenti and Schramm 2010). The point is to acknowledge that the explanations are memories only and therefore a certain type of information. Yet again, asking in the immediate aftermath of the end of the talks has its own drawbacks such as misinformation. In addition, especially elite informants may feel more comfortable speaking of sensitive events after some time has passed (on this point see Grauvogel 2014; Vorrath 2013). Because the legitimisation process is seen as fluid and on-going, a reflective-memorial account is particularly useful. As a result, the memory of the process is a particularly important point of entry.

In conclusion, taking part in this hermeneutic research experience - both as a method throughout the research and as part of acknowledging the context of interpretation - has been a long and difficult process. Time and time again assumptions that were made - both scientific and personal - were questioned or completely undermined. Nevertheless, this made the process and the 'end product' all the more interesting and valuable. Hermann summarises that in setting of discussing violent conflicts - which I see just as relevant in this research - 'both the positivistic demand for objectivity and the hermeneutic requirement for honest reflexivity, are extremely difficult to meet' (2001, 79). Without further deconstructing my own role and perceptions it suffices to say that enormous care has been taken to reflect on all methodological and epistemological angles that can arise from the outsider conducting research in a particularly sensitive setting and what this may mean for knowledge creation.

SECTION 2:

EMPIRICAL CASE STUDIES: CIVIL SOCIETY INVOLVEMENT IN PEACE NEGOTIATIONS

Chapter 4

A Voice for the Voiceless: Civil Society Activism in the Liberian Peace Negotiations

4   A Voice for the Voiceless: Civil Society Activism in the Liberian Peace Negotiations

Describing a part of the women's movement, which was involved in the Liberian peace negotiations, another civil society actor characterises their role as "representing the voiceless" (L3_13).[35] This chapter accumulates the third and fourth step in the abductive process, applying and amending the heuristic model on the account of the first case study of the Liberian peace negotiations. Resulting from the comprehensive process-tracing of the first two features, a further feature is shown to be inductively relevant from the empirical analysis. This feature, transparent communication is detailed by returning to theoretical debates on participation and transparency in the later part of this chapter.

The chapter will first give an overview of the background of the civil war in Liberia and major actors relevant to the peace negotiations, before considering the first two features of the heuristic model, namely collective concerns and subjective representation. The chapter then expands the heuristic model after outlining an empirical puzzle and shows the relevance of the third feature, transparent communication. For each of the features, up to three analytical steps are taken as has been outlined in the chapter on methodology. Firstly, on the basis of an interpretative overview of what took place in line with the heuristic model features, the components that constitute the legitimisation process are traced. Secondly, why these constitutive components came to be is traced causally. The causal analysis is only carried out for the feature of collective concerns and transparent communication (which is shown later), since the perception-based components of subjective representation cannot be explained causally. Lastly, the context factors for each of the features are discussed, which further accentuates the entire comprehensive process-tracing.

4.1   Background and Actors

In order to situate the analysis, a brief overview of the Liberian civil wars, the peace negotiations in 2003 and the major actors involved, including from the civil society sector, are outlined in the subsequent sections.

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[35] NB: all quotes that come from the original empirical data is cited in double quotation marks in order to differentiate them from the literature citations throughout the text. For all the interviews in relation to the codes used see the List of Interviews and Focus Groups in the Appendix.

4.1.1 Liberian Civil Wars 1989-2003

Two separate wars plagued Liberia between 1989 and 2003, caused by a number of reasons including access to resources, the opposing of exclusionary politics and the role of regional actors. These will now be detailed in the following.

Liberia, a small country in West Africa, was the founding project of the 'American Colonization Society' as a refuge for former (now freed) slaves, gaining independence in 1847. In an ironic twist of fate, the former slaves, known as the Americo-Liberians or Congos,[36] went on to rule the country through the apparatus of the True Whig Party for more than a century by suppressing the indigenous population, despite comprising no more than 5% of the population. The details of the earlier political development in Liberia cannot be touched upon here (see for example Levitt 2005), however by the 1970s political opposition was growing in line with radical movements of Pan-Africanism and socialism mirrored elsewhere on the continent (Ellis 2007, 50; Pham 2004b, 75). President William Tolbert made some superficial changes in the 1970s in order to ease access to political and economic life for indigenous Liberians, but discontent grew.

Following the so-called 'rice riots' in Monrovia in 1979, as the price of this stable product was artificially increased in order to discourage its import, a military coup in 1980 ended the era of exclusive rule by the True Whig Party (Sawyer 2005, 17). Samuel Doe, an indigenous sergeant in the Armed Forces of Liberia (AFL) overthrew Tolbert - killing him along with other high-ranking government officials, including the infamous execution of 13 cabinet ministers on a beach in Monrovia. Though Liberian ethnicities should be seen as social constructions, rather than objective entities (Bøås 2005, 77; Moran 2008, 16), the different groupings are widely used in daily discourse and were reinforced through the conflict years as symbolizing either the exclusion or inclusion of entire groups of people. Doe led the country for a decade in the turmoil of political violence, corruption and economic decline, continuously favouring his own ethnic group, the Krahn. Following a failed coup attempt in 1985 by Thomas Quiwonkpa, from the Gio tribe,[37] reprisals including the killings of thousands of Gio and Mano people took place in Nimba County (Adebajo 2002a, 601, 2002b, 29–30). Seeking at least partly to revenge themselves against the killings of Gio and Mano people, the National Patriotic Front of Liberia (NPFL) led by Charles Taylor entered Nimba County from across the Ivorian border on Christmas Eve in 1989.

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[36] As slavery was abolished British and US naval ships intercepting boats full of enslaved people from the Congo River Basin area would redirect them to Liberia, where the locally based freed slaves from the US named these 'newer' settlers the Congos. The term is now merged to be mostly interchangeable with Americo-Liberians, as the social significance of the different origins has diminished (see e.g. Ellis 2007, 41; Pham 2004b, 54).

[37] 'Gio' is a description for this group used only in English and ascribed by the state. The people who belong to this group refer to themselves as 'Dan'. Since Gio is commonly used in English, the scholarly literature on Liberia and even by Dan people themselves when they speak in English, it will also be the one used throughout this work.

Rapidly moving towards Monrovia, growing in numbers along the way, the group soon splintered into various rebel groups from 1990 onwards. The first splinter group, the Independent National Patriotic Front of Liberia (INPFL), led by Prince Johnson, captured, tortured and murdered Samuel Doe upon reaching Monrovia. The Economic Community of West African States Monitoring Group (ECOMOG) peacekeeping forces intervened in 1990, with mixed results. By early 1993, Liberia was effectively split into two parts: Monrovia ruled by the ECOWAS-backed Interim Government of National Unity, and the rest named 'Greater Liberia' ruled by Taylor with his capital being in Gbarnga, as the NPFL now controlled 80% of the country (Ellis 2007, 88). A series of peace agreements were signed and broken as more rebel groups emerged. These groups included Taylor's NPFL; United Liberation Movement for Democracy in Liberia Kromah faction (ULIMO-K); United Liberation Movement for Democracy in Liberia Johnson faction (ULIMO-J); Liberian Peace Council (LPC) and the Lofa Defence Force (LDF). The INPFL had disbanded in 1992. By 1996 a final peace agreement was signed, by most counts the 14th peace agreements since the war began six years earlier (see Table 2 in Appendix), cumulating from 'as many as fifty separate peace talks or peace conferences' according to Ellen Johnson Sirleaf (2009, 208).

In 1997 Charles Taylor won elections by a landslide. The international community described the elections as largely free and fair. Nonetheless, it is widely accepted that voting for Taylor was done out of fear that return to war would be imminent if he lost (Lyons 1999, 59–61). The elections were carried out prior to complete demobilization and the opposition was suppressed. Both UN and ECOWAS peacekeeping troops left within a year of the elections. Intimidation, violence and abuses became part of everyday-life, along with corruption (Sisk 2010, 118–120). 'Minimal progress … was reversed by Taylor's return to neopatrimonialism, shadow-statism and warlordism' (Ismail 2008, 268).

A second wave of war started in 1999, this time from the rebel groups Liberians United for Reconciliation and Democracy (LURD) and later the Movement for Reconciliation and Democracy (MODEL).[38] What had initially started as border skirmishes, quickly escalated into another civil war with LURD taking control of Lofa County with ease and from there drawing closer to Monrovia on several occasions, with the most extreme shelling of Monrovia taking place at the same time as the peace negotiations in the summer of 2003. The intertwining of the second war and the negotiations is considered in the next section, before which a few words is said on the conflict roots, namely access to resources, exclusionary politics and involvement of regional actors.

Firstly, the Liberian wars are an infamous example for a conflict that is inter alia fought about access to resources. Thus, both Liberian wars are often portrayed as classic 'new wars' over greed - installing client-patron networks of bloodthirsty combat units that fought to access resources and other economic benefits (e.g. Reno 1999). In this line of thinking, LURD is said to have little ideological principles, or at

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[38] MODEL is minimally discussed due to their much shorter life span, only emerging in the last months of the war in 2003.

least to be just as driven by economic incentives as anything else (Reno 2007, 72; Sisk 2010, 115). Whilst access to resources without a doubt played a role for all of the conflict parties involved, including the then government of Liberia ruled by Charles Taylor, it was not the only one, or at least a more superficial reason.[39]

There is, secondly, the much more deep-rooted problem of exclusion or exclusionary politics, partially related to ethnicity as outlined. Even though the ethnicity of the different groups can be seen as constructed, they are widely used and were further reinforced during the wars. Whilst a major conflict root to begin was fighting the general indigenous exclusion of the central state, this later led to a polarisation *between* different ethnic groups as different rebels supported one group at the cost of others. The LURD rebellion can therefore also be interpreted in light of the tit-for-tat conflicts between the different ethnic groups in Liberia. Since Doe's coup there had been a shift in the conflict cleavages between formerly the Americo-Liberians versus the indigenous Liberians to intra-indigenous contestations (see also Bøås 2005, 76; Ismail 2008, 266). Thus, Taylor had always unleashed his rebels on Krahns and Mandingos (who were also known to support Doe) and the Krahn and Mandingos in turn formed their own militias (ULIMO-J/MODEL and ULIMO-K/LURD, respectively) (Bøås 2005; see also Nilsson 2009, 19). Though the rebel groups were not ethnically exclusive, one of the stated goals of LURD was to fight exclusion of Mandingoes in the Liberian security forces (Call 2012, 79). Therefore, grievances of the rebellions were argued in terms of ethnic groups, which reinforced these at least partially constructed groups and further polarised them. A bigger conflict root however can be linked to an overly centralised state, resulting in the discrimination of a majority of the population, social exclusion and a lack of access to basic services outside of Monrovia (see Zanker 2014b).

Regional factors also played a role, or were an escalating factor, not least with the involvement of Charles Taylor in the conflict in neighbouring Sierra Leone. Moreover, other regional actors were also embroiled in the conflict, including Guinea's President Lansana Conté who was said to support LURD (in retaliation for Taylors support of Guinean rebels) and the later MODEL who were allegedly backed by the Ivorian President Laurent Gbagbo (Nilsson and Kovacs 2005).

After some intense fighting and drawn-out peace talks (see below), the war finally ended in August 2003. Although figures are disputed (Bøås 2005; Ellis 2007, 312–16), during the fourteen years of intermittent war an estimated 200,000 people were killed and 1.5 million people were displaced, either internally or as refugees (e.g. Sawyer 2005, 43; Gilgen and Nowak 2011). More than 20,000 child soldiers are likely to

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[39] Looting and economic benefits were not just exclusively sought out by the conflict parties. The ECOMOG peacebuilding forces in the 1990s were locally known as 'Every Car or Moving Object Gone' (see Tuck 2000). In another focus group conducted by the author in Monrovia in February 2014, participants expressed the opinion that they did not understand the purpose of UNMIL retaining a presence ten years after the peace agreement had been signed. Therefore the group concluded that the peacekeepers must be "in the bush digging for diamonds and doing other things" (LMT).

have been recruited (International Crisis Group 2003, 18). UNSC Resolution 1509 established the UN Mission to Liberia (UNMIL) together with the interim government in October 2003, with initial 15,000 peacekeeping troops. As of 2015, after two rounds of largely peaceful elections and over a decade since the signing of a peace agreement, just under 6,000 uniformed UN personnel remains in Liberia.[40]

4.1.2   The 2003 Peace Negotiations

Both regional and international actors played important roles in the run up to the peace negotiations that were conducted between June and August 2003. Fighting between LURD and the Taylor government, and to a lesser degree MODEL, continued right up to and during the peace talks as even a ceasefire agreement was broken by some of the most severe shelling of Monrovia during both wars. This event, which was because the rebel groups tried to receive more interim government positions, along with the arrest warrant for the Liberian president Taylor were to significantly shape the negotiations. This is outlined subsequently, after first discussing the regional and international leaders.

As previously noted, the rebellion took place inside an intricate net of regional supports, with Guinea's President Conté said to support LURD (in retaliation for Taylors support of Guinean rebels) and the later MODEL backed by the Ivorian President Laurent Gbagbo (e.g. Nilsson and Kovacs 2005, 400; Call 2012, 76–77). Thus, it was to no surprise that the Mano River Union (MRU), which had originally been created in the 1973 between Sierra Leone and Liberia and later Guinea to foster economic cooperation between the countries, was reactivated. Under the auspices of the MRU the Moroccan king Mohammed VI brought together Taylor with the leaders of Sierra Leone and Guinea in February 2002 (Levitt 2005, 220; see also Femmes Africa Solidarité 2005, 589). Whilst the leaders 'lunched' and 'dined', not much came out of this meeting in the long run (see for example UN Security Council 2002). LURD was not present (and MODEL did not exist yet).

ECOWAS then stepped up their mediation role, organising a meeting together with members of the Inter-Religious Council of Liberia (IRCL) in early 2003. ECOWAS tried to urge Taylor and LURD to sign a ceasefire, which the former rejected repeatedly. By April 2003, an ECOWAS report stated that rebels (by now both LURD and MODEL) controlled about 60% of the Liberian territory. UN Secretary-General Kofi Annan called on the UN Security Council to look for a solution for the conflict. An extensive sanctions regime that had been in place since 1997 and included arms embargoes, travel bans and asset freezing, was further expanded in May 2003 to include timber exports (Resolution 1478).

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[40] UNMIL is currently seeking to draw down their mission, but between 2014 and early 2015 the deadly Ebola Virus ravaged through Liberia, Guinea and Sierra Leone with 10,042 infected with the virus in Liberia and 4,486 deaths by the 15th April 2015 (see World Health Organisation 2015). Whilst the virus now seems to be under control, the social, political and economic repercussions are likely to affect the peacebuilding process for many years to come.

New talks to start in June 2003 were organised by the International Contact Group on Liberia (ICGL). The UN had set up this group in 2002, comprising of the United Nations, ECOWAS, African Union, World Bank, United States, Ghana, Nigeria, United Kingdom, Germany, Spain and Sweden. ECOWAS, was given the role of the chief mediation team and Ghana became the host country for the negotiations. The ICGL appointed former Nigerian President Abdulsalami Abubakar as the main mediator from the ECOWAS team. Preliminary talks were scheduled to take place in Sierra Leone but representatives of MODEL failed to attend. Both MODEL and LURD leaders insisted that they did not want to negotiate with Taylor. Nonetheless, all groups attended the opening of the talks in Ghana.

A game changer for the negotiations was a warrant for the arrest of Charles Taylor by the Special Court for Sierra Leone for war crimes he had committed in the neighbouring country. The warrant was unsealed on the day of the opening ceremony of peace talks on the 4th June 2003. Whilst the Ghanaian hosts decided to allow Taylor to return to Monrovia without arresting him, the absence of Taylor at the trial is said to be the single most important factor to influence the peace talks (Hayner 2007, 9). Two weeks into the negotiations, on the 17th June, a ceasefire was signed, which was broken immediately. By this point, Colin Waugh argues it was obvious that the war was soon over so the negotiation parties concentrated purely on who would get the most lucrative government positions (2011, 325). Reports confirm that in order to gain concessions, rebel leaders called their troops to shell Monrovia, on the outskirts of which both LURD and MODEL were now fighting Taylor's government forces. By watching the ghastly scenes, of what was dubbed 'World War 3' on CNN, more and more concessions were made by the mediator and his aides (Nilsson and Kovacs 2005, 401; on World War Three see also Steinberg 2011, 111). In the weeks that followed, thousands more lost their lives in Monrovia. Positions in the transitional government for rebel actors were not even foreseen by the initial drafts. After the failed ceasefire and intensive fighting, however, increasingly more positions were promised to the conflict parties (Hayner 2007, 14; see also Hensell and Gerdes 2012, 158).

The final agreement, the Comprehensive Peace Agreement (CPA), was signed after 76 days of negotiations on the 18th August 2003 in Accra (Comprehensive Peace Agreement 2003). A few days prior to this Taylor went into exile in Nigeria. The CPA was a four-way power-sharing arrangement between the Taylor government, LURD, MODEL as well as political parties and CSAs. In the bloated cabinet Charles Taylor's party, the National Patriotic Party (NPP), were given five ministries, as were LURD and MODEL. In addition, six ministries were given to civil society organizations and political parties (for a complete overview, see Table 3 Appendix). The 76 seats of the unicameral National Transitional Legislative Assembly were divided in a similar manner. Supporters of the outgoing NPP government, LURD, and MODEL were each given twelve seats; the eighteen registered civilian political parties were allocated one seat each. Seven seats were reserved for representatives to be designated by civil society groups; and less than a quarter of the parliamentary seats - fifteen - were to be filled by an (internal) election, with one representative chosen from each of Liberia's counties (Article XXIV CPA).

Publicly owned corporations (as well as autonomous government agencies and commissions) were handed over to the conflict parties, though in this instance most of them were given to CSAs and political parties. The distributions of ministries and corporations to conflict parties to such an extensive degree led to widespread corruption and misuse during the interim government between 2003-2005, prior to the first post-war elections.

As a LURD spokesman said in September 2003, positions in the para-statal sector were more sought after than government ministries, as international donors too closely scrutinized the latter. In the ports or telecommunications sectors 'one was free to 'accumulate resources' without oversight' (Hoffman 2004, 211). One civil society participant noted rather dryly in an interview to the author: "we just prayed and waited for it [the interim period] to be over."[41] Nonetheless, the Interim Chairman was not from a warring faction - one concession the rebels had not been able to enforce. In addition, a thorough disarmament, demobilisation and reintegration (DDR) process was put into place, including the construction of an entirely new army and police forces (Article VII and VIII CPA). A Truth, Justice and Reconciliation Commission was also to be drawn up, with members coming from cross-section of Liberian society (Article XIII (4) CPA). Then still the President of Liberia to-be, Johnson Sirleaf comments in her autobiography that the talks were slow, frustrating and unstructured with few plenaries and many ad hoc group meetings (2009, 239).

4.1.3   The Negotiation Actors

Apart from the major conflict parties, political parties and civil society actors also played a role in the talks. The Taylor Government of Liberia, LURD and MODEL as well as 18 political parties signed the final CPA. Six civil society groups also signed the peace agreement as witnesses. In the initial phase when the ceasefire was negotiated, only the three warring factions took part. At the opening ceremony, civil society actors were not present as official delegates, only as unofficial observers (unlike political parties), though this later changed after lobbying on behalf of civil society actors (see below). Both political parties and civil society actors became official observers. Whilst these groups did not hold a direct negotiation mandate they still had a significant impact on the talks as is shown throughout the chapter. [42]

The opening (and closing) ceremony, as well as initial ceasefire talks were held in Accra, but most of the actual proceedings took place in Akosombo. During the move to Akosombo, many of the additional groups were added as delegates. During the first two weeks the negotiations were predominantly undertaken between the mediators and conflict parties, the other actors becoming more prominent after

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[41] L18; though the Interim Chairman speaks of the enormous difficulties and challenges of a post-war interim government, denying all the corruption allegations he faced afterwards (L12_13).
[42] I will use the terms observers and delegates interchangeably. Even though the official status was as observers without a negotiation mandate, the civil society actors (and the political party representatives) were still generally perceived as their own rightful collection of delegates at the talks.

the ceasefire had been signed. Taylor remained influential throughout the negotiations, continuing to be in close contact with his representatives and even choosing the mediator himself from a list provided by ECOWAS (Hayner 2007, 7; Nilsson 2009, 21). According to a report by the International Crisis Group, 'the persistent focus at Accra on jobs, cars and money rather than the challenges confronting Liberia gives a clue to the character of the transitional government' (2003, 4).

The political parties that signed the agreement are frequently accused of being motivated in participating in the talks in the interest of gaining jobs. At worst, the political parties were in fact acting in the interest of the conflict parties, best illustrated by the large number of 'briefcase parties' set up by Taylor.[43] The parties initially organised themselves in a 'group of seven' of independent parties,[44] the remaining ones primarily aligning themselves to Taylor's NPP (Hayner 2007, 11; L28). Nevertheless, one by one the parties were convinced to align themselves under the same goals "until there were no more Taylor friendly parties left, apart from the NPP" (L5_13). There is some merit in interpreting the political parties under the same classification as the civil society groupings. It is undeniable that in the Liberian setting civil society actors and political parties have always been interlinked and blurred at least to some degree. Both groups face dialectic attributions of on the one hand only furthering their own interests and on the other hand advocating for real change and making a difference (L1_13; L3_13; L6_13). Furthermore, the role played by political parties was by definition similar to that of civil society actors - playing the neutral non-conflict party position or "representing the civilian side" or "one and the same" in the words of Interim President Bryant (L12_13). Nonetheless, it is the role of civil society actors regarding the process of legitimisation that is the primary research question here. Therefore, the focus is on the CSAs rather than political parties (others combine the two groups in their analysis, see e.g. Nilsson 2012). In addition, within the proceedings of the talks, the two groups conducted separate meetings to discuss strategies and key concerns under their respective secretariats (see below, L5_13). The civil society sector is discussed in more detail in the following section.

4.1.4   Civil Society Actors in the Negotiations

In order to best contextualize the role had by civil society actors during the 2003 negotiations, a brief history of five different types of civil society groups (political, religious, emergency relief and peacebuilding, women and diaspora groups) is given, as well as the climate these groups worked in over the years.

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[43] Elections had been scheduled to take place in October 2003, so the National Election Committee had certified all these parties the year before. Technically therefore they were not created to influence the talks per se, but rather elections that never ended up taking place (Interview Interim Chairman Gyude Bryant L12_13).
[44] These include the Liberian People Party, United People's Party, Progressive People's Party, New Deal Movement; Liberia Action Party; Labor Party and the Unity Party.

Civil society, at least the way it is understood in the western context, does not have a long history in Liberia. Traditional social gatherings have a much longer history and are hard to generalise as they vary regionally and are often highly secretive (at least to the degree that only initiated can gain internal knowledge see Ellis 2007, 228) though not necessarily unpolitical (Moran 2008). Some of these traditional groups were expressively forbidden by the settler government, whilst the Poro and Sande group - the most prominent of these groups - was brought under government control with the President of Liberia named as Head of the Poros (Liebenow 1987, 84). Following from the more standardised definition of civil society to which the legitimisation literature speaks to, different civil society organisations that exist in Liberia can be broadly speaking categorised into five groups.[45]

Firstly, there are political groups, historically the oldest category.[46] Civil society groups in Liberia are generally seen to have started emerging in the 1970s in-line with radical visions of anti-colonial pan-Africanism. Earliest groups include the Movement for Justice in Africa (MOJA), founded in 1973 by, inter alia, Amos Sawyer and the Progressive Alliance of Liberia. The latter was created by Gabriel Baccus Matthews in 1975, and was actively involved in the rice riots a few years later (Pham 2004a; Toure 2002, 9). The link between these early groups and political parties is strong, with both its leaders/members easily becoming politicians (i.e. Baccus Matthews who still campaigned in the 2005 elections, shortly before his death in 2007) or having sister political parties, like MOJA who participates in elections as the Liberian People's Party.[47] In fact, the roots of this interaction between political life and civil society actors was recognised by J. Gus Liebenow as being part of 'Americo-Liberian public life' since '[along with religious participation] … membership in such organisations ... advanced and reinforced a political career' (1987, 83). The groups that emerged in the 1970s however, were known as agitators for reforms and making demands on the state (Atuobi 2010, 9). As such these Liberian civil society organisations are political ones. By the time the negotiations took place, these groups (or rather: Persons) were represented by the political party section and are therefore not included in the analysis.

A second important group began to emerge later, becoming a significant group especially during the early conflict in the 1990s, namely religious groups. Here the most important one is the Inter-Faith Mediation Committee (IFMC), bringing together Christian and Muslim leaders. The IFMC led some of the earliest negotiation and mediation attempts, initiating the first talks between the NPFL and Doe in 1990. Their efforts of 'shuttle diplomacy' continued through the 1990s, and they held observer status as

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[45] This applies if we take the definition of civil society as organisations between the market and the state as the fitting one of course. Since this illustrates best the type of civil society included in the negotiations, it is the working definition used in this dissertation, see Chapter 1.

[46] Prior to this, a number of largely faith-based organisations that were involved in health, education and agriculture existed, amounting to something like a partnership in development (Atuobi 2010, 8). Social and credit groups were also historically permitted provided they were not used 'as a vehicle for political pressure' (Liebenow 1987, 84).

[47] For a similar point see Byron Tarr, who argues that 'civil society organisations are virtual appendages of government institutions' (2007, 224).

well as significant influence at the ECOWAS meetings (Armon and Carl 1996, 91; Kieh Jr 2009).[48] Later the IFMC distanced itself from the official negotiations, as it became clearer from Cotonou Agreement (in 1993) onwards, that the agreements were rewarding rebel groups with power (see above). As a response to their growing displeasure with the way the talks were going, the IFMC also organised sit-at-home strikes, starting in March 1995 in order to protest the agreements. This eventually led to the creation of the Civic Disarmament Campaign (Sesay 1996, 25; Toure 2002, 10). Religious groups were also highly important in providing solace and trauma counselling to the war-aggrieved population, as well as advocating for human rights (Sawyer 2005, 71). Human rights groups like the Catholic Justice and Peace Commission were indispensable in meticulously recording all the human rights violations taking place during the years of conflict, which they continue to do to this day (L6; Pham 2004a; see also Backer and Carroll 2001). These type of human rights and pro-democracy religious groups first emerged under the interim governance of Amos Sawyer in the early 1990s (Atuobi 2010, 9).

Emergency relief and peacebuilding groups are a third group of civil society active in Liberia. Since the 1990s, local NGOs have proliferated all over Liberia, ranging from short-term groups addressing specific emergencies to long-term professional bodies (Sawyer 2005, 75; see also Atuobi 2010, 2). Many have little human rights experience (Backer and Carroll 2001, 6). The vacuum of public goods during the war as well as a large number of international NGOs looking for local partners encouraged the creation of these groups (Atuobi 2010, 10). To this day they continue to serve many of the needs and public goods that the post-conflict Liberian government cannot adequately provide.

A fourth group of civil society activists - though they certainly overlap with the other groups but are significant enough to mention separately - are women groups. Most notably the Liberian Women's Initiative (LWI), founded in 1994 drew attention to the plight of women and explained their needs to mediators to the negotiations (Armon and Carl 1996, 93; Sesay 1996, 26). Other efforts included making contact with women in rebel territories by the Concerned Women of Liberia and training sessions on conflict resolution by the Federation of Liberian Women (Moran and Pitcher 2004, 507). Nevertheless, early activism was largely uncoordinated, fragmented and conducted in an ad hoc manner (Alaga 2011a, 10). From the beginning of the war, women activists fought hard for a seat at the negotiation table, which they were able to successfully lobby for when they gained participant status at the Accra Clarification Conference in 1994 (African Women and Peace Support Group 2004, 24; Office of the United Nations High Commissioner for Refugees and UNESCO 1997, 12). They were nevertheless overlooked by the final peace agreements in the 1990s, despite their active peace work and side-lined in favour of the warlords (Sisk 2010, 117; Toure 2002, 1).

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[48] For a similar role played by International Alert in neighbouring Sierra Leone see Osaghae (2001, 26).

US-based diaspora groups form the last important group of civil society, whose significance grew due to ever growing numbers of refugees to the USA from the military coup in 1980 onwards. Consisting of highly educated elites, the diaspora continues to have a heavy influence on Liberian politics to this day, most notably shown by the consecutive election of one of its members, Johnson-Sirleaf, in post-war Liberia (Antwi-Boateng 2011, 2012).

During the 1980s, intellectual gatherings were banned by then President Doe, on the grounds that they were used to breed socialism (Alaga 2011a, 6–7; and other CSA were co-opted into the government, at least initially, see Liebenow 1987, 214). Later, in the Taylor years in the late 1990s civil society groups became increasingly persecuted and endangered. Many key civil society advocates had to flee the country in fear of persecution, in what was now virtually a police state (Fomunyoh and Hofman 2004; Toure 2002, 13; Loden 2007, 302; Ekiyor and Gbowee 2005, 138; see also Backer and Carroll 2001, 4; L7_13; L12_13). The government of the time had an adversarial and antagonistic attitude towards civil society actors whilst at the same time setting up a few state-sponsored civil society groups (Atuobi 2010, 3, 11). Nonetheless, some independent groups remained active in their opposition despite difficulties of remaining in contact with members outside of Monrovia during the worst fighting when war broke out again. The women's movement, including the Women in Peacebuilding (WIPNET), LWI and the local chapter of the regional Mano River Women's Peace Network (MARWOPNET) were tireless in their demand for the immediate departure of Taylor in order to enhance the peace process. The religious community, notably the Inter-Religious Council of Liberia (IRCL), the successor of the IFMC, also played an active role, mobilizing civil society groups in expressing a common message of peace and national reconciliation to Liberian society (Toure 2002, 16). The IRCL continued to have talks with all sides, in order to initiate further peace talks. As a result, IRCL organised earlier talks in 2003 held in Freetown, Sierra Leone together with ECOWAS. Another initiative the Liberia Leadership Forum met in 2002 and called for a peace conference in 2003, with ECOWAS as a mediator (Hayner 2007, 7).

Civil society actors were involved in the negotiations in a variety of ways - as official observers or unofficial observers as well as pressure group activists. Those invited as official observers included MARWOPNET, the IRCL, the Liberian Bar Association and members of the Liberian diaspora. They had been invited as official delegates because of the role they had played in previous conflict resolution efforts. A 'Civil Society Secretariat' was set up at the talks which was there to send representatives to working groups and committees, whilst meeting up regularly to come up with joint statements on specific issues (L5_13). Representatives from the IRCL, MARWOPNET, Liberian Bar Association, Liberians in Diaspora, Liberia Leadership Forum and Civil Society Organisations in Liberia all signed the CPA as witnesses. Whilst civilian members like women delegates such as the journalist Victoria Redell took part even in the earliest talks in the 1990s, this was later stopped and thus did not set a permanent

precedent for involvement (African Women and Peace Support Group 2004, 23,27).[49] During the 2003 talks however, there was a more extensive and formal role for civil society members. The 2003 peace negotiations were remarkable because of the direct participation of civil society in the negotiation process as official observers and the provision of a formal role for civil society in the transitional government. The role and impact of CSAs has thus been widely lauded or at the very least acknowledged for their unusually intimate role in the Liberian peace negotiations (Hayner 2007, 13; McKeown and Mulbah 2007, 6; Call 2012, 90–91; see also African Union 2003, 8).

Unofficial delegates, who partly risked their lives attending the talks by travelling by road (because of potential ambushes by rebels on the road there, directly passing through rebel territory), also proved to be important players. Most notably WIPNET picketed the conflict parties from outside the conference centre, sometimes confronting the leaders directly and forcefully, mobilizing women from a nearby refugee camp to attend the talks. WIPNET (amongst other groups) had started as a women's anti-war demonstrating group, known as Mass Action for Peace, which included women from all sections of Liberian society and rallied around the message 'we want peace, no more war' (Ekiyor and Gbowee 2005, 135).[50] Members would dress in white and rally together in Monrovia and Totota in their hundreds, congregating to pray for peace (both Christian and Muslim women taking part), in all weather conditions. Members were also involved in shuttle diplomacy, meeting with major stakeholders prior to the negotiations including LURD, Taylor, members of the Liberian parliament and the International Contact Group (Alaga 2011a, 12, 2011b, 79). At one point the WIPNET activists blocked the entrance to the meeting room. When security forces got involved, Leymah Gbowee (and others) threatened to undress unless the security forces backed off. This is seen as a turning point, since it is considered a curse for a 'son' to see their 'mother' (see Hayner 2007, 13; Nilsson 2009, 23; L44). What these activities mean for the legitimisation of the peace talks, with regards to the two features of the heuristic model and following the method of comprehensive process-tracing, is shown in the rest of the chapter.

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[49] Even though in the 1990s groups like LWI were never formal observers they were continuously asked for the opinions from all the delegates (L7_13).

[50] WIPNET was part of the regional West Africa Network for Peacebuilding WANEP organisation. In light of UN Resolution 1325 on the involvement of women in peace process, some members had received specific training on the topic. The Liberian chapter of WIPNET, under the leadership of Leymah Gbowee, then went on to form the Mass Action Campaign. Nevertheless, WIPNET and the Mass Action (for Peace) Campaign will be used interchangeably. Whilst strictly speaking not all activists in the campaign were members of WIPNET (it also technically included MARWOPNET and LWI) they were nevertheless the organisational force behind the movement, and the Mass Action campaign has in turn been their most important and successful action to date. Later the group known as WIPNET wanted to loosen ties with their mother organisation WANEP, but the latter did not allow it. Therefore the independent Women Peace and Security Network Africa (WIPSEN-Africa) was created in 2006. A few former members of the Mass Action Campaign are still part of the WIPNET group however. According to these WIPNET members "Mass Action for Peace was under the banner of WIPNET, they were organising it" (L8_13).

4.2   Addressing Collective Concerns

Having spelled out the details of Liberian civil wars, the negotiations and the major actors involved including the CSAs, the first step in answering how negotiations become more legitimate is by carrying out comprehensive process-tracing of the first feature in the heuristic model. As indicated previously, the feature of collective concerns suggests that negotiations as a process become legitimatised if collective grievances or concerns are discussed and addressed by CSAs and included in the agreement. As part of the comprehensive process-tracing, three analytical steps are taken. In a first step, on the basis of an interpretative overview of what took place, the components that constitute the legitimisation process are traced. This is done by analysing any empirical *confessions* for motivations or perception related to the legitimisation of the negotiations. Second, the causal conditions that enabled these constitutive components are traced, looking for *smoking guns* and *comprehensives storylines* as empirical tools to uncover causal relationships. In a third step, the context for the comprehensive process-tracing is discussed.

Giving testimony to the US House of Representative Subcommittee on International Relations, Nohn Kidau in her role as civil society activist states:

> 'The document [the CPA] is in no way a panacea for addressing the atrocities that have been perpetrated on an innocent populace; however, within the framework of this agreement *lay the desire of the Liberian people* to rise up from the ashes of destruction and rebuild our country brick by brick' (emphasis added 2003).

In what ways does the CPA reflect the desires of the Liberian population? The next section discusses collective concerns in Liberia and what was addressed during the negotiations, showing that ending violence and a civilian counterbalance constituted (parts of) the legitimisation process.

4.2.1   Constitutive Process-Tracing: Ending Violence and a Civilian Counterbalance

The constitutive process-tracing includes two sections, namely a discussion of what the general collective concerns were as well as what collective concerns were addressed by CSAs.

4.2.1.1 *What are the Collective Concerns?*

There is overwhelming evidence to show that one of the major concerns expressed in Liberia was to put an end to violence, making it a constitutive component of the legitimisation process. In addition, the Liberian case shows that whilst it was perceived that 'local' concerns did not play a particularly important role during the peace talks, this was not necessarily to the detriment of the peacebuilding process. This

finding however was often voiced in rather contradictory manners and is to be interpreted in a very particular context. This is outlined in the following.

"The paramount thing was to stop the war" (LGT).

This *confession*, which is one amongst many, shows the general sentiment of appreciation towards the 2003 peace negotiations bringing an end to the fighting. Violence and war had continued on and off for over a decade. An influential politician, Senior Senator of Bong County, Jewel Howard-Taylor even explains there were no local grievances *per se*; rather the end to hostilities was the key ingredient (L42). The importance of ending violence was reiterated across the social spectrum by every single focus group as well as local government officials,[51] political party activists (L27; L33; L34), politicians (L5; L16; L18; L28; L38), human rights and peace building civil society members (L5; L16; L18; L28; L38), women leaders (L12; L31), youth leaders (L14; L24; L37), religious leaders (L9; L36) and even disadvantaged communities in today's Liberia like the Mandingo leader in Ganta (L39).

Peacebuilding scholars talk of indicators of ripeness for the peace talks (being successful) including 'public exhaustion factors', meaning that society exhausted by war mobilises themselves to demand peace (Sisk 2010, 125). Accordingly, it is perhaps not surprising that when a peace agreement was signed, that seemed to last "we were happy, we celebrated … it was good" (L12) or "we were ready, we wanted peace to come to Liberia. It made everyone happy, we were rejoicing" (LGbM).[52] The effect of the peace agreement was felt by everyone, even those who were not elites or outside of Monrovia, left in the war-torn countryside: "It was good, especially for those of us who never left Liberia. We were desperate for peace" (L21).

The message of the civil society movement acting for the cessation of violence was loud and clear, according to WIPNET activist '… [we] reminded everyone at the talks and in the world that an entire population was waiting for the outcome, and wouldn't settle for anything less than peace' (Ekiyor and Gbowee 2005, 138; see also Alaga 2011b, 81). Quite a number of interlocutors cautioned however that whilst the peace agreement was very comprehensive, it had stalled in its implementation.[53] Some also commented on the power-sharing aspect, concluding that "we needed them [the warlords] otherwise peace would not have come. There is a Liberian saying: if you are sick and you are given a bitter pill better swallow it to get well again" (L15: see also L6; LGbT).

In addition to ending violence, there is the question of 'local' concerns. While previous research focusing on the national level would perhaps conclude then that the negotiations addressed (all) major concerns,

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[51] L8; L15; L17; L21; L29; L30; L34; L40. When there are more than five interviews or FGD references they will not be cited in the text due to reasons of readability.
[52] Johnson Sirleaf comments, 'everyone was sick of war. Everyone except the warmongers' (2009, 230)
[53] L14; L20; L24; L25; L27; L38; L40

the micro-level perspective of this dissertation highlights that not all grievances were addressed during the negotiations, especially not local ones, but that this was not necessarily detrimental to the peace process as a whole. During the interviews conducted for this research one of the topics broached was about the discussion of 'local' concerns. The aim was to discover whether there was a feeling that locally important concerns were included in the negotiations because of civil society involvement. This relates back to the peacebuilding scholarship on inclusion and local ownership (e.g. Call 2012; Donais 2012). Generally there was a widespread sense that local concerns had not been taken into consideration during the peace talks.[54] For some, the lack of including local concerns was to the detriment of the peace process.[55] Reasons given for wanting to include local concerns was firstly that it leads to more sustainable conflict management efforts (L7; L36; L34). One religious leader explained:

> "If there was a problem between two siblings and this was not dealt with then it would spill out to the whole family. If something is going wrong in one sector from Liberia, then we should do something about it" (L9).

Secondly, a sense of entitlement to including local concerns was drawn from the idea that these locals were the most affected by the conflict (L14; L26; L29). This relates back to the normative right to participate which previous literature has already proposed (Barnes 2002; McKeon 2004). Furthermore, due to the lack of local actors taking part in the talks, specific concerns were left out according to interviewees, including land problems (L10; L38; L22), the management of natural resources (L13) and reparations (L20). What came up time and time again (especially in Ganta) was the question of land - both its distribution and resettlement.[56] Since this continues to cause post-war tensions in places like Ganta (where the land issue quickly takes on ethnic narratives) it is unsurprising that many interlocutors argue that this should have been addressed by the peace agreement (see also Simons et al. 2013, 691).

In the focus groups, participants listed grievances they perceived to have emerged in Gbarnga and Ganta during the war and discussed whether they felt that these grievances had been addressed or not at the negotiations.[57] Most groups found that the majority of concerns had been addressed at the CPA, an average of 69% of grievances stated, see Table 4.1 below. The list of grievances included for example forceful recruitment, killing of people, violence against women and children, difficulty in finding food, homelessness, property destruction, looting, rape, the closing schools and widespread diseases (LGT). In fact only the Teachers in Gbarnga felt like only three of the major grievances had been addressed. Nonetheless, the latter discussed that though few of the grievances they felt existed had been addressed

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[54] E.g. L19, L21, L23, L24, L28, L32, L34, L35, L36, L39 L42; LGbM

[55] L11; L12; L17; L22; L27; L29; L38

[56] L22; L25; L26; L30; L36; L38. The mayor of Gbarnga also brought up the issue of land in that area (L10; see also L3; L11).

[57] "What were the most important local issues during the war? Were these issues addressed in the negotiations of the peace agreement?", see also Appendix for an overview of the questions discussed in the focus groups.

by the talks, they were not of the highest priority either ('the issues could be addressed by the government after the war is over' LGbT; see also LGY; LGM for similar reasoning).

Table 4.1: List of Concerns and the Number Perceived to have been addressed during the Peace Negotiations According to Focus Group Discussants (Liberia 2011)

Focus Group	Number of Concerns Addressed
Market Women Gbarnga (LGbM)	8 out of 13
Teachers Gbarnga (LGbT)	3 out of 10
Youth Gbarnga (LGbY)	8 out of 13
Market Women Ganta (LGM)	8 out of 13
Teachers Ganta (LGT)	10 out of 10
Youth Ganta (LGY)	10 out of 10

Questions of local concerns and grievances were additionally often answered in contradictory ways, illustrated for example by the discussion held by the youth in the focus group in Ganta (LGY). There was a general consensus that the talks focused on the elites in Monrovia and was therefore not meaningful to the focus group participants, especially since it did not consider what was happening in Ganta at the time. However, one participant later conceded "it was still good because it brought peace" (LGY). It could be argued that this underlines the preponderance of the peaceful end result as the most important outcome, but also shows the rather inconsistent approach to the discussion of including local grievances. An even concreter example of contradiction comes from a political party activist who claims "I can't think of any issue concerning Ganta that should have been discussed" but later adds "if you overlook the local problems things can get worse" (L34).

In contrast stands the entire list of grievances being addressed. Many interviewees reciprocated the general feeling of the importance of national concerns over local ones, noting it was entirely justifiable that the items discussed were of national importance, since these "were common to everyone in Liberia".[58] Including local matters would simply be too complicated (L21) or even dangerous. It might have led to an inclusion of concerns relating to the Sande and Poro, and this could have resulted "in people who were not members (going) into the bush and (destroying) the traditions" (L8). Local matters were better discussed at the local level argued some (L3; L30; L40).

This initial analysis on the basis of the feature of collective concerns allows for two conclusions. First, whilst opinion was divided, there was an idea that the lack of inclusion of local issues was permissible considering the extraordinary situation, the protection of traditional values and the fact local issues could be discussed locally. Accordingly, the lack of local issues did not necessarily detrimentally affect the *legitimacy* of the talks. This can be put into a (historical) socio-political context. Whilst the pre-war government of Liberia had gradually began to increase their presence in the so-called hinterlands, there

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[58] L36; see also L5; L10; L26; L27; L35; L39; L40

was and continues to be something like a system of indirect rule - which results in the divesting the countryside of goods and labour (Utas 2009, 278). The over centralised nature of the Liberian state has led to a lack of civilian empowerment (Sawyer 2008; Zanker 2014b). This means that it is no surprise that not addressing local issues does not immediately have a de-legitimatising effect on the negotiations (see also Simons et al. 2013; Zanker, Simons, and Mehler 2015). In the very specific Liberian context, the inclusion of local concerns seems to hold little importance with regard to contributing to the legitimisation of the talks - at least at this stage of the peace process. This is seems to be rather in contradiction to much of the current academic work on local ownership, though this often refers to national ownership (e.g. Donais 2012) and when on the local-level, on the impacts this has on local level peace (e.g. Odendaal 2010). The (non-) importance of addressing local concerns is picked up again in the following chapters.

Secondly, all *confessions* stressing how important ending the war was as an outcome of the negotiations, shows that the peace negotiations were perceived as more legitimate by addressing some major concerns including the ending of violence, but also human rights, development, reconciliation etc. This is highlighted by the major argument that was put forward on the cessation of violence: "[the CPA] meant we could be safe, and sleep and wake up in peace without hearing the sounds of guns."[59] Several interviewees stated that the CPA had a directly positive effect in their localities including in the Gbarnga and Ganta areas.[60] More than merely ending the violence (on its own a potentially tautological argument), the peace agreement was said to have had direct repercussions by improving human rights (L27; L35), development (L17; L27; L37; LGbT), freedom of movement (L8; L14; L20; L38; LGbY), reconciliation between the different groups (L30; L35; L36) and allowing elections to take place (L16; L17; L36; L40; LGbT). This underlines the fact that the risk of tautology is not only irrelevant in light of a more expansive understanding of (more) legitimate peace negotiations than ending violence, but also that even when speaking of an end to violence, the peace that follows is spoken of not merely as a negative peace (i.e. the absence of violence), but rather as a positive one which includes human rights, development and the freedom of movement etc. In summary, the first constitutive component of legitimisation is ending violence (and positive peace) as an outcome of the negotiations. Because the primary aim was still expressed as ending violence, the constitutive component is labelled in this way. In the next section, the specific collective concerns addressed by civil society actors are analysed.

4.2.1.2 Civil Society Actors Addressing Specific Collective Concerns

The involvement of civil society in Liberia is noted in the relevant literature to have been beneficial for the peace process, at least partly because of their active involvement in the plenary sessions, giving specific inputs and pressing certain points (Hayner 2007, 11; Nilsson 2009, 42). Because of the civil

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[59] L34; see also L5; L7; L8; L9; L13; L14; L24; L37; LGbY; LGM
[60] Gbarnga: L9; L18; LGbY and Ganta: L22; L28; L30; L33; L34

society actors, a civilian chairperson was chosen to the interim government, major human rights bodies ended up being included in the peace agreement, as well as a newly created Ministry of Gender. The motivations and *confessions* traced in the following indicate that a civilian counterbalance to the otherwise militarised process constituted a part of the legitimisation process.

A Civilian Chairperson

The composition of the political power-sharing government that followed the talks is one of the major aspects where civil society claim to have had a direct impact in addressing collective concerns, specifically regarding the role of the Chairperson. The position of the rebel parties MODEL and LURD was initially that in light of recent power-sharing agreements elsewhere in Africa (most notably the Sun City Agreements from the DRC which had been signed a year earlier) there should be one president and two vice-presidents from each of the conflict parties. The two rebel groups in time became open to the idea of having a president from civil society, as long as they retained the positions of vice-president. LURD's delegate Kabineh Jabeh argued at the time 'it is important that the government be open to allow a wider participation so that the root causes of the war be extracted once for all' (Dukulé 2003). This call for participation, according to their position, meant everyone but Taylor's government forces. The Taylor loyalists on the other hand wanted a new interim president to be a simple replacement of Taylor by his deputy Moses Blah, calling this a 'constitutional' transition (Dukulé 2003). 'The whole process has been very frustrating. We have been here for a whole month', writes a newspaper reporter at the time commenting on the leadership question (UN IRIN 2003). On this difficult question, civil society members had several lines of influence.

Firstly, CSAs, especially Sheikh Kafumba Konneh, insisted that the head of the interim government be named Chairperson not President (L43; see also L18). This was of high symbolic importance in a country were presidency had long been associated with a corrupt, kleptomaniac, autocratic mode of governance: "We said no. Liberians like to exploit the word president" (L43). The naming of the interim leader as a chairperson was to clearly show that this was simply a caretaker government, prior to elections taking place.

Secondly, whilst it was acceptable for Moses Blah to lead the current and immediate interim period since Taylor had stepped down, he was not to continue on as leader of the interim government. Most notably, and thirdly, there would not be three vice-presidents as hoped for by the rebel parties, but rather there would be an interim chairperson and deputy chairperson nominated by the civil society and political parties present at the negotiations.[61] After much negotiation on this part (the conflict parties were not happy with this changed course of direction) it was agreed that the civil society sector and political

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[61] This idea came from the international community according to Interim Chairman Bryant (L12_13).

parties would nominate three candidates as possible chairpersons (as well as deputy chairpersons[62]), and from these the conflict parties would be allowed to choose one (documented under Article 7 African Union 2003, 2). This finally led to the nomination of the businessman Gyude Bryant as Interim Chairman, who was present at the negotiations as the representative for the Liberia Action Party. The other candidates included Ellen Johnson Sirleaf from the Unity Party (who describes her ordeal of being rejected as Chairman by the conflict parties in her book Sirleaf 2009, 242; see also L16) and Rudolph Sherman from the True Whig Party (who was rejected by MODEL; L16). Other potential candidates from initially 42 names included Theresa Leigh-Sherman (from MARWOPNET) and Togba Nah Tipoteh, a veteran politician from the Liberian People's Party (Dukulé 2003; IRIN News 2003).

The interesting factor to note is that despite the fact it was sometimes mentioned that the interim leader came from civil society, or at the very least, was merely 'a respected business leader' (Fomunyoh and Hofman 2004, 7), this is not strictly true, since the final three nominations were all from political parties. It does illustrate however the often politicised nature of civil society actors in Liberia, often overlapping to political parties as previously noted. The interim Chairman himself called all political parties and civil society actors as "the civilian actors" explaining it to be unnecessary to differentiate amongst them (L12_13). The major influential point or turning point was that the Chairman did not come from a conflict party. In addition, Gyude Bryant was at the time perceived as a somewhat neutral politician, a businessman closer to being part of civil society than an active politician (L18: "No one knows much about him so he is ok"). Notable also was that members of the IRCL were asked to lead the interim government, but as part of their strict policy on independence it was clearly stated that any member wishing to go into politics would have to resign from the group (L41).

Furthermore, again argued to be because of the input from civil society, was the fact that both the Chairman, speaker and deputy speaker (to be elected by the legislature where the conflict parties were dominant, hence the speaker was from LURD and the deputy speaker a Taylor loyalist) could not run in the next elections (L18). Whilst few people mentioned the composition of the interim government as a vital collective grievance to be addressed, the general reasoning behind the action of CSAs in this regard can still be deemed to be in the interest of the general population, by trying to reel in the power of some of the conflict parties. The efforts in influencing the composition of the interim government have in fact been noted as a key success of the CSAs involvement at the talks (Nilsson 2009, 41; see also L45). What constituted the legitimisation of the process however, was not so much the particular issue (a civilian chairperson not called a president) but the overall 'civilian' counterbalance that was created at the negotiations in contrast to an otherwise very militarised process. The same goes for some of the human rights mechanisms, which were also addressed by the CSAs.

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[62] Nohn Kidau was one of those nominated for deputy chairperson but was relieved not to be part of the final selection because she had left Liberia at the age of 17, and felt in no position to help rule the country (L5_13).

A number of mechanisms were set up and appointed to civil society groups and the political parties in the implementation of the peace agreement. Civil society actors claim to have had a role in advocating for the inclusion of these mechanisms in the peace agreement. Since human rights were referred to as collective grievances as shown previously, the addressing of these mechanisms is easily linked to a perceived legitimisation. However, as above, more than anything what counted was an overall civilian counterbalance to an agreement otherwise concentrating on demobilisation, ceasefires and divvying up para-statal companies. The human rights mechanisms which ended up being included in the final agreement was firstly the Independent National Commission in Human Rights (INCHR), which was set up to monitor the compliance of human rights in the implementation period (Article XII b CPA). Furthermore, a Truth and Reconciliation Commission (TRC) was also set up 'to deal with the root causes of the crises' and 'address issues of impunity' (Article XIII CPA).

The membership of these mechanisms was stipulated in the agreement. The INCHR was assigned to political parties and civil society actors in accordance with the power-sharing deal, as previously outlined (see also Appendix). The membership of the TRC was left open 'to be drawn from a cross-section of Liberian society' (Article XIII 4 CPA), but like the INCHR it was assigned to the political parties and civil society actors (see Annex 4 Article 12 x. CPA). Whilst the agreement certainly included detailed provisions for these mechanisms (Paffenholz 2014a, 83) this was not necessarily enough as the institutions were not well implemented.

As regards being a collective concern, aside from the inclusion of human rights in the concerns addressed as shown above, most widely discussed was the proposal of a TRC. Of interest is that especially the IRCL insisted that a war tribunal should not be installed (like in neighbouring Sierra Leone), since otherwise "Monrovia would be destroyed and civilians would suffer … this is one of the ways we acted to ensure what would be the best for the population" (L43). It was argued that it would be better to talk about the establishment of a war crimes tribunal after the next elections, in the interest of a peace that is "realized, nurtured and sustained" (L43; see also L44; L45; The Perspective 2002). Whilst it would be implausible to enter a discussion here about the merits of transitional justice (see e.g. Sriram 2009, 2011), it suffices to say that there are indicators to suggest that the idea of a TRC was well greeted. According to a major population survey carried out by the University of Berkeley in Liberia in the post-war period, 76% of respondents believed the truth as important in order for history to be known. Of those who disagreed only 7% said it was better to forget and slightly more feared it would bring back bad memories - 11% (Vinck, Pham, and Kreutzer 2011, 69–71).[63] Other civil society advocates at the talks preferred a war tribunal, but let themselves in for the compromise of a TRC

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[63] Though in the same survey whilst 73% respondents claimed to have heard of the TRC, 46% added they had some knowledge of it, and a further 46% no knowledge about it at all

together with a human rights commission to ensure implementation (L45). Perhaps unsurprisingly Jewel Howard-Taylor[64] herself notes the TRC as a positive element in the CPA (L42), but so do others including CSAs.[65] It was directly for the benefit of the general population, as "people needed a clearer idea of what really happened. A lot of what happened in the wars was just rumours" (L5; see also L2_13).[66] On a side note, the TRC is by now heavily criticised, since the final outcome of the TRC process has been disappointing, as recommendations have yet to be implemented.[67] The IRCL has stated their disappointment with the final recommendations which included prosecution lists, feeling that this broke the promises they had made in their personal mediations (peace at the cost of justice). In the end, they refused to sign the TRC recommendations (L41).

Ministry of Gender

One last specific issue that was addressed through civil society activism was the creation of a Ministry of Gender for the interim government, created to improve the dismal conditions for women and children in all areas of life (L44). The Ministry was additionally, at least in part, also formed in order to challenge patriarchal structures (see Pedersen 2011). The idea was to ensure that women's concerns would be addressed in the future within a legislative framework (Ekiyor and Gbowee 2005, 139; Femmes Africa Solidarité 2005, 590).[68] This also cumulated into a final declaration of all the demands from the women's groups, a few days prior to the signing of the final peace accord, known as the 'Tulip Declaration of Liberian Women Attending the Peace Talks', named after the hotel after the hotel (Golden Tulip Hotel) where the meeting took place. The activism towards such a Ministry of Gender was possible partially because of the strengthened position of two of the women's groups working together, the official delegate MARWOPNET and the unofficial delegate WIPNET. Whilst this meant women's rights were on the top of the agenda, the primary goal of the women groups was ending the fighting, not the inclusion of women per se. Nevertheless, addressing various 'human rights' mechanisms, including a Ministry of Gender designed to improve women's rights in the long-run, legitimised the talks through a civilian counterbalance regarding the discourse at the talks and in the final agreement.

The question regarding the specific concerns being addressed does not focus so much on their collective acceptance than on the fact that they are being addressed in the first place. In other words, with regard

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[64] Due to her relationship (ex-wife) to Charles Taylor

[65] L2; L6; L25. Though the Taylor camp itself was for a war tribunal because by then Taylor had been indicted by the Special Court for Sierra Leone and did not want others 'to be let of the hook' (L2_13). This put some civil society actors and Taylor loyalists in an unlikely union.

[66] Interestingly one theory goes that Johnson Sirleaf would have insisted on a **w**ar tribunal, which is why the rebels refused to nominate her as an interim leader (L18).

[67] L2; L9; L20; L25; L32; L45

[68] How and if this actually challenges patriarchal structures is debatable. Nadine Puechguirbal finds that the CPA only superficially addresses women, for example including women in terms of the rehabilitation of vulnerable groups that also includes 'children, elderly and disabled.' The use of sex as a sociological variable undermines the 'potential of women as independent actors' (2005, 3; see also Theobald 2012, 5).

to understanding what constitutes the legitimisation process it does not matter whether the TRC or the Ministry of Gender are in fact collective in their nature, which is likely to vary amongst the beneficiaries of legitimacy, but rather on how the nature of the talks and agreement themselves changed. The counterbalance to the otherwise power-obsessed conflict parties described to be present at the talk, offers a collective interest-base, especially compared to the classic power-sharing which at times is highly personal. [69] From the *confessions* previously outlined (especially related to advocating for a civilian chairperson), the motivation behind these concerns was to give a civilian counterbalance to an otherwise very militarised process. In other words, the emphasis is on changing the focus from pure gains for the conflict parties towards other aims, including the development of women's rights or more generally human rights mechanisms both during the actual talks as well as in the final agreement. In summary therefore, the civilian counterbalance at the talks and in the agreement also contributed to a part of the legitimisation process.

4.2.2   Causal Process-Tracing: Influence from Civil Society Actors

As was discussed previously, there is an inherent power imbalance at an event like peace negotiations. Because of this and the fact the research question not only considers the process of legitimisation but also the actors who contribute to this, the second part of the comprehensive process-tracing considers the causal conditions and their relationships leading up to and enabling the constitutive properties of legitimisation. Put differently, it has been shown that a civilian counterbalance and ending violence constitute parts of the legitimisation process, but what made them possible? What role did CSAs play in ensuring that these collective concerns came to be addressed and a part of the legitimisation process as shown above?

News reports from the time speak of influential actors or organisations like the UN, ECOWAS, the mediators; but what about civil society? Some analysts pointed out for example '[the women's movement] systematic and sustained peace activism contributed to broader initiatives and efforts that facilitated a ceasefire and the deployment [of peacekeepers] … this culminated in the signing of the CPA' (Alaga 2011b, 68; see also Lederer 2010). The ending of violence and civilian counterbalance during the talks and in the agreement were shown to be constitutive properties of the legitimisation process above, but they did not come from nowhere. Whilst they constitute legitimisation, the reasons they came about can be considered by looking at the civil society actors and the influence they had more closely. Such a causal analysis shows several ways in which the civilian counterbalance and ultimately ending violence as part of the legitimisation process were achieved. There are in total three clusters of

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[69] If there was a form of power-sharing - let's say territorial - which reassigned certain territories it could be argued to of a more collective interest (see for example Crawford and Hartmann 2008, 18 for a similar argument concerning decentralisation), however this is not the case in the Liberian context. For the effect of power-sharing at the local level in Liberia see Simons et al. (2013).

causal conditions that together enabled the constitutive components. The first relates to getting the negotiations running in the first place and conflict parties to attend the talks. The second cluster of causal conditions is about getting a seat at the actual negotiations for the CSAs. The third cluster of causal conditions relates to the maintenance of pressure on the conflict actors during the actual talks. These causal conditions are now discussed in turn.

The first cluster of causal conditions of lobbying conflict parties, the mobilisation of citizens and gaining international and regional attention led to the parties attending talks and the negotiations to start up in the first place, which pre-empts any collective concerns being addressed. For a start groups like WIPNET or IRCL lobbied the conflict groups to come to the table in the first place. The Mass Action Campaign had spent months prior to the peace talks protesting about the war, by sitting in an open field and praying at Fishmarket, Monrovia, come rain or sunshine. The group managed to get a meeting with Taylor urging him to attend peace talks. Some members also met with LURD asking them to commit to talks. One of the WIPNET members recalls 'they [LURD] said 'we decided not to take part in the peace talks. But because of the women of Liberia, what you've been doing, sitting in the sun crying for peace.' They said, 'because of you people, we will go to Ghana' (quoted in Pedersen 2008, 12). WIPNET members explain this in more detail, noting that LURD had held talks with other women groups, but felt dissatisfied feeling they were all Taylor loyalists. It was only when WIPNET send some Muslim women to talk to (predominantly Muslim) LURD factions' leaders, "they said these are my Muslim sisters so I am safe" (L8_13). This empirical observation indicates a *smoking gun* between the WIPNET members talking to the LURD members and LURD agreeing to attend talks in the first place.

More generally, especially WIPNET group representatives were able to use personal networks to both directly and indirectly encourage the different conflict parties to participate (Paffenholz 2014a, 80). For example, because one of the LURD faction leaders happened to be a former classmate of the Muslim spokesperson for WIPNET, Asatu Bah Kenneth, this significantly heightened her ability to put pressure on him and his factions' colleagues (L11_13). Of course it would be unrealistic to assume that the only reason that LURD attended (or any of the other conflict parties) was because of the pressure from WIPNET or other groups, but this at least partially contributed to getting the conflict parties to the table as the *smoking gun* above has shown. Thus, a first causal condition that pre-empted the discussion of collective concerns in the first place, was the pressure on the parties, or the lobbying of conflict parties, to attend talks in the first place. This was not only done by the CSAs lobbying the conflict actors directly, but also in additive configuration with mobilising citizens.

This additive configuration of the two conditions is because pressure was also exerted on the conflict parties to attend talks in the first place by CSAs additionally mobilising citizens and protesters. The mobilisation of protestors therefore was a form of exerting pressure in the run up to the talks, raising awareness of what was happening in Liberia. Citizens were mobilised to call for peace in order to get a

momentum going. Mobilising across potential factional lines (amongst the population) was useful in moving the peace process forward (McKeown and Mulbah 2007, 7). Charles Taylor famously drove past Fishmarket every day, conveniently located between his residence and office, and could observe the growing discontent displayed by the Mass Acton Activists. The women involved in WIPNET also learnt how to use the media more effectively in order to reach a wider audience during this time (Ekiyor and Gbowee 2005, 135). Both the lobbying of conflict parties and the mobilisation of citizens had individual causal power in getting the conflict parties to the table - thereby working in additive configuration.

The mobilisation of citizen also helped to get the negotiations to start up in the first place as the momentum grew. This in turn, worked in additive configuration with the lobbying of international and regional actors. WIPNET for example additionally picketed and were able to hold meetings with the UN, International Contact Group and the parliament (Alaga 2011b, 79; see also Theobald 2012, 53). MARWOPNET also alerted the regional and international community to the situation in the region (Femmes Africa Solidarité 2005, 589). International and regional actors took these groups seriously, not least because of the movements they had managed to mobilize and put together. Summing up the role of civil society in 2003 one interlocutor puts it like this: "Mobilizing people, pressuring people who were very influential in ensuring … there was an agreement in the first place" (L45). International and regional actors were essential to getting the negotiations started in the first place and consequently as a causal condition hold its own causal power. As a result, the mobilisation of citizens together with maintaining international attention in an additive configuration enabled the negotiations to start in the first place.

Both these sets of additive configurations (mobilising citizens and lobbying conflict parties; mobilising citizens and lobbying international actors) can be summarised as individual causal chains to getting conflict parties to the table and starting negotiations in the first place, respectively. Nonetheless, many other factors (beyond this study's remit) also affect this, which is why these causal pathways are only partial explanations for the end result. Moreover, in a way this first cluster of causal conditions is somewhat banal, considering if conflict parties do not attend talks or negotiations do not start, there are no negotiations to be legitimised. Still, it is important to show that the influence CSAs in addressing collective concerns, which contributes to the legitimisation process, started at a very early stage in Liberia, even before the talks even started. The cluster of causal conditions is illustrated in Figure 4.1 below.

The second cluster of causal conditions led to the CSA getting an actual seat at the negotiation table, which pre-empts the civilian counterbalance especially. Prior to the talks some individual civil society actors in fact lobbied to actually get a place at the table. As Nohn Kidau recounts, when she first got to Ghana she was told that she will only have a limited (unofficial) observer role. As a result, she explains:

"… I blasted. I told the Deputy Director of ECOWAS Secretariat on camera that the political parties have their policy interests to fight for; the warring parties are interested in getting what they can for themselves. Who is going to be there for the rest of the people? … That's how we got involved." (L28; see also L5_13; L1_14).

This shows another *smoking gun*. Her input changed her personal course of involvement and that of others. The status she and others were eventually given was that of official observers, albeit without a formal negotiation mandate. This role was nonetheless effectively beyond a mere observer status, not least because of the nominations that came from the group for the interim Chairmanship. WIPNET also managed to get two representatives invited to relevant committee meetings on political and security matters with rebels and mediators during the talks, after their lobbying activities put significant pressure on the rebels (described below) (Alaga 2011a, 13; Ekiyor and Gbowee 2005, 43; Pedersen 2008, 14). Leymah Gbowee however turned down a more general seat for WIPNET in order to keep up the pressure on the talks from the outside (L8_13). The seat at the table for CSAs was at least in part responsible for the civilian counterbalance, as without it the discussions and nominations for the interim Chairmanship would have been less plausible for example. In this sense, the seat at the table is also an empirical observation of a *comprehensive storyline*, where the structural basis of the negotiations changed, with direct consequence for the later constitutive components of legitimisation. Thus, there is a rather direct causal chain, from lobbying the international actors to getting a seat at the table, maintaining pressure on conflict actors during the talks, to enabling the civilian counterbalance (as well as ending violence as an agreement was eventually signed), see Figure 4.1 below. Nevertheless, as is explained in the next section the pressure on conflict actors was not exclusively because of the seat at the table, which suggests that there was a causal conjunction rather than a causal chain. This is now discussed in more detail.

The third cluster of causal conditions concerns the maintenance of pressure during the actual negotiation talks. This happened in a number of ways, with the CSAs adding pressure at specific moments and more generally reminding the conflict parties of the atrocities occurring back at home. A Liberian scholar working on various post-conflict issues notes that civil society actors played a key role keeping up the pressure during impasses at the talk, but that they "were enforcers rather than caring about the quality of the agreement"(L2_13). At the very least, this interpretation underlines the element of pressure that the CSAs maintained during the talks. WIPNET, who was kept up-to-date with what was happening inside the mediation room by MARWOPNET, felt frustrated by the lack of progress concerning the leadership question. Members of the group thus took the drastic measure of blocking the conference centre. This included blocking all the doors (and windows when they saw someone jump out) so that the negotiation members could not physically leave the conference room. They then escalated the pressure by threatening to undress.

As previously iterated, since it is considered a curse for a 'son' to see a 'mother' naked, this was very controversial. In hindsight this action is seen as a defining moment in the negotiations, the 'straw that broke the camel's back', allowing for a change in the pace and content of the talks (Alaga 2011a, 1,13; Hayner 2007, 11–13; Nilsson 2009, 23; L44). Empirically, this can be interpreted as a *smoking gun*, their lock-in action directly led to a concretisation of the civilian counterbalance and ending violence because of increased pressure on the conflict parties. Furthermore, the reason this particular incident was possible was because of the inter group communication between the two groups MARWOPNET and WIPNET, delineating a *comprehensive storyline*. Their interaction enabled WIPNET to have detailed knowledge on the progress of the talks, which in turn meant WIPNET was able to intervene at the most significant point in time. This in turn backed up the claims to the civilian counterbalance those on the inside were making. Paffenholz also concludes 'this pressure gave civil society representatives on the inside greater leverage to push for an agreement' (2014a, 80). As a result, the intra group communication worked in interactive configuration with the pressure on the conflict actors during the talks.

Whilst there is some disagreement over the effects the lock-in ultimately had,[70] the effective maintenance of pressure on conflict parties by the CSAs during this time can also be shown through other empirical examples. Apart from this watershed moment, pressure was in fact exerted at other times in a more general fashion. WIPNET was able to meet up with the rebel parties, mediators, government representatives and media, putting pressure on all sides (Ekiyor and Gbowee 2005, 136–8). MARWOPNET member Amelia Ward talks of even following some of the conflict parties to the bathroom and talking to them in there, leading to her conclusion that the "warring factions had confidence in us as mothers" (L44; see also L7_13). Nohn Kidau reminisces:

> "I was really involved in talking to the warring parties; I would go to their hotels. Sometimes they would slap me in the face - not physical slaps - more like why are you coming here? You people were sitting here and we fought, and now you want our positions? I told them I don't want the positions, all I want is for you to stop killing people. I was effective in talking to them" (L28).[71]

Lastly, civil society actors - both inside and outside the negotiation room - put pressure on the negotiations by insisting on the seriousness of events back in Liberia "reminding … delegates of the issues at stake" (L46; see also Hayner 2007, 13, 27). Nohn Kidau remembers, "at the conference centre they [the rebel group LURD or MODEL] would come to me and say 'Taylor has attacked us!' and so I would say 'so Taylor has gone and killed people, are you going to go and kill more people?" (L28). All

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[70] Nohn Kidau for example explains the incident as having only a "momentary effect ... some people think they forced us in there until we signed the agreement but that was not true. The peace was achieved later" (L5_13; see also L7_13). This criticism must be seen in the context of jealousy and rivalry however, whereby the Nobel Peace Prize was won only by a single activist, Leymah Gboweeh, despite the active role of many others women activists.
[71] She also kept up the pressure of important international stakeholders like the US by for example emailing all her contacts in the diaspora in the US to urge them to contact their senators and to flood their inboxes' (L5_13).

the heads of states, conflict parties, mediators and international communities were greeted every day with the sight of around 100-150 women protestors standing and outside with placards. Towards the end of the talks, messages became more poignant including 'Butchers and murderers of the Liberian people stop!' and 'How many babies do you intent do slaughter?' This maintenance of pressure throughout the talks enabled the civilian counterbalance and the ending violence to happen in the first place, both parts of the legitimisation process, as civil society ensured a prominent role for themselves.

In summary, what ultimately enabled the components of ending violence and the civilian counterbalance was the seat at the table for the CSAs (argued to amount to a *comprehensive storyline* and a *smoking gun*) and the pressure on the conflict actors during the talks. As has been shown above, one of the major types of pressure was not from one of the CSAs directly at the table, but the lock-in and threat to get naked by WIPNET, who lobbied the talks from an informal position. They managed to have such an impact not least because of the inter group communication with MARWOPNET at the table, working in an interactive configuration. This shows that there is not an exclusively linear pathway between getting a seat at the table, maintaining pressure on the conflict actors and the civilian counterbalance / ending violence, but rather that there was also pressure from groups who did not have a seat at the table. These groups were able to exert pressure as effectively as they did because of the intergroup communication as has been shown previously. Therefore there was a causal conjunction between the seat at the table and the intergroup communication that together in conjunction with each other result in pressure during the talks which enabled the civilian counterbalance and ending violence to occur, see Figure 4.1 below.

Figure 4.1: Causal Conditions and Constitutive Components of Collective Concerns
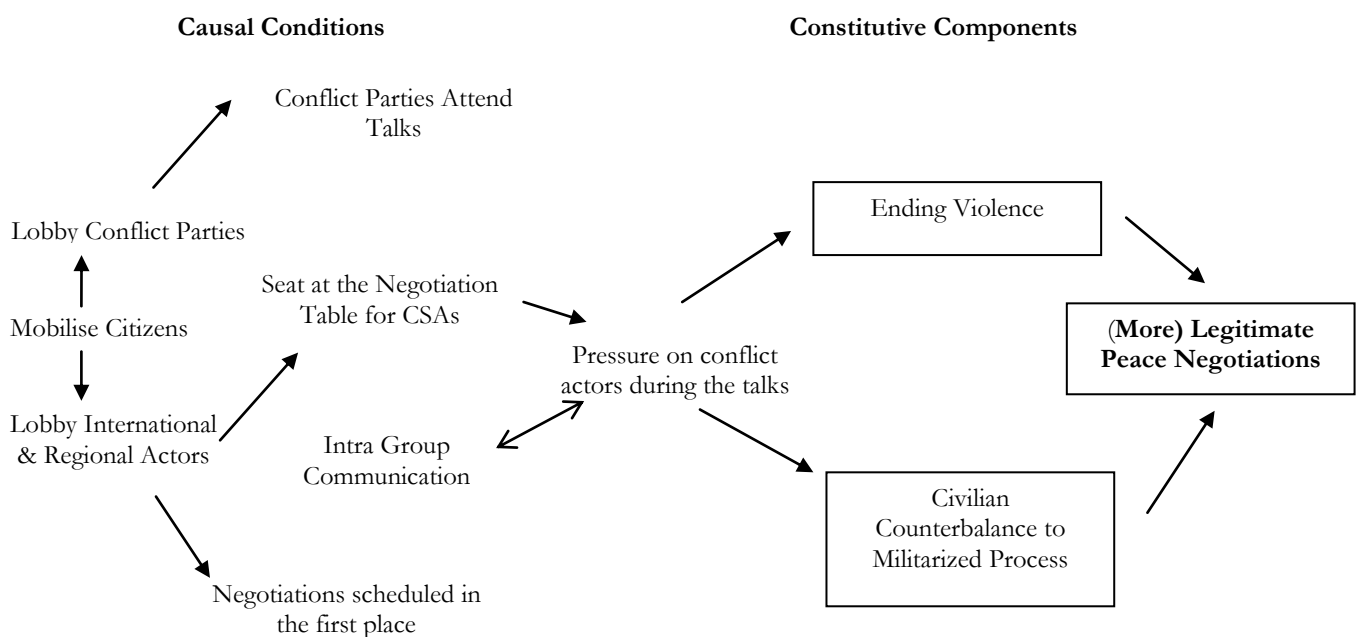
The specific *smoking guns* (getting a seat at the table, getting LURD to the table not least because one of

the leaders was a former classmate, threatening to get naked) are all events, which happened on an ad-hoc circumstantial basis, and would be difficult to artificially re-create elsewhere. They are very much dependent on specific actors. The *comprehensive storylines* on the other hand, firstly the communication between the groups portray a more general structural causal condition surrounding the negotiations process. Getting a seat at the table also makes for a *comprehensive storyline*, altering the structural frameworks of the negotiations. Nevertheless, the reason this occurred was at least in part related to the demands of CSAs like Nohn Kidau (argued as a *smoking gun*) and is thereby also dependent on the actors, including the mediators, which is discussed in more detail in the next section on context factors.

With regards to the temporal boundaries of the possibilistic causal analysis, the constitutive components of legitimisation already show that the legitimisation process occurs not only during the talk, including the final agreement (a civilian counterbalance during the talks and in the agreement) but also after the talks have ended, as is reflected in ending violence as a component, which usually occurs only after the talks have ended, as was the case in Liberia. The causal analysis, also shows that by further trying to explain why this may happen, that important events also occur prior to the talks even starting, especially the lobbying of citizens, conflict parties and international and regional actors alike by the CSAs. Regarding the spatial boundaries, the analysis shows that the causal conditions illustrating the influence occur at the formal peace negotiations (e.g. a seat at the table), outside the formal peace negotiations (e.g. the actions of WIPNET; talking to the conflict parties) as well as completely apart from the negotiations, including back in Monrovia (e.g. mass mobilisation).

Beyond these temporal and spatial boundaries of legitimisation, which is revisited throughout the next two chapters and discussed at length in the chapter of theory of legitimate peace negotiations, there are also several context factors that help to understand and explain how and why the constitutive components and the causal conditions that enabled them came to be. These are discussed in the last section on the feature of collective concerns.

4.2.3   Context Factors

The context of the non-importance of local concerns has already been previously discussed, relating this back to the centralised nature of the Liberian government and state history. In addition, further context factors also contextualise the constitutive components and the causal conditions that enable them. These context factors both positively impact the role that the CSAs were able to have (namely the personal relationships, own legitimation, openness of the mediator and their previous reputation) but also restricted them. The latter is due to the overall politicised nature of the civil society sector in Liberia and alleged self-interested nature of the CSAs, best exemplified by the emphasis from many on receiving jobs. These factors will now be outlined.

The strong personal networks, own legitimation, openness of the mediator and the reputation of the

CSAs all had a positive effect on the involvement of the CSAs and thus contextualises the legitimisation process through the constitutive components and the causal conditions which enabled them. First, the personal relationships are shown in the example of the WIPNET member Asatu Bah Konneh recognising one of the LURD rebels as her former classmate. The close network of relationships in a small country of Liberia, where strong personal networks count for a lot is not surprising (see for example Liebenow 1987, 105–115). Through family and friends connections can quickly be made, enabling unique access to conflict parties. Second, the inputs throughout the negotiations (including the lock-in by WIPNET, but also more generally the input made by the official observers as above) lead to these actors being seen as more legitimate themselves in the eyes of the mediator and international community as such reputation is linked the legitimacy of the group themselves (Paffenholz 2014a, 80). This adds to the next two points of the encouragement of the mediator and the general reputation of the CSAs.

Namely thirdly, contextually important was the fact that there was a mediator who encouraged such inputs from CSAs. The mediator had an open door policy, keen to hear opinions from both civil society actors and political party representatives on the proceedings of the plenaries (L5_13; L12_13). MARWOPNET members held meetings after the official sessions had ended which the chief mediator Abubakar, as well as with the American and EU representatives, who regularly asked them for their opinion on the day's proceedings (L44). Abubakar gave Nohn Kidau a car at times instructing her "go and talk to your people" (L28). As a sign of their influence, certain responsibilities were delegated to the civil society groups (L45). Consultations conducted by the mediator with civil society groups were also recognised in a report from the African Union representative present at the talk (Section 11; African Union 2003, 3). WIPNET were also able to influence the mediator as well as all of the conflict parties, since they were seen as 'ordinary Liberians' (Ekiyor and Gbowee 2005, 136).

Lastly, and returning to the reputation of the civil society actors themselves there is also a trust in the actors themselves (that also comes from the conflict parties). This is best exemplified by taking another look at the IRCL. Considering these religious actors during the 1990s (then known as the IFMC), Kieh Jr discusses the fact that the IRCL did not have the proverbial sticks and carrots to induce compliance of the then major rebel group, the NPFL. Whilst he argues the religious leaders were held in high esteem - a major asset - they had no way to punish and reward rebel groups (2009, 12–15). By 2003, the IRCL seemed to have more influence as was illustrated by some of their inputs above including on the civilian chairmanship. On the one hand, this is most likely related to the increasing pressure they exerted in the run-up to the talks on the different conflict factions to finally attend talks. On the other hand, Sheikh Kafumba Konneh understands the growing influence on the warring factions to have built up from the first meetings in 1990 onwards as "everyone … could see we were impartial, so they had confidence in us" (L43). By advising ECOWAS, and making judgement calls on agreements from the mid-1990s onwards that they felt would not work, ECOWAS (and the conflict parties) realised that IFMC/IRCL

was "fair, foresighted in … [their] decision making … [giving them] influence" (L43). Such an image of the civil society actors as an honest broker plays a role in the legitimisation process since it legitimates the actors themselves (see also Paffenholz 2014a, 79). This is considered in more detail in the next section on the feature of subjective representation.

Before this, the context factors which are likely to have a negative effect on the overall impact of civil society actors involving themselves in addressing collective concerns is the generally politicised environment and alleged self-interested nature of the CSAs. According to this argument, many of the civil society actors were more interested in gaining jobs than actually addressing the collective concerns. The historically political nature or interlinkage of elite civil society actors to political life has already been pointed out (see also Liebenow 1987, 83–84). The politicised nature of civil society activism during the talks was pointed out, best illustrated through the alleged interest of CSAs in getting jobs. This arguably has a negative effect on the legitimisation through the feature of collective concerns as it reduces the capacity to influence the inclusion of collective concerns and negatively effects the CSAs own legitimation, the subject of the next part of the chapter.

A Liberian newspaper editor pointed out 'there is a deep-seated animosity among all Liberian political actors. Somewhere along the line, they have all offended each other politically. Who can be said to be neutral when everybody is a stakeholder in this conflict?' (UN IRIN 2003). Several interviewees stressed that they believed that the civil society which took part in the talks, were either politically motivated, sponsored by politicians, or at the very least manipulated by them (L4; L7). US-based diaspora civil society groups for example are said to have been directly linked to the outbreak of civil war, later simply going through a paradigmatic shift by then contributing to the peace-building process (Antwi-Boateng 2012). Thus, whilst 'formalized participation in the peace process provides a certain degree of legitimacy to civil society, it has sparked a heated debate among civic leaders themselves' (Fomunyoh and Hofman 2004, 10). Members of WIPNET address the tendency towards partisanship by civil society directly, arguing that WIPNET was new to the process and their intentions 'pure and selfless' in contrast to other civil society actors (Ekiyor and Gbowee 2005, 139). In addition, Taylor not only chose Abubakar from a list of potential mediators, but he also chose which civil society actors were allowed to attend as delegates (Hayner 2007, 28; Nilsson 2009, 42).[72] This makes the presence of CSAs potentially very biased, safe for the fact others attended anyway, albeit without an invitation.

The best illustration of the politicisation and self-interested nature of the CSAs at the talks is the

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[72] David Backer and David Carrol argue that the tendency of NGOs to be seen as a de facto (political) opposition in developing states (whether they want to or not) means that the state sees them as a threat to state sovereignty and legitimacy (2001, 13; see also Atuobi 2010). This may in part, explain why Taylor insisted on choosing the civil society groups attending. According to one source the only independent civil society groupings were the Diaspora group and the WIPNET ("but they were not really part of it"), L4_13. Nohn Kidau explains she paid for her own ticket, but since the mediator had invited her to participate as an official observer, food and lodging was then covered (L5_13).

expressed fear that "representation may not be genuine for the interests of the people, but just to further themselves" (L14; see also L2; L6_13; L10_13). At worst, participation therefore is seen in light of getting jobs (L22).[73] This is particularly elucidated by two factors: Firstly the leadership contest for the head of the interim chairperson and secondly places in the actual interim government. Over 42 names were suggested to replace Taylor as an interim chairperson, including Theresa Leigh-Sherman the leader of MARWOPNET or Marcus William Jones from the Liberian Bar Association, leading a diplomat to observe 'every pressure group now wants to take the Presidency' (Ocansey and Garblah 2003; UN IRIN 2003).

Secondly, the provision of a formal role for civil society in the transitional government was not immune to criticism either. While there was a certain logic to having representatives of civil society groups assume responsibility for such agencies as the Truth and Reconciliation Commission and the National Human Rights Commission, which are less involved in the day-to-day business of direct public administration, as well aid agencies such as the National Food Assistance Agency, the rationale for civil society-run banks, lotteries, and rubber plantations - to say nothing of government ministries - is less apparent (Pham 2004a; see also Tarr 2007 who sees the co-optation of civil society into the interim government as "betrayal"). The idea was for civil society to hold formal positions within the government, whilst keeping a watchdog role at the same time (Sayndee 2009, 173; L12_13). It is even argued that the civil society actors merited these positions in the interim government 'in recognition of their work' and that after the end of the transitional period 'civil society groups continued their roles as advocates and watchdogs' (Paffenholz 2014a, 84; see also Atuobi 2010, 12). Interim Chairperson Gyude Bryant puts it like this: "[the idea behind having the civil society in the interim government] was to get some wisdom and rationality … to help strengthen my hand as to what was right and fair, as opposed to the greed and biases of the warring factions" (L12_13).[74] MARWOPNET for example were assigned to the Ministry of Gender (L44).

Nevertheless, perhaps unsurprisingly, there was confusion about the actual role these groups should then play, which was used by some as a launch pad to political office (Fomunyoh and Hofman 2004, 11; Pajibo 2007, 293). Another civil society member of the interim government described the interim government "like a grab and go … we just [held] our breath and wait[ed] for the two years to pass so we can rebuild the country then" (L18). The (alleged) rampant corruption of the interim government (see e.g. Fomunyoh and Hofman 2004, 13; Pajibo 2007, 288; Salih 2012, 177; Sawyer 2008, 180–181)[75] is not improved by the fact that civil society squabbled to get a place in the government either. Samuel Atuobi

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[73] Not an entirely new phenomena either. Writing about the Banjul Talks in 1990 (see Table 2 in Appendix) Ellen Johnson Sirleaf portrays her decision of stepping back from the talks as 'I had not come to Banjul looking for a job' (2009, 185)

[74] Professor Debey Sayndee agrees to this: "We have to look at where Liberia was at that critical time – there was no government technically speaking, nobody had legitimacy by 2003 ... it was like a team of managers putting things into place"(L10_13).

[75] Which Gyude Bryant wholeheartedly denies (L12_13).

summarises the time like this 'while this dual role was supposedly to enable the CSOs to monitor government from within, in practice, it led to further division of their front and confrontation with the warring factions and political parties with whom they competed for government posts' (2010, 3). Within a year, many were frustrated with the interim government, though it was a religious group (the Catholic Archdiocese of Monrovia) who fulfilled the watchdog role, by criticising the 'unprecedented wave of social and economic injustices abundant in the interim period' (The News 2004; see also Sayon 2004). A notable exception also comes from the IRCL who declined any seats in the interim government, advising its members if they wanted to join the government they would have to resign from the group first (L43).

Even in post-war Liberia, the debate over the depoliticisation of civil society is still relevant, since a strict separation between state, market and civil society is at best not always so obvious (see also Atuobi 2010; Bashua 2005, 127; McKeown and Mulbah 2007, 6–9). The competition for jobs in the interim government (and for the position of Interim Chairperson) for some of the civil society participants meant that perhaps their work was less effective than it could have been. A narrow focus for some groups and fewer common positions between the groups probably affected the impact they could have had (see also Hayner 2007, 12). But of course civil society groups are heterogeneous with different agendas, ideas and hopes. What this means for their representativeness is considered by looking at the second feature of the heuristic model in the next section.

4.3   Subjective Representation

The second feature from the heuristic model is subjective representation. As part of the feature, which is drawn from the participation in the public sphere argument, symbolic and descriptive forms of representation are considered by interpreting ways in which representation was spoken of and legitimation strategies of CSAs themselves. This time the comprehensive process-tracing encompasses two analytical steps. Firstly, an interpretive overview of subjective representation reveals that feeling representing and recognised guarantors of legitimacy constitute two further components of legitimisation. Secondly, the context factors that play a role for the constitutive analysis are discussed. There is no causal analysis as epistemologically this is not plausible for something as perception-related like the feature of subjective representation.

Most of the interviews and discussion in the focus group from the first fieldwork trip in Liberia do not indicate outright feelings of inclusiveness in relation to the negotiations (apart from some exceptions, including the Senior Senator of Bong County, Jewel-Howard Taylor, who commented "no one was excluded ... everyone was there" L42; see also L5). Nonetheless, there was still the idea that participation is important, as it is the 'duty and responsibility of the people of a country to determine their own destiny, to resolve their own problems' (L43). Theoretically it has been argued that participation or inclusion is guaranteed through representation (e.g. Chabal 1994, 142), which is the subject of the

analysis in this section. It is shown that feeling represented and recognised guarantors of legitimacy both constitute components of process legitimisation.

4.3.1 Constitutive Process-Tracing: Feeling Represented and Guarantors of Legitimacy

The interpretation of the constitutive components related to subjective representation is carried out in three sub-sections, considering the interpretation of representation, the perceived importance of CSAs and the legitimation strategies or narratives of CSAs.

4.3.1.1 Interpretations of Representation in Liberia

Focusing especially on the example of the religious leaders as part of the CSAs, it is shown that two major interpretations of 'legitimate' representation were the understanding of suffering and shared experiences as well as neutrality. Together these two elements show that feeling represented (according to the specific interpretation this took) constitutes a component of legitimisation. This is also shown by the fact that feeling represented is reduced by a sense of exclusion, to the detriment of the legitimisation process.

According to a news report at the time 'civil society representatives, who said they *represent* the views and aspirations of the about 3.5 million Liberia's [sic], were said to be conferring among themselves' (emphasis added, UN IRIN 2003; see also L1_14). But how do we know they represented the Liberian population? A starting point is to look at the own definitions of representation from the point of view of the CSAs. One of the civil society activists who took part in the negotiations said "we had the people in the back of our minds … we knew what was needed" (L13). To take a more specific example, the IRCL, combining both important Muslim and Christian leaders, felt that they were adequately representative of the general population because of their independence and travelling throughout the country. Passing on information and grievances through networks of religious leaders to the higher echelon based in Monrovia gave them a unique position in being able to represent the population (e.g. L41). Expanding on this idea, Sheik Konneh explains:

> "Are we ignorant of what was going on so we could not represent the civilians? No we were affected by the war the same way as … the civilians. We knew the problems of our people … we never had the time to go to mosque and church anymore. Women had no time to go to the market to get food; the business leaders could not open their business. So we were all affected, maybe not in the same way, but still affected" (L41).

For the CSAs at the very least, they claim to be in a position to represent the population because of shared experiences. The Mass Action Campaign for example was interpreted as so successful because it was 'central in bringing a human face to the crisis' (Alaga 2011a, 16) or 'a human face to the conflict'

(Ekiyor and Gbowee 2005, 138). Whether this interpretation of representation was in fact perceived as relevant depends on the audience or beneficiaries of legitimacy. In the focus group discussion conducted with teachers in Ganta in 2011, the group concluded that religious leaders and women groups had addressed their major grievances, and that "they were in the best position to know how we felt and suffered" (LGT). Teachers in Gbarnga similarly explained that 'CSOs' had addressed local grievances at the talks, since "they know what was happening here before they went [to Ghana]" (LGbT). Thus, the focus group participants accept the interpretation of representation by the religious actors, as sharing their experience or understanding their suffering. Accordingly, the beneficiaries of legitimacy felt represented because of shared experience and understanding of suffering, of those at the peace talks representing them.[76] As a result, feeling represented constitutes (one part) of the legitimisation process. Empirical *confessions* from both civil society actors and focus group discussants 'from below' have confirmed this.

This interpretation of understanding or shared experience of suffering contrasts with other civil society actors, who were deemed to be much more out of touch, such as the diaspora civil society 'who did not suffer like the rest of Liberians who lived through the civil war' (Antwi-Boateng 2011, 19–21). On this point, one of the diaspora representatives, Nohn Kidau, explains, "of course we didn't know what they had gone through, but they also didn't know what we had gone through either. We sent money, millions of dollars, we also went through hardships" (L5_13). It is arguable, that the diaspora were able to understand the suffering or offer shared experiences, just from a different perspective, considering the large diaspora residing especially in the USA. This has not been the subject of further research for the time being however, and thus stands only on the account of the individual CSA.

A further interpretation to support the representativeness of the CSAs (and because of this feeling represented constituting a part of the legitimisation process) was their own neutrality. Thus, the involvement of the Mass Action campaign was 'perceived to be genuine and neutral' (Alaga 2011a, 2). This is explained by members of the Mass Action to have been the case because their 'intentions were pure and selfless' (Ekiyor and Gbowee 2005, 139). Returning to the religious groups, the Church in Liberia specifically had become more critical throughout the 1990s, though historically they had been a defender of all government regimes, holding on to status quo (Kieh Jr 2009, 6–7). Over time however, all religious leaders (mainly Christian or Muslim - the two prevalent religions in the country) became to be held in very high regard (Toure 2002, 15–16). The focus groups discussions appear to support this. A series of questions that were asked are relevant in that respect. Firstly, discussants were asked to list the most powerful actors in their local area (today and during the war). A follow-up question then considered whether these actors were positive or negative for local peace. In a separate section of the

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[76] In the framing literature, it is also argued that frames must be empirically credible (e.g. Benford and Snow 2000, 620).

focus groups, after listing perceived local concerns and whether they had been addressed (see Table 4.1 above), participants were asked who had addressed these concerns at the talks.

Most of the groups mentioned religious leaders as powerful actors in their area. Whilst this was slightly more often referencing to Christian than Muslim leaders, this is not surprising considering that the latest census in Liberia find 85.5% of the population to be Christian, compared to 12.2% being Muslims (Republic of Liberia 2009, 85 Appendix 4). Furthermore, all these religious actors mentioned were seen to be positive for local peace. The only exception was for a Muslim youth leader, who was considered as disputed in his contribution towards local peace. Nonetheless, the primary characteristic given to him was his youth leadership rather than religious affiliation, which is why he was not included in the Table 4.2, see below. Lastly, both the teachers and youth in Ganta mentioned religious leaders as specifically having addressed their concerns at the peace talks (more is said on this below).

Table 4.2: The Importance of Religious Leaders according to the Focus Group Discussants (Liberia 2011)

	List of Most Powerful Actors includes Religious Leaders?[77]	Religious Actors Positive/ Negative or Disputed for Local Peace[78]	Who addressed the Grievances (listed) at the Peace Talks?[79]
Market Women Gbarnga (LGbM)	No	n/a	Market Women Association; UN; Ellen Johnson Sirleaf
Teachers Gbarnga (LGbT)	Yes (Pastors and Imams)	Positive	CSOs and international community
Youth Gbarnga (LGbY)	Yes (Head of Muslim Council)	Positive	ECOWAS; UN
Market Women Ganta (LGM)	Yes (Local Christian Pastor and Imam)	Positive	ECOWAS; UN
Teachers Ganta (LGT)	Yes (Local Christian Pastor)	Positive	UN, warring factions, Council of Churches
Youth Ganta (LGY)	Yes (Local Christian Pastor)	Positive	Muslim and Christian Community, CSOs, Political Parties, UN, Health Sector

The respect for religious leaders is evident and was - by their own admission - also ensured by their claim to neutrality and independence. Working both to mediate between conflict groups and negotiate when possible from 1990 onwards, IRCL and its predecessor organisations stayed neutral by talking to everyone and anyone. They also showed this by turning down any positions in the interim government, which many other civil society groups accepted. Their proven impartiality gave them more confidence in

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[77] "Who are the most powerful actors in Gbarnga/Ganta?"

[78] "Which actors are positive or negative with regard to local peace?"

[79] Following on from "What were the most important local issues during the war? Were these issues addressed in the negotiations of the peace agreement?" (see Table 4.1) the next question was "Who addressed them?"

their abilities to be fair representatives.[80] Whilst some commentators have continued to criticise the close association between the state and the church, questioning their independence (Kieh Jr 2009; Pham 2004b, 56), other sources support the idea of a more balanced role being played by the religious leaders (see for example Sengbeh 2013 commenting on the recent funeral proceedings for Archbishop Francis in June 2013). At the very least, the active role held by the IRCL throughout the 1990s (as documented by Conciliation Resources see Armon and Carl 1996) and their efforts together with ECOWAS to conduct preliminary talks in 2002 and 2003 supports the idea of their independence. This independence, alongside the view that religious actors are powerful, positive with regards to local peace and at least by some of the focus groups interpreted as addressing their grievances during the talks, further supports the that feelings of representation constitute an important aspect of the legitimisation process and that this is related to the characteristics of neutrality.

The constitutive nature of feeling represented is also shown by the fact that a sense of exclusion was perceived as detrimental to the legitimisation process. Asking interviewees if they felt like anything was left out from the peace negotiations, and if yes then what, this response is particularly illustrative (if scathing): "…they never asked the local people what they wanted, (there was) no local representation. What they said there it was all right for them but not all right for some of us. It was not a genuine peace agreement" (L27). This lack of voice or representation of 'the local people' or 'ordinary people' at the negotiations was mentioned by many.[81] One interviewee went as far as to state that whilst civil society was represented, locals were not (Interview L17), clearly questioning the ability of CSAs to represent the local. All these feelings of not being represented come from interviews conducted in Gbarnga and Ganta.

Admittedly, this self-identifying nature of the local - which surely is a rather obscure conceptualisation – comes at least partially from the emphasis of the research methods (in 'local arenas'). Moreover, a critique of liberal peacebuilding models focusing on emphasising local agency and ownership is underlined as lacking by many agencies in the Liberian context (Bøås and Stig 2010; Mac Ginty 2010; Richmond 2009a). Whilst using the 'local' is arguably essentialising, homogenising and belittling to diversity amongst and within individuals and groups, it is accepted as an analytical category, referring to inhabitants of certain geographic areas (see Hirblinger and Simons 2014). Especially in the context of Liberia, where the neglect of the so-called hinterlands plays a significant role in explaining the conflict, the local can thus be pretty much anywhere outside Monrovia, including the peri-urban areas of Gbarnga and Ganta.[82]

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[80] Mary Brownell of LWI also urged her members never to take "a cent from the warlords, if we take a bribe the respect is gone" (L7_13).

[81] LGT; LGbM; LGbT; L2; L7; L9; L11; L13; L20

[82] Though parts of Monrovia are also neglected by government authorities and could therefore express similar 'local' concerns

Interviewees went on to mention certain groups of people that they felt out were excluded from negotiations, but should have been included. This included women (L2; L13), traditional leaders (L6; L20; L25; L32; L40), and lastly local chiefs.[83] The chiefs were the most frequently mentioned actors seen as having excluded, by a wide-range of persons interviewed. This is perhaps at odds with the outside perspective of chiefs being historic instruments of the oppressive governments. Reasons given for proposing their inclusion are their knowledge of locally relevant grievances, e.g. "I think John Gbatu should have been there, he was the Chief who knew everything about the history of this place" (L37). As for the authority and related legitimacy of traditional leaders - this is relatively unknown because of the secrecy of the organisations they run and the inability to talk to outsiders about them, though the loss of their authority due to their incapacitation during the war years is documented (Moran 2008, 155; Richards et al. 2005). Ethnicity played an insignificant part in perceptions of exclusion, being mentioned only by one government official, who happened to belong to the Mandingo minority group (L8). Interestingly, one of the youth leaders interviewed lamented that there had been no representation of youth, despite "their driving force in the war" (L14, see also L13, L20). Someone else noted that the youth representative only represented his or her own position (L2). This side-lining of youth is according to some commentators still a problem in the post-war era (McKeown and Mulbah 2007, 34; see also Moran 2008, 143).[84] As such, there is a perceived exclusion, to the detriment of the legitimisation process as the *confession* "it was not a genuine peace agreement" [because of] "no local representation" underlines.

Reiterating that "feeling represented" constitutes a component of legitimisation, it also raises the fact that when this only incorporates national organisations this may lead to a sense of exclusion at the local level. This contradicts the earlier finding that the exclusion of local concerns were not detrimental to the peace process overall, showing that local representation may be important for constituting the legitimisations process as regards subjective representation. This is discussed in more detail in the chapter on the theory of legitimate peace negotiations. The next section shows that the acknowledgement of the importance of certain groups also contributes to the component of feeling represented as well as for recognised guarantors of legitimacy.

4.3.1.2 *The Acknowledgement of Importance*

The feature of subjective representation in the heuristic model is also made up of descriptive representation. Nonetheless, the Liberian case shows that there was no descriptive representation, rather

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[83] L2; L7; L11; L15; L17; L18; L24; L36; L37. An NPP Party member also complained that warring factions were also left out of the negotiations and that it was merely the highest echelons that were present, leaving the foot soldiers behind (L3).

[84] Moran argues that youth and women have always supported each other. For example when student leaders were arrested by Doe, the Market Women's Association in Monrovia, threatened to shut down the food supply of the entire city, if 'our children were harmed', related to a recognition amongst structural subordinates, she argues, that they need to support each other (2008, 50).

there was the acknowledgement of the importance of CSAs as grassroots representatives and other actors more generally, confirming feeling represented as well as a recognition of guarantors of legitimacy in constituting a part of the legitimisation process.

Distinguishing between the two groups of WIPNET and MARWOPNET adds further analytical value to the interpretation of representation. Though members of MARWOPNET made sure they briefed the WIPNET women after every negotiation day (L43), accusations of elitism (discussed below) were voiced against MARWOPNET. WIPNET counted more than 5,000 members from all the counties, and claimed to represent the 'ordinary Liberians' or 'common women', mobilizing women from all levels of society including students, doctors, lawyers, disabled women, rural women, girls and security officers (Ekiyor and Gbowee 2005, 135; Fuest 2009, 119, 132; Pedersen 2008, 7). Thus, participants cut across all categories of age, class, education etc. One CSA remembers: "… back then there was unity [amongst the women groups]. There was no race, there was no poor, there was no literate or illiterate - it was a matter of life and death." (L9_13). The grassroots organizational structure of WIPNET rejected a hierarchical structure, adopted a collective decision making approach (via phones for those groups outside of Monrovia) and discouraged the use of 'big English' (Alaga 2011b, 80–81; Fuest 2009, 119). Identifying collectively to show their solidarity across social divisions the women peace activists all wore white t-shirts and lappas (material worn as skirts) from the same fabric. They refrained from wearing make-up or jewellery. Ecoma Alaga argues that the campaign was a 'culturally specific grassroots-based strategy' (2011b, 73). Not only was this movement therefore culturally organic, and inclusive by both its membership and decision-making processes, it is also widely admired for its activism during the war.

"The women very very clearly represented the grassroots", explains one peacebuilding practitioner (L1_13).[85] The image of the women in white sitting at the Fishmarket with their banners and public praying across religious divides brought them international recognition (e.g. Clinton 2011). Closer to home, the Mass Action Campaign was widely appraised by a range of persons including members of civil society organizations (L6; L20; L22; L46), government officials (L10; L40; L15; L21), and the focus groups participants (e.g. LGT). A decade after the signing of the peace agreement their role was celebrated once again in a Liberian newspaper, under their daily photo caption of 'This, too, is Liberia,' see Image 4.1 below.

The support for 'the women' and WIPNET especially was so prevalent that one *confession* or statement from a Woman Muslim Leader stands out: "The women at the peace agreements did not represent me because they only looked at Christian women, they did not represent me. No Muslim woman was there" (L12). This is so surprising because it is factually untrue, considering WIPNET was built on a platform of interreligious cooperation, not least illustrated by the fact that one of the key leaders was Asatu Bah

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[85] C.f. also "Leymah Gbowee and the WIPNET were representing the voiceless" (L3_13).

Kenneth, a Muslim police officer. Though if we contextualise this statement (acknowledging also that it was the only one of its kind) it can be interpreted in light of the perception of many Muslims in Liberia who feel discriminated against, for example by living in a country that might be secular but still celebrates Christian holidays (Shilue 2011).

Mostly, there is widespread support and appreciation for WIPNET and not only from women but also men. Many of those who brought up and discussed the role of WIPNET with regard to bringing the peace talks closer to them and being symbolically attached to them (and thereby constituting a part of the legitimisation process) were also men. In fact the majority were men, though this must be put into context of most elites in government and civil society positions still being male, hence most interviews were conducted with men. This suggests that symbolic attachment to the women groups, especially WIPNET, is not on the basis of descriptive representation of womanhood per se. In fact, it can be related back to their grassroots nature, which is shown in the following.

Image 4.1: WIPNET as Recognised Guarantors of Legitimacy;
Newspaper Clipping *New Democrat*, 19th August 2013

This, Too, Is Liberia

Liberia is celebrating 10 years of peace after former president Charles Taylor agreed in 2003 to succumb to international pressure by leaving the country. B[...] these women prayed in Accra during the peace talk insisting that warlo[...] and politicians see reason to put their differences aside. They prayed, pe[...] came, but many are craving for the sustenance of the peace so that coming generations will not run into exile too. *New Democrat, 12th August 2013*

The difference between the more grassroots group WIPNET/ Mass Action for Peace and the formally invited MARWOPNET becomes relevant. There were clear tensions between the various women groups, notably WIPNET, MARWOPNET and LWI. WIPNET repeatedly invited the latter groups to attend their protests at the Fishmarket, but the groups rarely came. When they did come to one protest, they brought chairs with them and placed them at the front. Considering that the basis of this protest was women sitting on the field in all weather conditions, this action was difficult to understand as anything but hostile to the peace movement. WIPNET activist Gbowee notes 'the class tensions were pronounced. They were the educated elite; we were the indigenous poor' (Gbowee 2011, 144; see also

Ekiyor and Gbowee 2005, 138). Veronika Fuest even concludes that elites instrumentalised the uneducated and 'common women' to perform the tedious task of the daily peace demonstrations (2009, 132). Both LWI and MARWOPNET were seen as committed activists, 'at some risks to their lives', but nevertheless as educated elites (Alaga 2011b, 80; Gbowee 2011, 115), criticised by WIPNET as having 'wined and dined' with the rebels in their role as official delegates, preferring the status quo (Pedersen 2008, 8). WIPNET members further explained: "those women … were in the plane going from country to country. They did not come down to the people" (L8_13). Moreover, the civil society delegates were said to have been predominately from Monrovia to the exclusion of local representatives (L45; L12; L16; L25). This, it was suggested, may mean they do not know the needs of the people (L2; Sharpe 2012, 362). It links back to the idea of 'understanding of suffering' as outlined above.

LWI however, prides itself on its 1994 inception as a non-partisan and class transcending group, including from all sectors ranging from 'farmers and traditional healers to medical doctors and journalists' (Office of the United Nations High Commissioner for Refugees and UNESCO 1997, 10; Theobald 2012, 50). Founder of LWI and long-term human right activist Mary Brownell also denies these allegations of elitism, especially reiterating the diverse membership of the LWI throughout the 1990s (L7_13; see also L1_13). Whilst perhaps then this accusation of elitism is unfounded, it does seem to be problematized frequently in the Liberian context. Even in post-war Liberia, explain McKeown and Mulbah:

> 'Civil society takes the form of elitism that is heavily centralized and has little connection with rural organizations. The legitimacy of civil society is greatly undermined because they do not have constituents so it is difficult to assess whose interest civil society is representing' (2007, 39).

This notion of elitism is also reflected in a particular class-based discourse of Liberian elite women, who with a very culturalist message call for the Liberian system of patriarchy and a culture of violence against women to be dismantled, without paying attention to the historical legacy of Liberian women in authority (Abramowitz and Moran 2012, 132). Focusing on the specific time frame of the peace negotiations these class tensions were however weakened (even if only for a certain time period). The mediators and the international community knew of WIPNET because of their activities of rallying in protest in front of the talks (as well as in the run up to the talks, see above). This also motivated the mediator Abubakar to invite WIPNET to the table as official observers at one point during the talks. They declined the seat, arguing they felt adequately informed to the proceedings from MARWOPNET - and did not want to undermine their role in representing the women of Liberia - and that they could play a better role pressurizing the parties from outside the official setting (Gbowee 2011, 156). This move helped improve relationships between the two groups as the respective roles were cemented and they could help each other to have a positive influence. This was previously discussed as a *comprehensive storyline* in ensuring a civilian counterbalance in the addressing collective concern feature of the heuristic

model. In her own conclusion on the matter, Gbowee notes 'perhaps the members of MARWOPNET were elites, but they still represented the concerns of all Liberian women as observers of the talks, just as we represented our country's women in protest' (2011, 125).

Accordingly, it was not so much the self-identification with the civil society actors with regard to them being women, but rather the organisational framework of WIPNET and the actions they carried out which made them so well known. If anything then, WIPNET were representative of the grassroots. Grassroots representation is not really a descriptive representative quality, but is rather a symbolic form of representation by showing the acknowledgement of the importance of the CSAs. The resulting symbolic attachment to the actors confirms feeling represented, albeit on a symbolic basis. In addition, more than feeling represented, the symbolic attachment shows that groups or actors are recognised as guarantors of legitimacy, which also constitutes a component of the legitimisation process.

This recognition of importance also holds for other actors who are not in fact CSAs themselves. Returning to the focus groups and the discussions of who represented the grievances of the participants (see Table 4.2) international actors were mentioned a few times (in interviews also), usually under the agglomeration of 'the UN'. As such the "UN looked at how best we can hold our peace" (L23) and "the UN was for us, the youth, representing our concerns" (L1; see also FGD LGbM; LGbY). Another focus group mentions "international NGOs as addressing their grievances" but also noted the mediator as the "one who is making peace" (LGT; L43). This shows that the nature of representation contributing to the legitimisation process encapsulates far more than mere descriptive representation, and also goes beyond the CSAs to include other actors. As such, recognised guarantors of legitimacy and feeling represented contributed to the legitimisation of the process. The former will be confirmed in the next section on self-referential legitimation narratives.

4.3.1.3 Self-Referential Legitimation Narratives

An interpretive analysis of the CSAs also reveals a legitimation strategy on behalf of the women groups more generally, who described themselves as mothers and daughters. This form of self-referential legitimation was widely recognised. It resembles the notion of personal (as charismatic or traditional) sources of legitimacy as described by Weber (1978b; see also Schatzberg 2001; Steady 2011) and the legitimation strategies from Barker (2001). This legitimation strategy results in a perception of legitimacy and thus constitutes a part of the legitimisation process through the recognition of specific actors as guarantors of legitimacy, which is similar but goes beyond feeling represented. Again, despite specifically referring to womanhood the self-referential legitimation narrative cannot be interpreted in terms of descriptive representation but is much more symbolic than anything else.

According to the gender specialist Alaga, 'womanhood' in traditional African society amounts to 'an identity for people who are born female and share similar life experiences relating to their physiology

and gender roles of being mothers and wives' (2011a, 10). This does not mean that members of women movements in Liberia do not have multiple identities along the lines of class, religion, and ethnicity - some aspects of which may have deepened during the conflict - but transcending these divisions actually gave women a more powerful position (Pedersen 2008, 7). Lobbying under the banner of being mothers, wives, daughters, aunts and sisters helped give the women access to government officials and rebels, in view of the self-imposed stereotyping as 'peaceful' and 'non-threating' traditional female roles (Alaga 2011b, 80). As Amelia Ward from MARWOPNET puts it: "the warring factions had confidence in us *as mothers*, they talked to us" or "even the troops of ECOWAS, we got information from them because they confided in us. They *were our children*, we met with them" (emphasis added, Interview L44).

Though such self-referential reasoning can be contested on many levels, not least because it does not necessarily recognise multiple femininities (Okech 2011, 59), an interpretation of the empirical data portrays a prominent symbolic attachment to the 'mother/daughter' role in the Liberian peace negotiations context. Founder of LWI Mary Brownell speaks of a meeting trying to pressure Guinean President Conté into talks with Taylor (arranged through his wife):

> "So I put up my hand and I told him 'you said you would never talk to Taylor, but you and Taylor are in your mansions you don't know what is happening to the people. You are playing with the lives of millions of people. I come to you as *a mother, a sister* - when you and Taylor meet I am going to lock the two of you in one room and sit on your key until you come to your senses.' He was pretending not to understand English, but when I said that he said 'ohhhh. How can the woman speak to me like this?" (L7_13, emphasis added).

Other sources describe this meeting as successful, with the Guinean statesman later laughing 'only a woman could do such a thing … and get away with it … today I accept (to meet Taylor) because I believe in you' (Femmes Africa Solidarité 2005). This idea of the relationship between motherhood and leadership in the West African context - relating back to the legitimation of authority - is explored at book length by Filomina Chioma Steady (2011). She interviews several women leaders in the region, including President Sirleaf Johnson who explains '… an added characteristic [of leadership qualities] for women is the ability to reach out, to be a caring and sharing person. To some extent these qualities are related to motherhood, which are not automatically part of a man's nature' (Steady 2011, 120). Further, both Jewel Howard-Taylor and Amelia Ward, also interviewed for the book make similar claims. Thus, '… there is a link between motherhood and leadership … if they can put into practice all characteristics of motherhood; they can better perform duties …' (Howard Taylor in Steady 2011, 123) and 'women are more committed and dedicated' (Ward in Steady 2011, 127). Here it is important to note that especially in times of conflict the idea of 'heroic' motherhood is often used in nationalistic discourses that emphasize the ideological conquest of the nation (Puechguirbal 2005, 8). In the Liberian case however, motherhood seems to have been used to legitimate the CSAs with regard to their leadership qualities.

A critique of such narratives shows that this self-referential process of legitimation not only assumes essentialist identities but that it also depicts a one-sided manner of involvement for women in peacebuilding processes. The equation of women as 'natural' peacekeepers can restrict them to the private realm, preventing a role in the public world run by men (Puechguirbal 2005, 4–5; for the positive effect of women involvement see Stone 2014). Moreover, 'the association of femininity with peace lends support to an idealised masculinity that depends on constructing women as passive victims in need of protection' (Ann Tickner cited in Puechguirbal 2005, 6; see also Okech and Olonisakin 2011, 5; Schroven 2011, 14). As Alaga warns, the bifurcation of roles between women and men based on their gender roles can actually be counterproductive in reducing them to a position of limited agency (2011a, 18). This is additionally highlighted by the fact that considering peacebuilding practices, women representatives are often interpreted in light of their representativeness of the grassroots, whilst this is not asked of their male equivalents (Puechguirbal 2005, 8–9). It is from this problematic finding that women (usually as 'women and children') are introduced as a sociological category - also in the CPA - much like refugees or combatants that need to be protected or demobilised (Puechguirbal 2005, 3). In fact, Mats Utas shows through his extensive research in both Liberia and Sierra Leone that many women had multiple roles during the war - including as caregivers, victims and in more direct or indirect fighting roles. Depending on the given situation, narratives and representation of victimhood is the focus of their interaction with external actors (Utas 2005). No doubt the role of women in the Liberian conflict and peace negotiation context was a multi-faceted one - including victimhood, perpetrators and agents of change (Alaga 2011a, 9). As such, the 'inherent' peacemaker role of women can be critiqued.

The self-referential legitimation narrative - in this case of motherhood - is however not only widely accepted by women but also men, as exemplified by the Guinean President Conté recalling his meeting with Mary Brownell cited above. This indicates that rather than a descriptive representative effect there is an important symbolic process, recognising these women as guarantors of legitimacy. The widely recognised nature of the self-referential legitimation narratives in fact marks the importance of 'recognised guarantors of legitimacy' in constituting (part of) the legitimisation process, besides feeling represented. Arguably, the two components are interlinked, yet the component of recognised guarantors of legitimacy is more than just feeling represented, because a symbolic attachment is shown. In other words, the recognition of the guarantors of legitimacy provides for a symbolic attachment that goes beyond feeling represented. Someone can feel represented without a symbolic attachment to the representative. Recognised guarantors of legitimacy surely contribute to feeling represented, but also on its own signifies a component of legitimisation. The symbolic attachment is shown because of the narrative of legitimation are not an externally imported categorisations, but one repeated on numerous occasions by those interviewed (e.g. L44; L7_13). What is important to take from this analysis is that there was a recognised self-referential legitimation narrative and this was widely *recognised*. When Leymah Gbowee threatened to disrobe this worked because it was 'an act that would be a sign of defiance and a weapon symbolizing the power of motherhood and meant to shame men into compliance' (see also

Steady 2011, 105). Without wider acknowledgment of the legitimating construct of motherhood the action would never have been as successful. Consequently, this self-referential legitimation is more than just a strategy of authoritative leadership since the legitimation narrative is widely accepted. Anyone could technically stand up and construct self-legitimating narratives about themselves, but if these were not widely recognised then they would do little to impact the belief in legitimacy constituted by recognised guarantors of legitimacy.

Lastly on a side note, the recognised element of this self-referential legitimation narrative addresses some of the criticisms previously outlined. Feminist scholar McCall points to the importance of the ways that identity categories are produced, experienced and reproduced (2005, 1783). The categorisations and constructions of such narratives therefore have reasons and repercussions, beyond the role they play in the component of recognised guarantor of legitimacy. Whilst the narrative may amount to an essentialisation of characteristics of feminity, the self-referential narrative leads to the legitimation of the women activists, ultimately resulting in agency. In fact, this self-referential legitimation narrative was in itself therefore a strategy to build consensus and strengthen the group's activism (Petersen makes the same argument, see above). The idea behind this, being that a re-inscription into a patriarchal logic (i.e. by emphasizing womanhood) ultimately allows for the women activists' own differentiation, albeit it through integrating into the hegemonic logic first. In other words, without using this narrative the agency and position of these women in a patriarchal society may have been limited or non-existing.[86]

As stated from the beginning, there is no causal analysis undertaken as both feeling represented and recognised guarantors of legitimacy are something inherently subjective that epistemologically makes little sense to trace causally. Nevertheless, explanations for these two components of the legitimisation process were shown in the constitutive analysis, included shared experiences and understanding and neutrality for feeling represented and symbolic attachment and acknowledgement of their importance for the recognised guarantors of legitimacy. This also suggests that both what happens prior to the actual negotiations (i.e. the reputation of the actors) and afterwards (i.e. is their importance recognised?) matters for the legitimisation process, making the temporal context a continuous one. If a spatial context were to be drawn up, the perceptions regarding representation and these actors occurs very much outside all of the negotiations, in the more public arena. This is further discussed in the chapter on the

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[86] I owe this point to anthropologist Maarten Bedert (MPI Haale) who finds the construction of landlord-stranger reciprocity amongst the Dan in Northeastern Liberia shows ways or processes of dealing with alterity that are constantly performed and re-invented. Anthropological research on kinship in the region generally seems to underline the plausibility of this self-referential legitimation framework including work on the partial centripetal logic (of identification and unification) in Loma political organisation (Højbjerg 1999, 550–551), the use of avunculate idioms as a structuring discourse (McGovern 2012, 748) or the strategies of Kpelle women in gaining power (by emancipating themselves from their superiors – as do men for that matter – but keeping others bound to them in ties of obligation) (Bledsoe 1976). Considering the women's movements united many different people from a variety of regions and cultural settings a more profound analysis of this relationship to kinship is not possible here. Suffice to say that anthropological research does not seem to – broadly speaking – contravene this finding. Of note is also the importance of family ties in power-relationships amongst the elite in Liberia (Liebenow 1987, 110).

theory of legitimate peace negotiations. Further explanation is given by discussing the broader context factors in the next section.

4.3.2 Context Factors

Aside from the fact of the elite nature of many of the CSAs and cultural relevancy of womanhood as a narrative for self-referential legitimation, which was already discussed above, the feature of subjective representation is further affected by both a practical and a structural context factor. Practically, not everyone was able to be involved, especially some of the local representatives, because of the state of the country at the time the talks started, with much of the infrastructure no longer in place and the violence still taking place. This is likely to affect the levels of 'local' representation and therefore the constitutive component of feeling represented. Structurally, a lack of political empowerment and the marginalisation of certain groups will mean that not everyone is as included or will reflect on their representation to the same degree, due to their own marginalisation. This also means that there will be fewer recognised guarantors of legitimacy. These factors are discussed in turn.

The practicality of travelling to Ghana from Liberia at the time is a significant contextual factor, which explains why not as many local representatives were able to attend. By 2003 the rebel groups LURD and MODEL were encroaching on Monrovia, making much of the rural area a no-go war zone. Residents of Monrovia (who had the funds to do so) could fly to Ghana, but those residing outside would firstly have to travel either to Monrovia or to a neighbouring country, through what were at times extremely dangerous territory: "Outside Monrovia there was no personal security, there was war" (L46). One politician, who was active in several of Liberia's interim governments and was invited to come to Ghana explains, "when the war came to Ganta I was hiding in the bush. A car came for me, which was on its way to Ghana, but I did not meet it, as I was scared of being ambushed." [87]

The constraints of funding particularly affected the WIPNET activists, who struggled to maintain their presence in Accra and Akosombo (Ekiyor and Gbowee 2005, 135–6,139; Femmes Africa Solidarité 2005, 592). In order to cover their initial travel costs WIPNET gathered funds in their own group as well as using personal funds. When the group had met Charles Taylor a few months earlier he had handed over a donation of $5,000. Whilst initially the group did not want to touch this money out of principle, they finally decided to use some to help pay for their travel costs when it came to attending the talks (Gbowee 2011). The emotional burden of being separated from their families in war-torn Liberia during the activism at the negotiations was also too difficult for some participants who returned home, to be replaced by others from the nearby refugee camps (Ekiyor and Gbowee 2005, 136). All these practical matters reduced the chances of constituting the component of feeling represented.

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[87] L33, similar observations were made by L6; L11; L13; L23; L28; L34; L37; L43; L46

On a structural level, many Liberians were (and continue to be) simply too poor and focused on living each day as it comes to worry about such things as their representation at the negotiations (L45). 'Citizens struggle to survive daily and have little time or energy to attempt meaningful forms of citizen participation … extraordinary efforts are required to engage citizens at all levels of society' (Sayndee 2009, 185). Social upheaval, political instability and violence impeded associational life more generally from the 1990s onwards (Backer and Carroll 2001, 6). Thus a major structural problem is the lack of political empowerment in Liberia. The belief in legitimacy, in the sense that guarantors of legitimacy are recognised, is also a sort of political engagement, which is detrimentally affected when such engagement is not feasible.

The marginalisation of certain groups, especially women, young people and some ethnic groups, is deeply entrenched in the Liberia culture argue McKeown and Mulbah (2007, 34; see also Sharpe 2012, 362). In informal conversations in the breaks or after the focus group, discussants often told me that they had never spent as much time thinking about issues of representation. Nohn Kidau even explains Liberians as non-partisan people as a reason for needing to be represented by civil society rather than political parties (L28). Most political representatives have little direct contact to their constituents and offer little benefits to anyone except when personal connections are present. This can also be observed when considering the technocratic and non-politicised narrative of decentralisation reform (Zanker 2014b). In highly centralised arrangements like Liberia, those participating in public affairs will always constitute a small core (Sawyer 2005, 185).

A major problem is a lack of information and transparency - one youth activist adds that there is such an extensive lack of information that much of Liberian society would find it hard to consider who should represent them; "if people had a forum to express their opinions … [and] heard a variety of opinions then it would be easier to pinpoint who should represent them" (L14). There is furthermore an urban-rural divide, between literate and illiterate, the former as stakeholders in societal processes and the latter those that are side-lined from this (see e.g. Antwi-Boateng 2012, 106; Sharpe 2012, 360; L46). Sawyer notes 'empowerment for those who have not had opportunities or cannot imagine being in control of their own destiny is the greatest challenge' (2005, 200). This is not to deny agency to all persons in Liberia. As Clark argues in relation to the understanding of gacaca courts in Rwanda, it is exactly these kinds of actors (the 'peasants') who are denied political agency (or it is misunderstood) in the analysis given from many academics (2014). Indeed Moran shows in her book that there are strong 'democratic values' embedded in governmental structures of local communities in Liberia, that there is a history of organised groups in Liberia and even pre-war accounts of dissent, resistance and opposition (2008, 29). The same goes for values of feminism (Abramowitz and Moran 2012). Especially in various indigenous societies, it is not unusual for women to hold leadership positions that continue to have a legacy today

(see also Steady 2011, 107; 160).[88] Nevertheless, due to reasons of poverty, conflict and an overly centralised political system the questions of representation and legitimisation are simply not at the forefront of many people's minds. This means that it may act detrimentally to the component of recognising guarantors of legitimacy as part of the legitimisation process.

This discussion of political empowerment as contextualising factor which makes the legitimisation of the process overall more challenging brings me to another finding. If there is absolutely no knowledge about societal processes going on or the representatives that are available and willing to participate does the link to legitimacy become weaker? Does the component of feeling represented and symbolic attachment suffice in inferring the 'free and fair participation' element of the public sphere? Do the components of the civilian counterbalance and ending violence shown in the previous section on the feature of collective concerns adequately exemplifying the discourse element of the public sphere? The Liberian case in fact reveals an empirical puzzle: There was very little knowledge of the role of the CSAs and the negotiations themselves. What does this mean for legitimisation process and the heuristic model? Following on from the abductive process introduced in the methodology chapter, the empirical puzzle is outlined in the following section, after which another look at theories of legitimacy is taken, showing that a third feature - transparent communication - also plays a role in the legitimisation process.

4.4   Revised Heuristic Model: Transparent Communication

The two features of subjective representation and collective concerns were deduced from the literature on legitimacy, especially from the ideas on the public sphere. Together these two features formed the heuristic model, on the basis of which comprehensive process-tracing has been carried out looking for constitutive components of the legitimisation process and the causal conditions that enable them related to the influence of actors as part of the feature of collective concerns. As is shown below there was a lack of knowledge concerning the details of either the peace talks or the role played by CSAs which is puzzling. This lack of knowledge is argued to have been detrimental to the legitimisation process in a way not covered by the previous two features of the heuristic model, thereby revealing a further feature.

Showing that participation is likely to be more than mere representation and also means participation in the discourse element of the public sphere, the feature of transparent communication is proposed. Using this third feature from the revised heuristic model, the interpretative analysis shows that feeling included and enforcing implementation constitutes two further components of legitimisation.

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[88] This will of course vary across the different regions of Liberia. Moran worked primarily in the in the southeast with - for the most part - Kru communities.

4.4.1 An Empirical Puzzle: Knowledge of the Peace Talks

During the fieldwork one observation that kept recurring was the astounding lack of knowledge when it came to the proceedings of the negotiations and the role of civil society. One example is particularly illustrative. Nohn Kidau, a parliamentary representative for Ganta (2005-2011) played a considerable role at the peace negotiations for the Diaspora Group, as previously mentioned on several occasions. She was even considered as a candidate for the Interim Vice Chairperson, though she declined this. Her role is internationally known, as she related her experiences back to the Committee on International Relations in the US House of Representatives in October 2003. Furthermore, she set up a peacebuilding committee in Ganta to address land-related conflict after the CPA had been signed.

Nonetheless, in the three focus group discussions in Ganta not one participant was able to name Kidau as someone who had addressed their grievances or concerns at the negotiations, or who was in fact at all present. Indeed only half the discussion groups held in Liberia concluded that civil society groups played a role at all during the peace negotiation (see Table 4.2). Furthermore, several groups mentioned that they were unsure who represented them since they had not received any information to date (at the time of fieldwork, this was eight years after the agreement had been signed). Market women from the discussion group in Ganta even went so far as to suggest that, whilst civil society actors were praying for peace, they played no active role at the peace negotiations (LGM).[89] Most of the interlocutors in Ganta were also unaware of Kidau's participation in the negotiations (e.g. L25; L30; L31; L40). The only exceptions were those working closely with Nohn Kidau, like the administrative assistant of the town council (L35), the district commissioner (L29) or the mayor of Ganta (L32). One religious leader, who also knew of Kidau's attendance, explained that people did not know anything about her role, as she was then living in the diaspora, and flew straight to Ghana from the US (L36).

Similar findings were made on further occasions. For example returning to the Muslim Woman leader already discussed, she did not feel that her Muslim voice was represented at the talks at all despite the work of the IRCL and WIPNET that per definition were interreligious. In another instance, by fluke in three interviews conducted on the same day, both a political party activist and administrative assistant explained that Zawolo Zuagele, a civil society activist and politician, had attended the talks (L34; L35 also L23), whilst Zuagele himself explained he could not make it as he was hiding in the bush (L33). This also happened in another instance where focus group members mentioned a particular human rights activist who they felt should have attended the talks, ignorant of the fact he had actually attended the talks (LGbT; L13). Despite these examples of not knowing the representatives present (or even the general role of civil society) there was at least some acknowledgment that civil society, especially

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[89] When asked who should have been at the peace talks some participants in this group mentioned Nohn Kidau. It could of course be the case that they misunderstood the question and thus knew she was at the peace talks. Nonetheless, through working with Liberian colleagues as facilitators the likelihood of such a misunderstanding is minimal.

WIPNET, had somehow been involved.

Even worse however, was the knowledge of the content of the CPA. On this point, many interlocutors posited that they did not know what happened during the negotiations, what was part of the agreement and that they lacked information on the topic, or at the very least it was very flaky (L12; L14; L26; L31). Even when it came to the groupings of civil society groups, who had signed the agreement, such as the 'Liberian Bar Association' and the 'Liberia Leadership Forum', there was uncertainty as to which individuals had actually signed or represented these groups, even amongst those that had attended the talks themselves (L4_13). [90] When discussing the peace talks, it was also noticeable how many contradictions were made in interviews (e.g. L15) or in the discussions in the focus groups (e.g. FGD LGT). Going back to Nohn Kidau, even her colleague and by the latter's own admission, close friend, District Commissioner Shirley Brown, explained that she had little idea of what happened at the Accra talks (L29). How does this affect the legitimisation of a process? Is it necessary to know about a process in order for it to be legitimate?

Once again, there is a return to the question of the audience of legitimacy, or the beneficiary of legitimisation. The legitimisation of the peace talks as well as the legitimation of individual actors will depend on who you talk to. Externally, the role of civil society is well known. This is illustrated by Kidau's contribution to the House of Representatives committee in October 2003 (where she explained the role she and other CSAs had taken on during the talks) and the fact (the regional) MARWOPNET won a UN prize in the field of human rights in December 2003 and the Nobel Prize for Leymah Gboweeh (Femmes Africa Solidarité 2005, 591; see also Antwi-Boateng 2011, 13). But, and this relates back to the previous discussion on political empowerment, this does not mean that the general population perceives the process to be legitimate. Amos Sawyer comments: 'Participation is critical to citizenship, but participation cannot meaningfully enhance individual and societal well-being and demonstrate ownership prerogatives without enlightenment' (2005, 184). This suggests that information and knowledge is part of participation, calling us to reconsider our understanding of participation and legitimisation so far. On this point, Hemmer et al. were previously cited as extorting that Track II depends on reaching those powerful enough to impose peace. They further argue however, that a 'critical mass of support for peace' must also be created (2006, 134). Neither participation through representation nor addressing the collective concerns has resulted in a critical mass being created to participate in the legitimisation of the peace talks. This suggests that the idea of participation should be revisited in line with thoughts on transparency.

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[90] The copy of the peace agreement publically available does not have the actual signatures on it.

4.4.2   Transparency and Participation: A Revised Heuristic Model

The following quote from an interview with one of the leaders of the IRCL Sheikh Kafumbah Konneh indicates the importance of participation:

> "My understanding is that it should be exclusively the prerogative, duty and responsibility of the people of a country to determine their own destiny, to resolve their own problems, to correct their own mistakes" (L43).

Whilst the constitutive components shown to be part of subjective representation cover some sort of participation via representation (feeling represented; recognised guarantors of legitimacy) and the causal conditions which enable the constitutive component of ending violence and the civilian counterbalance include the mobilisation of citizens, juxtaposed to the lack of knowledge the overall legitimisation in relation to participation can be questioned. More specifically, the heuristic model that introduced the two features considers the public sphere in order to argue for free and fair participation (or subjective representation) and taking part in the discursive process of negotiations (through addressing collective concerns). Nevertheless, this representation and collective concerns is not enough to adequately address both the factors of participation or discourse elements of the public sphere. Reiterating the assumption of participation in a legitimisation process, it is shown that beyond representation the way that participation is understood is far from being properly conceptualised. It is shown that making the talks more transparent renders the process open to public scrutiny and as a result, further enhances the legitimisation process. This has to do with the fact that transparency enhances participation with regard to accountability and information distribution, linking both the free and fair participation element and (rational) discourse of the public sphere as the basis for further constitutive components of process legitimisation. This third feature is labelled transparent communication and is introduced below.

In peacebuilding theories, which were introduced in the first chapter, the importance of participation has long been underlined. Returning to one of the major pillars of peacebuilding, the UN Agenda for Peace:

> 'Peace in the largest sense cannot be accomplished by the United Nations system or by Governments alone. Non-governmental organizations, academic institutions, parliamentarians, business and professional communities, the media and *the public at large must all be involved ...*' (emphasis added, Section 84 UN Secretary General 1992; Kofi Annan also advanced ideas of "participatory governance" see J. Chopra and Hohe 2004).

Whilst in peace studies a lot of the debate on public participation focuses on the social-psychological benefits of improving inter-personal relationships, in democratic theory participation is understood as a prerequisite for achieving legitimacy (Ron 2010, 349). In line with communitarian or emancipatory peacebuilding, the conception of participation has been further expanded, primarily by showing that

'local' actors need to be part of the solution. This is especially because of their role in 'participation, stakeholders and ownership … [and] … its *legitimizing* effects' (emphasis added, Richmond and Mitchell 2011, 12; see also Bleiker 2012; Watson 2012; and for a critique of the local see Simons and Zanker 2014). In their research on the effects of development, Mary Anderson et al. in fact claim 'participation leads to ownership [which] leads to sustainability' (2012, 68).[91] Participation is linked to legitimacy of the agreement, no doubt about this. But what in fact does participation really mean beyond representation?

In development studies, the conception of participatory development has been widely recognised and debated (for a critical review see Cooke and Kothari 2001). In development projects, however, a clear target audience can mostly be identified and as a result the critique focuses primarily on the ways of participation and the effects this can have, rather than on questioning the meaning of participation per se, regarding the legitimisation of processes. In peace negotiations, this debate is entirely side stepped in favour of the civil society as representatives' discussion. Nevertheless, considering the lack of knowledge about the peace talks in Liberia a deeper understanding of participation is necessary in understanding the construction of legitimacy. Even the participation with regards to parallel forums or Track II participation - whilst much more advanced than the literature on direct involvement - remains an arguably rare occurrence in practice and is not well demonstrated as to how it actually works (Hemmer et al. 2006, 135). In summary, 'the idea of participation … is still at the stage of labels or headlines, and the notion lacks clear definition, any kind of effective strategy' (J. Chopra and Hohe 2004, 291). One useful starting point to understanding how participation can contribute to legitimisation of a process beyond the feature of subjective representation, comes from Paffenholz and the modes of participation she developed in her most recent work (2014a).

Out of the nine modes of participation, what she calls public participation seems to be particularly relevant (2014a, 85). Broader than mere Track II participation, she considers activities that seek to 'connect large segments of the population with Track One peace negotiations … [including] … public hearings, citizen panels, and opinion polls' (Ibid). A provision in the Somalian peace agreement from 1993 is a prime example, stipulating that civil society actors would travel all across the country in order to educate people about the agreement (Bell and O'Rourke 2007, 301; Paffenholz 2014a, 83). Considering the continuous state of insecurity in much of Somalia this provision was in all likelihood never fully implemented, but it is interesting from the point of view of a legitimisation process. Had the civil society groups in Liberia travelled all across the country educating about the peace process would this have made a difference concerning the overall legitimisation of the process and participation?

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[91] Mac Ginty argues that participation is at the heart of liberal peacebuilding and argues for the political value of non-participation (2012, 170). He is talking about local-level peacebuilding processes however, rather than something large-scale like peace negotiations.

Returning to the debate on European integration, Vivien Schmidt argues for a third dimension of legitimacy, namely 'throughput' legitimacy (2013). Combining efforts from previous research of system theories (including from a much narrower definition by Easton) she proposes that throughput legitimacy considers democratic legitimation of a process with regard to its efficacy, accountability and transparency on top of the inclusiveness and openness to consultation with the people. This throughput legitimacy is not merely an input or output form of legitimacy but plays a role *throughout* the entire process. Making the talks more transparent renders the process open to public scrutiny, which enhances the legitimisation process. Or as Schmidt argues, without throughput legitimacy the public perception of legitimacy is undermined (2013, 2). Habermas notes in addition:

> '… Participation of non-governmental organizations in the deliberations of international negotiating systems would strengthen the legitimacy … insofar as mid-level transnational decision-making processes could then *be rendered transparent* for national public spheres' (emphasis added, 2001 quoted in Schrader and Denskus 2010, 41; see also Scheuerman 2008, 101).

In order for a public to be able to assess the legitimacy of a process, a process of reflective scrutiny by those affected by an agreement needs to be undertaken (Ron 2010, 349, 359). Since the usual checks and balances of accountability such as elections are evidently foregone in such a process, other forms of creative reflective scrutiny are likely to be an important element to assess legitimate negotiations (on this point see Jarstad 2008a, 23; Ron 2010, 349; Runciman and Vieira 2008, 160; Steffek and Hahn 2010, 8).

Anna Jarstad for example already suggests striving for public support after a deal has been drafted, through public forums, albeit as an alternative or additional approach to broad inclusion during peace negotiations (2008a, 23; see also Ron 2010). Transparency allows for participation through not only holding the civil society actors accountable[92] but also making the entire process and promises made by the parties to the agreement more transparent.[93] Accountability through transparency in fact also has relevance for the process legitimisation of peace talks. Such accountability through transparency helps to put pressure for implementation, which is highly likely to be an additional constitutive component of the legitimisation process considering the role played by the component of ending violence. In fact, the link between participation of CSAs and chances for implementation has already been made (e.g. Bell and O'Rourke 2007, 301; Nilsson 2012, 247; Wanis-St. John and Kew 2008, 23), but not yet theorised with regard to the legitimisation process. Transparency adds another feature to participation more than mere

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[92] Though Brühl argues the accountability of civil society actors is not necessary as they only seek to influence decisions and not actually make them (2010, 187).
[93] 'If civil society actors become involved this could result in increased transparency and make it easier to hold the signatories accountable for their commitments, which in turn may affect their incentives to stick to peace' (Nilsson 2012, 250).

subjective representation, which is rather one-sided, rendering all the responsibilities of the beneficiaries of legitimacy (the population). This brings me to the second point.

Transparency is also an act of information distribution. Such a distribution of information leads to a sense of inclusion/participation in the (rational) discourse of the public sphere. In other words, 'when (the claim to legitimacy) has not been discursively redeemed, (it) remains an unstable one' (Cook 2003, 115). Open discourse and contestation as well as the deliberation towards a common public good is after all the corner stone of deliberative democracy (see also Zürn 2011, 72). From Habermas and the discussion of deliberative democracy, the importance of communication for the legitimisation of processes is already evident. This becomes particularly apparent in the later work from Habermas on communicative rationality and discourse ethics where he argues communication and discourse help to establish and maintain social integrity (Crowell 2012, 152; Finlayson 2005, 47). The bottom-line is that 'a legitimate … consensus [can only be met if] … all relevant information is available for all' (Edwards 2009, 69). As a result, participation in the discourse - even if only through the distribution of information, means that there can be a feeling of inclusion, which the collective concerns by themselves do not permit. In summary, arguing for transparency resulting in participation in terms of accountability and information distribution, links both the free and fair participation element and (rational) discourse of the public sphere as the basis for further contributing to the legitimisation of the peace talks.

This third feature is labelled transparent communication.[94] It concerns all efforts made by civil society to communicate with the population during the negotiations and afterwards, and therefore looks at *how* the civil society actors respond to those they deem to represent. For the feature of transparent communication the focus of the constitutive process-tracing is on the distribution of information and other modes of communication. A causal analysis is additionally feasible for considering why different ways of communication enabled the legitimisation process by causally tracing the different roles played by actors in this. If we take the basic initial heuristic model previously introduced, this is amended in relation to transparent communication. The feature is argued to primarily take place during and after the negotiations, see Figure 4.3 below. This is applied to the Liberian case subsequently.

It should also be noted that the feature of addressing collective concerns has also been amended from the original heuristic model as it was shown in the comprehensive process-tracing that the constitutive component of ending violence takes place after a peace agreement has been signed, and the causal conditions relating to the influence of the CSAs also occurs in the build-up to the peace talks.

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[94] My thanks to Professor Thomas Diez for suggesting summing up this feature in terms of communication, *PhD Colloquium Tübingen, December 2012.*

Figure 4.3: Revised Heuristic Model for Legitimate Peace Negotiations

Transparent Communication

Addressing Collective Concerns

Subjective Representation

Before the Talks   During the Talks   After the Talks
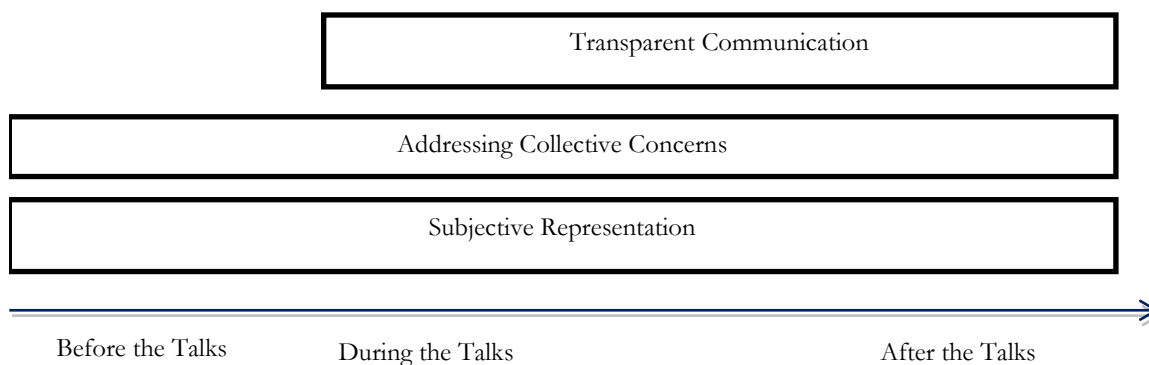
4.4.3   Constitutive Process-Tracing: Enforcing Implementation and Feeling Included

As carried out in the previous sections, the comprehensive process-tracing encompasses three analytical steps. Firstly, an interpretive overview of transparent communication shows that - as expected - feeling included and enforcing implementation constitute two further components of legitimisation. Secondly, the causal conditions that enabled these constitutive components are then be traced, looking for the ways of communication. Thirdly, the context factors that play a role in the comprehensive process-tracing of transparent communication is discussed, namely the structural disparities of Liberia at the time. Because some of the empirical observations have been presented as the puzzle above, this analysis is shorter than the previous ones.

As illustrated in the empirical puzzle, in numerous interviews and the focus group discussions it was mentioned that there was no nation-wide forum for discussion, even after the CPA had been signed. As a result: "This is our number one challenge: creating awareness" (L44). Creating awareness could have enforced transparency and lead to some form of accountability for civil society actors, especially for the official delegates. Without feedback, the grassroots population is not informed, and as a result may not understand the terms of their peace, nor be able to hold their leaders accountable for what they have signed. A staff member of International Alert sees the lack of information outside the capital as a conflict root (L45) and Amelia Ward from MARWOPNET notes creating awareness and dissemination of information as the number one challenge (L43; L1_14). But why is it so important to have this knowledge?

Discussing the usefulness of potentially having a council representative at peace talks, a city councillor explains, "he needs to listen carefully and *explain to the people afterwards* what has happened" (emphasis added; L26). This distribution of information as a benefit (and reason for) having local representatives was reiterated elsewhere (e.g. Interview 230611; 280611.1; see also Sayndee 2009, 172). It led some interlocutors to conclude that a national conference should have been conducted after the talks were completed (L8; L13). Knowledge of the agreement is necessary, it was argued, in order to allow the

population to make sure (and put pressure on the government if necessary) the agreement is implemented (L6; L13; L35; L38). Moreover, if the population is unaware of a peace agreement they may allow violent conflict to continue or restart (L6). This is because 'where there is an information gap, rural dwellers are susceptible to rumours and perpetuation of myths by unscrupulous people who seek to take advantage of them' (Antwi-Boateng 2012, 106).

Amelia Ward from MARWOPNET elaborated on this in another interview in 2014, explaining that after the agreement had been signed it was the responsibility of those who had been present "to educate what the CPA was about", in order to make sure that implementation can take place. She refers back to the Tulip Declaration, calling it an "organisational plan" for women (L1_14). Indeed, Article 3 of the Declaration calls for "awareness and sensitisation meetings by rural and urban woman…" (Golden Tulip Declaration 2003). LWI and WIPNET also joined forces to organize a two-day workshop in September 2003, with 80 participants, in order to 'demystify' the CPA and to provide a shared understanding the agreement. They also set benchmarks and timelines for the implementation (Alaga 2011a, 2; Gbowee 2011, 168). Moreover, WIPNET continued to organise sensitizing forums for women after the agreement in order to raise awareness of the content of the peace accord and the responsibilities for the parties to move towards implementation (Ekiyor and Gbowee 2005, 137). Gbowee explains: 'we disseminated that information in all of the rural areas, challenging women, saying that, 'you have to be on your toes. Every day you see these things happening in your community, come to town and let us take it up' (Alaga 2011a, 14). These *confessions* underline the importance of ensuring implementation as a component constituting the legitimisation process.

Secondly, "if feedback wasn't provided to the grassroots community than their participation can be questioned" (L6; see also L2). Thus the crux of the matter is that the distribution of information allows for a feeling of inclusion or without it, people feel excluded from the process. It all comes back to the idea that without the involvement of the general population, including debates on the future and past of a country, sustainable peace becomes a more distant likelihood (Richmond 2009b, 73; see also L6). Transparency and communication ensures this type of participation, resulting in the feeling of inclusion. Though in this case the evidence is weaker, the feeling of inclusion can still be inferred as constituting a part of the legitimisation process. In the discussion of subjective representation, the lack of local representatives was already shown. The *confession* above questioning participation because of a lack of knowledge underlines the link between information distribution and feeling included.

The next section, on the casual analysis, considers the ways in which communication enabled the feeling of inclusion as well as ensuring implementation in order to further concretise how peace negotiations can be made more legitimate.

4.4.4   Causal Process-Tracing: Ways of Communication

The aim of the causal analysis as a part of the comprehensive process-tracing is to further an explanation of why the constitutive components were able to happen. In other words - to causally trace the ways of communication that enabled the ensuring of the implementation and the feeling of inclusion.

To start with, elements of communication can be identified at all stages of the negotiations. In 2002, civil society groups and political parties already met with LURD creating a 'Liberian Leadership Forum.' Central to the group was the Ouagadougou Declaration, a plan to restore peace and stability in Liberia. A system of dissemination of proposals from earlier meetings (the Abuja Agenda) led to the adoption by a majority of the stakeholders present (see The Perspective 2002). WIPNET created awareness about the dynamics of the Liberian conflict amongst citizens; including sensitizing rural communities about the kind of roles they could play (Ekiyor and Gbowee 2005, 137–138).[95] Nevertheless, no direct links can be made to ensuring implementation or feeling included, as this prior communication does not pertain to the transparency of the negotiations themselves. If anything, it contributes to the legitimacy of the actors themselves, which was discussed previously, relating back to the constitutive component of feeling represented. It also makes a first point, showing that the temporal boundaries of legitimisation in relation to the feature of transparent communication refer to the period during the talks and after them, as suggested by the heuristic model previously.

There is one major causal condition that enables to ensuring of implementation and feeling included after the negotiations have started, namely the distribution of information. It interacts with other causal conditions in a number of ways.

Firstly, the distribution of information is directly linked to the feeling of inclusion and ensuring implementation. For example WIPNET communicated daily with the women left behind in Monrovia to report back on the developments of the talks (L8_13). This 'high level of accountability and transparency … was essential for building trust and confidence in both members and the larger society' (Alaga 2011a, 16). This *smoking gun* shows the importance of the factor of information distribution in relation to feeling included by building trust and confidence. Towards the end of the talks, WIPNET held a parallel Forum with other groups, resulting in the Tulip Declaration (Accra Mail 2003; L7_13; L1_14). In addition, meticulous recordings of the daily activities of WIPNET would allow, WIPNET members argue, generations of women to share and learn from their experiences at the talks (Ekiyor and Gbowee 2005, 140). After the CPA was signed, the IRCL distributed thousands of copies of the CPA, both as a full version as well as a simplified, abridged version (L41). They tried to make sure there were distributed in all of the counties, and held more intense discussions surrounding these issues in several

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[95] LWI also had massive information campaigns throughout the 1990s, especially with the international media, informing them what was happening in Liberia (L7_13).

districts in Bong County (Ibid). MARWOPNET shared all their information regarding the negotiations and final agreement signed with the women protestors WIPNET lobbying from outside the table, as well as conducting a larger meeting in the town hall on their return to Monrovia. They invited a cross-section of women and explained the agreement step-by-step via each provision, as well as what must be done to ensure implementation (L44; see also Femmes Africa Solidarité 2005, 591). The link of the distribution of information to the feeling of inclusion and also to ensuring implementation is illustrated in Figure 4.4 below. Regarding the spatial boundaries the distribution of information occurs primarily outside of the negotiations, though because of group interaction the negotiations also play a role. This is discussed next.

Secondly, as previously mentioned, intra and inter group communication further enhanced the possibility of the distribution of information, showing a distinct causal chain from group communication to distribution of information which enabled the constitutive components of legitimisation, in this case the feeling of inclusion and ensuring implementation. This is illustrated by the following: During the actual negotiations, MARWOPNET had regular briefings with WIPNET as they "felt that if one woman was invited she should represent the women of Liberia not MARWOPNET (only)" (L44). This was then later used in the recordings of the meetings by WIPNET, as well as in their calls with Monrovia, as explained above, suggesting a *comprehensive storyline*. Moreover, throughout the entire process the Liberian diaspora communicated in vibrant discussions in Internet forums (Antwi-Boateng 2012, 99). They also communicated what was happening to each other using emails and urging members of the diaspora to keep the pressure on the international community, in this case especially the US Senate members (L5_13; L1_14). On a side note, this communication with the international community also links the distribution of information, via intra group communication, also to the lobbying of international actors previously discussed as a causal condition of influence in the addressing of collective concerns as shown in Figure 4.4 below, by a dotted arrow.

Figure 4.4: Causal Conditions and Constitutive Components of Transparent Communication
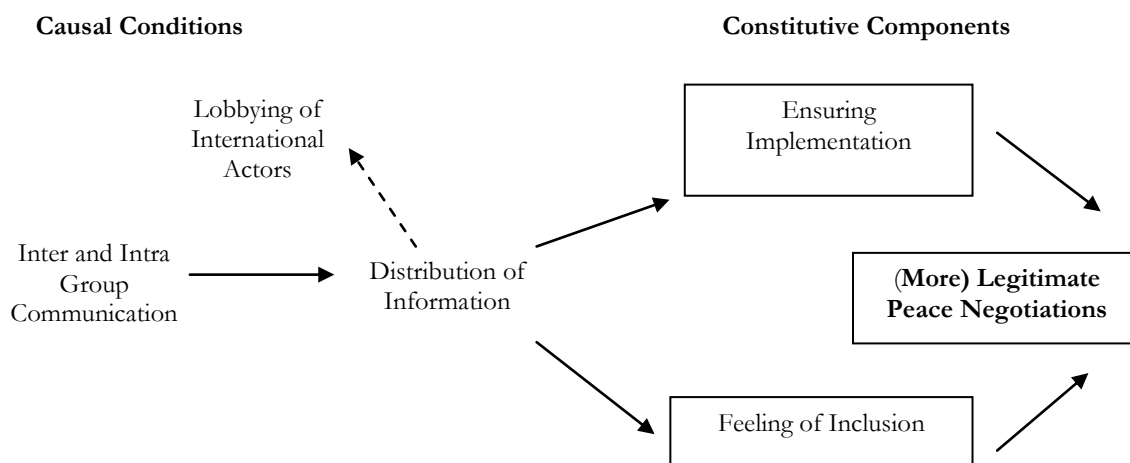
Nevertheless, the causal link to the constitutive components is rather weak. This is at least in part because this part of the legitimisation process was inductively developed on the basis of an empirical puzzle, whereby the lack of information was the very reason for inference. The feeling of inclusion especially, is proposed on the basis that the lack of transparency and communication seemed to have led to feelings of exclusion. Inversely, it is therefore argued that due to transparency through the distribution of information there is the feeling of inclusion. Overall, the empirical evidence for this tends to show the detrimental effect on legitimisation rather than the positive effect. As a result, the causal relationships can be shown, but lacks extensive empirical proof. These examples portray more than anything that the groups communicated with each other,[96] writing peace plans, debating current politics in Internet forums and conducting workshop for the most part with other elite stakeholders. When copies of the CPA were distributed or workshops held this seems to have been limited to Monrovia, and some other counties, usually the more central ones like Bong. The second case study of Kenya allows for a more elaborate analysis of transparent communication, not least because of the very different context factors. The Liberian context factors are briefly outlined in the next section.

4.4.5 Context Factors

Regarding the context factors, the discussion links back to the divide between literate and illiterate, urban and rural (L46). Tammi Sharpe talks of a disconnect between elites and the general public, part of generally weak national dialogue, whereby wealth determines access to information (2012, 358). According to survey data collected by the University of Berkeley, access to information has improved since the end of the war for a majority of the population (66%), but many respondents still rely predominantly on informal sources of information, for example friends or family, due to poor access to media, especially in south-eastern parts of Liberia (Vinck, Pham, and Kreutzer 2011). One of the biggest problems is therefore a structural one, namely the poor access to the media.

Indeed, when discussing this finding with Nohn Kidau in a follow-up interview two years after our first conversation, she agrees fully "I haven't told the people in Liberia what happened in Accra or the role I played" (L5_13). She goes on to explain that she is intending to write a book about her experiences. Whilst admitting that this might also not be widely read, she does insist that most people are unaware of all the troubles she went to, including talking to the UN and US State Department on numerous occasions. In a very real application of the abductive process, asking her about the idea of transparent communication or knowledge of agreement, she agrees to the importance of this component for

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[96] Though this is not always clearly evident. When discussing the talks with members of WIPNET who had remained behind in Monrovia during the talks, they explained that they were not aware of the details of the agreement (L8_13).

legitimacy (L5_13).[97] The feature of transparent communication will be detailed more extensively in the next chapter. The overview of the findings from this chapter is discussed below.

4.5   Overview of Findings from the Liberian Peace Negotiations

The original heuristic model applied in this chapter considered the two features of subjective representation and collective concerns which were previously deduced from the literature on legitimacy, especially from the ideas on the public sphere. In an abductive research process, the lack of knowledge was shown to have been detrimental to the legitimisation process in a way not covered by the previous two features of the heuristic model, thereby revealing a further key feature of the legitimisation process labelled transparent communication.

On the basis of the heuristic model, which was extended to three features, comprehensive process-tracing was carried out looking for constitutive components of the legitimisation process and the causal conditions that enable (part of) them, including especially the influence and ways of communication of the actors. In total, six components were shown to be constitutive of the legitimisation process: Ending violence, a civilian counterbalance to the negotiations and in the agreement, feeling represented, recognised guarantors of legitimacy, feeling included and ensuring implementation. Together, these components further the understanding of what takes place in a legitimisation process.

An additional interesting finding is that the lack of addressing local concerns was generally perceived as not having affected the legitimisation process. The same does not hold for 'local' representation, whose exclusion seems to act in detriment to the legitimisation process. Moreover, representation went far beyond descriptive representation, and did not necessarily exclusively speak to CSAs, which is why the component of recognised guarantors of legitimacy was delineated in addition to feeling represented, both of which are not exclusively found for CSAs.

A casual analysis was carried out for two of the features considering the influence of actors and the ways of communication and the enabling of respective constitutive components. This was most feasible for the feature of collective concerns, because there was fewer empirical evidence for transparent communication. Some important explanations were drawn from this analysis, especially with regards to the temporal boundaries of legitimisation, which was shown to extend beyond the specific negotiations also to the time period after the conclusions had come to an end, especially for transparent communication. The spatial boundaries were shown to be partially in the negotiations, formally or informally, and partially in the spatial setting of the broader public, though this is difficult to

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[97] Another human rights activist that had attended the Accra negotiations also conceded this point in a follow-up interview, stating that few people know anything about the proceedings, that he had only sometimes discussed it when people asked him specific questions about his experiences at the proceedings (L6_13).

conceptualise in spatial terms. Mobilising citizens for example occurs amongst refugees, the diaspora and citizens in Liberia. These findings are considered in the theory of legitimate peace negotiations, which is developed later on, after first presenting the second case study of Kenya. The major causal conditions, constitutive components and context conditions from the Liberian case are summarised in Table 4.3 below.

Table 4.3 Major Findings from Comprehensive Process-Tracing from the Case Study of the Liberian Peace Negotiations

		FEATURES OF THE HEURISTIC MODEL		
		Collective Concerns	Subjective Representation	Transparent Communication
MAJOR FINDINGS FROM COMPREHENSIVE PROCESS-TRACING	**Constitutive Components**	• Ending violence • Civilian counterbalance in negotiations and agreement	• Feeling represented • Recognised guarantors of legitimacy	• Ensuring implementation • Feeling included
	Causal Conditions	• Lobby conflict parties and maintain pressure during the talks • Mobilise citizens • Lobby international and regional actors • Seat at the negotiation table • Inter group communication	N/A	• Group communication • Distribution of information
	Context Factors	• Nature of personal networks amongst Liberians • Politicised nature of civil society • Mediator encouraged inclusion • Reputation of CSAs • Centralised nature of state (non-importance of local concerns)	• Previous work of civil society actors • Politicised nature of civil society • Lack of political empowerment • Practical problems of attending	• Lack of political empowerment • Media infrastructure weak

Chapter 5

Silencing the Choir Masters:

The Kenyan National Dialogue and Reconciliation

5   Silencing the Choir Masters: The Kenyan National Dialogue and Reconciliation

Discussing the post-election violence (PEV) that brought Kenya to the edge of civil war, a prominent community member in the town of Nakuru explains what happened:

> "… Common people had no deep-seated hatred for their neighbours. People on the ground only emulate what leaders are doing. I always say leaders are like choir masters, if they say nothing the choir will sit quietly for hours. If they tell them to sing they will sing, if they tell them to stop they will stop" (K14).

A major task in order to put an end to the violence during the Kenyan PEV was therefore to 'silence the choir masters'. What role did the Kenyan CSAs play in this and what does this mean for the legitimisation of the negotiations in Kenya? This chapter presents the fifth step of the abductive process, whereby the revised heuristic model now including the three features of collective concerns, subjective representation and transparent communication is used to conduct the comprehensive process-tracing. As previously, after introducing the background to the PEV and the major actors involved including the civil society actors, each feature is analysed in up to three steps. Firstly, on the basis of an interpretative overview of what took place, the components that constitute the legitimisation process are traced. This is done by *inter alia* analysing any empirical *confessions* for motivations or perception related to the legitimisation of the negotiations. Secondly, why these constitutive components came to be is traced causally looking for *smoking guns* and *comprehensives storylines* as empirical tools to show the causal relationships between the causal conditions, specifically, the causal conditions showing the influence of actors and the ways of communication for collective concerns and transparent communication respectively. Lastly, the context factors relevant for the comprehensive process-tracing are detailed.

5.1   Background and Actors

In order to situate the analysis, a brief overview of the Kenyan post-election violence, the peace negotiations in 2008 and the major actors involved, including from the civil society sector are outlined in the following.

5.1.1   The Kenyan Post-Election Violence 2007/8

The background analysis lays out the political run-up to the flawed elections and post-election violence as well as the types and roots causes of violence. The root causes beyond the flawed elections, include the personalisation of presidential powers, the system of land distribution, ethnicity as well as socio-economic disparities and media aggravation.

Kenya gained independence from Great Britain in 1963 and for most of its existence was ruled by a single party, the Kenya Africa National Union (KANU). Moreover, until 2002 only two presidents ruled the country: Jomo Kenyatta up to 1978 who was replaced by Daniel Arap Moi, his repressive regime lasting until 2002. Though multiparty elections were introduced in 1992, it was only in 2002 that KANU and Moi lost their stronghold over Kenyan politics. It was also the first time since the eve of multiparty politics in Kenya in 1992, that there were no incidents of election-related violence. By 2002 a strong opposition coalition had formed under the name of the National Rainbow Coalition (NARC) with Mwai Kibaki at its helm, winning elections that year. At the time the electoral victory was interpreted as a turning point in the democratisation process of Kenya. Despite gains in economic growth, the NARC soon became fragmented, rifts worsening after a failed constitutional reform process in 2005. The presidential elections in 2007 promised to be a tight race between Kibaki of the Party of National Unity (PNU) and Raila Odinga of the Orange Democratic Movement (ODM). When election results were announced in favour of Kibaki, he was hurriedly sworn in for his second term by the Chairman of the Electoral Commission Samuel Kivuitu, three days after the elections on the 30th December 2007. Allegations of electoral fraud were immediate (see e.g. Throup 2008).[98]

An unprecedented level of violence swept the country bringing Kenya to 'the brink of civil war' (see e.g. International Crisis Group 2008, 9). The violence that took place has been the subject of much debate especially because of the involvement of the International Criminal Court (ICC) with trials for crimes against humanity ongoing against todays Vice-President of Kenya, William Ruto and President Uhuru Kenyatta - though the latter collapsed in early December 2014.

Three types of violence took place in 2007/8. Firstly, there were riots, looting, destruction and attacks from ODM supporters (primarily in the Rift Valley, Nyanza and the Coast) against government representatives as well as alleged PNU supporters and especially persons belonging to the Kikuyu and Kisii communities. Organised Kalenjin gangs in the northern Rift Valley for example attacked and drove out Kikuyus living there. The most infamous incident was the burning down of a church close to Eldoret in early January 2008 with women and children hiding inside, around 35 of whom are thought to have died as a result. Secondly - thought to have been planned by politicians and businessmen who

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[98] The factual outcome of the 2007 election outcome will probably never be known. In the parliamentary elections ODM won 91 parliamentary seats compared to the 43 seats of the PNU.

employed criminal gangs - there were revenge attacks against alleged ODM supporters and especially persons belonging to the Luo, Luhya and Kalenjin communities in Nakuru and Naivasha districts as well as in Nairobi. This took place towards the end of January 2008. Lastly, police and security officers - such as from the General Service Unit and the Administrative police - were also involved in the violence, by shooting citizens as well as high rates of sexual and other gender-based violence (see e.g. CIPEV 2008; Human Rights Watch 2008; Jepson et al. 2014, 9; McGhie and Wamai 2011, 13).

In total 1,133 people were killed, the majority in the Rift Valley Province, and 350,000 people were displaced (CIPEV 2008, 305; 346; 351). The reasons for this violence and to what degree it was planned or spontaneous have been hotly debated (Murunga 2011). Several root causes of violence can be pointed out. The flawed election results and the hasty swearing in of Kibaki can be seen as a definite trigger. Since the opposition party, ODM and their leader Raila Odinga felt that they had won the elections, there was the perception that the election results were faulty (Barkan 2008; Jepson et al. 2014, 8; KEW). The elections were however simply the last straw in a series of long-standing institutional dimensions that resulted in long-term grievances, including most notably the personalisation of presidential power, land distribution and ethnicity.

Firstly, the political system in Kenya favoured the personalisation of presidential power. This was a core condition for the development of a system of patronage whereby only the President's ethnic community is seen to benefit from the state. This resulted in the creation of a 'mostly exclusionary and ethno-conscious public sphere, [and a] predatory elite' (Kanyinga, Okello, and Akech 2010, 15; see also CIPEV 2008, 28; Horowitz 2008, 2; Jepson et al. 2014, 16; Kanyinga and Walker 2013, 4; Maupeu 2008a, 196; K18; KNY). As a result, the Luo constituency of Odinga found the election rigging particularly bitter, arguing that a Luo had never ruled the country.

Secondly, the system of land distribution and related debates on regionalisation/federalism (or *majimboism*)[99] accounted for much of the violence. When colonial settlers left the country in the run-up to independence, they sold their farms primarily to members of the Kikuyu community, partly because this group had also been the beneficiaries of the colonial divide and rule policy. This pattern continued after independence. Because of this system of land distribution, the Kalenjin and Maasai who traditionally have lived in those areas feel like their land has been taken away from them. The Kikuyu owners of land nonetheless bought their land titles and have lived there often for generations by now, and thus feel just as entitled to the land (Hornsby 2013, 766; Kanyinga 2009; Maupeu 2008a, 188; 203; K21; KNY; KET). Both the personalisation of power and historical land disputes were about exclusion and a long-term grievance. Thirdly, as this overview already suggests, ethnicity permeated these institutional characteristics, resulting in general antagonism. Hasty comparisons to Rwanda and ethnic

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[99] For more on this see Anderson (2010) and Zanker et al. (2015).

cleansing were made at the time (Jepson et al. 2014, 102). The ethnic undertones were however very clearly linked to the manipulation of identity for political power and thus can at least in part be interpreted as socially constructed (Horowitz 2008, 3; G. Lynch 2010; Noor 2014; Wainaina 2008).

On top of these deep-rooted factors, further catalysts of the conflict were socio-economic disparities and the media. Socio-economic disparities were entrenched, not least because of high poverty levels, regional income inequality and high youth unemployment (Kenya Human Rights Institute 2008, 3; Lindenmayer and Kaye 2009, 3; Maupeu 2008a, 195; Ngunyi 2008, 5; K7; KNY). Lastly, the media also played a negative role and thus became a catalyst of conflict, especially because of hate speech broadcast on local radio stations (CIPEV 2008, 295; K7; K9).[100]

As part of a mediation process led by Kofi Annan, a power-sharing agreement was signed on the 28th February 2008. By then the violence had mostly stopped. The power-sharing government with Kibaki as President and Odinga as Prime Minister managed to work on the implementation of the agreement until the next elections in 2013. Several new institutions of inquiry and reform were set up as a direct result of the agreement, most importantly a new Constitution, which was written and promulgated in August 2010 after a nation-wide referendum. The power-sharing government however was instable at times, with frequent cabinet reshuffles. Infamously, the International Criminal Court (ICC) indicted four cabinet members for crimes against humanity during the post-election violence (along with the police commissioner and a radio DJ).[101] Though elections in 2013 were largely peaceful, perhaps at the cost of democracy (Cheeseman, Lynch, and Willis 2014), Kenya remains highly volatile today. President Uhuru Kenyatta and Vice President Ruto got themselves elected on an anti-western anti-ICC ticket (G. Lynch 2014). Since then restrictions on civil society have worsened (Opalo 2013; K55). Stalled implementation of institutional changes, communal violence and the rise in terror attacks further threaten the stability of the country. The subsequent analysis focuses only on the period between 2008 and 2011, when the fieldwork was conducted. The negotiations are detailed in the next section.

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[100] Though importantly, the media had a mixed role. According to Freedom House the media at the time 'enjoys one of the liveliest press environments on the continent' and therefore was also a voice of criticism and transparency (Freedom House 2007).

[101] In 2011 six persons were indicted by the Pre-Trial Chamber II of the ICC for crimes against humanity: Uhuru Kenyatta, Henry Kosgey, Francis Muthaura, William Ruto, radio executive Joshua Arap Sang and former police commissioner Mohammed Hussein Ali. This is reflected in the cabinet reshuffles - for example in March 2012 the Justice Minister Kilonzo - an outspoken supporter of the ICC indictments - was removed from his post (Africa Confidential 2012). As for the cabinet members that were indicted: Between 2008-2010 cabinet member William Ruto was suspended twice from the cabinet due to corruption charges in 2010, and then formally fired in 2011 (*ICC charges were confirmed, currently on trial along with Joshua Arap Sang; after 2013 became Vice President*); Henry Kosgey was suspended due to corruption charges and reinstated in 2012 (*ICC charges dropped*), Uhuru Kenyatta resigned as minister of finance in 2012 but remained in the Cabinet as Deputy Prime Minister (*ICC charges confirmed, case collapsed in December 2014 due to lack of evidence and cooperation; after 2013 Kenyatta became President of Kenya*); Secretary to the Cabinet Francis Muthaura resigned in 2012 (*ICC charges initially confirmed, but later dropped in 2013*). Charges against former police commissioner Mohammed Hussein Ali were also dropped in 2012. An adequate local mechanisms to consider lower level charges of those involved in the post-election violence has still not been identified (Human Rights Watch 2011; Jepson et al. 2014, 22).

5.1.2   Negotiating an End to Violence: Kenya National Dialogue and Reconciliation

Before discussing the mediation efforts from a special Panel, set up by the African Union (AU), early mediation attempts are briefly illustrated. Under the mediation guidance of the AU Panel a total of four Agendas were negotiated, as part of the agreement, which are presented in the following.

Kenya had emerged as a bastion of stability and economic growth in the region. Consequently as the situation grew more violent, international attention gathered quickly. This included initial mediation efforts by South African Archbishop Desmond Tutu in early January, albeit to no avail. In addition, Ghanaian President and AU Chairman, John Kufuor, had immediately recognised how dangerous the situation was growing and called for an emergency meeting of the AU Commission, consulting members of the UN and other African heads of states (Jepson et al. 2014, 20). On the 8th January, Kufour arrived in Kenya, together with Benjamin Mkapa (former President of Tanzania), Joachim Chissano (former President of Mozambique), Ketumile Masire (former President of Botswana) and Kenneth Kaunda (former President of Zambia). Their visit and mediation attempts also proved to have little effect. Notably, Kibaki named a Cabinet during this time, which effectively 'slammed the mediation door in President Kufuor's face' (Khadiagala 2008, 8). Kufuor however managed to get the two principals to agree to a mediation process and then called on Kofi Annan to take on the role of an AU Special Advisor and Chief Mediator (Annan and Mousavizadeh 2013, 189; Khadiagala 2008, 16). As a result, the African Union's Panel of Eminent African Personalities (hereafter the AU Panel) was born, taking on key responsibilities.

Former UN Secretary General Kofi Annan, along with former Tanzanian President Benjamin Mkapa and former first lady of Mozambique and South Africa, Graça Machel, chaired the AU Panel. Their mediation efforts began on the 22nd January 2008, with an orchestrated symbolic handshake between Kibaki and Odinga, though at this point the two did not discuss the violence or the election results. The formal launch of the dialogue with negotiation teams for each side was on the 29th January. Financial and technical support was provided by the UNDP and the Swiss Centre for Humanitarian Dialogue (Wanyeki 2010; see also Kanyinga and Walker 2013, 10). Early stumbling points included the disagreement over what the mediation should actually be called, eventually settling on the Kenya National Dialogue and Reconciliation or the KNDR (Lindenmayer and Kaye 2009, 11). A visit from Ugandan President Museveni as Chairman of the East African Community that coincided with Annan's arrival was perceived as biased towards Kibaki - he had been one of the only heads of state to congratulate Kibaki on his electoral win (Khadiagala 2008, 7). As a result, the first major step taken by Kofi Annan was to ensure that his would be the sole mediation in order to avoid forum shopping (Annan and Griffiths 2009, 3; Annan and Mousavizadeh 2013, 189; Jepson et al. 2014, 44; Khadiagala

2008, 11).[102] Accordingly, Museveni left again. The international community quickly endorsed the mediation mission of the AU Panel and was later praised for its coordinated efforts on the matter (Kanyinga and Walker 2013, 8, 15; Lindenmayer and Kaye 2009, 6).

Four main agendas were signed as a result of the KNDR. On the 1st February 2008, Agenda 1 was signed calling for an immediate stop to the violence and the restoration of fundamental rights and liberties (2008). A few days later, on the 4th February, Agenda 2 was signed, which addressed the humanitarian crisis in the wake of the violence (2008). Most notably this included addressing the plight of internally displaced people. Furthermore, the establishment of a Truth, Justice and Reconciliation Commission (TJRC) was mentioned (Agenda 2: Part 2h) and confirmed under Agenda 4. After six weeks of negotiations Agenda 3, or the 'Agreement on the Principles of Partnership of the Coalition Government', was signed (2008).[103] This was perhaps the most important agenda, at least in the short run, setting up a power-sharing interim coalition government, and creating the position of Prime Minister, which was given to Raila Odinga. Two deputy prime minister positions were also created by the agreement. In addition, the top two positions within each ministry were also split between the different parties and in the most sensitive ministries two Assistant Minister positions were created. As a result, the power-sharing cabinet became inflated with 40 ministers and 52 assistant ministers.

The negotiations over this part of the agreement took the longest and were at times 'tense and bitter' (Kanyinga and Walker 2013, 11). Expert advisors and a retreat to Kilaguni, a lodge in Tsavo National Park, did little to ease the tension between the negotiation team, especially hardliners like Martha Karua (for PNU) and William Ruto (for ODM) (R. Cohen 2008). Eventually, Kofi Annan decided to call off the negotiations as they were fast sliding towards a deadlock. Instead, he called upon the two principals, and together with Benjamin Mkapa and Tanzanian President Jakaya Kikwete, finalised the agreement in what was later called the 'five hour end game' (Khadiagala 2008, 22–23).

Finally, mediated by Nigerian Foreign Minister Oluyemi Adeniji because of the departure of Kofi Annan, Agenda 4 was signed on the 4th March (2008). Agenda 4 promised to address long-term issues and solutions addressing legal, constitutional and institutional reform, poverty and inequality, unemployment, land reforms, national cohesion and unity, as well as accountability and impunity – in fact most issues that were considered root-causes of the violence (see above). Aside from constitutional reform, the Agenda also provided for the establishment of several bodies, including:

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[102] Though the civil society advocacy group that emerged during this time the Kenyans for Peace, with Truth and Justice claim they had originally called for one sole mediation team and the international community then followed suit (Kanyinga 2011, 100; see also Baldauf 2008c).

[103] This followed a previous agreement that had been signed on the 14th February by the negotiation team called 'How to solve a political crisis' that confirmed a commitment to a political settlement to the crisis

- The Independent Review Commission (IREC), which became to be known as the Kriegler Commission after its Chair, set up to review the entire election process of 2007, especially the presidential election;

- The Commission of Inquiry on Post-Election Violence (CIPEV), which became to be known as Waki Commission after its Chair, set up 'to investigate the facts and circumstances related to the violence … between December 28, 2007 and February 28, 2008';

- A Truth, Justice and Reconciliation Commission (TJRC), tasked with the investigation of gross human rights violations and other historical injustices in Kenya between 1963 and 2008.

The mediation team tried to not exclusively focus on the happenings of the day (i.e. by advising against a recount or new elections) and instead turning the focus of the conflict parties to finding solutions for the future (Jepson et al. 2014, 84). Agenda 4 clearly underlines the success of this. The official conclusion of the KNDR was on the 30th July 2008 after the negotiations regarding Agenda 4 were finalised. Though after the March signing of the Agenda, only details were left to be ironed out, as a result of which the number of sessions reduced, as did the momentum. As negotiators took up their positions in the cabinet, meetings only took place sporadically (Khadiagala 2008, 23–24).[104] During the period that followed, especially up to the next elections in 2013, Kofi Annan maintained the pressure for implementation by releasing statements on particular issues like the TJRC, establishing a Coordination and Liaison Office (CLO) in Nairobi and organising several review conferences (Jepson et al. 2014, 55; K53). An overview of the negotiation actors is given in the next section.

5.1.3   The Negotiation Actors

Apart from the two major conflict parties, Kibaki and Odinga, each side had their own negotiation team. In addition, after outlining briefly the mandate of the AU Panel, the other international actors are mentioned, before focusing on the CSAs in the subsequent section.

At the behest of the AU Panel, Kibaki and Odinga appointed a team of four negotiators to take part in the mediation on their behalf. The PNU team was composed of Martha Karua, Sam Ongeri, Mutula Kilonzo and Moses Wetang'ula. All of the team apart from Sam Ongeri (who has a background in medicine) are lawyers. For the ODM the team was composed of Musalia Mudavadi, William Ruto, James Orengo and Sally Kosgei. In order to beef up the lawyers on his side, Odinga insisted on extending the list of negotiators to four from the initially planned three, so that James Orengo, a lawyer by trade, could also be included (Annan and Griffiths 2009, 7).

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[104] Items negotiated after March include the Statement of Principles on Long-Term Issues and Solutions (23 May 2008) and the Agenda Item 4: Matrix of Implementation Agenda (30 July 2008)

The international community was involved in various ways as has been outlined previously. The engagement of the AU Panel had its roots, at least partially, in the doctrine of the responsibility to protect (R2P), which Annan had begun developing under his tenure as UN General Secretary. Further, Article 4(h) of the African Union's Constitutive Act affirmed the right to intervene under certain conditions. Whilst the reiteration of the mediation in relation to the R2P concept had a huge symbolic impact (Jepson et al. 2014, 20–21; Lindenmayer and Kaye 2009, 2), the success of the mediation was also related to a combination of many different factors including not least international expertise and pressure.

External experts were invited both in order to depoliticise the discussions and in order to help find solutions to challenges at hand (Jepson et al. 2014, 33). These included the German Deputy Foreign Affairs minister Gernot Erler in order to relate Germany's experience with grand coalition governments and Hans Corell, a Swedish lawyer and diplomat, and former Under-Secretary-General for Legal Affairs in the UN Secretariat, to provide legal expertise (Annan and Griffiths 2009, 12; Khadiagala 2008, 17). Pressure was also kept up by the international communities including statements of support for the work of the Panel by UN Secretary General Ban-Ki Moon and a visit by the US Secretary of State, Condoleeza Rice. The donor and development community also supported the efforts of the Panel, as well as coordinating their own efforts. This included coordination groups like the Democratic Governance Donor Group who agreed on a 'no business as usual' approach (Kanyinga and Walker 2013, 9). Aside from various international groupings, the CSAs also played a major role, which is now outlined.

5.1.4   Civil Society Actors and the KNDR

Before illustrating the work of the two major coalitions of civil society during the peace negotiations, the emergence of civil society in Kenya is briefly reviewed. Two major groups are particularly active, namely church-based groups and human rights activists. The height of civil society momentum was arguably during the 2002 elections, since then the groups have faced problems co-optation into government etc.

President Moi had ruled the country with an iron fist - no media and CSAs, let alone opposition political parties or politicians, were able to act or move freely. However, civil society groups emerged as a force for change during the late 1980s and throughout the 1990s. Reasons for their emergence include the fact that donors saw them as a way to influence domestic politics and therefore incresingly directed aid to CSAs (Hornsby 2013, 630–631).[105] In addition, groups allied themselves with opposition politicians and organised themselves collectively (Connan 2008, 312; Ndegwa 1996, 52). The emergence of the CSAs in

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[105] Though donor funding for civil society groups involved in for example election monitoring did not contribute to the development of the government administration, but more to the 'privatisation' of state functions (Connan 2008, 321). A similar point was made on the "commercialisation of peace" (K51; see also K48).

Kenya during this time has been credited with giving momentum to the struggle for multiparty elections and later broader constitutional reform (Connan 2008, 310; Kanyinga 2011, 89; Noor 2014; Opalo 2013).

Two major groups were of particular importance, namely religious leaders and human rights activists. One the one hand, bold church leaders emerged as especially active in the 1990s, focusing social actions on the political sphere (Chacha 2010, 131). Groups like the National Council of Churches of Kenya (NCCK) and the Kenya Episcopal Conference joined the impetus for constitutional reform from the outset. Whilst churches played an important role in the first decade of reform, their position as supporters of the democratic opposition and defending human rights became more contentious because of their vehement loyalty to President Kibaki, a Catholic, after 2002 (Maupeu 2008a, 2008b, 282). Their strong commitment to him proved to be controversial when the results were disputed and violence broke out in 2007/8.

On the other hand, human rights activists - with the front runners being the Law Society of Kenya, the International Commission of Jurists-Kenya Section and the Kenya Human Rights Commission - launched a group called the Kenya Tuitakayo (The Kenya we want) - Citizens Coalition for Constitutional Change in 1994. What was known in short as the 4Cs became a broad and influential steering committee of 43 members, who sought to facilitate dialogue between the government, opposition and civil society as well as conducting civic education campaigns. In early 1997, the 4Cs organised a National Convention, bringing together the three large bodies - NGOs, churches and opposition parties - which had criticised the regime.

A high point for the pro-democracy movement came during the elections in 2002 when under a very broad multi-ethnic coalition the NARC managed to oust President Moi out of power, installing Kibaki in the most peaceful and democratic elections Kenya had experienced to date. Almost like a victim of its own success, many of the CSAs joined the new government (some as elected officials), which meant the civil society sector lost some of their brightest minds (Branch 2011, 256; Kanyinga 2011, 90; Noor 2014; Opalo 2013; K46; K48). The NARC split soon after their electoral victory, and consequently civil society suffered from a 'paradigm paralysis': They had been so focused as a force against Moi / KANU that after the 2002 elections they 'lost … [their] … object of aggression' and 'became a mirror image of the wrangling coalition government: polarised and ethnicised' (Ngunyi 2008, 8; see also Murunga 2011, 8–9).[106] Some commentators argue that civil society have never regained their momentum after 2002. Accordingly, the civil society section became reactive without a strong and consistent public voice (DAI 2012, 3; see also Kenya Human Rights Institute 2008, 6). Others see the CSAs changing role as a more positive one - the constitutional reform process had transformed the groups into pressure groups,

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[106] Though Moi had already contributed to the polarisation of CSAs, by engaging only with some groups to the detriment of others.

accorded them a new position in the electoral process and a 'more active and transversal role of criticising the actions of the regime' (Connan 2008, 317; K2).

In any case, from the time the violence broke out by late 2007, in civil society sector played an active role, despite not having a direct seat at the table. Two major coalitions of CSAs emerged in January 2008, namely the Concerned Citizens for Peace (CCP) and Kenyans for Peace with Truth and Justice (KPTJ),[107] which broadly associated themselves with the church movement and human rights movement respectively.

The first coalition, the CCP, was led by Ambassador Bethuel Kiplagat, a seasoned diplomat and associate of the church movements like the NCCK; General Daniel Opande, a military man with extensive experience in UN peacebuilding missions and General Lazaro Sumbeiywo, who had extensive experience as a mediator in Sudan. The aim of the group was to lobby for an end to violence at all costs, if need be in the name of accepting electoral fraud. Other members included organisations like Peacenet and Nairobi Peace Initiative and the now deceased Peacebuilder Dekha Ibrahim Abdi. The first act of the group was to look for international attention, including the call to Desmond Tutu to try to mediate. Further actions of the CCP included media engagements and other innovative lobbying tools like public 'prayers for peace' or getting a leading mobile phone operator to send a text message to all their subscribers, urging them to be peaceful. They also held an Open Forum in Nairobi where members of the public could attend and express their concerns. On the basis of this the CCP developed a Citizens Agenda for Peace, which they presented to the mediators (for more on the CCP see Connan 2008, 322; Kanyinga 2011, 94–101; Mwagiru 2008, 30, 61; Wachira, Arendshorst, and Charles 2010, 11, 23; K46).

The second coalition, the KPTJ, counted over 30 organisations from the governance and human rights sector and individual academics, researchers or election monitors, under the leadership of the Kenya Human Rights Commission. The main aim was to demand for accountability and justice, including a call to stop police brutality and a recount of the votes, arguing that peace without justice or truth is not possible. The group was seen as more political in nature than the more pacifist minded CCP (Connan 2008, 324; Kanyinga 2011, 94). The first manifesto from the group attributed the main cause of violence to the rigged elections. The Law Society of Kenya (a member of KPTJ) had by then already made an announcement rejecting the official results.[108] The group also denounced police brutality and collected data on the violence (Connan 2008, 324–328). Using partners like the Red Cross, they developed an accurate count of the deaths that occurred and collected data on violence in order to help the efforts for

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[107] The group was originally named Kenyans for Peace, Truth and Justice but in reaction to the Concerned Citizens for Peace position of peace at all costs 'more firmly cemented their counter position and renamed themselves as Kenyans for Peace *with* Truth and Justice (emphasis added) by the end of January' (Connan 2008, 329). According to one of founders of the KPTJ – Muthoni Wanyeki – this name change holds little relevance or analytical value (K55).
[108] The group released a detailed report by the end of January on the electoral fraud entitled 'Countdown to deception: 30 hours that destroyed Kenya' (Connan 2008, 329).

humanitarian relief (Wanyeki 2010). The group also helped to generate domestic pressure for a political settlement. One group member of the KPTJ for example, the influential Kenyan Private Sector Association met up with Kibaki and threatened that businesses will withhold taxes unless he agreed to negotiations (K49). Generally, the group was 'more concentrated on observation of the process than on mobilisation of the masses … [and] … displayed itself more as a research and political analysis organisation' (Connan 2008, 319). Indeed, KPTJ developed scenarios and recommendations that they shared with the mediators. The AU Panel met up with this group, as well as other CSAs both prior to the start of negotiations as well as throughout the process (Jepson et al. 2014, 17; Lindenmayer and Kaye 2009, 7; McGhie and Wamai 2011, 15).

Other smaller groups that were not always associated to the CCP or KPTJ also existed. This included most notably the Kenya Women's Bi-Partisan Consultative Group who - at the behest of Graça Machel - held a one-day meeting with more than fifty women to discuss how women could pressure on the conflict parties, later presenting a memorandum to the mediation team (McGhie and Wamai 2011, 16, 19; K55). Other groups include the Concerned Kenyan Writers (Wanyeki 2010) and the Kenya Association of Manufacturers (Jepson et al. 2014, 30). Civil society actors at the grassroots were also involved in more practical ways, albeit usually less documented. Rural Women Peace Link based in Eldoret for example initiated community dialogues for reconciliation during the height of the violence (McGhie and Wamai 2011, 17; see also K31; K44). Moreover, there was the Amani Mashinani Initiative, a conglomeration of a number of national-level human rights groups and their community-based counterparts from Nairobi's informal settlements, who provided relief assistance and peace and reconciliation meetings with local leaders (Kenya Human Rights Institute 2008, 6).

In retrospect, it is argued that CCP was particular influential in helping to reach Agenda 1 (a stop to violence) and KPTJ influenced Agenda 4 or the addressing of the long-term grievances. In other words 'the complex, contradictory and yet ultimately principled response of Kenya's civil society and, eventually, private sector together with that of the diplomatic community and the rest of the world, worked' (Wanyeki 2008, 97). Using the three features as heuristic tools, the constitutive components relevant to the Kenyan case are now traced, starting with collective concerns.

5.2   Collective Concerns

Having spelled out the details of Kenyan post-election violence, the National Dialogue that followed and the actors which were involved, including CSAs, the next step in this chapter is considering how peace negotiations become more legitimate, according to the first feature of the heuristic model: Collective concerns. According to this feature negotiations as a process become legitimatised if collective grievances or concerns are discussed and addressed by CSAs and included in the agreement. As before, the comprehensive process-tracing is carried out in three steps. Firstly, there is interpretative tracing of

what took place in order to consider the components that constituted the legitimisation process. It is confirmed that the process of legitimisation occurs because of the components of ending violence and a civilian counterbalance. Secondly, the causal conditions that enabled these constitutive components are traced, before discussing the context in a third step.

5.2.1   Constitutive Process-Tracing: Ending Violence and a Civilian Counterbalance

Like in the Liberian case study, this includes two sections, namely a discussion on general collective concerns and on the collective concerns that the CSAs actually addressed.

5.2.1.1 What are the Collective Concerns?

An end to violence was expressed as a major relief, much like in the Liberian case, making it a major grievance and in turn a part of the legitimisation process. Despite this relief, there was a widespread understanding that local concerns had *not* been addressed by the talks or the agreement, though there was some division as to whether this was because national concerns subsumed local ones or whether in fact local grievances actually existed at all.

Ending the violent conflict, only deemed possible by introducing a political solution, was a major grievance. "Kenyans in the street everywhere had one agenda: stability. So yes [the KNDR was] limited in terms of participation" (K46), but nevertheless, it "was a relief" (K3). [109] This overwhelmingly consistent *confession* is further explained by one CSA in Eldoret: "It was a moment in time when Kenyans needed a rescue … the moment Raila and Kibaki shook hands the Kenyans found a reason to smile, we saw a new beginning" (K22). An opinion poll from April 2008, about a month after the conclusion of the power-sharing agreement, shows that 75% of respondents approved of the accord (Horowitz 2008, 12). This reiterates the component of ending violence as constitutive of the legitimisation process. On a small side note, apart from ending violence another issue was raised. Namely, that the area where much of the violence took place, the Rift Valley, was "the breadbasket of the country" and that fighting needed to stop in order to ensure food security (K25; see also K22; K24; K26; K45). This also reiterates that ending violence can be interpreted in line with aspects of more positive peace like in the Liberian case, and not merely the absence of violence. In other words ending violence as a constitutive component is more than the "silence of the guns" and in both cases includes elements that seem to go beyond this.

Whilst the cause of violence was interpreted as multifaceted, as interpreted previously, one key element was the political background, related to both the disputed election results and the alleged role of

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[109] See also K2; K7; K8; K5; K10; K11; K14; K15; K17; K19; K20; K21; K23; K24; K25; K26; K30; K32; K33; K34; K35; K36; K39; K40; K41; K45; K50; K53; K54; K55; KNM; KEM; KET; KEY; KNY.

politicians in instigating violence. Whilst this meant that a political solution at the national level was unavoidable, a further extension of this is perceived to be missing: "We wanted the leaders to come to the ground since most of the violence had been instigated by politicians" (K21; see also K20; K24; K22; K42). Another civil society actor in Eldoret spoke of a visit from President Kibaki to the region in 2011 rather bitterly, as "too little, too late, people don't trust them anymore" (K31).[110]

Broadly speaking, there was a consensus amongst most interlocutors that the National Dialogue that took place only discussed national political issues *not* local ones.[111] To some this meant "peace has been hijacked by the elites," as a result of which no true reconciliation can take place until local grievances had been addressed (K1).[112] This perception of a lack of dialogue at the local level was reiterated in every single focus group. In addition, problems were argued to remain unaddressed "because grassroots people were not involved," (K19).

One of the most prominent concerns mentioned as unaddressed was the resettlement of IDPs.[113] Whereas this issue was theoretically addressed under Agenda 2, the implementation has never been completely successful, even at the time of writing - seven years later. During the fieldwork in 2011, rumours were rife about ethnically biased repatriation, the perception being that only the Kikuyu group were benefiting from IDP programmes to the detriment of other ethnic groups. This was in all likelihood linked to the fact that the Kikuyu formed the largest IDP group in the immediate aftermath and many others were not formally registered as IDPs but fled to stay with family members and friends (see e.g. K4; International Crisis Group 2008, 18; South Consulting 2010a, 11). Further concerns identified as having been left out include the issue of land (K38; KNT; KEM; KEY); fully addressing ethnic reconciliation (K30; K37); gender-based violence (KEY; KET; KEM); impunity (K30); trauma (KNY; KEM); food shortages (KNM; KET; KEY); the interruption of business (KNM; KEM; KET) and the destruction and loss of properties (KNT; KNY; KEM; KET; KEY).[114]

Like in Liberia, focus groups participants were asked to list the concerns or grievances they had during the time period of the post-election violence and then to answer separately whether they believed that these issues had been addressed during the National Dialogue, see Table 5.1 below.

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[110] Though according to the first monitoring report of the South Consulting Group, Kibaki and Odinga held several joint public meetings as early as in March 2008 where they urged Kenyans to coexist and live together in peace, including in the Rift Valley (South Consulting 2009b, 4).

[111] E.g. K13; K16, K22, K24; K26, K32, K33; K34; K36; K42; K49

[112] See also K19; K24, K31; K34; K35; K36; K37; K41; K44

[113] K4; K19; K24; K41; K49; KNT

[114] Karambu Ringera also claims that the process overlooked the root causes of conflict and excluded the voices of women, youth and civil society (2014, 174). In addition, the discussion of conflicts amongst pastoralists in the North of Kenya and secessionist's claims at the coast were also left out (K53).

Table 5.1: List of Concerns and the Number Perceived to have been addressed during the Peace Negotiations According to Focus Group Discussants (Kenya 2011)

Focus Group	Number of Concerns Addressed
Teachers Nakuru (KNT)	5 out of 11
Youth Nakuru (KNY)	8 out of 15
Market Women Nakuru (KNM)	10 out of 13
Teachers Eldoret (KET)	6 out of 12
Youth Eldoret (KEY)	6 out of 14
Market Women Eldoret (KEM)	8 out of 15

Only the Market Women in Nakuru were optimistic about the number of concerns addressed at the KNDR talks. Overall, according to the focus group participants, only an average of 53.5% of concerns had been addressed by the talks. The reasons for this mostly more negative perception than in Liberia can only be speculative, but interestingly the reasons given as to why concerns were *not* addressed, mirror those given in Liberia. Firstly, the unaddressed concerns were perceived to have been of a lower priority at the time of violence, such as "poor business" which was seen "as a minor issue since when the country was in crisis … business would not perform [anyway]" (KNM; this reasoning was reiterated in all groups). Secondly, some of the unaddressed concerns (like land) were thought to be too complicated to address right now (KNT; KEY; KEM; KET). Lastly, in some groups it was proposed that certain concerns were not addressed - like gender-based violence or food shortages - because the national level elite actors did not know they were happening, since they were not on the ground where the violence was taking place (KEY; KEM; KNY; for a similar point see Ringera 2014, 181).

More generally, there were mixed perceptions on the reasons for not addressing local concerns, and if this was in fact the case at all. Indeed, a small number of those interviewed felt that local issues had been included, at least to a certain degree (K17; K32; K54). More frequently it was argued that because events in the Rift Valley were at the eye of the storm, 'their' issues were automatically included nationally.[115] Others still, praised the efforts of local peacebuilding efforts that had addressed any localised grievances or conflicts (K14; K22; K24; K42). Moreover, some of the major human rights organisations (often involved themselves) postulated that the negotiations were "pretty inclusive" (K42) and the agreement "very comprehensive" (K54; see also K46). The Agenda 4 issues, according to these interlocutors, were after all also local ones (K55). Government administrators and the MP Peris Siman were also quick to back up this point (K45; see also K17; K25; K29; K46). One differentiation that was often made however, was that issues had been addressed to a great extend within the KNDR - including local or locally important ones - but that they had stalled when it came to the implementation of these.[116]

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[115] K3; K15; K16; K24; K27; K30
[116] K1; K2; K6; K20; K21; K24; K26; K27; K32; K36; K37; K39; K40; K44; K46; K47; K49; K54; K55; KNT; KEY

Like in Liberia, there were also a number of interviewees who noted that all the collective concerns were national ones, which is why local grievances did not need to be discussed or included. One peacebuilding actor explains: "I haven't seen anything unique to the Rift Valley which was not included" (K42).[117] One of the negotiators, William Ruto, favoured the explanation that "there was a blend of local and national issues" (K52), though in his testimony to the Waki Commission he seems to support the idea of exclusive national concerns (CIPEV 2008, 75). This suggests an inconsistent stance on the matter of whether the concerns were ultimately local or national ones (or as I argue elsewhere, shows the two-level power game being played by Ruto; see Mehler et al. forthcoming). Whilst in Liberia, due to the inherently centralised nature of the state, local concerns were not deemed as important, in Kenya it seems to be that local concerns do exist but are much harder to separate from national ones. Whether the conflict concerned localised events of an essentially national conflict or whether truly local grievances do exist was the subject of much debate (see also Zanker, Simons, and Mehler 2015, 88). Consequently, there is a perception that local concerns were not addressed, like in Liberia, but the *confessions* suggest that this is - at least in part - detrimental to the legitimisation process. Since there is no clear conceptualisation of local concerns however, it remains an open question, to be revisited in the final theory on legitimate peace negotiations.

The specific collective concerns that were addressed by the CSAs and ended up being included in the agreement are discussed next.

5.2.1.2 Civil Society Actors Addressing Specific Collective Concerns

Three broad collective concerns were addressed by the CSAs, namely the flawed election results (truth), the human rights violations (justice) and other long-term grievances and economic stability (peace). Individually and together the concerns offer a broad civilian counterpart to the National Dialogue and the agreement (most notably Agenda 4), which constitutes a part of the legitimisation process. In addition, the addressing of economic stability amends the constitutive component of ending violence to include a return to stability.

Truth: Flawed Election Results

One of the first and primary objectives of the civil society group KPTJ, was to highlight that there were serious concerns about the election results and the objectivity of the Electoral Commission of Kenya (ECK) (Connan 2008, 329). During the National Dialogue, Kofi Annan and his team went through the different options of a new vote or a recount with the negotiators from both conflict sides. In the interest

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[117] See also K2; K18; K25; K33; K34; K55. MP Margaret Kamar and Minister of Education in the interim cabinet argued that a mere political solution was needed at the time so local issues did not need to be addressed – at least in the short-term (K33; see also K20; K27; K39).

of ending the violence as soon as possible, the two sides eventually agreed on conducting a thorough investigation after the elections through the Kriegler Commission. The KPTJ group were one important side in raising this point, though by no means the only ones, as especially for the Odinga team this was also the primary point of contention.

As the violence worsened over the weeks, KPTJ made a distinctive effort in collecting data on the deaths in an effort to create a record and ensure future accountability. The group carried out monitoring and documenting both the violence and the elections throughout this period, which ended up being one of their major contributions (Jepson et al. 2014, 30; Wanyeki 2010; K55). The monitoring strengthened their own position, both during the talks and later on when they were asked provide information to the Waki Commission on the post-election violence. The report from the Waki Commission lists the KPTJ as one of their partners and states more generally that civil society had provided background material, reports and witness statements detailing the patterns of human rights violations and violence (CIPEV 2008, 5–6).

Justice: Human Rights Violations

Human rights violations and the need to address them, was discussed and eventually included in Agenda 4, under the banner of justice and reconciliation. The KPTJ were quick to ask for any human rights violators or those committing violence to be held accountable. The question of legal accountability was left open to be dealt with by the Waki Commission. Because the decision to send names of suspects to the ICC was a hugely complex one and not directly part of the immediate KNDR, the collective nature of the ICC cases will not be discussed at length (see for example Sriram and Brown 2012). Suffice to say that in an initial survey undertaken by the South Consulting Group in March 2009, 86% of citizens most affected by the PEV were in favour of prosecution with a majority preferring action to be taken by the international community through The Hague (53%) (South Consulting 2009a, 27). In an interview conducted with long-term civil society activist Muthoni Wanyeki in January 2015, she states that by now the number one grievance of Kenyans today is accountability - both for the state and individuals (K55). By the last survey conducted in the run up to elections in early 2013, around 66% of Kenyans supported the prosecutions of post-election violence suspects by the ICC, though numbers were much lower in the Rift Valley (South Consulting 2013, 26). In fact, the cases were seen as intensely problematic amongst respondents in the Rift Valley who felt that too many perpetrators had been left out (K5; K8; K26; K46) or that the proceedings were biased to the detriment of specific ethnic groups.[118] As such, the unsealing of the list of suspects by the then Chief Prosecutor Ocampo raised tensions, particularly in Eldoret because of the charges against William Ruto.[119] Nevertheless, at the time of the talks and in the

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[118] See K13; K28; K32; K33; K35; K36; K39; K43; K44; K45
[119] See K2; K3; K24; K25; K26; K27; K29; K30; K32; K40; K34; K37; K43; K44; K54

agreement, mentioning the human rights violations was a step in establishing a civilian counterbalance, to what was in this instance an otherwise politicised process.

Moreover, considering the previous election-related violence and the decades of human rights abuses under former President Moi, it is plausible that the call for and creation of a TJRC to address long-term human rights violations was widely appreciated and similarly adds to the civilian counterbalance. The degree of support varied in terms of the detailed provisions, especially related to amnesty (e.g. South Consulting 2009b, 4). In a survey from March 2009, asking what would be the best way to pursue reconciliation, only 12% answered with a TJRC, behind ending tribalism (22%), more jobs (15%) and the prosecution of those guilty of committing post-election violence (14%) (South Consulting 2009a, 19). Beyond advocating for truth and justice, the CSAs also addressed a number of further concerns related both to longer-term historical grievances and economic stability.

Peace: Long-term Grievances and Economic Stability

Peace as a collective concern was voiced as more than just ending violence, also being related to long-term grievances and economic stability. The CCP was a forerunner in advocating for the cessation of violence. In addition to this, the KPTJ took on the post-election crisis as an opportunity to publicize and raise several long-term issues.[120] These concerns included constitutional and land reform, regional underdevelopment, poverty, unemployment and corruption, which the AU Panel labelled 'historic socio-political and economic grievances' (Jepson et al. 2014, 18). Some of these concerns are evidently longer-term issues: Corruption, poverty, unemployment or development is difficult to address in the urgency of a heated negotiation process, though the fact they were included as a concerns to be addressed under Agenda 4 already speaks of the unusual nature of this part of the agreement (see also Kanyinga and Walker 2013, 13). One of the most prominent concerns was the land issue, which overlaps to problems related to identities, economic opportunities, development and the resettlement of IDPs. In fact, argues one CSA: "Land will remain a factor for potential mobilisation as long as it stays a problem. We need to learn to deal with it in finality, otherwise can always spark up issues" (K12).[121]

Economic stability was another concern addressed by the CSAs. Karambu Ringera proposes in a book chapter on the involvement of Kenyan women in peace processes, that women usually represent what she calls 'bread and butter issues' (2014, 180). Whilst this is arguably a little too simplified, the issue of economic stability was raised on several occasions. As such, participants in the focus groups mentioned concerns related to food shortages or businesses being shut down during the PEV (e.g. KNY; KNM;

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[120] Though Kofi Annan is widely credited to have mused during the KNDR process, that the Chinese character for 'crisis' and 'opportunity' is the same, as a reminder that the process resolving the post-election crisis should also be used as an opportunity (Jepson et al. 2014, 18; see also Lindenmayer and Kaye 2009)

[121] See also K1; K2; K22; K26; K27; K31; K42; K44; K46; K54

KET; KEY; KEM). Arguments for stopping violence because of the Rift Valley being the 'bread basket of the country' have already been mentioned (K22; K24; K25; K26; K45). Many Kenyans continue to be persuaded that their very own economic success depends on an image of peace and stability of the country for investor confidence (Opalo 2013). The Kenyan business community has also traditionally been a powerful player with the capacity to influence politics (Barkan 2008). By mid-January, it was estimated the Kenyan economy was losing 80 million US Dollars a day as business shut down and tourists left the country (Baldauf 2008b). During the violent crisis therefore, private sector lobby groups - though partly reluctant at first - joined forces with the civil society actors calling on the parties to reach political settlements. This included joint advertisements at critical points during the negotiations from the Federation of Kenyan Employers and the Central Organisation of Trade Unions. Numerous hotels and tourists associations also voiced appeals for a cessation of violence - at all costs (Connan 2008, 323–324). The Kenyan Association of Manufacturers was additionally particularly active in joining forces with the various civil society groups and participating in their scenario building (K55). Due to the nature of this short-lived period of violent conflict the private sector was still very much intact (as opposed to Liberia) which is why they were vested in finding a solution as fast as possible (Wanyeki 2010).

The AU Panel recognised this important sector and Annan also met with business groups in the days prior to the start of the dialogue (Khadiagala 2008, 12). In this rather different type of violent conflict - short-term and intense - economic stability was of primary importance. This was recognised in all of the focus group in Kenya, where the outbreak in violence often explained in terms of the closing down of market places and a return to stability equally symbolised by a secure access to markets. Interestingly, focus groups in Liberia as well as in Burundi and DRC also indicate this link between economic activities and perceptions of peacefulness or security.[122] Economic stability is thus not just a concern at the level of the business sector, but also amongst the populations of a country.

Two conclusions can be drawn from this review of the collective concerns that were specifically addressed by CSAs. Firstly, the return to economic stability was obviously an important concern, particularly strongly voiced in the Kenyan setting of short-term violence, but not in fact unique to this case. It works on a similar basis regarding its legitimising function than ending violence. The overall process becomes legitimised because of the satisfaction it invokes in a return to (economic) stability alongside ending violence. Thus the constitutive component of ending violence is amended to ending violence alongside a return to stability. Secondly, the multi-faceted concerns addressed by CSAs once again prove that providing a civilian counterbalance both during the talks and afterwards constitutes a part of the legitimisation process. This confession underlines this: "Agenda 1 to 3 is for the politicians

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[122]E.g. "[it is peaceful now] because I can wake up safely and go to the market to sell bitterball" (LGM; see also LGY; LGbM; LMT and LGbY_14). My colleague Claudia Simons (SWP) found similar results in her focus groups in the DRC and Burundi though they reflect more broadly speaking an understanding of peace related to a return to 'normalcy' or the carrying out of everyday activities.

only and Agenda 4 is owned by Kenyans" (K46). The very issues addressed by Agenda 4, covering truth, peace and justice, are those that potentially concern all Kenyans, beyond the demands for political power by conflict parties, and thus by definition a civilan counterbalance. The collective concerns addressed by the CSAs was carried out via press conferences, newspaper ads and monitoring reports were all part of the tireless campaigns to ensure that civilian voices were heard. These campaigns are revisited later in the chapter when discussing the feature of transparent communication.

5.2.2   Causal Process-Tracing: Influence from Civil Society Actors

The inherent power imbalance at the peace negotiations is further heightened by the fact that CSAs played no direct role in the KNDR, since the power imbalance can indirectly affect the legitimisation process. The following analysis traces in what ways actors are in fact able to influence the talks, in a way that enables the constitution of the legitimisation components of ending violence/return to stability and the civilian counterbalance.

There are several ways in which CSAs were instrumental in enabling the components of ending violence /return to stability and civilian counterbalance. These causal conditions are shown in two clusters, namely on the thematic influence of CSAs on the one hand and on the lobby and pressure activities on the other hand. These are discussed in turn, before concluding with the major differences to Liberia.

The first cluster of causal conditions relates to the thematic influence had by CSAs. Generally speaking, the influence of CSAs in addressing the range of collective concerns, despite no direct seat at the negotiation table, was widely confirmed.[123] Praise for the CSAs and the role they played has come from many corners (e.g. Annan and Mousavizadeh 2013, 193; Barkan 2008; Connan 2008; Ringera 2014, 192). 'The panellists may not have gotten civil society into the negotiating room … but its impact was considerable' (Jepson et al. 2014, 238). A member of the CPP later stated, "civil society was sufficiently influential, so that Kofi Annan acknowledged in the end that had it not been for the vibrancy of the Kenyan civil society, the political deadlock would have been longer" (K46). This can be interpreted as a *comprehensive storyline*. With the input of a vibrant civil society, the overall nature of the talks changed. Kofi Annan himself comments in his autobiography, that one of the 'salient features of the mediation' was the 'active and continued engagement of all stakeholders … [including] civil society, religious groups, and the business community" (Annan and Mousavizadeh 2013, 203; see also Paffenholz 2014a, 83). This engagement resulting in a thematic influence is most prominently shown by the lobbying for Agenda 4.

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[123] See K2; K42; K44; K46; K48; K53; K54; K55

It was widely repeated that the Agenda 1 can be attributed to the work of CCP (e.g. K42; K46; Kanyinga 2011, 94–101; Mwagiru 2008, 30; 51; Wachira, Arendshorst, and Charles 2010, 11; 23) and Agenda 4 to KPTJ (e.g. K46; Kanyinga 2011, 94–104; Kanyinga and Walker 2013, 14). The final Agenda 4 agreement, acts as irrefutable evidence that the lobby work of CSAs paid off. A member of the KPTJ explains, "from the human rights perspective we got everything we wanted - Agenda 4 is an ingenious way of unlocking problems" (K49; see also K55). This makes the lobbying for Agenda 4 concerns a causal condition, effectively enabling the civilian counterbalance at the talks and in the agreement afterwards. In other words, because the very inclusion of Agenda 4 in the discussion and agreement was part of the civilian counterbalance, lobbying for these concerns pre-empts it. As a result, there is a potential causal pathway between lobbying for Agenda 4 and a civilian counterbalance. The lobbying for Agenda 4 however also influenced the international actors; resulting in a causal conjunction, see Figure 5.1 below. This is detailed in the following.

The cluster of causal conditions on the lobbying of international actors and conflict parties is more multi-faceted. At the most basic level, the CSAs were influential in lobbying international actors to get involved in the Kenyan peace negotiations and maintained this pressure throughout the talks. The CCP initially raised international alarm bells after they realised the 'extent of division and mistrust in the country' (Wachira, Arendshorst, and Charles 2010, 22). According to other sources, the CCP also sought external help as their own mediation attempts where discarded by the ODM, because of the illustrious nature of Ambassador Kiplagat (Mwagiru 2008, 17; see also Khadiagala 2008, 12). In addition to the lobbying from the CCP, members of the Kenyan National Human Rights Commission (part of the KPTJ) travelled to an AU conference as well as to various European capitals, including Geneva, in mid-January to raise awareness and in order to alert the UN on the alleged violation of human rights carried out by the Kenyan police, (Connan 2008, 332). Besides, the contacts that CSAs had to international actors were later used to keep up the pressure on the international actors throughout the talks. The journalist Scott Baldauf, who had unique access to the proceedings, describes rather illustratively how international pressure was kept up later in the process:

> 'Then, there's a knock on his [Benjamin Mkapa, Member of the AU Panel] hotel door. It's Lazaro Sumbeiywo, a retired Kenyan general, and Ambassador Bethuel Kiplagat, a Kenyan career diplomat, both of whom helped mediate an end to Sudan's 20-year civil war. "You are not leaving," General Sumbeiywo tells Mkapa. "Now that we have got this problem, you will not leave. You have to get in touch with our leaders to agree to international mediation. We held him hostage in this hotel," Sumbeiywo recalls, with a chuckle. He had no doubt that Kenya needed international intervention to resolve the political impasse. It would start with Mkapa.'(Baldauf 2008c).
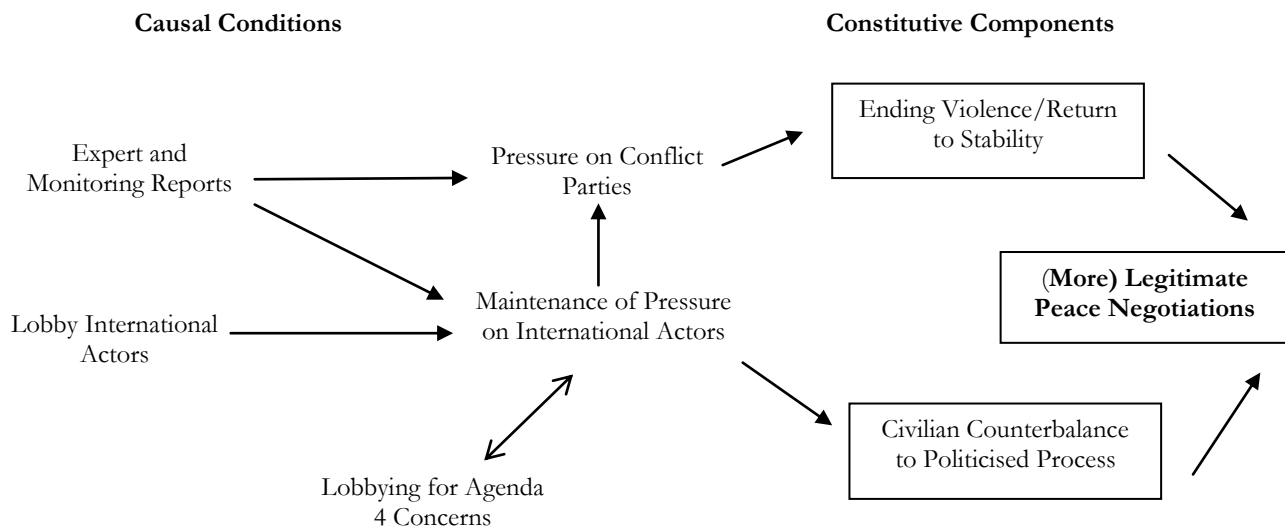
This indicates a *smoking gun*: At a particular moment in time, these two members of the CCP made sure that Mkapa would not leave Kenya without further attempts at mediation. Members of both the CCP and the KPTJ also met up with more of the international community including for example Ban-Ki Moon who visited in early February 2008 and other members of the diplomatic and aid community (Jepson et al. 2014, 23; Wachira, Arendshorst, and Charles 2010, 24). Interestingly, according to one analysis, the influence of the CSAs recommendations and expert advice is also evident in the resolutions proposed by the US, UK and EU which opted for a similar language and approaches to those suggested by the KPTJ (Kanyinga 2011, 100). This also shows the link to the lobbying for Agenda 4 concerns as was previously suggested. Therefore, the lobbying for Agenda 4 together with the maintenance of international pressure also enabled the civilian counterbalance in an interactive configuration. As a result of this, there was a causal conjunction between the lobbying for Agenda 4 concerns and the maintenance of pressure on international actors, illustrated in Figure 5.1 below. This makes sense because (part of) the international actors were directly part of the negotiations and used their positions to present the Agenda 4 concerns that the CSAs were lobbying for. This mutual influence is why there is an interactive configuration.

The civilian counterbalance was also possible because of the expert reports and monitoring by the CSAs. The CSAs were in fact especially influential in Kenya by giving extensive expert advice and monitoring and documenting the flawed elections and the violence. The monitoring reports, including audits of the election results in the most critical areas, served to develop the expert advice and pointed messages (Kanyinga 2011, 101). This was later used as evidence in the investigatory committees but also served as a reminder of atrocities, like in the Liberian case. Likewise, the scenarios and recommendations were passed on to the AU Panel and other international actors (K42; K49; K53; Jepson et al. 2014, 30; Khadiagala 2008, 12; Wanyeki 2010). The reports helped the Panel to contextualise the crisis, pay more attention to the long term causes of violence and formulate better responses and corrective measures in the negotiation process (Annan and Mousavizadeh 2013, 193; Jepson et al. 2014, 29–30; Kanyinga 2011, 101; Kanyinga and Walker 2013, 14; Paffenholz 2014a, 82; Wachira, Arendshorst, and Charles 2010, 28; K49; Wanyeki 2010, 5). Though it seems that there is a rather direct causal pathway from the expert reports to the maintenance of pressure on international actors and finally to the civilian counterbalance, this is not the case. The CSAs did not have a direct seat at the table (like in Liberia) and as a result the intermediary role of the international community was especially important. Nonetheless, as shown previously, the maintenance of pressure on international actors worked in interactive configuration with the lobbying for Agenda 4 concerns by CSAs. Therefore, there is also a causal conjunction between the expert reports, international pressure and the civilian counterbalance.

Similarly, there is a causal conjunction from the lobbying of international actors to the maintenance of pressure on the international actors (in interactive configuration with the lobbying for Agenda 4 concerns) throughout the talks enabling the civilian counterbalance. This is confirmed by a *smoking gun*,

where two generals who were part of the CCP, jokingly threatened to keep one of the regional mediators Benjamin Mkapa hostage, unless he agreed to stay. These causal conditions for a civilian counterbalance, which together act in a causal conjunction, are all shown in Figure 5.1 below.

Figure 5.1: Causal Conditions and Constitutive Components of Collective Concerns

Causal Conditions   Constitutive Components

Expert and Monitoring Reports → Pressure on Conflict Parties → Ending Violence/Return to Stability

Lobby International Actors → Maintenance of Pressure on International Actors

Lobbying for Agenda 4 Concerns

Civilian Counterbalance to Politicised Process

(More) Legitimate Peace Negotiations

The influence of the lobby activities did not stop there. The expert reports also influenced the conflict actors themselves directly and indirectly via the international actors, enabling the ending of violence. The expert and monitoring reports also influenced the conflict parties to move from their more hard-line positions. Due to the growing evidence of election frauds and levels of violence, shown in the monitoring reports, the conflict actors had to agree to talks and eventually to a political solution. The expert reports therefore act in a causal pathway to pressuring the conflict parties to ending violence/return to stability, one of the constitutive components of legitimisations. There is however not a lot of evidence on this point, stronger is the indirect link through the international actors. As Muthoni Wanyeki, an active CSA member at the time of the National Dialogue recalls, the expert reports were one of the most 'critical and effective roles played' in to help the international community 'leverage their call for a political settlement' (2010, 4–5). Because the maintenance of pressure on international actors and the expert and monitoring reports both have individual causal strength for ending violence however, there was an additive configuration between the expert reports and the international pressure and the pressure on conflict parties, which in a causal pathway results in the political solution and therefore ending violence/ return to stability as depicted in Figure 5.1 above.

The CSAs were also able to exert pressure on the conflict actors more generally, aside from via the expert reports. The CCP and KPTJ for example also put pressure on the conflict parties to talk to each other, with the initial brokering coming from the CCP, though this was rejected (K42; K49; Wanyeki 2010). Another way this was carried out was by the KPTJ lobbying the head of the Catholic Church to talk to Kibaki who was a Catholic to get him to agree to talks (Kanyinga 2011, 97). Moreover, for the

part of the KPTJ, a particularly innovative action came from one of its members, the Kenyan Private Sector Association who held a meeting with Kibaki and threatened that all business stakeholders would withhold taxes unless he agreed to negotiations (K49; K55). Influence was also enforced by the CCP conducting meetings in the same hotel as the negotiations, the Serena Hotel. Some meetings chaired by Annan took place directly next door to the Coalition's meeting, allowing for close interaction with the group and the negotiation process. Thus members of the CCP were able to have brief, informal chats with the negotiators of the two conflict sides and mediators 'in the corridors of the Serena' (e.g. K49; Wachira, Arendshorst, and Charles 2010, 23; 28). This strengthens the partial causal pathway between the pressure on the conflict parties and ending violence / return to stability.

Regarding the temporal boundaries of the causal analysis, the time between violence breaking out and the talks starting is limited, blurring these two time periods. In addition, since a lot of the activities of the CSAs took place in both time periods, such as the monitoring and expert reports, a clear temporal division becomes superfluous. More important though, is the time period after the official talks had ended, well into the period of the interim government. By design, the CSAs kept up their involvement through the various institutions, which were formed by the Agenda 4 Agreement. This adds to the implementation period, which is further addressed when discussing the feature of transparent communication later in this chapter. With regard to the spatial boundaries of causality, the causal conditions occurred at the negotiations (e.g. lobbying for Agenda 4 mechanisms), in the informal setting surrounding the talks (e.g. jokingly threatening to lock in Mkapa) and beyond these specific negotiations in a more public arena.

Lastly, in contrast to Liberia, the causal process-tracing shows a variation on why the components of legitimisation were possible, even though the end result was largely were the same. The differentiation in the causal conditions is not least because the basic conditions were different. There was no seat at the negotiation table for CSAs, and as a result no intra group communication was possible in the same way as in Liberia. Moreover, the influence on the conflict parties was less direct than in the Liberian case, mostly via the international actors, especially the mediation team. Considering the very expansive Agenda 4 items however, the influence was nevertheless substantial. This can be further explained by considering some context factors.

5.2.3   Context Factors

The context factors show reasons for both the influential position the CSAs were able to have (due to the encouragement from the mediator, personal relationships and previous reputation) but also what restricted them. The highly politicised nature of the talks was also mirrored amongst the CSAs themselves, which meant their agenda (or the collective concerns) became fragmented.

With regards to their influential position, firstly, the mediator played an important role by encouraging the participation of the CSAs. It was Kofi Annan who decided to directly engage with the CSAs (Paffenholz 2014a, 82). An assessment of the meditation recalls the 'fearless' approach on behalf of Kofi Annan, because he employed 'civil society and the media in the course of a negotiation to encourage and sometimes criticize the parties' (Jepson et al. 2014, 238). Kofi Annan consulted CSAs, and also believed this to be in the interest of the population. Meeting with the CSAs, was not only an information seeking venture but also as "a further calming measure, to encourage the public perception that a process was in swing that was in their interest, not just the politicians" (Annan and Mousavizadeh 2013, 193; see also Annan and Griffiths 2009, 9; Jepson et al. 2014, 45).

Secondly, the personal connections that civil society actors had, helped advance their participation and impact. Whilst patronage networks indubitably exist covering 'the private sector, the churches, civil society … as well as the state itself' (Hornsby 2013, 793; see also Ndegwa 1996, 111–112), the networks of CSAs during the PEV were focused much more externally. Thus, in contrast to Liberia, these are not so much personal connections to the conflict parties and other elites, but rather to the international community. This included personal ties existed to Desmond Tutu who was the first prominent intervener and to later members of the AU Panel, giving the various groupings particular access (Baldauf 2008c; Wachira, Arendshorst, and Charles 2010, 23; Wanyeki 2010, 11). Members of the KPTJ also had high-ranking connections through contacts that had previously been made in regional African bodies, as did the women groups to Graça Machel (see e.g. Connan 2008, 332; Wanyeki 2010, 11). Machel used her connections amongst the Kenyan CSAs to come up with a list of names for the bi-partisan Women's Consultative Group which was meant to bring women together from both political sides (K55).

Thirdly, the previous reputation of CSAs advanced their capacity to influence. The civil society groups who sprang to action during the Kenyan crisis were uniquely experienced and qualified to take on such a role due to their own work experiences domestically and abroad and their contacts (Jepson et al. 2014, 237; Wanyeki 2010, 11). Generally, the civil society groups were respected by the international community and considered to carry public support (Kanyinga and Walker 2013, 14). In addition, the CSAs positively reinforced their role by coming up with position papers and the like, which were useful to the mediation team (K46; K49) or using innovative actions like the Open Forum to give them leverage in their own legitimation.

Concerning the factors that negatively affected the influence of the CSAs, to a degree political partisanship in Kenya is fluid. This is best illustrated by the fact that during the peace talks one of Kibaki's negotiators, Mutula Kilonzo took time out in order to argue a civil case in court for one of his opponents in the negotiations, ODM's Sally Kosgei (Baldauf 2008a). Nevertheless, despite this fluidity, the Kenyan negotiations were also characterised by a highly politicised context, which encompassed civil society actors (Kenya Human Rights Institute 2008, 6–7; McGhie and Wamai 2011, 8; K46; K48; K49;

K53;KEY; see also Noor 2014; Opalo 2013). This had a negative effect on the addressing of collective concerns, possibly reducing the contribution to the legitimisation of the process because of a civilian counterbalance. It would be 'naïve to consider [the CSAs] as neutral' (Connan 2008, 321). This politicisation of the CSAs was not necessarily along ethnic lines (though some would disagree, e.g. Barkan 2008), but rather along ideological lines (Kanyinga 2011, 103).

On the one hand, there were the groups calling for a return to peace at all costs, even if this means foregoing an investigation into the election fraud elections. This included the more moderate CCP and the conservative churches (Kanyinga 2011, 94). The group was evidently popular amongst PNU sympathisers and had strong Christian overtones (Connan 2008, 322; see also Ibrahim Abdi and Wils 2008, 8). On the other hand, there were those in search for truth and justice, including but not exclusively the KPTJ, which had obvious supporters amongst the ODM including Raila Odinga himself (Odinga and Elderkin 2013, 830).[124] Firmly positioning themselves in opposition to the CCP, including the name change to *with* truth and justice, the group is seen to be much more progressive and radical (at least some elements) compared to the CCP (Connan 2008, 329; Kanyinga 2011, 95).

Some of the civil society actors were firmly aware of this seemingly partisan division, noting they 'have not been insulated from the general intensification of ethnic chauvinism', and that 'non-partisanship is critical if the outputs of human rights groups are to be seen to be credible' (Kenya Human Rights Institute 2008, 6–7). Some have asserted these competing positions as misunderstood (Wanyeki 2010, 10): Whilst there were difference in the approach and tactics used, at the time all the groups were working on the same broad goal - to end the violence and bring peace (K55). If anything, it seems to have been more of an issue of the political membership of individual persons rather than an overall politicisation of the CSAs (Kenya Human Rights Institute 2008, 7; Wanyeki 2010).

Nevertheless, because of this division amongst the CSAs their agenda setting was at times fragmented and 'seemed to be competing against each other. If they had worked together their agenda wouldn't have been made peripheral to that of foreigners who acted in consultation and concertation' (Mwagiru 2008, 51–52; see also K46). This also evidenced in some of the interviews where members of KPTJ accused the CCP of reacting too quickly to the PEV with sinister connotations that they had known about the planning of violence prior to the actual outbreak (K49) or criticised their methods or tactics (Wanyeki 2010).[125] Members of the CPP in turn accused the KPTJ for having particular influence - also in the implementation conferences – only because they have more funding amongst them (K48). Dominique

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[124] At one point even Kofi Annan was accused of being biased in favor of the ODM, but he argues this was merely because they put forward more concrete ideas and proposals to work with (Annan and Griffiths 2009, 13; see also Khadiagala 2008, 21).

[125] For example, members of the CCP at one point brought water and flowers to the police at Uhuru National Park, which was seen as inappropriate due to the role of the state security agents during the violence (K55).

Connan summarises this polarisation as a 'competition whose challenge was to find the legitimate representation of the crisis' (2008, 322).

One of the reasons for the polarisation in Kenya is because the CSAs still played a de facto opposition role. As such their position more generally speaking was still one of access to power (for opposition candidates) rather than political plurality. This also weakened their position in the eyes of the population (see also Connan 2008, 335). The historian Charles Hornsby argues that civil society activism in Kenya is 'not an alternative to politics, but politics by other means' (2013, 587). The fact that CSAs did not agree on all points, however, can also simply show their plurality. Consequently, to some observers the overall context of the CSAs is not that politicised or competitive (K55). In contrast stands the fact however, that in the highly politicised environment civil society actors were not always able to act as independently as they may have wanted to. One of the major civil society election monitoring organisations, the 'Kenyan Domestic Observer Forum', opted in fact to 'harmonise' their result to those of the ECK which meant an independent tally of the results was lost (Wanyeki 2010). Some civil society actors were more directly intimidated or threatened (K49; Connan 2008, 331; Kenya Human Rights Institute 2008). [126] Despite the overall success in addressing collective concerns and ensuring a civilian counterbalance, there was at least some restriction to this, due to the polarised nature of CSAs. In the next section, the feature of legitimate representation is considered in the Kenyan example.

5.3   Subjective Representation

The second feature of the heuristic model, subjective representation, considers symbolic and descriptive forms of representation through an interpretation of the ways in which representation was spoken of as well as the legitimation strategies of specific actors. As before, the comprehensive process-tracing for this feature encompasses two levels analysis. Firstly, an interpretive overview of subjective representation confirms that feeling representing and recognised guarantors of legitimacy constitute two components of legitimisation. Overall however, the level of feeling represented was much lower than in Liberia and significantly the most important recognised guarantor of legitimacy is Kofi Annan and the AU Panel, rather than any of the CSAs. Secondly, the context factors are outlined.

5.3.1   Constitutive Process-Tracing: Feeling Represented and Guarantors of Legitimacy

Once again the involvement of the civil society actors has generally been equated to ensuring participation and interpreted as the 'grassroots voices from Kenyan society' (Lindenmayer and Kaye 2009, 8). Nonetheless, tracing the representativeness of the CSAs in light of the heuristic feature of subjective representation shows that there is in fact little evidence that they represented the 'grassroots

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[126] On a related noted some political or government actors were also keen to let me know that civil society were not to be trusted and regularly made up facts in order to maintain their funding (e.g. K4; K28; K45).

voices'. Detangling interpretations of representation gives a much more complex picture of what actually took place. It is confirmed that there are two components related to the feature of subjective representation that constitute the legitimisation process – feeling represented and recognised guarantors of legitimacy. In what ways this occurs is considered in three sub-sections on the interpretation of representation, the perceived importance of CSAs and the legitimation narrative of the AU Panel.

5.3.1.1 Interpretations of Representation in Kenya

Unlike the Liberian case, there was no understanding or shared suffering as an interpretation of representation. Moreover, when it came to neutrality, it was in fact shown that there was a negative effect of not feeling represented by religious actors because they were not neutral and deemed to be biased. Overall, there was no particularly strong indication of feeling represented, to the detriment of the legitimisation process, inversely confirming the component as constitutive of the legitimisation process.

To start with, the understanding of suffering or shared experience as a representative quality was not found to be relevant in the Kenyan case. The fact that the CSAs were not working on a common understanding or shared experience to the general population was recognised by one group, who in a summary document of a meeting conducted in February 2008, state 'the predominantly middleclass Kenyan human rights movement faces in a country gripped by radical inequality' results in the 'unease that human rights actors are not … especially concerned with the "voice" of the victims' (Kenya Human Rights Institute 2008, 5–7; neither was this historically the case argues Ndegwa 1996, 52; see also K46). A middle class civil society based in Nairobi would not experience or understand the suffering unfolding in the country. Indeed, several times discussants in the focus groups mentioned grievances they found to be left unaddressed because "those who discussed the issues never knew what was happening locally" (KEY; see also KEM, KNY). The CSAs as a result - the underlying message supposes –were not able to provide this type of knowledge either. Further, whilst the groups may have carried out monitoring and recording of information work of considerable significance, they did not understand the suffering of the population like some of their Liberian counterparts. In the setting of Kenya however, where the violence was rather short-lived, this did not seem to matter as much. As such, the discussants themselves considered some of the grievances they had mentioned as "less important" to address at the time of the negotiations (all FGD). In any case, whilst some of the actors were not directly experiencing the violence, neither were all of Kenyans, as violence was limited to particular hotspots (e.g. D. Anderson and Lochery 2008).

Moreover, the CSAs - like others - did not necessarily directly suffer from violence or food shortages, but presumably their own lives were also interrupted the whole country was in a state of shock and emergency. Unlike in other places, civil society and business groups stayed on when violence broke out. Besides, the CSAs were not always able to move freely in all areas of violence, which affected the

chances of mutual experiences or understanding of suffering (Kenya Human Rights Institute 2008, 5). Whilst some human rights organisations were very critical in reflecting on their own voice and looking to include subjective factors that they may not themselves have 'suffered' or a 'true' understanding thereof - the emphasis was always on the outcome. The representative quality of the 'understanding or experience of suffering' was as such, on the whole, neither upheld by the CSAs but nor was it perceived to be highly relevant. This is not the case for neutrality.

For the church, their lack of perceived neutrality acted detrimentally to their own legitimation and as a result reinforces neutrality as a representative quality and feeling represented as a component constitutive of legitimisation. Having taken a strong position of support for Kibaki in the run-up to elections, the churches' own legitimacy and social authority was limited when they called for peace during the violence (Chacha 2010, 129; Connan 2008, 324; Kanyinga 2011, 95). Whilst in the focus groups, there seems to be a much more positive picture of religious actors, this can be explained on the basis of individual local actors who had no influence at the national level. As a result, nationally, the church was not seen as a legitimate actor during the negotiation period, which restricted their ability to be seen as particular representative, to the detriment of the overall legitimisation process.

Though the church had played an important role in the civil society movement in the 1990s, by the time of the 2007 elections and its aftermath the church was ethnically and politically tied up in maintaining the "Kikuyu hegemony" (K55).[127] The church was heavily criticised as being partisan by the time it tried to tie itself to the peace movement during the post-election violence (Chacha 2010, 128–129; though Maupeu argues the church only ever played a role including during the election campaign, see 2008b, 305). At best, the church was politicised, at worst directly involved in the conflict - reports were made of a pastor even calling people to take up arms, albeit in self-defence (Kenya Human Rights Institute 2008, 4).[128] In one focus group, participants even debated whether religious leaders had preached peace or incited violence (KNT). Moreover, the religious leaders had lost popularity and trust over the years, according to one youth group (KNY). The fact that the different religious communities were politically divided both amongst and between each other, even prior to the outbreak of violence, stands in strong contrast to the IRCL in Liberia.

At first glance, an analysis of the focus groups questions this lack of neutrality or negative perception of church leaders. Like in Liberia, focus group participants were asked to list the most powerful leaders in their town, area or community and to later detail whether these very leaders were positive, negative or had a disputed impact on local peace. In five out of the six groups, participants mentioned religious

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[127] The churches' pro-Kibaki stance was allegedly intensified by an alliance that Odinga had made to the Muslim communities (Connan 2008, 322). Much less is known about the position of the Muslim community at the time, probably because they were less outspoken.
[128] Though in a survey from South Consulting, only 1 per cent of respondents found religious leaders to be most responsible for encouraging conflicts compared to 77 per cent mentioning politicians (South Consulting 2009c, 5)

leaders in their listing of the most power leaders (the exception being the market women in Nakuru). In all of these groups religious leaders were listed as positive for local peace, see Table 5.2 below. In the group with teachers in Nakuru there was a heated debated on the topic and in the end five participants stated that religious leaders had preached peace, with four sticking to the idea that they had incited violence (KNT). In Eldoret, all groups were much more consistent in their opinion that religious leaders were positive for local peace. In this case however, they all listed someone specifically: Bishop Cornelious Korir. Bishop Korir was a well renowned preacher of peace and had accommodated up to 10,000 internally displaced people in his church compound during the violence (KEM; KET; KEY; K43; Korir 2009, 8).

Table 5.2: The importance of religious leaders according to the focus group discussants (Kenya 2011)

	List of most powerful actors includes religious leaders?[129]	Positive/ Negative or Disputed for Local Peace[130]	Who addressed the grievances (listed) at the peace talks?[131]
Teachers Nakuru (KNT)	Yes	Positive	Ministry of Education; Kofi Annan; Raila Odinga; Mwai Kibaki; William Ruto; Uhuru Kenyatta
Youth Nakuru (KNY)	Yes	Positive	ODM and PNU representatives, Jakaya Kikwete; Kofi Annan*; African Union president; civil society.
Market Women Nakuru (KNM)	No	N/A	Kofi Annan*; Graça Machel*; William Ruto; Martha Karua; James Orengo; Uhuru Kenyatta; Charity Ngilu (an MP)
Market Women Eldoret (KEM)	Yes	Positive	Kofi Annan*; Graça Machel*; Jakaya Kikwete*; Yoweri Museveni; Raila Odinga; Mwai Kibaki; Musalia Mudavadi; Martha Karua; William Ruto
Teachers Eldoret (KET)	Yes	Positive	Kofi Annan*; Graça Machel; Jakaya Kikwete; Benjamin Mkapa; William Ruto; Sally Kosgei(ODM); Musalia Mudavadi (ODM); Martha Karua (PNU); James Orengo (ODM); Sam Ongeri (PNU); Moses Wetang'ula (PNU)
Youth Eldoret (KEY)	Yes	Positive	Sally Kosgey; James Orengo; Martha Karua; William Ruto; Musalia Mudavadi; Raila Odinga; Mwai Kibaki; Jakaya Kikwete; Condoleeza Rice

* These actors were thought to have been particularly concerned with the grievances that affected the participants themselves the most

When asking the groups who had addressed their grievances at the talks however, none of them listed religious actors (see Table 5.2). This indicates that the religious leaders they were talking about were far removed from the national processes. People like Bishop Korir were locally very active, but had no impact on the national agreement. Korir describes his own work based on the realisation that 'we needed

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[129] "Who are the most powerful actors in Nakuru/ Eldoret?"
[130] "Which of these actors are positive or negative or dispute with regard to local peace?"
[131] "What were the most important local issues during the post-election violence? Were these issues addressed in the negotiations of the peace agreement? Who addressed them?"

to start again at the grassroots, to reach the actual perpetrators and victims of violence. We needed to facilitate *Amani mashinani* - peace in the village, not peace in urban hotels' (2009, 2).

This positive perception of grassroots activism does not, as a result, indicate the neutrality of the national church leaders. The problem was a structural one of the national church leadership rather than for individual religious leaders at the local level. Indeed the church on the whole does not even come close to the claims of neutrality that the IRCL in Liberia benefited from. As a result, the role of the church prior to the elections 'weakened their moral authority *and legitimacy* to command an end to violence' (emphasis added, see Kanyinga 2011, 95; see also Chacha 2010, 128). Whilst some of the authority of the church was regained, at least to the extent that Kofi Annan agreed to meetings with some of the church leaders on at least three occasions (Chacha 2010, 129),[132] the overall message of their questionable position was clear.

Similarly, one focus group participant notes that civil society in Kenya was *not neutral* and should therefore not have been included in the mediations (KEY). Whilst the focus group participants saw their religious leaders as overwhelmingly positive in their own local contexts, this does not necessarily reflect the national situation. In contrast, in Liberia participants spoke of the IRCL as well as their local religious leaders in terms of the positive impact the religious groups had on the legitimisation process. The perception of neutrality is a key ingredient to the legitimation of individual actors. This is further exemplified by considering one of the founding members of the CCP: Ambassador Kiplagat. Not withholding his own controversial role as Chairman of the TJRC in the years that followed, he was seen as biased from the outset and was therefore rejected as a domestic mediator from the start (Connan 2008, 322–323; Khadiagala 2008, 12; Mwagiru 2008, 17). Not only does this confirm that the CSAs themselves were not all neutral, but it also reiterates the importance of neutrality as a representative quality ensuring a feeling of representation as a component constitutive of the legitimisation process.

In a last point, it is shown that the overall feeling of being represented was much lower than in Liberia, to the detriment of the legitimisation process. The involvement of the CSAs during the Kenyan mediation has been characterised as speaking for the 'voices of the grassroots' and inclusion (Jepson et al. 2014, 125–126; Lindenmayer and Kaye 2009, 9) or more cautiously 'the activists … all purported to be speaking on behalf of the citizens, and they may well have been' (Mwagiru 2008, 51–52). Nevertheless, the interviews and focus group discussions suggest a much more differentiated picture.

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[132] The National Council of Churches of Kenya (NCCK) and Catholic bishops later apologized for having taken sides during the elections (Chacha 2010, 128–129). By the time a survey was conducted by South Consulting in 2010, 82% of respondents from the most affected areas of violence were satisfied with the performance of religious leaders (South Consulting 2010b, 37).

Whilst there was engagement with the grassroots there was no real grassroots representation, at least not as part of the KNDR. The members of the CCP especially undertook such engagement with the grassroots. Innovative actions included prayers for peace as well as the text message send around the country urging people to stop all forms of violence (e.g. K46; K48). In addition, the Open Forum, held in Nairobi, from which a Citizens Agenda for Peace was developed, was another instance of citizen engagement. The Agenda was then presented to the mediators. The idea behind the Open Forum was that anyone who wanted to could attend and exchange thoughts, calling the event an 'idea harvesting session' (Concerned Citizens for Peace 2008, 2). Similar forums were also set up including the Nairobi Peace Forum, District Peace Forums and Listening Forums (e.g. Ibrahim Abdi 2009; Wachira, Arendshorst, and Charles 2010, 11). Further grassroots initiatives included ensuring decent burial and mourning ceremonies and making a flower memorial in Uhuru Park (Wachira, Arendshorst, and Charles 2010, 44–45). All this was done with plenty of media coverage and in order to keep up the momentum for peace. With the exception of the Open Forum however, these activities speaks much more of engaging with the grassroots rather than representing them.

More concretely perhaps, localised activism with links to the grassroots did exist. These localised forms of CSAs were however not involved in the KNDR and contribute to peacebuilding activities only in their specific areas (e.g. Ibrahim Abdi and Wils 2008, 10–11; McGhie and Wamai 2011, 17; see also K4; K11; K22; K51; K54; Ngunyi 2008, 4; Odendaal 2010; Ringera 2014, 172). If anything, the CSAs in Nairobi were involved in the talks, with local organisations at best playing a role as monitors (K24). As a result, "if they [the most affected people] were represented than they were represented by someone who didn't even go to the people to get their opinion" explains a professor at Moi University in Eldoret when discussing the TJRC hearings (K35). The exclusion in the reform commissions and the lack of "healing and speaking opportunities at the grassroots" (K37) are rooted in similar findings about the civil society involvement during the peace talks. The fact that CSAs did not interact with the grassroots "punctures their [own] legitimacy" (K46).

Whilst many of the national bodies have community based networks and ways to reach the victims of human rights abuses and conflict (K55), the CSAs involved in the mediation process, along with Kenyan civil society more generally, are widely perceived as urban-based elite actors: "the KPTJ and CCP were both urban-based elitists, who had no time to talk to the grassroots" (K48; see also K1; K32; K24; K46; Ringera 2014, 172). At the most extreme, according to the human rights advocate Reverend Timothy Njoya, Kenyan CSAs played an essentially 'palliative and restorative role for … [the] … middle and upper groups, and an "informant" role for the region', which meant they acted as a proxy to the state, pre-empted a political uprising and thus did the lower income groups a fundamental disservice (Wanyeki 2010, 13). Whilst this is a rather radical interpretation, it does indicate a class gap amongst the civil society actors and the population.

As a result, it is not surprising that there is a feeling that local people were left out and not represented. Whilst some interviewees noted that the negotiation teams had representatives from the Rift Valley (K24; K25; K33) a more general view was that local people had been left out of the talks and as a result not represented.[133] In fact, a few persons were specifically mentioned as ones that should have been invited, including (local) religious leaders, who "knew the problems they were facing. They were not just in Nairobi, sitting comfortably" (KET; see also KNM; KEY). This suggests, due also to a lack of grassroots representation, there was at least a reduction in the perception of feeling represented to the detriment of the legitimisation process. Therefore, to a large degree inversely, the component of feeling represented is confirmed as constituting a part of the legitimisation process. More than being representative, the CSAs were recognised as guarantors of legitimacy because of the acknowledgement of their importance. This is discussed next.

5.3.1.2 The Acknowledgement of Importance

The feature of subjective representation in the heuristic model is also made up of descriptive representation, as was argued at the outset. Nevertheless, there was also no concrete descriptive representation in the Kenyan case, if anything there was an acknowledgement of the importance of the groups, not least because of their expertise, which meant they became recognised guarantors of legitimacy, as a component of the legitimisation process.

Compared to other peace processes, the participation of women was actually quite high, even at the formal negotiation table; nevertheless there is little evidence of descriptive representation. As Meredith McGhie and Njoki Wamai who have studied the participation of women in the KNDR, are quick to point out: Participation does not always translate into actual women's agenda. Moreover, they differentiate between civil society representation and the representation of women within political or armed groups (2011, 7). Amongst civil society actors, the two broad groups also used descriptive representative qualities in different ways. For the CCP, the issue of women's representation was discussed in terms of women being the first victims of the violence and the main guarantors of peace (Connan 2008, 333; see also Ringera 2014, 186). Women deposited flowers at the feet of armed policeman in Uhuru Park for example and similarly Machel was praised for her 'feminine stamina and sharpness' and called the 'Mother of the Continent' (Mburu 2008; Khadiagala 2008, 10; see also Baldauf 2008a).

For the KPTJ movement, the issue of womanhood was politicised in a different way by for example speaking out against harassment of female refugees in Naivasha, about which the police was doing little to stop (Connan 2008, 333–334). As such, the different groups used descriptive legitimation narratives

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[133] K1; K2; K20; K24; K36; K37; K46; KNT; KNY; KNM

but show no evidence for resulting in feeling represented or particularly evident symbolic attachment, resulting the actors being recognised as guarantors of legitimacy like in Liberia (see also Ringera 2014, 176).

The only exception comes from the approval of Graça Machel. She was pivotal in efforts that were made to try to come to a broader agenda in some of the groups, including at the Bi-Partisan Women's Consultative Group, where she suggested a 'spitting session'. During the inaugural meeting of the group, it was difficult to reach a consensus on the most important issues across ethical and political splits. On the advice of Graça Machel the group narrated all the issues that they were dividing them (that made them want to 'spit' at each other) and were then able to come up with a common list of grievances (McGhie and Wamai 2011, 19). Machel was recognised by two of the focus groups of market women as being one of those who had addressed their grievances with utmost seriousness, see Table 5.2 above (KNM; KEM). This indicates Machel as a recognised guarantor of legitimacy, as a component of the legitimisation process. This will be further interpreted in the next section on the self-referential legitimation narratives of the AU Panel.

On another point, writing on the involvement of women in the negotiations process McGhie and Wamai propose that women representation in negotiations like Kenya is of importance, but on its own does not suffice. Rather, expertise and specific qualifications to address on gender issues in this instance is required (2011, 18). The relevance of expertise on gender issues points to a larger point: Expertise can be interpreted as an acknowledgement of importance, showing that whilst the CSAs may not have been interpreted as especially representative, they were important to the negotiations and therefore (at least in part) recognised guarantors of legitimacy. In other words, because CSAs were able to ensure the civilian counterbalance, partly because of their expertise (as discussed in Section 5.2.2 above), they guarantee the legitimacy of the process. This makes the distinction between feeling represented and recognised guarantors of legitimacy as two separate parts of the legitimisation process much clearer.

The CSAs are considered to have made an impact, and an important one at that (Wanyeki 2010). Some of those involved in the civil society organisations were additionally seen as highly important and legitimate on their own accord, like Maina Kiai, head of the KNHRC at the time, and member of the KPTJ (Connan 2008, 326).[134] In one of the first surveys from South Consulting, 58% of the public perceived non-state actors as likely to impact healing and reconciliation efforts (2009a, 18; see also Kahora 2008a, 158). Thus, argues a commissioner for the National Cohesion and Integration Commission "the civil society involvement did improve the legitimacy [of the KNDR], it built

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[134] The issue also brings up the balance between emotional reactions and the question of legitimation. One interviewee notes that Maina went to visit a Church in Eldoret during the violence. Here he was booed by the predominantly Kikuyu audience because he had by then openly spoken out "against Kibaki". This argues the interlocutor, does not mean Maina was not legitimate but rather speaks for an emotional reaction (K49). It also reiterates the politicised nature of the Kenyan process.

confidence around it, really lobbied Kenyans" (K53). This *confession* at the very least acknowledges the importance of the CSAs.

Beyond this, another founder of the KPTJ argues that whilst the members did perhaps not truly reflect the grassroots, the mere range of persons made the group quite "representative and participatory" (K49). However, only one of the focus groups lists civil society actors as having addressed their grievances at all (KNY). This would suggest that they are not acknowledged at all or are significant guarantors of legitimacy, but this a tricky argument to make, considering they never played a direct role at the KNDR. Thus, this aspect of the data becomes much more difficult to interpret, which is a context factor and is discussed further below. A much stronger recognised guarantor of legitimacy was Kofi Annan and the AU Panel, which will be discussed first.

5.3.1.3 *The Self-Referential Legitimation Narrative of the AU Panel*

In contrast to the Liberian case, no strong self-referential legitimation narratives can be found amongst the CSAs. One overwhelming message that came across nonetheless - confirming the component of recognised guarantors of as part of the legitimisation process - was the recognised self-referential legitimation narrative of Kofi Annan, his team and 'an African solution for an African problem' more generally. This self-referential legitimation is both a legitimation strategy (e.g. Barker 2001), as well as a perception of the legitimation. In other words, this legitimation strategy results in a perception of legitimacy and a symbolic attachment and therefore constitutes a part of the legitimisation process through the component of recognised guarantors of legitimacy. This is shown in the following.

The leadership under the African Union is said to have 'deepened the legitimacy of the entire mediation process' (Kanyinga and Walker 2013, 8). The KNDR talks were fêted as a success of an African-led mediation of African unity as a trump to national exceptionalism (Baldauf 2008a; Jepson et al. 2014, 236; Khadiagala 2008, 10). Symbolically, this meant a reliance on the notion of 'African solutions' for 'African problems'. Thus, it was the local and Kenyan Red Cross chapter that led the coordination of humanitarian relief and not the UN or an international relief agency (Wanyeki 2010, 3–4). Moreover, the AU Panel itself evoked an imaginary of African elders - the final negotiation round prior to the peace agreement involved 'five elders for five hours ... all that was missing was the village tree' (R. Cohen 2008). At one point Graça Machel tells the negotiation room that her husband, Nelson Mandela, sends his wishes and 'sought to remind them that all of Africa was watching the process' (R. Cohen 2008; Odinga also remembers this in his autobiography; see Odinga and Elderkin 2013, 882). Kufuor initially proposed the AU Panel and its members to 'assist the Kenyan brothers and sisters' (Jepson et al. 2014, 21) and Annan himself thought that the Kenyan parties would be more likely to invest in the process if the intervention came from a fellow African state rather than the US or UK (R. Cohen 2008; see also Jepson et al. 2014, 235–236; Annan and Griffiths 2009, 2; Annan and Mousavizadeh 2013, 189). In

summary, 'the mandate was African, the panellists were African, and the style of the negotiation … was as African as a village council' (Jepson et al. 2014, 236). Annan personified the mediations within the symbolic framing under African unity. One recollection underscores this, in a rather dramatic evocation of the talks:

> 'On one night, as the two teams strain to hear the soft-spoken Annan explain a point, a group of elephants leave the watering hole and creep up close to the lodge, as if they want to listen, too' (Baldauf 2008c; see also Jepson et al. 2014, 243).

Kofi Annan made some very clear indications of his own role in the process as particularly unique. In the foreword to a recent book on the KNDR, he states: 'My deep engagement with this country turned into a labour of love - love for the Kenyan people and a fervent desire to see them achieve an enduring peace and prosperity' (Kofi Annan in Jepson et al. 2014, xiii). Annan argues he was there to look for a solution, but a legitimate one where the grassroots would be involved through CSAs. He reiterates this point on numerous occasions, wanting to keep the process as transparent as possible through engaging the media as well as many different civil society actors (e.g. Annan and Griffiths 2009, 2; Connan 2008, 330; Jepson et al. 2014, 232).

Additionally, Annan personally links himself as a legitimate actor for the general population - a man acting for the benefit of 'the people'. On leaving Geneva making his way to Nairobi, he explains 'protecting Kenya and keeping Kenya together was foremost on my mind - *the people* are dying' (emphasis added here and throughout the following paragraph; Annan and Griffiths 2009, 18). Further, he opens the negotiations by stating that the AU Panel 'had come to serve Kenya, not just its masters' and wanted to 'make it [the process] accountable to those who are most affected by the conflict' (Jepson et al. 2014, 233). During the talks, Annan publically calls on the parties to conclude an agreement 'in the interest of Kenya and *its people*' (Jepson et al. 2014, 39) and starts each negotiation session with a prayer, including on one occasion, 'Lord, may you make the parties … see that they have an obligation to find, in the interest of *all people of Kenya*, this one accord' (R. Cohen 2008; Jepson et al. 2014, 40). When pressuring on particular points, with the negotiation actors complaining 'you are pushing us, we are breathless', Annan retorts 'I'm pushing you because *people are dying*' (Annan and Griffiths 2009, 14). These self-appointed efforts of incorporating the grassroots perspective and grievances last throughout. He urges Kibaki to set up a compensation fund for victims (Annan and Griffiths 2009, 10) and after the power-sharing agreement had been signed, Annan recalls, he did not feel triumphant: 'It had taken far too long. As they say in a Swahili proverb, "When the elephants fight it is the grass that suffers." This is what had happened with all the people killed around us' (Annan and Mousavizadeh 2013, 201).

Further, Annan staged symbolic events, most notably the initial handshake between the two principals Kibaki and Odinga after he first arrived (K22; see also Annan and Griffiths 2009, 4; Jepson et al. 2014,

233). This, he argued, was necessary to 'send a message to the people' and 'to quell the desperate atmosphere' (Annan and Griffiths 2009, 4; Annan and Mousavizadeh 2013, 192; Jepson et al. 2014, 25). Using positive language encouraged the conflict parties as well as helping to maintain public confidence (Jepson et al. 2014, 240). Adding to his own mythology, Annan called himself a 'prisoner of peace' during this time of negotiations, to symbolise how committed he was to staying in Kenya - despite his busy schedule - until a solution had been found (e.g. Annan and Griffiths 2009, 18; R. Cohen 2008; Khadiagala 2008, 10). The Chair was however careful to note that the ultimate responsibility was nevertheless with the political leaders in question since 'no outsider can want peace more than the Kenyans' (Baldauf 2008c; the Panel also urged the government to cover the cost of the negotiation as a sign for Kenyan responsibility; see Jepson et al. 2014, 33). Nevertheless, Annan was celebrated as the 'saviour of the nation' (Khadiagala 2008, 25). He motivated his role as the 'prisoner of peace' by wanting to enact the responsibility to protect, R2P, in order to deepen a legacy he had first started working on when UN Secretary General (R. Cohen 2008; Jepson et al. 2014, 235–236). Deeply hurt by what had happened during the Rwandan genocide over a decade earlier, he was using this occasion to make amend and to show that through R2P things could be different (R. Cohen 2008).

As in the Liberian case, the self-referential legitimation narrative becomes a sign for a recognised guarantor of legitimacy as a component constituting a part of the legitimisation process, when there is such widespread recognition. Annan goes to some length to publicise his position of legitimacy, showing his own legitimation strategy. More than that however, this self-referential legitimation is widely perceived as such. In his autobiography, Annan recalls and quotes at length from an open letter published in a newspaper in early February 2008, which had moved him deeply. The letter writer states:

> 'I … feel like a little girl again, begging daddy not to leave her alone in the dark, because a monster will eat her. Annan, you have seen the monster in this country ravage its own … you are the political-cum-peace mentor Kenyans never had. We endorsed your team long ago … you and gracious Graça … have struck a chord with Kenyans. You feel the suffering of the ordinary people' (Mburu 2008; see also Annan and Mousavizadeh 2013).

A number of observers back up this *confession* by stating for example 'Annan announced [on 14th February] that he was prepared to stay as long as it took ... to the people of Kenya for whom he had come to epitomize hope, this was a message that he was as invested in the future of Kenya *as they were*' (emphasis added, Lindenmayer and Kaye 2009, 17; see also Annan and Griffiths 2009, 18; R. Cohen 2008). This was also repeated in interviews. "Kofi Annan was an acceptable personality to Africa, the international community and human rights activists" (K47), or, "when Kofi Annan came things were ok" (K38; see also K24). Out of six focus groups, five mention Kofi Annan specifically as someone who had addressed their grievances during the negotiations, see Table 5.2. Moreover, four of these groups further specified who out of all the actors that had addressed the grievances particularly had their

concerns and grievances in mind: All of them mentioned Annan, either exclusively (KNY; KET) or in combination with other members of the AU Panel (KNM; KEM). In addition, the one group that not had listed Annan specifically still noted the international mediators were those that had addressed their issues in contrast to their national politicians (KEY). One of the focus group participants amongst the market women in Eldoret elaborates: "If Kofi Annan never came, then peace could not have been achieved. His team was enough to solve these problems" (KEM; see also KEY). When South Consulting conducted a survey in 2010, 81% of respondents from the most affected areas of violence were satisfied with the performance of the 'Kofi Annan Team' (South Consulting 2010b, 37).

Annan was also widely praised by the international community, which further strengthened his symbolic position. Analysts suggest for example that Annan's very presence was one of the reasons that violence quickly reduced in February (R. Cohen 2008). In addition, his 'extraordinary skill and dedication', 'continental credibility', 'personal charisma' and 'moral authority' was widely praised and was the subject of much inquiry as an example of a successful mediation process (see for example Horowitz 2008, 8; Jepson et al. 2014, 233; 237; Khadiagala 2008, 10). In a published interview with Annan's co-worker at the Humanitarian Dialogue, his interviewer Martin Griffith finishes the interview by gushing ' … [your] intuitive appreciation and insight … [and] methodical planning … was extraordinarily productive, magical, so congratulations' (Annan and Griffiths 2009, 18–19).

The accolades were not exclusively for Kofi Annan but also for the entire AU Panel. Their role is thought to have been an invaluable one (Baldauf 2008b; R. Cohen 2008; Kanyinga and Walker 2013, 8). The other panellists strengthened Annan's position: Graça Machel and Benjamin Mkapa (Baldauf 2008a). Machel, as mentioned above, was praised in particular for her connection to women and 'feminine stamina' and Mkapa for his regional expertise and familiarity with the principals and his charm and ease in communication (e.g. Khadiagala 2008, 10; KNM; KEM). Mkapa for example helped to translate important messages into Kiswahili at press conferences, which meant a larger proportion of the population could be reached (Jepson et al. 2014, 29; 243). In addition, Machel had extensive knowledge of the Kenyan situation due to her previous work as part of the African Peer Review Mechanism. More symbolically, Machel was seen as 'the voice of passion and conscience' with a 'history of ... activism for the excluded (Jepson et al. 2014, 243; see also Baldauf 2008a; Mburu 2008). Machel stated that Kenya 'was divided and bleeding and that it was essential to bring the nation together in a place where all citizens had a sense of belonging' (see also Baldauf 2008a, 37). In fact, the entire Panel had a clear message that they were mediating a negotiation for the benefit of an entire country, not just the political class (Jepson et al. 2014, 31).

This was exemplified by a visit to some of the affected communities in the Rift Valley in order to see the scale of violence and destruction themselves. Machel hugged and cried with one of the women who had shared her story with her (Baldauf 2008a; see also Jepson et al. 2014, 25). Echoing the self-referential

legitimation narrative in Liberia, Machel was named 'the Mother of the Continent' in the previously cited open letter to a newspaper praising the AU Panel (Mburu 2008; see also Baldauf 2008a). There is, in summary, strong evidence to support the idea that the AU Panel itself evoked strong emotions of symbolic attachment, thus ensuring their place as recognised guarantors of legitimacy, itself a component in the legitimisation process. The symbolic attachment beyond merely feeling represented is illustrated by the images used to narrate his presence as 'the prisoner of peace' or 'saviour of the nation'. Moreover, interviewees stating things such as "when Kofi Annan came things were ok" (K38) and the focus groups testimonies: "If Kofi Annan never came, then peace could not have been achieved" (KEM; see also KEY) also reiterates the symbolic attachment given to Annan and the Panel as recognised guarantors of legitimacy. According to this interpretation, the very presence of the Panel itself fundamentally shifted the possibility of finding a peaceful solution to end the post-election violence and come to a political power-sharing agreement.

Lastly, even though no causal analysis is carried out for the feature of subjective representation, the temporal context of the constitutive analysis also expands from before the talks to afterwards. On the one end, Kofi Annan was perceived to be legitimate because of his standing as a humanitarian not least because of his former role as UN General Secretary. Graça Machel had a long-standing involvement in Kenya, not least due to her role as part of the Peer Review Mechanism. These prior experiences and roles all made an impact on the later symbolic attachment as guarantors of legitimacy, showing an ex-ante temporal boundary of the legitimisation process. On the other end, all the documentation on the process afterwards, enhanced the self-referential legitimisation narrative of Kofi Annan and the AU Panel, confirming that an ex-poste legitimisation through the recognised guarantors of legitimacy is also constructed after the talks have come to an end.

5.3.2   Context Factors

The fact that there was weaker feeling of (being) represented than in Liberia can be related to a number of factors. As mentioned above, the CSAs did of course not play a direct role at the negotiations, which means they are less likely to contribute to the legitimisation of the process due to being particularly representative. Nonetheless, the CSAs did have significant influence in addressing some of the collective concerns as was shown previously, which is why to a degree they were accepted as guarantors of legitimacy due to their expertise. The historical context of CSAs and their practical problems of engaging with the grassroots however stands in the way of their overall representativeness. Moreover, the overall political context of elections and the infrastructures of Kenya affect the constitutive components of the legitimisation process.

The history of the emergence of civil society suggests that many of the actors and organisations have acted as part of a political opposition. Civil society was most prominently able to mobilise a large

opposition to Moi in the 1990s. Since the decimation of the opposition in more recent years, their mobilisation capacity has become minimised (K55). The role taken on by civil society in these years of change and democratisation have been instrumental in constructing their own image. As constitutional were advanced and debated from 2002 onwards especially, the stances taken by civil society became politicised. For example, the 'human rights movement is constantly re-interpreting its own legitimacy … problems of legitimacy may be traced to the public's perception of the role of the movement played during the highly polarizing constitutional referendum in 2005' (Wanyeki 2008, 8).

Moreover, the success of civil society organisations in Kenya has always been related to external causes rather than its reflection of grassroots sentiments (Ndegwa 1996, 52). Consequently, there is a practical problem of properly engaging with the grassroots in the quick escalation of events. The CCP had some success with their Open Forum, but this too, was only in Nairobi. When asking one of the founding members of the KPTJ about the legitimacy of the members of the group he notes "there is no time to vet people when the country is going into anarchy" (K49; see also K46). Remarking on the difficulty of engaging with the grassroots without specific frameworks in place and the nature of the CSAs as oppositional-political entities, one CSA concludes; "civil society is not legitimate for legitimate reasons" (K46). In addition, whether the CSAs even need to engage with the grassroots can also be questioned. 'The bulk of Kenyan civil society spoke about, at, to, with those contesting for the state - and, in that sense, appealed to the state rather than to the people' (Wanyeki 2010, 13). The population was after all considered to be the proxy, and not the cause of the violence. The argument for the legitimisation of a negotiation process does not necessitate the involvement of grassroots or the population because they are a cause of violence however. Inclusion arguments are made on other claims, namely that the violence still affects them. Yet the structural environment does play in a role in the sense of presenting alternative legitimate authorities through elected officials.

The elections in 2007 saw a turnout of 69% - the highest there had been in Kenyan elections to date (though this is also where manipulation is likely to have taken place, see e.g. Cheeseman 2008, 177; Throup 2008, 296). As such, the conflict and the solution were sometimes perceived as a political one (K7; K39; K47; FNY). Furthermore, because of the "electric linkage" between national leaders and local level violence, the signing of the power sharing agreement had a positive effect all over the country (K53; see also K13; K42). Politicians were by far the most frequently mentioned locally powerful actors (and often surprisingly positive for local peace like William Ruto, see KEM; KET; the youth found him to be disputed - KEY). At least in part, political parties and actors can be seen as legitimate representatives at the talks because of their elected nature. Nevertheless, considering the disputed nature of the election outcome, the degree of this cannot be fully ascertained. In addition, at the talks they represented their own concerns for personal gains rather than a civilian counterbalance and therefore their representation does not significantly contribute to the legitimisation process.

Moreover, the question of political empowerment is also linked to that of the grassroots representation. The urban-rural divides will have an effect on how politics and a right to be involved are perceived. In Kenya, many destitute communities will undoubtedly be out of touch and far from political decision-making processes including the legitimisation of the peace talks. There is still a lack of civic education (K19; K29; K31). In a workshop held in 2010 dedicated to reflecting on KNDR, a group of 35 civil society and political women realised that even they were not fully aware of the legal frameworks which could have supported their demands for inclusion in the process (Ringera 2014, 189). Yet, local processes of peacebuilding and political involvement do occur. Moreover, the Kenyan situation - including substantial development, economic growth and literacy - can simply not be compared to the Liberian case. Simply considering all the surveys undertaken by South Consulting shows the high(er) levels of political involvement and empowerment. One major difference is the media which is numerous and widely available in Kenya. This plays into the last feature - transparent communication - and is therefore discussed in the next section.

5.4   Transparent Communication

The Serena Hotel changed the name of one of the principal meeting rooms where the negotiations had taken place to 'Amani Room' (amani meaning peace in Kiswahili). A plaque at the entrance of the Amani Room now remembers the significance of the mediation (Baldauf 2008d; Jepson et al. 2014, 34). Whilst not everyone is likely to have the opportunity to pass by this room, it indicates an openness and transparency of the negotiations. Every Kenyan at least theoretically has the chance to know this is the place where the proceedings took place.

This symbolic gesture holds meaning regarding the third feature of the heuristic model - transparent communication. This feature was abductively shown to be relevant in the last chapter on the Liberian peace negotiations. Because of the infrastructure in place in the Kenyan setting, there was a completely different environment for transparent communication to unfold. This allows for a more precise tracing of the constitutive components related to this feature as well as the causal conditions that enabled them. The comprehensive process-tracing encompasses is carried out in three steps. Firstly, an interpretive overview of transparent communication confirms that ensuring implementation constitutes a component of the legitimisation process. Instead of feeling included however, which was suggested to be a constitutive component in the previous case study, this is amended to feeling involved. This is shown by what I call 'participative communication'. Secondly, the causal conditions that enabled these constitutive components are then traced, looking for the ways of communication. Thirdly, the context factors that play a role in the comprehensive process-tracing of transparent communication are discussed.

5.4.1 Constitutive Process-Tracing: Ensuring Implementation and Feeling Involved

The extensive distribution of information in the Kenyan case confirms that ensuring implementation is a component that constitutes a part of the legitimisation process. The distribution of information also suggests that to an extent there is a feeling of involvement rather than feeling included. This is further expanded upon, shown to be component constitutive of a part of the legitimisation process in a second section of what I call 'participative communication.' Participative communication is either one-sided or dualistic and further allows the population to involve themselves in the negotiations process, without - necessarily - the input of the CSAs themselves. This shows another way of participation beyond representation by the CSAs.

5.4.1.1 The Distribution of Information

The distribution of information was much more extensive in Kenya, as can be shown with the density of information widely available. There were also communication efforts amongst the different CSAs, more than between each other.

Position statements, manifestos and ads in newspaper made the goals and demands from the CSAs at this time very clear. This was aimed not only at the conflict parties, the mediators and to a lesser degree other CSAs, see below, but also the population itself. As a result, the CSAs and the media are said to have brought information to the grassroots (K42). For the most part, the information distribution concerned the messages of peace from CCP or the details of the election fraud or violence from the KPTJ. Other messages of information were more general. For example a series of ads running on two full newspaper pages, signed by an anonymous group called Kenyans for Peace and Progress explained the worthlessness of violence and published an inventory of the privileges of MPs including their salaries and bonuses. In conclusion, they urged: 'Say no to unlawful political activities that will not feed, clothe, or educate your family.' The announcement meant that 'Kenyans were referred to their disillusions, their own misery and the powerlessness of political mobilisations in the resolving of daily challenges' (Connan 2008, 330–331). On top of these efforts from CSAs, detailed reporting of the progress of the KNDR was widely available in the newspapers and television programmes throughout the process.

As a result, knowledge on the peace process, conflict resolution tools and details of historical injustices is rather abundant (e.g. K11). This is especially evident in the level of detail given on the peace talks in the focus groups. Referring back to Table 5.2, this shows a detailed list of those thought to have been present at the negotiations, according to the focus group participants. This is especially notable in comparison to the focus groups in Liberia where the same questions resulted in 'the UN' or 'international community' instead of the detailed list of names and political affiliation (e.g. KET).

Intricate information is available on the mediation process, to the outright bizarre such as the presence of a herd of elephants who crept close to the mediation room when Kofi Annan spoke, in addition to many other facts and impressions detailed in articles and books on the topic (Baldauf 2008c; see also Jepson et al. 2014; Lindenmayer and Kaye 2009; Wachira, Arendshorst, and Charles 2010). Compared to Liberia case especially, very few of the interlocutors complained about the lack of knowledge of the proceedings (exceptions include K42; K53 and tend to focus more on a lack of civic education generally, e.g. K19; K24; K29; K31; K49).

Due to the transparent media infrastructure, the civil society groups also had less need to communicate with each other. In any case, due to different and sometimes contradictory goals and ambitions of the major players, communication between the groups was limited to for example the KPTJ acknowledging the peace efforts of the church, or the Citizen's Agenda from the CCP referencing 'deep-rooted' issues of truth and justice (Concerned Citizens for Peace 2008, 4; Connan 2008, 328). However, information on the meetings, goals and aims was easier to receive not only for the population but also the different civil society groups. Hence, there was less of a need to directly communicate with each other. For example the Kenyan Human Rights Institute put together a half-day forum on the 1st February for 'human rights and governance specialists to reflect on the response of civil society groups to the crisis' (2008, 2). The summary of the meetings is publically available on the Internet. Their collections of critique are therefore plausibly useful for other CSAs.

The distribution of information meant that implementation becomes easier, which is a component that constitutes a part of the legitimisation process. Ensuring implementation is especially important in the Kenyan setting for the legitimising process, not just regarding the interim political power-sharing government, but the many Agenda 4 mechanisms that promised to address a variety of grievances or concerns. This included not the least the extensive reports released by the two inquiry commissions as well as further comprehensive reports from human rights organisations on the crisis and the mediation process which followed (e.g. Jepson et al. 2014, 58; Kenya Human Rights Institute 2008, 5). These reports gave an overview of what had happened and confirmed the existence of collective concerns to be addressed.

Moreover, the CSAs took on a watchdog role to ensure implementation for which it needed to know details on the status of the reforms (K42; KNY). This was possible because the AU Panel decided to commission a regular monitoring and evaluation of the implementation status of the four agendas but especially Agenda 4. South Consulting, headed by a Kenyan academic, took on this task on a quarterly basis for a total of fifteen reports up to and including February 2013. Detailing not only the progress of the inquiry commissions and the institutional and legal changes made to advance implementation, South Consulting also conducted regular surveys to gauge public opinion on these events. These reports were therefore not only useful for information purposes (and findings could be discussed and reprinted in the

media) but also served as a tool for the CSAs to determine where they could focus their attention in the implementation process (Wanyeki 2010).

This distribution of information was further promoted in the implementation period by annual conference conducted by the Kofi Annan Foundation, three times after the mediation had taken place between 2009-2011, which invited media stakeholders as well as all the CSAs. A website was dedicated to the process (http://www.dialoguekenya.org/) and guests at the conference were invited to use Twitter and other social media sites to report from the event. Moreover, a coordination office, the CLO, was set up to organise and monitor the implementation process. This CLO organised the conferences, the website, oversaw the monitoring reports from South Consulting and held numerous meetings with CSAs in order to discuss their coordination efforts in order to fully support implementation (Jepson et al. 2014, 57).

This very transparent process ensured that the pressure on the conflict parties to implement the different Agendas and was kept up in the period after the agreement had been signed. The importance given to the implementation confirms this as a component constitutive of the legitimisation process. So much emphasis was put on the implementation phase it cannot be neatly separated from the negotiation process, at least not regarding the legitimisation process. This is shown also at least in part, to the detrimental nature the lack of implementation has on the legitimisation of the peace process as discussed under collective concerns previously.

More than this, the distribution of information also provides for a feeling of involvement rather than inclusion as suggested by the previous Liberian case study. In that case, it was shown that a lack of information leads to a sense of exclusion. As a result, it was supposed that the distribution of information, when widely carried out, results in a feeling of inclusion. The Kenyan case illustrates however that the distribution of information if anything results in strengthening public confidence, which adds to a feeling of involvement rather than inclusion. Through the distribution of information, the public was incorporated into the pressure for a political solution and ensured the generation of 'domestic legitimacy' (Jepson et al. 2014, 31). Wanyeki sums up the activities of the CSAs as "strengthening popular public appetite" (K55). The distribution of information ensured the strengthening of popular support *for* the process and as a result *in* the process. The more the process was popularised and strengthened, the more the process becomes legitimised because people feel involved. It cannot be argued that there was a feeling of inclusion, as the confessions that the process was "limited in terms of participation" (K46), or "at the time … everybody had to be given a voice. There ought to have been a popular consultation where everybody had a chance to talk" (K48) show. This call for consultation, which mirrors similar confessions in Liberia, further suggests that a widespread feeling of inclusion was absent. This revised component of feeling involved is discussed in more detail in the next section on participative communication.
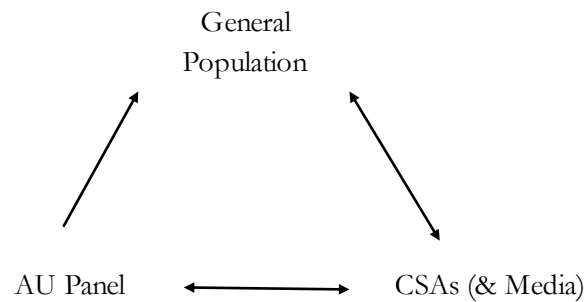
5.4.1.2 Participative Communication

Wanyeki stresses that CSAs ensure "legitimacy through participation" (K55). As was argued previously, subjective representation on its own, even in addition to the collective concerns, does not fully suffice to result in a sense of participation. This is why the feature of transparent communication was added. Based on the Liberian case study it was proposed that because the lack of information led to a sense of exclusion, the distribution of information would in turn lead to a sense of feeling of inclusion. The discussion of distribution of information from the Kenyan case, in the preceding section, shows nevertheless that more than anything there may be an enhanced sense of public confidence in the process, rather than inclusion. As a result, this leads to a sense of involvement rather than inclusion, as a component constituting to the legitimisation process. This is confirmed by what I label participative communication, traced in this section. In other words, participative communication, which can be either dualistic or one-sided, supports an interaction between the process and the population through forms of communication, partially including CSAs, which leads to a feeling of involvement, constituting a part of the legitimisation process.

Dualistic participative communication is illustrated by the communicative engagement with the public at the behest of CSAs, which contributes to circular information flows. The best example comes from the Open Forum conducted by the CCP. From this Open Forum, the Citizens Agenda for Peace was developed which was then presented to the mediators. The idea behind the Open Forum was that anyone who wanted to could attend and exchange thoughts, also called an 'idea harvesting session' (Concerned Citizens for Peace 2008, 2). Similar forums were also set up including the Nairobi Peace Forum, District Peace Forums and Listening Forums (Ibrahim Abdi 2009; Wachira, Arendshorst, and Charles 2010, 11). The open invitation to all makes this a participatory process that further contributes to a circular information flow: Listening allows for information on collective concerns to be gathered. This information was then fed into the mediation process through the regular meetings between the CSAs and the mediators (see also "the Panel used what it heard;" Jepson et al. 2014, 238). In turn, information on the mediation was then redistributed to the public through the media - both by the CSAs and the AU Panel members, thus creating dualistic participative communication, see Figure 5.3 below.

This dualistic participative communication opens up the discourse in the peace negotiations to anyone in the public who wants to participate, at least theoretically. The event was described as asking 'anyone interested in saving Kenya to come' (Wachira, Arendshorst, and Charles 2010, 11), suggesting that through attending a role is played in helping to save Kenya, and thus contributes to a feeling of involvement. For Habermas too, what counts is the theoretical participation, rather than the actual participation. The dualistic participative communication constitutes a part of the legitimisation process by allowing for a feeling of involvement. 'Public approval and advocacy gave these documents

legitimacy' (Jepson et al. 2014, 45). This statement makes the link between 'public approval', best ensured by the communication flow as described above, and the legitimacy of the agreement itself, presumably because of a feeling of involvement.

Figure 5.3 Circular Communication Flows for Dualistic Participative Communication

The feeling of involvement is further illustrated by one-sided participative communication, which gives a sense of involvement simply by airing the grievances and explaining one owns suffering, whether symbolically, artistically or otherwise.

Like in Liberia participants in the focus groups in Kenya noted in a final reflection session that they felt they had benefited from participating in the discussions themselves as a "learning process" and a documentation of their "grassroots experiences" (e.g. KEN). This suggests that any forms of expressions or reflections on the negotiation process give a sense of being involved or heard - even if this is rather symbolically. The story of Graça Machel crying and hugging a woman who had told her of her experiences of violence was given as an example of showing the proximity of Machel to the population as well as being deemed an important event in itself (that the woman was able to express her grievance). The 'spitting session' organised by Machel at a meeting of women from both political divides also gave an opportunity for people to air their grievances; giving them the sense they were involved in contributing to the collection of mutual concerns or grievances. Similarly, in another instance, a meeting held by women groups two years after the negotiations was framed as follows:

'Every story needed to be heard. Everyone needed to share their experiences in order for healing to begin. Everyone listened, cried and empathised. In the end there was a feeling of release, possibility of forgiveness and the beginning of healing as people hugged and comforted each other' (Ringera 2014, 190).

This shows that the externalisation of grievances, worries and experiences adds to a feeling of involvement, which personally legitimises the negotiation process. On a more practical and formalised level such expression of grievances took place within the framework of local peacebuilding dialogue (for examples of Local Peace Dialogues see e.g. Korir 2009; K11; K22; K54). Expressing grief and grievances

as a form of participative communication re-introduces the shared experience or understanding, which was not a representative quality of the CSAs, as discussed previously as part of the feature of subjective representation.

The feeling of involvement as a component that constitutes a part of the legitimisation process is also shown by one-sided participative communication carried out through artistic expression. Examples of this include a photo exhibition 'Kenya Burning' which had been organised by an Arts Centre together with the CCP. A request was made to have these photos to be shown in the Parliament so that politicians would have to look at them as well (see Kahora 2008a, 79). This made the photo exhibition into a political event, trying to reiterate the responsibility of some of the MPs in the post-election violence. Furthermore, under the umbrella of the group, which called itself 'Concerned Kenyan Writers' a physical and virtual forum was provided for citizens to come to grasp with what had happened (Kahora 2008a, 2008b; Wanyeki 2010, 5). Initial responses included interactions by authors – largely amongst the Kenyan middle class - through social media forums. In addition, a collection of fiction and non-fiction stories on the post-election violence was also printed in an annual Kenyan literary collection called *Kwani?*.

These reflections on what had happened and why, were published in two edited volumes from 2008. The editor of these two *Kwani?* editions, explains 'we are in this business to tell the individual's story as a citizen in the space called Kenya, his or her relationship to *serikali* or state or whatchamacallit … rather than to build one-characteristical narratives from sound-bites of Big Men' (Kahora 2008a, 9). This *confession* underlines the commitment to telling another story beyond that of the politicians, one about and involving citizens. The two volumes collect stories, reports, interviews, poems, drawings and photos, seeking out to record and analyse stories from all sides of the conflict: 'From people who threw stones, and people who had stones thrown at them; from farmers and nurses and hustlers, Luos and Kikuyus and Kalenjin … whatever name they went by, we wanted Kenyans *to speak for themselves*' (emphasis added. Arno Kopecky in Kahora 2008b, 48). As can be seen in Image 5.1 below, pages in the volume document for example text messages send at the time of the post-election violence superimposed onto photos. In a very different way, these efforts express a civilian counterbalance to the otherwise politicised process, by allowing for the experiences or sufferings experienced to be vocalised. This contributes to a sense of feeling involved.

With the aim of not forgetting what had happened in the short period of violence and reflecting on the bigger issues at stakes: 'As writers…we have to look at what happened in the full-face. If there is any single reason this all happened, it is because we have refused to see, hear or listen' (Binyavanga Wainaina in Kahora 2008b, 17). Such documentation and expression helped to come to terms with what had happened (the violence) but also with the negotiation process and therefore constitutes a part of the legitimisation through feeling involved. Other forms of communication used social media networks

including blogs, text messages and other forms of social media. Kenyans approached 'social media as a way to get involved' (Mäkinen and Kuira 2008, 329). The resulting sense of involvement constitutes a part of the legitimisation process.

Figure 5.1: Artistic Expression of Grievances through copies of SMS and Photos in the *Kwani?* Collection (Kahora 2008b, 294–295)
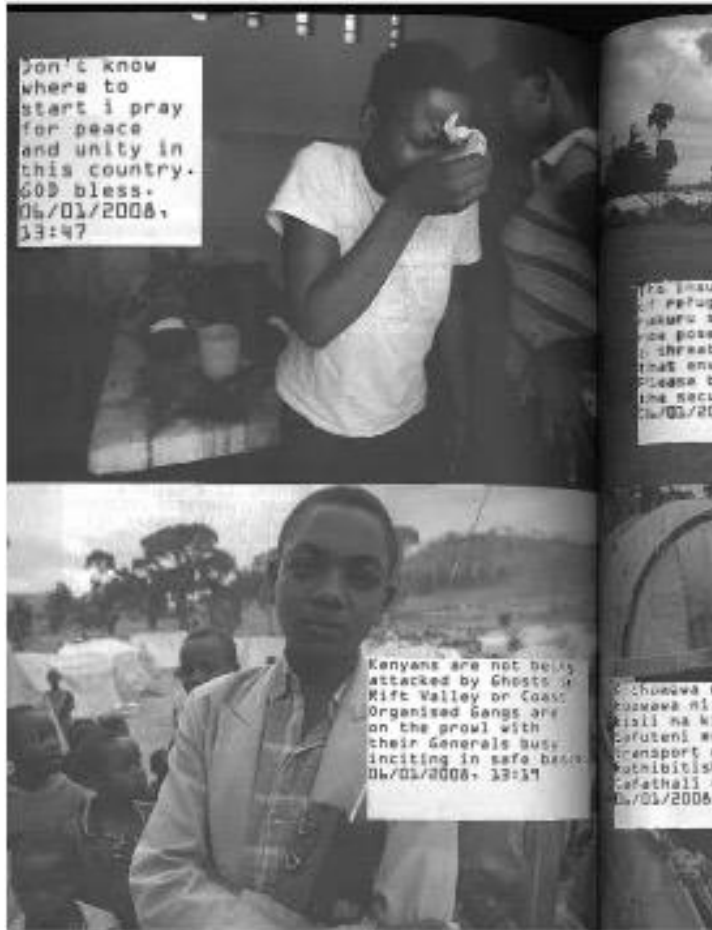
In conclusion, this one-sided type of participative communication enables the population to involve themselves in the process through expressing ideas, reflecting or more direct public engagement platforms. This gives a sense that the process goes beyond the immediate needs and claims to personal power of the major conflict parties and therefore constitutes a part of the legitimisation process. In the Liberian case, it was postulated that the distribution of information results in the legitimisation components of enforcing implementation and a feeling of inclusion. The Kenyan case study further accentuated this. Despite the more widespread distribution of information there was not a heightened sense of inclusion. If anything, the distribution of information provided for a sense of involvement. It was participative communication - which was not traced in the Liberian case - which enabled a feeling of involvement. The reasons why this revised component of the legitimisation process was possible is shown in the following section on the causal process-analysis.

5.4.2   Causal Process-Tracing: Ways of Communication

The aim of the causal analysis as a part of the comprehensive process-tracing is to further an explanation of why the constitutive components are possible. In the previous causal process-tracing analyses, the focus was on the influence of the actors (as part of the heuristic feature of collective concerns) and here the analysis considers the way the actors communicated. The ways of communication are traced in two clusters, firstly by considering the causal conditions related to the distribution of information and secondly to the participative communication.

The first cluster of causal conditions is therefore in relation to the distribution of information. This had a very clear impact in enabling the ensuring of the implementation as a component of the legitimisation process. The AU Panel, through the implementation reports by South Consulting they commissioned, the conferences they organised and the CLO they set up, most prominently ensured the implementation. In addition, the distribution of information also ensured the implementation because of public knowledge, which has been recognised by other literature on civil society involvement as was discussed in the introduction chapter. This is exemplified by this statement that can be interpreted as a *comprehensive storyline*: 'Public approval and advocacy gave these documents legitimacy and put pressure on the political elites to implement them' (Jepson et al. 2014, 45). Such public approval and knowledge is ensured by the circular communication flow, which was described previously. Because of this, the distribution of information in interactive configuration with circular communication flows enables the ensuring of implementation as a constitutive component. It is an interactive configuration because the distribution of information adds to the communication flow and vice versa. Therefore the distribution of information acting in causal conjunction with the communication flows helps to explain how ensuring the implementation was possible. Figure 5.4 illustrates this. It should also be noted that because the component of ensuring implementation can only happen after the peace negotiations have come to an end, the temporal boundary in this instance is clear and includes especially what happens afterwards. Spatially, the boundaries are also clearly beyond the negotiation space, in the public arena.

Secondly, the distribution of information also enabled the feeling of involvement. After all, there was transparency around the negotiations because 'people … had to own the process' - as Annan explains (Annan and Mousavizadeh 2013, 193). This motivational *confession* is also reiterated by a Commissioner, from the later established National Cohesion and Integration Commission, who argues that "the civil society involvement did improve legitimacy, it built confidence around it [the KNDR], really lobbied Kenyans" (K53). As a result a causal pathway is shown between distribution of information and feeling involved, as illustrated in Figure 5.4 below. Because the distribution of information works in interactive configuration with the circular communication flows, as described above, the relationship to the feeling of involvement and enforcing implementation is a causal conjunction.

Figure 5.4: Causal Conditions and Constitutive Components of Transparent Communication

Causal Conditions   Constitutive Components
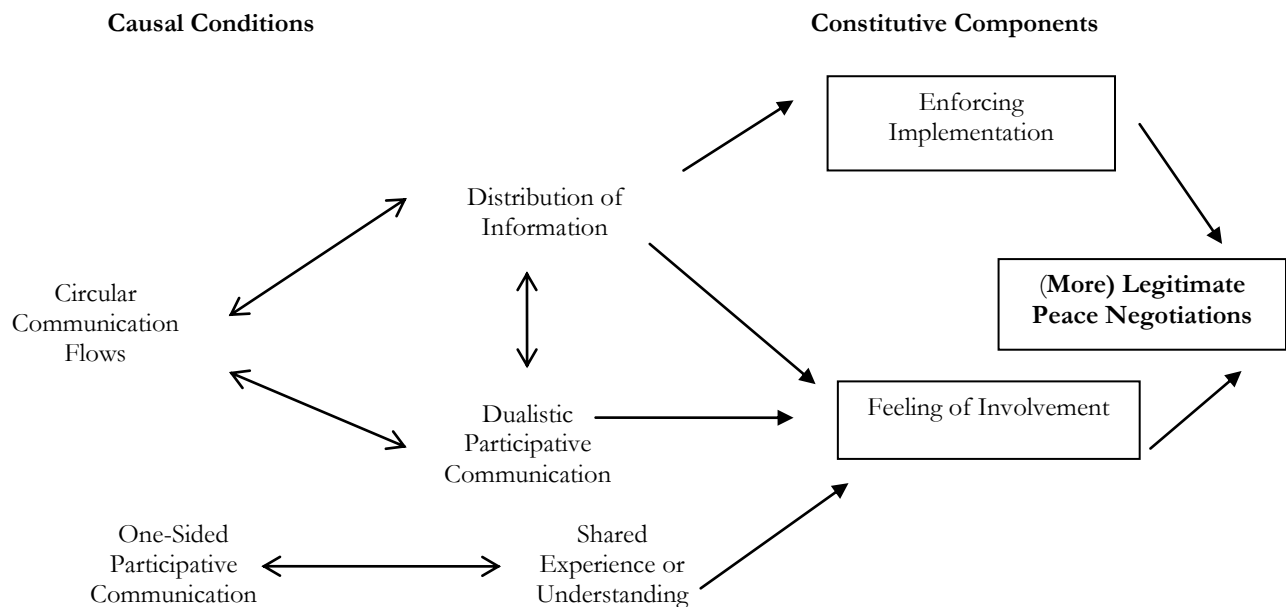
The second cluster of causal conditions is on participative communication. Dualistic participative also enables the feeling of involvement. In interactive configuration with the circular communication flows, dualistic participation enables the feeling of involvement as a component constitutive of the legitimisation process, see Figure 5.4. As before since dualistic participation and the circular communication flow mutually constitute each other, they work in interactive configuration, and thus work together lead to a feeling of involvement in causal conjunction. The link to feeling involved is shown best by the confession regarding the Open Forum, described as asking 'anyone interested in saving Kenya to come' (Wachira, Arendshorst, and Charles 2010, 11). Because the circular communication flows relate back to the formal negotiation space, as was shown in the previous analysis above, the spatial boundaries are extended back to the negotiation space.

Likewise, one-sided participative communication also enables a feeling of involvement because of a shared experience or understanding being voiced. The contribution of a shared experience, like woman who shares her experiences with Graça Machel, who hugs her and cries with her, reiterates the sense of involvement. This is because 'every story needed to be heard, everyone needed to share their experiences for healing to being' (Ringera 2014, 190). The need to share and express grievances and sentiments can be traced into a *comprehensive storyline*. Without this form of participative communication, the feeling of involvement becomes less feasible. One *confession* further substantiates this: "At the time … everybody had to be given a voice." (K48). The relationship between one-sided participative communication and shared experience and understanding works in interactive configuration. This is because the shared experience or understanding is a product of the one-sided participative communication as well as enabling it. Overall, therefore instead of a causal pathway there is a causal conjunction between the two

conditions and feeling involved. As the voices expressed here often took place after the negotiations had ended, the temporal boundary beyond the signing of the agreement is confirmed.

Lastly, there are two further causal effects, which are not directly related to the constitutive components of the features of transparent communication and therefore are not shown in Figure 5.4 above, but still merit mentioning. Firstly, because of the distribution of information there was pressure on the conflict parties. The public information campaign from the CSA groups (and the AU Panel) had the effect of making the hardliner position of the PNU unfeasible. Secondly, there was an impact in maintaining the pressure on the international actors. For example, information distribution changed the initially hysterical and uninformed global media coverage to a more nuanced position. Thus, the typical reduction to 'ethnic violence' became to be understood as political violence of an ethnic nature as a form of deliberate ethnicisation of politics in the Kenyan context (Wanyeki 2010, 5). As information added up, and international pressure grew in relation to a more comprehensive understanding, there was in turn more pressure on the conflict parties to participate in the process and to come to a political solution, as well as address some of the root causes of violence through Agenda 4. This pressure on the parties through information distribution was kept up after the agreement had been signed and also helped to ensure or put pressure on the implementation of the agendas. The effect of the distribution of information after the negotiations, ensured that attention remained from important stakeholders like the state, region and the rest of the international community, as a result of which there was further pressure of implementation (Jepson et al. 2014, 31, 45; Wanyeki 2010). Before giving an overview of the findings from the Kenyan case study, the context factors are briefly discussed as a further explanation of how the process was legitimised in relation to the feature of transparent communication.

5.4.3   Context Factors

Two factors contextualise (and explain) the feature for transparent communication: One related to the mediation teams' support for transparent communication and the other to the media infrastructure in the country more generally. Kofi Annan committed himself to transparency, making sure that there was extensive media coverage and consultation with CSAs, because 'not only did the people have the right to know what was going on, but they had to also own the mediation process if we were going to see the reform' (Annan and Mousavizadeh 2013, 193; see also Annan and Griffiths 2009, 9). Mkapa, a former journalist himself, also encouraged media engagement and resulting transparency. By personally translating the press conferences from the AU Panel into Kiswahili a wider audience was reached (Jepson et al. 2014, 29). The importance that the AU Panel placed on transparency (also through disseminating important decisions and buying advertising space in newspapers) as well as the *confession* from Annan also further reiterates the link between transparent communication and legitimisation - through the constitutive component of feeling involved (see also Jepson et al. 2014, 28–29).

The media also played a particular role in the legitimisation process, with both negative and positive effects. Negative, because they reported faulty results at best and incited violence at worst (Ringera 2014, 177). Positive because of the use of these communication networks to stay involved and participate (Mäkinen and Kuira 2008) but also because of the enhanced possibilities in the distribution of information of the mediation process and the violent conflict (K24; see also more generally Munyua 2011). The short-term nature of the conflict in Kenya meant that the state of the media infrastructure was much more robust, especially in comparison to Liberia. The willingness of the AU Panel to engage in transparency and the short-lived conflict and media infrastructure are sure to have affected the context of this feature. The media by themselves as well as by being used as a medium by the CSAs and the AU Panel distributed information on the accord and the implementation period. Considering the feature of transparent communication in the context of a stronger media served to indicate other constitutive components and a more comprehensive overview of the causal conditions that were not possible to trace in the Liberian case.

5.5 Overview of Findings from the Kenyan Peace Negotiations

On the basis of the revised heuristic model comprehensive process-tracing was carried out for the three features of collective concerns, subjective representation and transparent communication. For the most part, the components that were shown to be constitutive of the legitimisation process were confirmed. They included ending violence, which was extended to also include a return to stability, as well as a civilian counterbalance at the negotiations and in the agreement itself. Moreover, further components that were confirmed in this case study include the feeling of representation, the recognised guarantors of legitimacy and the ensuring of the implementation. The constitutive component of feeling included, which had been proposed in the Liberian case study, was notably changed to a feeling of involvement. This also highlights a more pro-active role for the beneficiaries of legitimacy, who can be involved in the legitimisation process, rather than the somewhat passive role they take on when (merely) feeling represented.

Because of the infrastructure in place in the Kenyan setting, there was a completely different environment for transparent communication to unfold. This allowed for a more precise tracing of the constitutive components related to this feature, as well as the causal conditions that enabled them. This included an extensive analysis of what has been labelled 'participative communication'. The causal analysis that explains why the feeling of involvement was enabled as a constitutive component of the legitimisation process was also much more comprehensive as a result. In addition, the causal analysis for collective concerns also showed that the CSAs were able to influence the collective concerns including the civilian counterbalance, despite not having a direct role at the table. With regards to the spatial boundaries, the negotiation space was still relevant (also as part of the feature of transparent communication), though for the most part the legitimisation occurred beyond the negotiation space.

One of the most significant findings comes from the idea of the actors in the legitimisation process. A direct Track I role is not necessary. Additionally, as was shown by one-sided participative communication: With regards to feeling involved, CSAs do not necessarily play a part. Lastly, one of the biggest differences in this case study to the Liberian one, comes from a self-referential legitimisation narrative for the benefit of the mediator Kofi Annan and the AU Panel rather than a CSA. These findings, summarised in Table 5.3 below, are the basis of the theory of legitimate peace negotiations, which is introduced in the next chapter.

Table 5.3 Major Findings from Comprehensive Process-Tracing from the Case Study of the Kenyan Negotiations

		FEATURES OF THE HEURISTIC MODEL		
		Collective Concerns	**Subjective Representation**	**Transparent Communication**
MAJOR FINDINGS FROM COMPREHENSIVE PROCESS-TRACING	**Constitutive Components**	• Ending violence/return to stability • Civilian counterbalance in negotiations and agreement	• Feeling represented • Symbolic attachment to the guarantors of legitimacy	• Ensuring implementation • Feeling involved
	Causal Conditions	• Pressure conflict parties • Maintenance of pressure on international actors • Expert and monitoring reports • Lobbying for agenda 4 concerns	N/A	• Distribution of information • Dualistic participative communication • Circular communication flows • One-sided participative communication • Contributing to understanding or shared experience of suffering
	Context Factors	• Nature of personal networks to international actors • Politicised nature of civil society actors • Mediator encouraged inclusion • Reputation of CSAs • Centralised nature of state (merging of national and local concerns)	• Politicised nature of civil society actors • Practical problems of engaging with grassroots • Type and duration of conflict	• Political, economic and media infrastructure • Willingness of mediation team for transparency

SECTION 3:

A THEORY OF LEGITIMATE PEACE NEGOTIATIONS AND CONCLUSION

Chapter 6

A Theory of Legitimate Peace Negotiations

6   A Theory of Legitimate Peace Negotiations

The starting point for the research was to consider how peace negotiations become more legitimate and to explore the role that civil society actors play in this. Having considered two case studies of peace negotiations in detail in the previous two chapters, the final step in the abductive research process is to propose a theory of legitimate peace negotiations. The theory, induced from the comprehensive process-tracing of the case studies, provides a theoretical argument for how peace negotiations become legitimised. I argue that peace negotiations are legitimised in a process of legitimisation that is based on outcome and participation-based characteristics. Civil society actors play a crucial role, yet a non-exclusive role in this process. Lastly, the legitimisation process takes place simultaneously at the negotiations table and in the public arena. The three elements of the theory are now be discussed in turn, concluding with an overview of the theory and the contributions this makes to the literature on civil society involvement in peace negotiations.

6.1   Outcome and Participation-Based Characteristics of Legitimisation

In the following, the theory of legitimate peace negotiations is outlined regarding its major characteristics based on outcomes and participation. Notably, the theory addresses a *process of legitimisation* rather than the legitimacy of authority or a political system. In a first part, the two characteristics are detailed, before in a second section outlining the differences and overlaps to other theories of legitimacy.

6.1.1   Two Characteristics of Legitimate Peace Negotiations

The research of this dissertation started on the premise of two heuristic features of the legitimisation process, later amended to three features. These are collective concerns, transparent communication and subjective representation, and were heuristically used to trace the major components of the legitimisation process. If we consider these components in their totality, two major characteristics can be surmised: The components that constitute the legitimisation process are either based on outcomes or on participation.

On the one hand, the three components of ending violence/return to stability, civilian counterbalance and ensuring implementation all speak to certain outcomes. According to the perception of the beneficiaries of legitimacy, the process becomes legitimised, because violence has come to an end, there

was a civilian counterbalance during the talks and in the final agreement and efforts were made towards ensuring implementation. The nature and explanations for the components changes slightly across cases, but the focus of legitimisation still remains on a certain outcome. Ending violence was conceptualised more broadly in terms of a positive peace in the Liberian case (i.e. ending violence and schools reopening) or with regards to economic stability in Kenya. In other words, the process becomes legitimised because of the satisfaction invoked by the ending of violence, in its expansive interpretation as was shown in the case studies. The causal process-tracing regarding the civilian counterbalance shows that both a direct seat at the table for civil society in Liberia as well as the expert reports and monitoring from civil society actors who were not part of the negotiations in Kenya were effective in enabling the component. The exact ways the legitimisation process will unfold will differ, but the key take-away for the beneficiaries of legitimisation is *what happens during and after the negotiations* related to the role taken on by the civil society actors (and other actors, see below). The relationship between the features, components and characteristics of legitimisation is summarised in Figure 6.1 below.

Figure 6.1: Features, Components and Characteristics of Legitimisation
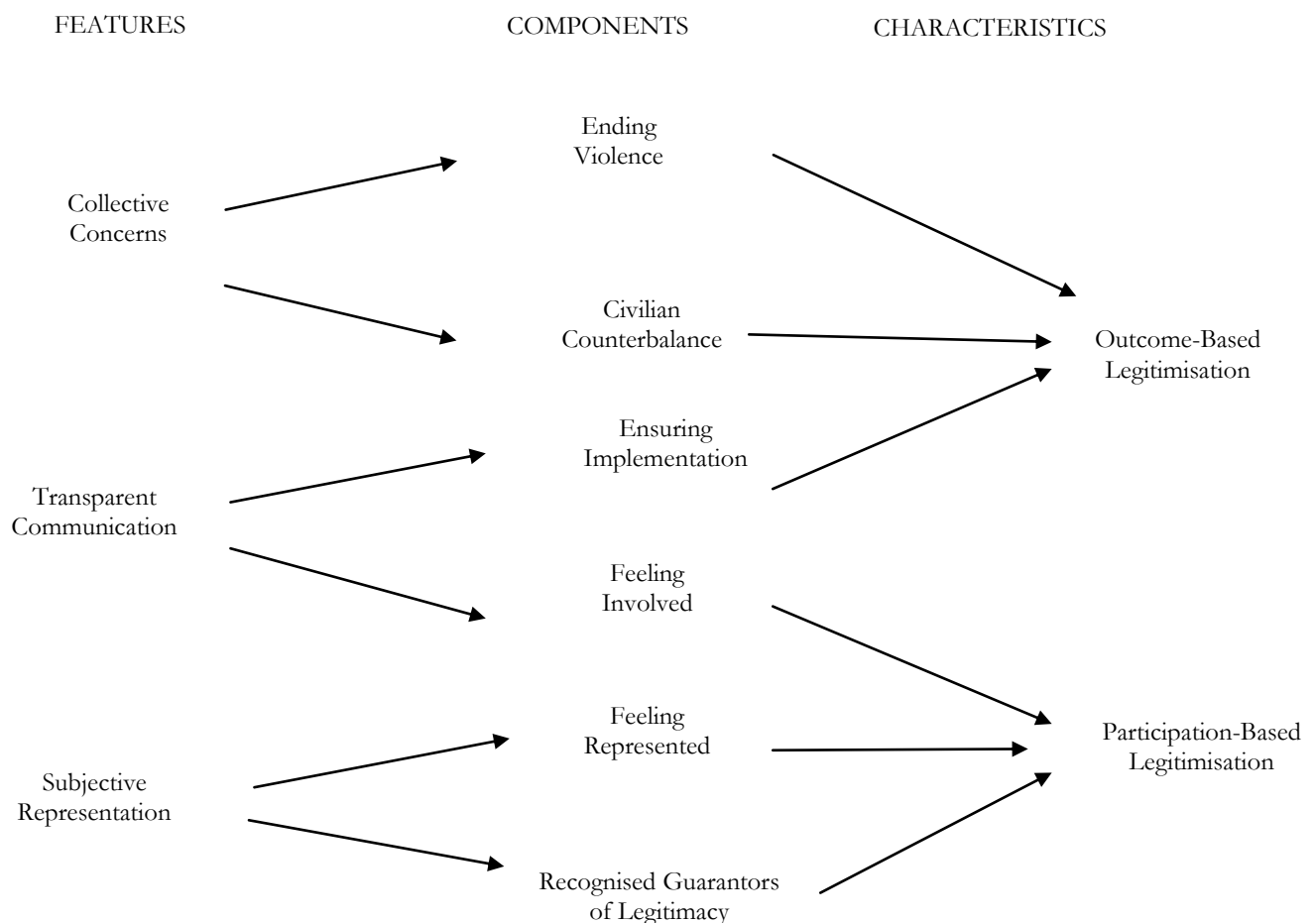
On the other hand, the three components of feeling involved, feeling represented and recognised guarantors of legitimacy all speak to participation. Beneficiaries of legitimacy regard the process to have become legitimised because they are participating in the process themselves, through feeling represented, having identified guarantors of legitimacy and notably feeling involved. Again, the details of this are likely to differ for individuals and cases, but the emphasis is on the fact that the beneficiaries of legitimacy are somehow involved. Though feeling represented is one element, he or she is not merely 'represented' at the peace negotiations, arguably a rather passive role, but can also be more actively participating. This is done through reflecting on the process in a variety of ways, including through photos, short stories and other outlets like in Kenya. In addition, the beneficiary can play a role in deciding whom they recognise as a guarantor of legitimacy. This can be based on characteristics of motherhood, like in the Liberian case, or the 'prisoner of peace' Kofi Annan like in Kenya.

The theory does not presuppose a dichotomous measurement of legitimacy, as in yes there was legitimacy or there was not, but rather shows that more or less legitimacy is possible in a process of legitimisation made up of outcome and participation based-characteristics. Despite differences between the cases, the overall legitimisation of a process may still be similar. The two case studies of Liberia and Kenya differ on the scale and type of violence. Yet, with regards to the outcome-based characteristics of legitimisation, the interpretation was strikingly similar. Even though the violence in Kenya was less severe and much shorter than in Liberia (albeit with deep-set conflict roots), ending violence was overwhelmingly identified as a legitimising component in both cases. In addition, one negotiations process was highly militarised (Kenya) and the other politicised (Liberia), nevertheless in both instances a civilian counterbalance was traced to be a constitutive component.

For the participation-based characteristics, there was more variation. The civil society actors did not play a direct role in the Kenyan case, which overall seemed to detrimentally affect the component of feeling represented. In contrast to Liberia however, there was broader possibilities of engaging with the negotiations, sharing grievances and reflections, resulting in stronger participative communication and because of this, the component of feeling involved. The existing infrastructure enhances the possibility of engagement through forms of communicative participation. When this is absent, like in Liberia, the lack of knowledge and participation was obvious.

Lastly, because the Kenyan negotiations followed on from flawed elections, the potential set-up of participation through representation is entirely different to the Liberian one. In theory, elected politicians are of course representative, and because some of these also took part in the negotiations process, feeling represented is ensured. Due to the nature of the elections however, perceived as flawed by many Kenyans, the legitimacy of elected politicians can be questioned. Even more poignantly, at the time of the peace negotiations, the elected politicians acted in their own self-interest in order to access power and thus are not representative of the people at this moment in time. This is despite the fact some of the

population may have supported the stakes they were claiming. The difference and overlaps of the theory of legitimacy compared to those of other scholars is discussed in the next section.

6.1.2   Overlaps and Differences to Previous Theories on Legitimacy

The policy-orientated study of Conciliation Resources defines legitimate negotiations as the extent of popular support for both the process itself and the outcome, arguing for participation, inclusion and representation (Ramsbotham and Wennmann 2014, 6–7). This clearly overlaps with the outcome and participation-based characteristics of legitimisation processes. The theory introduced here however is a theoretical argument based on a detailed empirical study that goes far beyond the study done by Conciliation Resources. In addition, the theory also more generally accentuates other pre-existing theories of legitimacy. This is because the theory of legitimate peace negotiations addresses a *process of legitimisation* rather than the legitimacy of authority or a political system, marking its differentiation to previous theories on the topic of legitimacy.

At first glance, the two characteristics of legitimisation show overlaps to precedent notions of legitimacy in addition to the definition from Conciliation Resources. After all, the literature on the role of civil society in peace negotiations speaks of legitimacy in terms of a 'public agenda' (an outcome) and 'broader participation' (Barnes 2002, 12; Belloni 2008, 199; McKeon 2004). In addition, the system analytical view on legitimacy speaks of inputs and outputs (Easton 1965; Scharpf 1997, 2009). Regarding the civil society literature however, the meaning of participation goes beyond the presumed inclusion/representation definition. For sure, Track II and parallel public forums are discussed in some of the literature (e.g. Paffenholz 2014a; Ron 2010), but for the most part they consider forums with civil society actors, and not necessarily broader elements of the population. Furthermore, a circular argument is made for the public agenda, with a public agenda creating a legitimate process, and a legitimate process contributing to the public agenda. The process nature of legitimisation is upheld by the theory proposed here, but the outcome-based characteristics are more expansive than a 'public agenda' as an output, rather speaking to how such a public agenda may be created. This is also why it is not simply a results-based output, versus a representation-based input of the characteristics based on participation.

The system analytical view on legitimacy also does not sufficiently translate what is meant with the outcome and participation-based characteristic. There are three reasons for this. Firstly, the outcome-based characteristic concerns more than just an output or 'achieving the goals ... citizens collectively care about' (Scharpf 1997, 19). Most notably the component of the civilian counterbalance, by its very definition, considers the civilian counterbalance *during* the negotiations as well as in the final agreement. Put differently, in parts the process of negotiations was legitimised because civil society actors involved in negotiations in Accra were taking a position directly in contrast to the other self-interested parties to the negotiations. As the civil society representative Nohn Kidau argued, when she wanted to get a seat at

the table, "the political parties have their policy interests to fight for; the warring parties are interested in getting what they can for themselves. Who is going to be there for the rest of the people?" The outcome-based characteristic for this element is not so much what came out as a result of her participation (which is another element) but rather the civilian counterbalance at this moment in time.

Secondly, the participation-based characteristics of legitimisation are based on the same ideas of inclusivity and representation as the input side of a system analytical view, but it further develops this. As was argued for the amended heuristic model on legitimate peace negotiations in Chapter 4, participation has thus far been inadequately conceptualised. Expanding on the idea of participation, opens up ideas of communication and transparency that are more fairly thought of as throughput than an input (e.g. Schmidt 2013). In the Kenyan case, the different types of participation were further developed, in light of what I termed "participative communication". Self-expression and reflections on the negotiations, in artistic forms or otherwise, contributed to the legitimisation process. Such forms of participative communication take place mostly after a peace agreement has been signed, yet retrospectively legitimise the process; and thus are neither an input nor an output. This brings me to the third reason why the system analytical view does not wholly reflect the theory of legitimate peace negotiations proposed.

Peace negotiations and the legitimisation process thereof, are conceptualised as an ad-hoc, dynamic and non-institutionalised process of peace negotiations. This stands in contrast to ideas on procedural legitimacy or system analytical legitimacy, which presuppose a long-standing and institutionalised process or procedure (Easton 1965; Luhmann 1983; Scharpf 1997, 2009). Because of the type of process, the theory on legitimate peace negotiations does not focus on how to institutionalise participation. Nor does it make assumptions on the procedural nature of the negotiations regarding how specific elements resulting in the outcome should be addressed. By its very definition the theory on legitimate peace negotiations leaves the ways of reaching an outcome and ways of participation open. It may suggest two broad characteristics, and even the components that constitute the legitimisation process, but acknowledges that the contextual nature will always change the details of the ways this happens, in different cases just as much for different individuals. This reiterates the idea of 'grounded legitimacy' previously introduced, which aims to avoid universal normatively but accepts that contextual values and ideas will affect the legitimisation process in question.

The literature with the most overlaps to the theory of legitimate peace negotiations comes from the Habermasian public sphere and deliberative democracy, which argues that something can become legitimised if it is deliberated upon, deciding on the common good, by a group of people who represent the free and fair participation of all. In fact, Habermas addressed discourse and communication throughout his work, beyond the initial foundations in the public sphere (e.g. 1991, 1993, 1996, 1997). For example, when discussing the foundations of law, Habermas proposes that 'only those laws count as

legitimate to which all members of the legal community can assent in a discursive process' (1996, 110). Whilst Habermas assumes a formal decision-making body, it nevertheless presumes 'deliberation and discourse … open to input from civil society' (Finlayson 2005, 116). The deliberative element of discourse as well as communication informs both the features of collective concerns and transparent communication, and as a result has repercussions for the outcome and participation-based characteristics of legitimisation.

In contrast to Habermas however, the outcome-based characteristic of legitimisation places less emphasis on the discourse itself than on the 'rational common good' result of the act of deliberation. Habermas thoughts on the public sphere and deliberative democracy moreover serve much more as an ideal, with little empirical embedding (on a similar note see Finlayson 2005, 118). Steven Crowell argues that the Habermasian public sphere is a 'counterfactual ideal whose normative force derives not from social reality but from communicative practices' (2012, 148). This is why he prefers to focus on a less 'rationalistic version of his [Habermas] legitimation strategy - one that links argumentation processes of meaning constitution' (Crowell 2012, 148). This holds more potential for this research, but the focus of this research is not so much on the way of discourse than it is on the results of this. In the practical application of peace negotiations, the discourse argument itself just informs the type of discussion had (with civilian actors) and the results during the talks and afterwards with regards to for example a civilian counterbalance.

Habermas places little emphasis on who actually carries out the rational discourse (beyond the fact that these persons are theoretically free and fair representatives), focusing on the way the discourse is carried out, what repercussions this has and how this interacts with other discourses, i.e. the 'weak public' of civil society, versus the 'strong public' of formal politics. Whilst the latter point is relevant for the civil actors and the type of role they have, the legitimisation process itself does not change because the civil society have a potentially 'weaker' role. As was shown in both cases, despite power imbalances and the very setting of negotiations favouring one set of actors over others, civil society actors were influential in addressing collective concerns, which affected the legitimisation process with regards to the outcome-based legitimisation. What remains, is the lack of emphasis that Habermas places on the actors carrying out the discourse. In the theory of legitimate peace negotiations, actors, too, play a crucial role, albeit a non-exclusive one. This is discussed next.

6.2   The Non-Exclusive Role for Civil Society Actors in the Legitimisation Process

Actors like civil society are no doubt involved in both the outcome and participation-characteristics of the legitimisation process, as has been shown throughout the thesis. Nevertheless, the type of role civil society actors have in the participation-based characteristics of legitimisation is different to what the current literature assumes. This is because civil society actors are not ubiquitous in the legitimisation process, since they are not involved in all parts of the legitimisation process. In addition, the actors are

to a certain degree interchangeable - as was shown for the constitutive component of recognised guarantor of legitimacy. This is outlined in the next sections, as well as further discussing the political agency of the guarantors of legitimacy and the meaning of the 'local' in relation to the beneficiary of legitimacy.

6.2.1 Actors in the Legitimisation Process

The basis of the literature on which this research is based on, argues that when civil society takes part in peace negotiations, the negotiations become more legitimate and as a result the agreement that follows is more likely to last (e.g. Barnes 2002; Paffenholz 2014a; Wanis-St. John and Kew 2008). Sustainable peace is possible because of civil society involvement making the peace negotiations more legitimate. This research has questioned this idea, by discerning what exactly the legitimisation process entails. Importantly, and therefore the second part to the theory on legitimate peace negotiations, the exclusive role of the civil society actors in the legitimisation process has been questioned. From the empirical case studies it was shown that peace negotiations do not necessarily become more or less legitimate solely because of the involvement of civil society actors, in relation to the participation-based characteristics of legitimisation. Firstly, participation can also ensue through alternative ways to mere representation by civil society actors such as for example one-sided participative communication through the artistic expression of grievances. Secondly, other actors, including the mediators can also act as guarantors of legitimacy.

On the first point, the active role of the beneficiary of legitimacy in the legitimisation process as part of the participation-based characteristics is best highlighted by the elements of participative communication. In the Kenyan case, beneficiaries could feel involved in the negotiation process, constituting a part of the legitimisation process. This engagement happened in two ways. Either ordinary civilians could participate in the Open Forum set up by a civil society group, in order to air their grievances and help contribute to the Citizens Agenda for Peace. Alternatively, and this time with no civil society involvement, persons were involved in the process by simply expressing their concerns, impressions and reflections on the process artistically or otherwise. This included for example artistic forms of expressing narratives such as the Kenyan '*Kwami?*' books, as illustrated by Image 5.1 in the previous chapter. In essence, this part of the legitimisation process comes from within. This also highlights a more pro-active role for the beneficiaries of legitimacy, who can involve themselves in the legitimisation process, rather than the somewhat passive notion of feeling represented.

The onus on participation through communication in contributing to legitimisation has been recognised by other scholars. In a completely different setting, Bougeanvilleans seeking independence from Papua New Guinea were recorded to have spent large parts of peace negotiations singing and praying. Volker Boege explains that these may be 'activities that, from a internationals' point of view, can easily be

misjudged as folkloristic … [but] … are expressions of commitment and trust and can be more powerful than mere spoken or written words,' in order to make the negotiations more 'acceptable and legitimate' (2012, 97). Subsequently, at least in part the empirical construction of legitimacy is related to participative communication, which does not necessitate the involvement of civil society actors at all.

In addition, when civil society actors do play a role for the participation-based characteristics, they are to a degree interchangeable. What matters is not so much who they are, but rather how they are perceived, amounting to being representative or recognised guarantors of legitimacy, both of which are components that constitute a part of the legitimisation process. In the Kenyan case, overwhelming evidence points to the recognition of a self-referential legitimation narrative from Kofi Annan, the AU Panel and 'an African solution for an African problem.' The mediation team was perceived just as legitimate, if not more so, than the civil society actors. They were a recognised guarantor of legitimacy, and thus contributed a part in the legitimisation process. As a woman writes to a national newspaper 'we endorsed your team long ago … you and gracious Graça [Machel] … have struck a chord with Kenyans. You feel the suffering of the ordinary people" (Mburu 2008). In summary, civil society involvement in peace negotiations cannot be automatically equated to more legitimacy. The legitimisation process can involve actors as guarantors of legitimacy that are not civil society actors, and also involve communication channels that involve no guarantor of legitimacy at all.

With regards to the outcome-based characteristics of legitimate peace negotiations, the civil society actors play a more distinctive and if you will 'traditionally' accepted role, by contributing to the civilian counterbalance and so on. Concerning the participation-based characteristics civil society can play a role as guarantors of legitimacy more generally, but do not do so exclusively, as is shown by the dotted arrow in Figure 6.2 below. In addition, the beneficiary of legitimacy can also actively contribute in the ways outlined previously.

Figure 6.2: The Role of Actors in the Theory of Legitimate Peace Negotiations
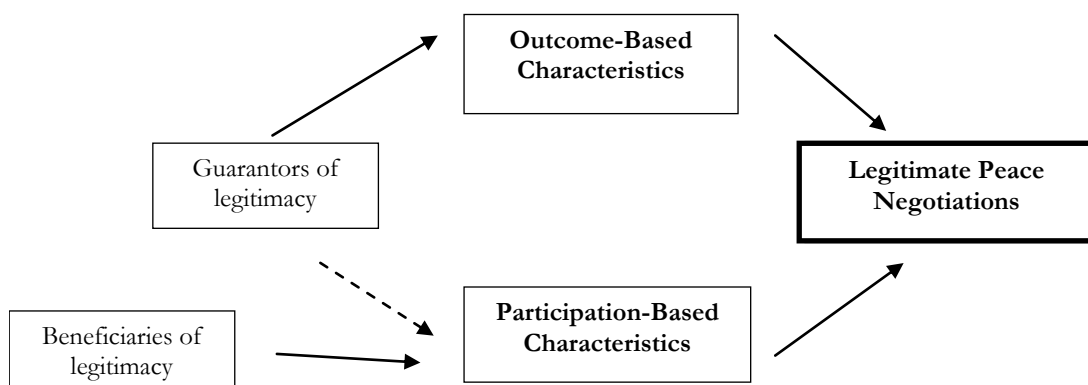
This finding and theoretical conclusion also means a distancing from the literature on sources of legitimacy and legitimation strategies, because they do not on their own give a holistic picture of the legitimisation process. For example, as discussed in Chapter 2, a (relatively) newer field of legitimacy research has emerged that considers the legitimation of authority as an observable activity, through the study of self-justifying characteristics of rulers (e.g. Barker 2001). Authorities are engaged in activities of their own legitimation. In my own work however, the self-referential legitimation narratives shown in the empirical chapters are not solely an activity of legitimation or a strategy as such. The civil society actor or mediator has no time to work on a long legitimation strategy to make herself seem more legitimate to the beneficiaries of legitimacy. Of course, the prior reputation of the actor plays a role as was shown in the case studies, but when the ad-hoc, dynamic and non-institutionalised peace negotiations process starts, their self-referential legitimisation is either recognised or it is not.

Though the legitimisation process itself goes beyond the time period of the negotiations themselves, this is still the key moment in the legitimisation process, and usually takes no longer than a matter of weeks or months. This makes the legitimation narratives of the guarantors different to legitimation strategies used by authorities or leaders to enforce their own legitimacy over much longer periods of time (Barker 2001; Schatzberg 2001). In other words, whilst a study of the narratives as a strategy might help explain reasons why the actors are perceived as legitimate (as mothers, as 'African peers'), they do not by itself explain the legitimation process.

The same limitation goes for the literature on the sources of legitimacy (e.g. Weber 1978b). Considering the sources of legitimacy of actors may help to provide an understanding of why certain actors are perceived as legitimate, related to reasons of history, tradition, charisma etc., but on its own this does not offer a theory of the broader legitimisation process. Both the empirical approaches to legitimacy by Weber, Easton and the more normative approach by Beetham, all consider legitimacy in terms of persons of authority and power and how this justified - be it empirically, legally, morally, or normatively. Whilst civil society actors play a role - though not an omnipotent one - they are not by any means formalised or in positions of power or authority. In fact, by their very definition these are non-powerful actors in the negotiations setting, representing the population. Thus, the legal validity of power (as discussed by Beetham 1991); the structural sources of legitimacy (as proposed by Easton 1965) and the rational-legal source of legitimacy (Weber 1978b) can simply not apply here. However, the personal source of legitimacy which Easton proposes along with Weber's personal sources of legitimacy, both traditional and charismatic, go some way to showing why specific actors come to be perceived as legitimate. The charismatic nature of some of the civil society actors and other legitimate actors is beyond doubt, including the IRCL in Liberia and Kofi Annan in Kenya. The relevance of tradition is shown to degrees, most notably in the consideration of women in Liberia through the recognised self-referential legitimation narrative, which confirms the studies of empirical legitimacy by Steady (2011) and Schatzberg (2001). Since the civil society actors are not equated to outright legitimacy however, as has

been shown throughout the empirical chapters and for the theory of legitimate peace negotiations, the literature reviewed is nonetheless only partially relevant.

In conclusion, the process of peace negotiations becomes more legitimate not because the civil society actors are seen as legitimate authorities or legitimising a political system, but because on the basis of outcome and participation-related characteristics, negotiations become legitimised. In terms of agency, both guarantors and beneficiaries of legitimacy play a part in this, though not exclusively. The two forms of agency of both the guarantors and beneficiaries of legitimacy are further discussed in the next two sections.

6.2.2 The Political Agency of the Guarantors of Legitimacy

The process-orientated theory of legitimacy emphasises outcomes and participation over specific actors; yet indubitably actors are involved. These actors do not emerge from a political vacuum, nor can they remain completely apolitical by taking part in the negotiation process - in whatever form. Jacob Bercovitch notes that "mediation should not be confused with altruism; mediators are usually cognizant of their own interests and they have motives, consciously expressed or not, that they wish to see promoted or protected" (1996, 9). The same can be said for civil society actors.

At the most basic level, this is because of jobs and other benefits these actors receive after participating in the process. Civil society organisations themselves are made up of individuals, who may be perceived as more or less legitimate themselves, yet overall they are a heterogeneous group of actors. Nonetheless, actors have frequently been erroneously tarred with the same brush. This has repercussions that go in two separate directions: Firstly, the role of civil society actors in peace negotiations and peace processes is simplified with one stroke as 'positive' and 'legitimate' obfuscating more complex legitimisation processes (notable exceptions include McClintock and Nahimana 2008; Pearce 2011). Secondly, as soon as any civil society actor is seen as 'politicised', all of the civil society are rejected in one stroke. Perhaps civil society cannot act as well as they intend as their subsumed into the politics of the other actors or are co-opted by them. This was the case in the DRC where some civil society actors received monetary gifts or promises of future political positions in return for political favours (Paffenholz 2014a, 79), an accusation which was also mirrored in Liberia. As was shown in both case studies, the civil society actors under review were accused and found to be political and politicised entities. This should however not be surprising. Speaking of peacebuilding interventions, Jarat Chopra and Tanja Hohe note "there is never a vacuum of power on the ground" (2004, 298). Something similar could be said about the civil society actors: Yes, the actors are involved - and without a doubt genuinely at times - in representing collective concerns and so on, but this does not mean that they act in a political vacuum.

Neutrality is part of the constitutive component of legitimisation of feeling represented, but this does not mean that overall all civil society actors or other guarantors of legitimacy for that matter, will be neutral at all times. Nor that being political and not neutral by definition is necessarily detrimental to legitimisation either. A guarantor of legitimacy can be overtly political and take a stance - but the political stance can be different to that of the conflict parties or represent a particular grievance and thus the group can be acknowledged for their importance.[135] Civil society actors come with a certain background, experience and relation to others. For example even WIPNET - which perhaps is the most 'genuine' grassroots organisation of all of the civil society actors reviewed in this work - did not emerge out of a vacuum. Several of the women involved, participated in extensive training on the role of women in peacebuilding after UN Security Resolution 1325 (Alaga 2011a, 9). A more differentiated picture of civil society actors, acknowledging their political nature, would allow for a better understanding of legitimisation processes (see also Ferguson 1994).

In conclusion, the guarantors of legitimacy are not exempt from networks of power and politics, but this does not have to be to the detriment of the legitimisation process, as long as they are still contributing to the feeling of representation or recognised as guarantors of legitimacy etc. Granted, the influence and power-hold of the guarantors of legitimacy is likely to be less than that of the conflict parties but this does not mean it is entirely absent either as has been shown throughout. The meaning of power and politics may simply pertain to different features. Civil society actors may for example not be involved in the political agendas of the conflict actors, but tangled in other power struggles or political movements.

6.2.3   The Meaning of the "Local" and the Beneficiary of Legitimacy

One of the most puzzling finding in this dissertation has been on the disregard and distinction of 'local grievances', which contrasts to much of the literature from critical peacebuilding on the role of local peacebuilding processes (e.g. Lidén, Mac Ginty, and Richmond 2009; Mac Ginty and Richmond 2013; Richmond and Mitchell 2011). Especially in the Liberian case, the fact that local concerns were not addressed was not perceived to be a detriment to the legitimisation process. This was only partially confirmed in the Kenyan setting. To make matters more complicated, the same cannot be said for 'local' representation, viewed as missing in both cases and as a result acting detrimentally for the legitimisation process. The meaning of the 'local' is not the focus of the research question, and I argued elsewhere that 'the incoherence and complexity of the local sphere … [has been largely ignored], as well as the power relations through which it is characterized, particularly with regard to the legitimacy of actors and concepts. Power and authority are in fact locally as contested as on the national level' (Simons and Zanker 2014, 14). The discussions on local grievances and local representation do however reveal two

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[135] In fact, argues Autessere, the neutrality of expatriates can help to deteriorate their relationship to the intended beneficiaries (2014b, 235–236).

further issues of note regarding the beneficiary of legitimacy. Namely, the meaning of representation in addition to the importance of political empowerment.

On the first issue, the current ideas of representation pertaining especially to descriptive representation can be questioned (see e.g. Phillips 1995; Randall 2007). It was shown that descriptive representation is not of significance in contributing to the legitimisation of the peace negotiations. Nonetheless, descriptive representation is still frequently used rhetorically for peace processes, notably in relation to women. Women are often seen as passive victims of the wars. They merit inclusion, it is argued, because of this victimhood and because women are seen to be a personification of empathetic peacebuilding characteristics. When women are giving a role to play in a negotiation process or even peacebuilding processes more generally, they are often accused of not being representative of the population or grassroots (e.g. Kamau 2013, 201; McGhie and Wamai 2011, 10; Ringera 2014, 175; 187). The same standard is not as vehemently applied for other types of civil society actors. Whilst descriptive characteristics can be important in for example self-referential legitimation narratives, this does not make them the basis of representation. Some of the civil society actors in Liberia celebrated their womanhood, focusing on their roles as 'mothers' and 'sisters' bringing the conflict actors to their senses. This was however not so much translated into a representative quality for female beneficiaries of legitimacy, but constituted a part of the legitimisation process by being recognised guarantors of legitimacy. This recognition was widely perceived by men and woman of all ages, classes and occupations, and relates back to a symbolic attachment to the women in question. This prevalence of symbolic representation over descriptive allows for the fluidity and constructed nature of identities to be taken into consideration (Kamau 2013, 194–195; McGhie and Wamai 2011, 10; Sabaratnam 2013, 20). As such, the beneficiaries expect more of representation than mere descriptive qualities. The interpretation of the feature of subjective representation has given a more detailed picture of the meaning of representation.

On the second issue, who in fact are our beneficiaries of legitimacy? From the outset, they were conceptualised as the general population who are the ones to potentially benefit from a more legitimate process, despite the difficulties of defining population and the somewhat artificial nature of separating between the beneficiaries and guarantors of legitimacy. Additionally, assuming that a minimum of political engagement is necessary for participating in the legitimisation process, are all beneficiaries equally politically engaged? No, many authors on legitimacy would argue, discussing the 'audience' of legitimacy. Elite groups simply have a greater control of power resources and tend to be more engaged in political processes than the general population (e.g. Alagappa 1995, 23–28; Fishman 1990, 437; Gilley 2009, 9). This would mean that those beneficiaries interacting with the civil society representatives and informing themselves on the process of negotiations are also likely to be elites. The fear would be that in actual fact what is being created is an intra-elite mechanism: Elites make up both the guarantors *and* the beneficiaries of legitimacy. In other words, those feeling represented or involved are simply other elites participating in the legitimisation process. Take for example the Open Forum, where anyone 'who

wanted to save Kenya' was invited to attend in order to discuss and contribute to the Citizens Agenda for Peace. The first point of exclusion was the fact it was conducted in Nairobi. The second point of exclusion is who would realistically have time, be informed and feel comfortable in marching down to a five-star hotel to take part in such an Open Forum? When it comes down to it, the legitimisation process is intrinsically related to questions of political empowerment.

This question of political empowerment - and related citizenship debates - is affected by contextual difference, not least in relation to historic and current governance systems. In Liberia the country has a history of centralisation, where the sub-national level tends to be ignored and receive little to no public goods. In Kenya, the governance structure was highly centralised for a long time, and whilst there are governance structures in place, regional disparities exist (see also Zanker, Simons, and Mehler 2015). Historical governance is likely to have an effect on the type of concerns raised and the involvement of the population in the legitimisation process. In highly centralised countries only a small number of people are likely to be involved - and used to being involved - in decision-making processes, and can consequently enjoy the full prerogatives of citizenships. The rest remain uninvolved (Sawyer 2005, 185; see also Mamdani 1996). This is linked to political empowerment which in turn is inherently linked to knowledge, and thus has at least something to do with practical concerns of access to media, public goods and the time and space to engage with a political process. Sawyer underlines this by arguing 'participation cannot meaningfully enhance individual and societal well-being and demonstrate ownership prerogatives without enlightenment' (2005, 184). The lack of knowledge of the peace agreement and the role of civil society actors in Liberia spells out a vicious circle: Without political empowerment less knowledge is demanded, without more knowledge about the negotiation process political empowerment is less likely to grow. Even when there are more public goods available, and space to express and hear of political concerns, like in Kenya, when 'people feel exploited …. or excluded … it is not surprising that "exit" often seems a better option than "voice"' (Edwards 2009, 105). This debate on empowerment and autonomy has much older roots, and many critical thinkers have addressed it over the years. Often the autonomy of individuals (to get involved in political processes) is thought of in terms of the Kantian concept of *Mündigkeit*. For Habermas more emancipation, empowerment or *Mündigkeit* leads to better, more democratic institutions - relating back to his thoughts on a deliberative democratisation process (see Finlayson 2005, 15). As a result, political empowerment is both a prerequisite to a legitimatisation process (again the extent is debatable) and a result of it.

6.3   Legitimisation at the Negotiations and in the Public Arena

In the description of the methodology of this research, it was argued that the causality reviewed as part of the comprehensive process-tracing pertains to a possibilistic causality (see Chapter 3). Because of a constructivist ontology, the causal reasoning with regards to the reasons why the legitimisation components were possible is bounded within temporal and spatial contexts. The temporal fluidity found in the case studies reiterates the process-based nature of legitimisation. In addition, tracing the spatial

contexts shows that rather than a big difference between the type of role played by civil society actors (directly or indirectly part of the negotiations) there are two dimensions to the legitimisation process: At the negotiations and in the public arena. This is the subject of the following discussion.

6.3.1   Temporal Fluidity

At first, the temporal boundaries of legitimate peace negotiations may seem as quite clear-cut, namely that the peace negotiations in Liberia took place between June and August 2003 and in Kenya between January and February 2008. In fact, it was shown that the temporal context of legitimisation goes beyond the negotiations themselves, and additionally includes the time period before the negotiations started and afterwards. This is shown be reviewing the causal analysis of the features of collective concerns and transparent communication.

With regards to the feature of collective concerns, a civilian counterbalance during the talks and in the final agreement constitutes one component of the legitimisation process, in addition to ending violence. In Liberia, the time period before the talks was essential for this component, with the civil society actors lobbying citizens, conflict parties and international and regional actors alike, pre-empting the later civilian counterbalance. In the Kenyan case, more important was the time period after the official talks had ended, well into the period of the interim government. By the design of the agreement signed, the civil society actors kept up their involvement through the various institutions, which were formed by the Agenda 4 Agreement. In addition, the component of ending violence does not have a strict temporal context only after the negotiations have ended. In the Kenyan case for example, the legitimising component of ending violence did not take place after the peace talks had come to an end, but with the signing of the first of a total of four Agendas, right at the beginning of the talks.[136] This underlines the fluid nature of the temporal boundaries of legitimisation, reiterated by the blurring of time periods between violence breaking out (pre-negotiation phase) and the talks starting (negotiation phase), also in Kenya.

Concerning the components traced as part of the feature of transparent communication, these were more strictly limited to the period during and after the talks, since the feature itself entails making the talks themselves more transparent. Mostly, the components of ensuring implementation and feeling involved occurred after the negotiations had come to an end. This is particularly evident for the one-sided participative communication as part of the component of feeling involved, namely through the artistic the expression of grievances or reflections - like the collection of stories, photos and poems in the 'Kwami?' Book series in Kenya, which were written, drawn, and expressed partly both during the talks, but for the most part afterwards.

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[136] In Liberia a ceasefire was also signed at the beginning of the talks, but this was later broken.

There was no causal analysis of the feature of subjective representation, as epistemologically this would not be possible for something so perception-based. Nonetheless, the temporality of the components was shown in the constitutive analysis. Both what happens before and after the actual negotiation period plays a role for the two components of feeling represented and recognised guarantors of legitimacy. For example, civil society actors like the IRCL in Liberia were perceived as representative because of the neutrality they had shown throughout the 1990s, that is before the actual negotiations started. Inversely, in Kenya the church had long dismantled its own credibility by openly supporting one side of the political conflict, Kibaki, long before the elections and the violence that followed took place, affecting their chances of being representative before the talks had even started. In the case of the recognised guarantors of legitimacy, the narratives relating to this were at least partially constructed after the talks had ended. All the documentation on the process afterwards, enhanced the self-referential legitimisation narrative of Kofi Annan and the AU Panel, confirming the possibilities of ex-poste legitimisation. The same can be observed for the picture of WIPNET praying for peace a decade after the talks had come to an end, under the caption 'This, too, is Liberia' (see Image 4.1 in Chapter 4).

Viewed together, three temporal stages are relevant but also fluid. This confirms the nature of negotiations as a process that is ad-hoc, dynamic and non-institutionalised. The next section considers the spatial boundaries of legitimisation.

6.3.2   Two Dimensions of Legitimisation

In theory, the spatial boundaries are more analytically important than the fluid temporality outlined previously. This is because of existent literature, which differentiates between Track I and Track II negotiations and the different types of roles that civil society actors can play (e.g. Barnes 2002; Paffenholz 2014a; Paffenholz, Kew, and Wanis-St. John 2006). Empirically however, in terms of the legitimisation process, there was not much difference in whether there was a direct seat or not at the negotiations table. In fact, legitimisation occurs both at the negotiations (whether formally or informally) and as part what is taking place in the broader public arena. In the Liberian case this public arena is easier to draw in a sense because it is not in Ghana but rather in Liberia and perhaps to a lesser degree amongst the Liberian diaspora. Nonetheless, many of the Liberian diaspora were also living in refugee camps in Ghana (and other neighbouring countries) and therefore this spatial boundary is not as clear-cut. In Kenya, both the formal and informal setting and the public arena are all located in the same country, even largely in Nairobi, and to an extent in one hotel - the Serena Hotel. It was in this place where most of the negotiations took place, where the CCP met and where the Open Forum was conducted. The spatial boundaries of legitimisation are not necessarily in a single geographic place however, like Kenya, Liberia or Ghana or one hotel, or even in a particular space of legitimisation, i.e. at the formal talks or informally. Rather, the legitimisation occurs simultaneously in two dimensions - the

negotiation and in the wider public arena. Reviewing the spatial context from the causal analysis of the different features shows these two dimensions.

The spatial context of the feature of collective concerns is best shown by re-considering the causal conditions that explain the legitimising component of a civilian counterbalance. The conditions occurred as part of the formal negotiations, exemplified by the lobbying for naming the interim leader as chairperson by the IRCL in Liberia, or the expert reports from civil society at the official talks in Kenya. In the latter instance, a strong argument can be made to show that a differentiation between a Track I, Track II or even a purely informal role, does not necessarily make much of a difference on the levels of influence actors can have in ensuring the unfolding of a civilian counterbalance as part of the legitimisation process. Moreover, many of the actions resulting in the civilian counterbalance took place informally, surrounding the negotiations. This includes the Liberian civil society actors talking to the conflict parties in the bathrooms or the threat by WIPNET to get naked. In Kenya, informal influence on the peace talks was for example played out by the light-hearted threat to lock in Mkapa into his hotel room, unless he agreed to stay for the mediation. More than that, the component of a civilian counterbalance included some type of interaction with civilians beyond the negotiations, as best shown by the mass mobilisation in Liberia, which in the run-up helped to build up the pressure for a civilian counterbalance.

With regards to the components traced as part the feature of transparent communication, they indicate that legitimisation occurs both in the negotiation space and the dimension beyond this. For example, because the circular communication flows relate back to the formal negotiation space, as was shown in the case of the Open Forum, this constitutes an integral component of the legitimisation process both with respect to the negotiation context and the public arena. For the most part however, the component of feeling involved and ensuring implementation takes place in the broader public setting.

There was no causal analysis for subjective representation, which occurs in the wider public arena. In other words, feeling represented or recognising guarantors of legitimacy all takes place in this public setting, not as part of the negotiations. The same can be said for feeling involved, with the exception of dualistic participative communication. As described above, the Open Forum and the circular communication flows of dualistic participative communication show an interaction between the dimensions of negotiations and the public arena. Two initial conclusions can be drawn. Firstly, the participation-based characteristics of legitimisation occur for the most part in the public arena. Secondly, some of the legitimisation process takes place in the interaction of the two dimensions. The two dimensions are shown in Figure 6.3 below.

Overall the outcome-based characteristics of legitimisation are broadly speaking part of the negotiations sphere (ending violence, civilian counterbalance and ensuring implementation). Importantly, the

legitimisation in the negotiations occurs in a similar manner whether there is a direct seat at the table or not, i.e. as Track I or Track II actors respectively. In Kenya, civil society actors did not have a direct seat at the negotiation. Yet, a civilian counterbalance still resulted from the more indirect role of the Kenyan civil society actors, who lobbied the conflict actors and the negotiations far from the official table. Much the same, the Liberian civil society actors as official delegates were able to contribute to a civilian counterbalance, just in different ways, yet the outcome was similar.

Figure 6.3: The Two Dimensions of Legitimisation
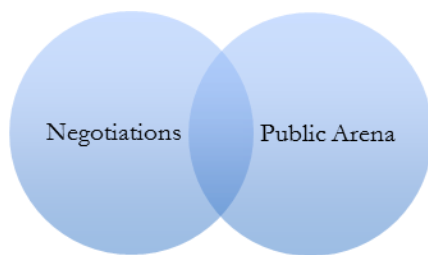
The type of role played by civil society actors in the negotiations also does not hold particular results for the legitimisation in the public arena. The Kenyan civil society sector was not part of the talks directly, and there was a reduced sense of feeling represented. Nonetheless, due to their expertise they were also at least partially perceived as recognised guarantors of legitimacy. In addition, the lack of feeling represented was counteracted by the mediation team in Kenya (Kofi Annan and the AU Panel) who were perceived to have been recognised guarantors of legitimacy. Alternatively, take the Liberian case: There was a direct role for civil society actors at the table, and arguably a heightened sense of being represented because of this. More important however was the symbolic attachment to the grassroots mobilisation campaign WIPNET, who did not even have a direct seat at the negotiations table.

Finally, one way of considering the public arena comes from revisiting Easton's system analysis of political life. One of the major 'categories' of his system analysis is what he calls the environment. He argues that we should think of political life 'as a system of behaviour *embedded in an environment* to the influences of which the political system is exposed and in turn reacts' (emphasis added, Easton 1965, 18). This includes both intra-societal environments (ecological system, biological system, personality system, social system) and extra-societal environments (international political system, international ecological system, international social system) (Easton 1965, 21–25). Whilst some parts of his idea of environment adds more to the context factors, which have been outlined throughout the chapters, the notion is useful because of his argumentation that what he calls the political system is 'adaptive and need not just react in a passive or sponge-like way to the environmental influences' (Easton 1965, 18). This confirms the interaction between the two dimensions where legitimisation occurs - both at the negotiations and in the public arena. Additionally, by arguing that the legitimisation process occurs both

with reference to the negotiations and the public arena, the fluid, moving and constructed space of the legitimisation process is underlined.

6.4   Summary and Major Contributions of the Theory of Legitimate Peace Negotiations

The theory of legitimate peace negotiations considers a process of legitimisation on the basis of three assumptions. Firstly, a process like peace negotiations becomes legitimised because of outcome and participation-based characteristics. What happens during and after the negotiations with regards to ending violence, ensuring implementation and a civilian counterbalance are the outcome-based characteristics. The participation-based characteristics include representation, but also recognised guarantors of legitimacy because of symbolic attachment and involvement in the negotiations. This involvement moves the beneficiaries of legitimacy from a more passive role to an active one. Secondly, civil society actors are not ubiquitous to the legitimisation process. Regarding the participation-based characteristics of legitimisation, they are not involved in all elements attributable to this. Further, the actors are themselves to a degree interchangeable. The third assumption of the theory on legitimate peace negotiations is that the legitimisation process takes place on two dimensions - at the negotiations and in the public arena. At some points the two are likely to interact with each other.

Where does the theory of legitimate peace negotiations in relation to the other theories of legitimacy? To date the study of legitimacy has been attempted by scholars from all spectrums of the social sciences and humanities, not merely political scientists but also psychologists, sociologists and a great many philosophers. Despite the many studies, and the influential nature of some of these works, the idea and conceptualisation of legitimacy is still heavily contested. This is especially the case for processes outside the formal political spectrum or institutionalised procedures and those not concerned with studies of authority and power. The theory proposed contributes to the legitimacy debate for four reasons.

Firstly, the theory is process-orientated, which few theorists pick up. When they do, this is not on the type of process like negotiations, which takes place on an ad-hoc basis, is non-institutionalised and dynamic. Secondly, participation and the participation-based characteristics of participation are conceptually more expansive than representation, which has been the unspoken assumption of participation in much of the literature to date. Thirdly, the two characteristics related to the outcome and participation go further than the input and output models of legitimacy proposed by system analysts. Both the characteristics occur throughout all stages of the legitimisation (related to the temporal fluidity) and the outcome-based characteristics are not exclusively translatable to outputs. Lastly, civil society actors may play an important role in the legitimisation process, but it is not a ubiquitous one. There are parts of the legitimisation process where they do not take part at all, and to an extent who the actors actually are is interchangeable. In the next and final chapter, the major findings from the entire dissertation is summarised and discussed in terms of the contributions to other scholarly debates, practical implications and future research questions.

Chapter 7

Final Conclusions

7   Final Conclusions

As has been argued by political scientists for quite some time, dynamics in world politics have changed since the end of the Cold War. This especially concerns how wars come to an end, including a preference for negotiated settlements and peace deals rather than outright military victories. Call furthers this argument, stating that during this time, there has been a growing trend of inclusive political settlements (2012). Yet, a lot of the research has focused only on the conflict parties of such inclusive settlements. Revisiting this question of inclusivity regarding legitimacy, 'the master research question of political science' (Jost and Major 2001, 4), is both timely and salient. The research has repercussions not only for the literature on legitimacy and civil society involvement in peace negotiations, but also more broadly speaking on peacebuilding literature, as well as resulting in practical implications. In a final conclusion, the research findings are summarised, before addressing the contributions made for other scholarly debates and the practical implications that can be drawn from the research.

The question of how peace negotiations become more legitimate and whether civil society plays a role in this legitimisation process has been addressed throughout this dissertation. The research question is based on a strand of literature that has considered the role of civil society in negotiations, coming to the conclusion that when civil society is involved in the talks - especially with a direct seat at the negotiations table - the agreements that follow are more sustainable, not least because the negotiations become more legitimate (e.g. Nilsson 2012; Wanis-St. John and Kew 2008). It has been argued however, that this research makes theoretical and conceptual assumptions that necessitate further clarification and research. Theoretically, a jump is made from 'public buy-in' or participation to legitimacy without explaining *how* this actually takes place. Conceptually, legitimacy and even participation are only superficially elaborated upon. Participation is discussed regarding the types of roles that civil society can play but not how this actually affects the legitimisation process. Simply equating participation with legitimacy does not spell out a conceptual, empirical or theoretical understanding of how such legitimisation processes work. This gap in the literature is addressed in this dissertation. The findings are summarised in the following section.

7.1   How Do Peace Negotiations Become More Legitimate?

The role of civil society actors and how they make peace negotiations more legitimate, as well as the legitimisation process of negotiations more generally has been presented using an abductive research design. Using a heuristic model of legitimisation as a starting point, which was later amended on the basis of comprehensive process-tracing of two case studies, the research concluded with a theory of

legitimate peace negotiations. The original heuristic model considered two features of legitimisation, namely subjective representation and collective concerns. They had been deduced especially from the ideas on the public sphere and deliberative democracy. In the abductive research process, a lack of knowledge in the Liberian case was shown to have been detrimental to the legitimisation process in a way not covered by the previous two features of the heuristic model, thereby revealing a further feature of the legitimisation process labelled transparent communication.

On the basis of this extended heuristic model, comprehensive process-tracing was conducted. Comprehensive process-tracing is a method adapted from other forms of process-tracing which combines a constructivist ontology with a plural epistemology. This allows for a delineation of what constitutes the legitimisation process (through constitutive components) and why this was possible (the causal conditions). First of all therefore, the constitutive components of the legitimisation process were traced. For the features of collective concerns and transparent communication a causal analysis traced the conditions that enabled the constitutive components in a second step the, focusing on the influence and ways of communication of the actors. The causal analysis was not carried out for subjective representation, as this is epistemologically implausible for something so perception-based. In a third step, the context factors were discussed for all three features.

In total, six components were shown to be constitutive of the legitimisation process: Ending violence, a civilian counterbalance to the negotiations and in the agreement, feeling represented, recognised guarantors of legitimacy (because of symbolic attachment), feeling involved and ensuring implementation. The constitutive component of feeling included, which had been proposed in the Liberian case study, was changed to a feeling of involvement as a result of the Kenya case study. This was because of the infrastructure in place in the Kenyan setting, as a result of which there was a completely different environment for transparent communication to unfold. This allowed for a more precise tracing of the constitutive components as well as the causal conditions that enabled them. For example, the constitutive analysis showed an additional factor to consider under the feature of transparent communication, which has been labelled 'participative communication'. This factor considers the participation of persons in the legitimisation process through communication, and was a key point in the development of the theory of legitimate peace negotiations, which proposes that civil society actors are not ubiquitous to the legitimisation process.

The causal analysis for the feature of collective concerns detailed the ways that civil society actors can and are involved in terms of ending violence and more importantly in ensuring a civilian counterbalance both during the peace talks and afterwards. The causal analysis was carried out within temporal and spatial boundaries, as the definition of causality was one of possibilistic causality, in line with the constructivist ontology introduced at the beginning. The analysis of the temporal boundaries confirmed that peace negotiations do become more legitimate because of a process of legitimisation. This is

because, temporally the legitimisation process is fluid and starts from the stage before the peace negotiations start, including the actual negotiation and continues to the period afterwards. The analysis of the spatial analysis was significant for the theory of legitimate peace negotiations, which is summarised further below. First however, Table 7.1. below shows all the major causal conditions, constitutive components and context conditions that were traced as part of the comprehensive process-tracing.

Table 7.1 Major Findings from Comprehensive Process-Tracing from the Two Case Studies

		FEATURES OF THE HEURISTIC MODEL		
		Collective Concerns	Subjective Representation	Transparent Communication
MAJOR FINDINGS FROM COMPREHENSIVE PROCESS-TRACING	**Constitutive Components**	• Ending violence / return to stability • Civilian counterbalance in negotiations and agreement	• Feeling represented • Recognised guarantors of legitimacy	• Ensuring implementation • Feeling involved
	Causal Conditions	• Pressure conflict parties • Maintenance of pressure on international actors • Expert and monitoring reports • Lobbying for Agenda 4 concerns	N/A	• Distribution of information • Dualistic participative communication • Circular communication flows • One-sided participative communication • Contributing to understanding or shared experience of suffering
	Context Factors	• Personal networks of CSAs • Politicised nature of civil society actors • Mediator encouraged inclusion • Reputation of CSAs • Governance System	• Politicised nature of civil society actors • Practical problems of engaging with grassroots • Type and duration of conflict	• Political, economic and media infrastructure • Willingness of mediation team for transparency

Whilst the conceptualisation of peace negotiations has from the start been an ad-hoc, dynamic, non-institutionalised process, which was confirmed, not suited to a dichotomous assessment of legitimate / illegitimate or a measurable legitimacy, there are some differences in the two processes studied in terms of the overall legitimisation. In Liberia, there was a heightened sense of 'feeling represented' than in Kenya, though this is not because of the formal role for civil society actors. Rather, the grassroots nature and mass mobilisation campaign of the WIPNET group made this group be perceived as particular representative and more importantly as recognised guarantors of legitimacy (along with other women groups). In Kenya, the civil society groups never claimed to be grassroots representatives but rather focused on their professional expertise for the inputs they made. In contrast, in Kenya there was a more widespread sense of 'feeling involved', supported by the stronger infrastructure including the media and internet resources, which facilitated the distribution of information and in turn participative communication. This was less feasible in the Liberian case, where although efforts were made to spread information on the peace agreement and the content, this was evidently not widespread enough across all geographic and socio-economic boundaries. Concerning the civilian counterbalance to the talks and the agreement, there does not seem to be large difference in the two cases, despite the fact that the civil society actors did not play a direct role in the peace negotiations in Kenya. The Kenyan civil society actors still made a significant impact in providing a civilian counterbalance in the agreement, as evidenced in Agenda 4 which encompassed broad institutional frameworks to address historical grievances, the flawed elections, violence and other constitutional and legal issues. With regard to the casual analysis, there are slight variations between Kenya and Liberia, but surprisingly the constitutive components of legitimisation broadly speaking remained the same despite the contextual differences.

A further interesting finding from the comprehensive process-tracing is that a lack of local concerns was perceived not to affect the legitimisation process, especially in Liberia. Nevertheless, the same does not hold for 'local' representation, whose exclusion seems to act in detriment to the legitimisation process. Moreover, representation went far beyond descriptive representation, and did not necessarily exclusively speak to civil society actors, which is why not all the recognised guarantors of legitimacy were members of civil society.

One of the most significant findings comes from this idea of the actors in the legitimisation process. This was shown most evidently in the Kenyan case study. A direct Track I role is not necessary to influence the civilian counterbalance as previously mentioned. In addition, on the basis of one-sided participative communication it was shown that civil society actors are not even involved in all aspects of the legitimisation process. People expressing their impressions, grievances and reflections on the negotiations, artistically or otherwise, enabled the feeling of involvement, which constituted a component of the legitimisation process. Lastly, one of the biggest differences in this case study to the Liberian one, comes from a self-referential legitimisation narrative for the benefit of the mediator Kofi Annan and the AU Panel rather than a civil society actor.

Following on from the comprehensive process-tracing of the two case studies, a theory on legitimate peace negotiations was proposed. The theory of legitimate peace negotiations considered a process of legitimisation on the basis of three assumptions. First of all, a process like peace negotiations becomes legitimised because of outcome and participation-based characteristics. The outcome is based on what happens *during* and after the negotiations with regards to legitimisation components of ending violence, ensuring implementation and a civilian counterbalance. The participation-based characteristics include representation, but also recognised guarantors of legitimacy because of symbolic attachment and involvement in the negotiations. This involvement moves the beneficiaries of legitimacy from a more passive role to an active one. Second, civil society actors are not ubiquitous to the legitimisation process. Regarding the participation-based characteristics of legitimisation, they are not involved in all elements attributable to this. This was noted in the previous paragraph and concerns expressions and reflections on the negotiations, irrespective of the involvement of civil society actors. Additionally, the actors are themselves to a degree interchangeable. This is based on the findings regarding Kofi Annan as a guarantor of legitimacy. Lastly, the third assumption of the theory on legitimate peace negotiations is that the legitimisation process takes place on two dimensions - at the negotiations and in the public arena. At some points the two dimensions can interact with each other. The participation-based characteristics of legitimisation mostly take place in the public arena and the outcome-based characteristics at the negotiations.

This theory on legitimate peace negotiations makes a significant advance in contributing to an understanding of how peace negotiations become more legitimate. Some elements like the impact on enforcing implementation (e.g. Bell and O'Rourke 2007, 31; Nilsson 2012, 247; Wanis-St. John and Kew 2008, 23), influencing conflict actors (e.g. Belloni 2008; Paffenholz 2014a, 74) or improving the content of the agreement (e.g. Barnes 2002, 12; Wanis-St. John and Kew 2008, 23) are not new and have been recognised by previous literature. The theory on legitimate peace negotiations nonetheless, calls for a process-orientated understanding of legitimisation at both the negotiations and in the public arena, thus far not recognised in the literature. Theoretically the two characteristics related to the outcome and participation goes further than the input and output models of legitimacy proposed by system analysts. In addition, the idea of participation in peace negotiations is conceptually more expansive than representation, which has been the unspoken assumption in much of the literature to date. Furthermore, the more nuanced role for civil society actors has not been addressed in terms of the legitimisation effect this may have. Lastly, and more generally, the three heuristic features of legitimacy (collective concerns, subjective representation and transparent communication) and the six constitutive components of legitimisation along with the causal conditions that enable them, provide empirical and analytical depth to the topic, which has hitherto been missing. In the next section, the contributions to further related scholarly debates are discussed.

7.2   Contributions of the Dissertation to Related Scholarly Debates

A brief overview surmises the importance of this research on literature beyond that on legitimacy and civil society involvement, of which the contribution has already been noted above and in the last chapter. First, the literature on civil society in peace negotiations is a subset of the negotiations literature, which has long been focused on trying to differentiate between inclusive and exclusive peace negotiations (e.g. Lanz 2011). This dissertation has strengthened the focus on actors other than the conflict actors, whose behaviours have long been studied, as well as international mediators (Cunningham 2011; Sisk 2010; Zaum 2013). Second, it was shown that descriptive representation is not as relevant in the empirical reality of the context as could be argued. Symbolic types of representation are in fact the most relevant, which confirms previous research on representation in the African context (Mehler 2011; Randall 2007; Schatzberg 2001; Steady 2011).

Third, regarding the literature on power-sharing, which has been the type of peace negotiations this dissertation considered, to date much research has focused on whether power sharing agreements contributes to sustainable peace or not, the verdict of which is still out there (e.g. Hartzell and Hoddie 2007; Tull and Mehler 2005). The dynamics of power-sharing negotiations have been studied almost exclusively with regard to the major conflict actors and important international mediators. Here too, the actors holding lesser power, who have nevertheless been shown as influential, have received little attention. Newer research on power-sharing agreements is going in the direction of looking at the effects on power relations. Whilst this also considers broader social implications of power-sharing agreements, the research does not deliberate the legitimacy of the agreement by addressing how power dynamics unfold at the negotiation stage (see Hartzell and Mehler forthcoming). In terms of the legitimisation process, the fact whether a country is more democratic or not does not make much of a difference. To recap, there is an argument that civil society inclusion is even more important the less democratic a country is in order to counterbalance a lack of representation (Nilsson 2012; Wanis-St. John and Kew 2008). Because power-sharing agreements are by definition undemocratic, or can have negative effects on long-term democratisation, it was argued this is a particularly important reason for studying them. However, it was shown that even though elections had taken place prior to the violence and negotiations in case of Kenya, a civilian counterbalance was no less important. The preliminary finding would be as a result that for power-sharing peace negotiations, the democratisation argument becomes obsolete as the process will still need to be legitimised according to a similar process. More research is necessary to expand on this argument.

The most important contribution of the theory of legitimate peace negotiations however, beyond studies of legitimacy, is on peacebuilding. Negotiations that lead to a peace agreement are a vital step in any peacebuilding process. Without it, the wider process of peacebuilding cannot even begin. Whilst in the earlier years of peacebuilding research, much attention has been paid to the nature of international

interventions, elections as well as other institutions for peace known broadly as liberal peacebuilding, more recently efforts have turned to addressing the different actors involved in peacebuilding, questions of ownership and alternative forms of peacebuilding. This latter focus, known as the local turn because of its focus on 'local' actors as part of critical peacebuilding studies, also provides the broader context of this research. This is because of the ontological and epistemological assumptions made for the research of this dissertation, the overall critical nature of the question and the notions of representation and ownership that it touches upon.

The critical peacebuilding literature has often concentrated on the outcome of specific policies or interventions often resulting in so-called hybrid institutions (Boege 2012; Mac Ginty 2010), peacebuilding at the (somewhat vague) everyday level (Richmond 2009a; Richmond and Mitchell 2011) or the actors involved and their interaction in attempts at ownership (Autesserre 2014b; Donais 2012). When peacebuilding processes have been considered, it has been on the actor interaction level, recording instances of resistance, adaptation or acceptance amongst others (de Heredia 2012; Mac Ginty 2012; Richmond 2012). The process of legitimisation has to date not been considered. As a result, there are several points of specific contribution to critical peacebuilding studies that the study of legitimisation in the context of negotiation makes.

The theory of legitimate peace negotiations is especially relevant for the work on local ownership and critical peacebuilding studies more generally. As is shown in the following, first of all, legitimisation processes like negotiations work on a multi-scalar level, which means that that there is not simply an exclusively local or an exclusively national process. Second, what contributes to ownership is a process where there is an interaction between the guarantors and the beneficiaries of legitimacy. Even if the guarantors (e.g. civil society actors) essentially contribute more to the outcomes of legitimisation, the population or beneficiaries also need to be involved via participation. Third, acknowledging the multi-scalar nature of peacebuilding and the construction of ownership means that agents like civil society do not need to be equated to tools of liberal peacebuilding. Moreover, the active part of the construction of ownership from the beneficiary comes to the forefront, calling for emancipatory peacebuilding. These three points are outlined in more detail below.

Firstly, the multi-scalar nature of peacebuilding is shown by the theory of legitimate peace negotiations and the empirical studies of the last chapters. That is, peacebuilding processes occur simultaneously on several scales, interacting with each other. These different scales, at the national and local level are not a place but a type of peacebuilding process. A negotiation process between the major conflict actors is on a national scale, but local peacebuilding committees may also be addressing other important dimensions of conflict, albeit at a local scale. Much of the research on peacebuilding either focuses on national processes or actors or community-based activities exclusively, yet these are multiple scales of peacebuilding that contribute to each other respectively.

Time and time again there was a return to the question of who the grassroots are and what they want. The Liberian case shows that whilst 'local' concerns did not play a particularly important role during the peace talks, this was not necessarily to the detriment of the peacebuilding process. Nevertheless, the lack of local representation led to a sense of feeling excluded. How do these people interact with the peace process at the national level? And how do infrastructure and governance traditions play into the role of a beneficiary of legitimacy? The general lack of 'local' concerns (and representatives for that matter) has already been explained in relation to the governance structures of the countries in question. There is also a false dichotomy in relation to place. 'Local' concerns - if they do exist - are not only taking place in rural settings or outside the capital as an exclusive space of rule and power. In fact both Monrovia and Nairobi are large urban areas with a heterogeneous mixture of people residing there who are equally able to have and do have 'local' concerns.

A spatial differentiation amongst legitimacy beneficiaries can thus be redundant at times as was shown in the discussion on the two dimensions of legitimisation in the previous chapter. Rather it is a question of scale. Does the process in question - here negotiations - adequately deal with conflicts that really matter to the population and is thereby legitimised? The negotiation and public arena of legitimisation deals with the national negotiation process that as an end goal still aims to end violence amongst conflict parties. This is of immense importance for the individual living in Ganta or Eldoret, but does not mean that on another scale, dual processes of reconciliation and peacebuilding are not started in these very places. These can also have an effect on how the national process is viewed and legitimised or is a completely separate process. Case in point here is the perception of Bishop Korir as a positive actor in Eldoret (Kenya), due to his peacebuilding work there, though nationally religious actors were seen as partisan. The outcome and participation-based characteristics of legitimisation at the negotiations and hence national scale has been shown, whether something similar takes place at the local level is a question for future research. As such, the primary focus here is on the scale of national negotiations process but the process itself is multi-scalar and will always take place at multiple levels. As I argue elsewhere:

> 'Proposing the liberal-local binaries as is often done in critical peacebuilding research disengages from the reality at hand. If we are to understand peacebuilding dynamics we will need to map the complex multi-directional processes of adaptation that take place between different actors and rationalities in the peacebuilding environment' (Simons and Zanker 2014, 15).

Similarly, local ownership can also be constructed on multiple scales, which will further help to move beyond the sometimes unhelpful distinction and overlap between international, national and local actors.

Secondly, local ownership or public buy-in or participation is about making a process or an event or even a project legitimate to its beneficiaries, is in essence a construction of legitimacy. This is not new (e.g. Funk 2012; Lederach 1997), but the type of agency shown is. In other words, the interaction between

guarantors and beneficiaries of legitimacy adds to the perception of local ownership, whereby the beneficiary also participates in an active manner - and sometimes even on their own. This active nature of the beneficiary of legitimisation is useful in showing that a legitimisation process can - at least in parts - be constructed from the bottom. Moreover, when there is an interaction between the guarantor and beneficiary, this can even be constructed symbolically if need be. Here, just to show how this construction of local ownership fails, it is interesting to cite at length a story collected by Autesserre in her book on international interveners:

> 'A political affairs officer with the UN peacekeeping mission in Congo, for instance, deplored that his colleagues always try to play up their contributions in conflict negotiations. He saw several deals collapse 'just because it was said that the agreement had been reached thanks to external interveners' - such as the European facilitators or UN peacekeeping sections - 'and thus the parties in conflict did not want to implement it because, from the start, from their point of view, the agreement was dictated by an outsider.' In contrast, he emphasized that other initiatives, which came from the same intervening organisations but kept the external contributions as discreet as possible and emphasized local initiatives, were much more successful' (2014b, 233).

As has been shown in this work, participation means more than just representation or collective concerns being addressed. Feelings of being involved are essential to a legitimising process and this is also useful for understanding local ownership. In that sense, local ownership is both active and constructed.

Consequently, and this is the third point, even if there is a liberal international community, or even if we presume civil society, at least the civil society that is involved in peace negotiations, to be tools of liberal peacebuilding, this does not matter, as long as the beneficiaries of legitimacy are involved in the negotiations through the participation-based characteristics of the legitimisation process. This counteracts critique in critical peacebuilding that accuses civil society to be a tool of liberal peacebuilding.

Critical scholarship tries to avoid dominant narratives that result in hegemonic discourse. In this discussion, civil society is seen as contributing to a hegemonic discourse (Christie 2012, 201–202). The political nature of agency for guarantors of legitimacy, discussed in the last chapter, would support this as a possibility. However, if the focus is on accepting the multi-scalar nature of peacebuilding processes and the interactive construction of legitimacy than the hegemonic nature of these liberal peacebuilding actors can be avoided. The emphasis is, at least in parts on the active contribution by the beneficiaries of legitimacy. Developing this finding could further alleviate the tension between needing external technical, logistical support and the fact this can weaken local ownership (see Odendaal 2010, 41). In addition, it contributes a move into arguing not for communitarian peacebuilding (where the local level is involved amongst others) but for emancipatory peacebuilding, where the process is one of its own making and persons are involved in constructing the overall legitimisation of the process. Emancipatory peacebuilding

calls for a new social contract through discourse and practice (Richmond 2010, 28–30). This dissertation shows how this can be done, through the comprehensive process-tracing of the case studies and the final theory of legitimate peace negotiations.

These implications for peacebuilding research need to be expanded in more detail in future research. The dissertation is concluded with a discussion on future research, but first some of the practical implications of the research for policy makers are addressed.

7.3   Practical Implications

In International Relations, just as relevant for peacebuilding research, there is a division amongst those seeking to do 'problem solving' and those who want to be 'critical'. Some critical scholars argue that problem solving research can (inadvertently) play into power hegemonies (e.g. Guevara 2014; Mac Ginty and Richmond 2013). I argue however, that even though the research of this dissertation is mostly based in critical research foundations, this does not mean that problem solving approaches should be shunned either. The very motivation of conducting such research is to contribute to a better understanding of legitimisation, local ownership and peace building process - not just in theory but also in their practical application.

Much of the previous research on this topic feeds directly into policy documents or advice (e.g. Barnes 2009; Ramsbotham and Wennmann 2014; Zanker 2013). This research also has obvious practical implications, even though the 'quality' of legitimacy of the two cases itself is not the subject matter, and is arguably not possible to assess due to the nature of legitimacy as a subjective belief in it. Most importantly, the research conducted for this dissertation suggests that by simply including civil society, the negotiations and the agreement that follows will not automatically become legitimised. This means that more time must be spend reflecting not only on inclusion which is the current trend in policy advice (who are these civil society actors? how are they included? how much pressure can they exert?), but also on the other factors that play a role.

In fact, civil society actors have been shown to be crucial to the legitimisation process, but not ubiquitously. One implication from this is that more attention needs to the paid to the nuanced agency they have. Peace negotiations and the larger peacebuilding process are inherently political and should be recognised as such. Exerting the moral value of civil society actors misses the point. Whilst working with certain groups might be easier (and can positively affect the legitimisation process) flexibility in inclusionary mechanisms would be useful. One way is to strengthen the interaction between civil society actors along the multi-scalar peacebuilding processes. More interaction on these levels would mean that further groups can be involved (at a local level), albeit in different manners. Finding ways to open up the discourse would be a way to acknowledge that groups are heterogeneous both between each other and over time.

Going back to the idea of inclusion of civil society actors at the peace negotiations, it has been shown that they can provide a civilian counterbalance to the otherwise militarised or politicised proceedings and for a sense of being represented, irrelevant of whether they take part as Track I or Track II actors. The type of role therefore is not that important, at least not with regards to the overall legitimisation process. In both the cases studied, the mediators played a positive role in encouraging such involvement. Therefore, a lot will inevitably come back to the mediation team and how they choose to handle the negotiations.

One of the biggest problems in peace negotiations is the vertical dilemma - how do you ensure inclusion yet provide effectiveness? How do you even think about inclusion in a process so delicate and highly fraught like the on-going attempts for a solution to the civil war in Syria? The good news is that metaphorically speaking not all eggs need to be put in one basket. Aside from what happens at the negotiations, more emphasis can be placed on the public arena of legitimisation. This also means that what happens after the process is crucial in order to contribute to the legitimacy of peace agreements.

Providing information and transparency not only ensures additional pressure for implementing peace agreements but also gives a process public confidence, contributing to the feeling of involvement, which constitutes a part of the legitimisation process. This would include forums for participation, where citizens can express their grievances and priorities. One example of this was the Open Forum in Kenya, which was conducted only in Nairobi. Strengthening these types of discussions forums would greatly enhance the potentials for legitimisation in peace processes. This also includes forums after the peace agreement has been signed, in order to spread the information on the agreement and negotiations. In both Kenya and especially Liberia, the fact that there had been no widespread information campaigns after the talks had taken place, was widely lamented. In Kenya, with a solid media infrastructure such distribution of information was much easier. Television, newspapers, radios, not to speak of social media tools were all used in order to spread and access information. In Liberia this is more difficult, but radio coverage has been quite widely spread in the post-conflict years, so some infrastructure does exist. What seems to have been prevalent however is that with the end of the war, the focus shifted immediately to the post-war complexities of peacebuilding, rather than focusing in detail on the peace agreement that had been signed. This is part of a political culture in Liberia were little efforts have been made with regards to memorialization-creation (on this point see Weah 2011). As has been shown in the case study however, there is an interest in finding out more of the peace negotiations and the role taken up by different actors including civil society.

Most significantly, the active role of the population concerning the legitimisation process needs to be strengthened. This was one of the most interesting findings presented in this work, and opens up a new angle of participation, which has not received as much attention, especially in terms of legitimisation processes. As a result, encouraging additional ways to express grievances, reflections and thoughts - be it

in an artistic way or otherwise - helps to further legitimise the peace negotiations and make advances in the overall peacebuilding process. This opens the door for international organisations or donors to offer additional input beyond that of the immediate concern of the mediators. In terms of the timing, this can also take place *after* the agreement has been signed.

Legitimate peace negotiations cannot be achieved by simply ticking a few boxes. They are on-going, dynamic processes and must be recognised as such in order to move forward in achieving legitimate and sustainable peace processes.

7.4   Future Research

This research has given detailed empirical observations on specific experiences of peace negotiations in Liberia and Kenya, drawing theoretical conclusions as a result. Not only have two very different cases been considered in detail and from an entirely new perspective, but advances have been made in trying to understand how peace negotiations become more legitimate. Nevertheless, several avenues of future research remain, which will be briefly mentioned in the following.

Firstly, considering other experiences of peace negotiations with another set of different context factors would further strengthen or develop the theory advanced here. This should also include cases where civil society played no role at all around the negotiations, in order to consider the importance of the other factors of legitimisation, which are not related to the dimension of negotiations.

Secondly, in order to further test the theory of process legitimisation, the theory could be applied to a different process altogether, in peacebuilding and perhaps even beyond. Considering whether the theory developed allows an understanding of how an individual peacebuilding project is legitimised or something like security sector reform would apply the broad elements to a different context, but strengthen the understanding of process legitimisation beyond peace negotiations.

Thirdly, as discussed previously, the outcome and perception-based characteristics of legitimisation at the negotiations and thereby the national scale has this far been presented. What about simultaneous peacebuilding and negotiation processes happening on a local scale? How do the different scales interact in peacebuilding more generally?

Fourthly, more research is needed to understand who the 'grassroots' population or the 'local' are. What role do political empowerment and ideas of citizenship play in relationship to legitimisation? Why is descriptive representation, which has received so much attention especially in feminism research, so redundant in the setting of peace negotiations? What role does trust play in ensuring subjective representation?

With rich empirical data including over 100 interviews and 12 focus groups with market women, teachers and youth and an especially adapted research method, this dissertation has made strides in advancing the understanding of how peace negotiations become more legitimate. Using the method of comprehensive process-tracing, which permitted both a constitutive and a causal analysis, the empirical data was studied carefully. The three features of legitimacy of the heuristic model and most notably the six components that together constitute the legitimisation process have singled out new and additional factors in relation to the debate on civil society participation in peace negotiations that were previously not recognised. The biggest finding has been that civil society is not exclusively responsible for ensuring legitimisation. From this, a theory of legitimate peace negotiations was developed. The theoretical innovation with regards to already existing theories on legitimacy is that it does not address authority or systems but a *process of legitimisation*. According to the theory, a legitimisation process is made up of outcome and participation-based characteristics, where civil society actors play a crucial but not exclusive role. Moreover, the legitimisation takes place at the negotiations and in a public arena. Using the combination of the comprehensive process-tracing of the two case studies and the theory on legitimate peace negotiations, advances have been made to show how peace negotiations can become more legitimate. This also has repercussions for other scholarship, especially that of peacebuilding and legitimacy.

APPENDIX AND LIST OF REFERENCES

Extra Tables

Table 1: Power-sharing Agreements and Civil Society Signatories in Africa between 1999-2010, taken from Mehler (2009) and extended from the UCDP Database.

Power-Sharing Agreement	Civil Society Signatories
Angola (4 April 2002)	None
Burundi (8 October 2003)	None
Burundi (4 December 2008)	None
Central African Republic (21 June 2008)	None
Chad (14 December 2003)	None
Chad (24 December 2006)	None
Chad (25 October 2007)	None
Cosmoros (17 April 2001)	None
Cote d'Ivoire (14 January 2003)	None
Cote d'Ivoire (4 March 2007)	None
Djibouti (12 May 2001)	None
Democratic Republic of Congo (19 April 2002)	Yes – 45 representatives of civil society
Democratic Republic of Congo (23 March 2009)	None
Liberia (18 August 2003)	Yes - 5 representatives of civil society as witnesses
Mali (4 July 2006)	None
Sierra Leone (7 July 1999)	None (they played a role but did not sign)
Somalia (29 January 2004)	None
Somalia (26 November 2008)	None
Sudan (9 January 2005)	None
Sudan (5 May 2006)	None
Sudan (23 February 2010)	None

Table 2: Peace Agreements to end the Liberian Civil War 1990-1996 (own compilation using Adebajo 2002a; Alao, Mackinlay, and Olonisakin 1999; Dupuy and Detzel 2008)

Peace Agreement	Significant Provisions
Banjul Agreement August 1990	ECOWAS Standing Mediation Committee decides to establish ECOMOG to enforce a ceasefire in Liberia, Taylor refuses to take part in talks until Doe steps down
Banjul Agreement October 1990	Interim Government is established by ECOWAS, to be headed by Amos Sawyer
Bamako Agreement November 1990	Ceasefire agreement is signed between NPFL and Doe's soldiers; Sawyer sworn in as interim head of state
Banjul Agreement December 1990	Additional agreement is signed by Interim Government, NPFL and Doe loyalists
Lomé Accord February 1991	Ceasefire agreement; ECOMOG is to draw up buffer zones and deploy throughout the country. NPFL promises to disarm and set up an Interim Government
Yamoussoukro I Accord August 1991	NPFL leader Taylor meets up with Interim Government Chairman Amos Sawyer, they sign (various) agreements
Yamoussoukro II Accord August – September 1991	Further agreement is signed by the NPFL and Interim Government under the auspices of Ivorian President Houphouet-Boigny
Yamoussoukro III Accord August – September 1991	Further agreement is signed by the NPFL and Interim Government under the auspices of Ivorian President Houphouet-Boigny
Yamoussoukro IV Accord October 1991	Programme of disarmament to be enforced by ECOMOG set up, establishment of a new civil society based interim government and an elections commission. Taylor signs but then goes on to set up his own parallel government
The Geneva Ceasefire July 1993	Ceasefire agreement is signed by ULIMO; NPFL and the Interim Government
Cotonou Accord July 1993	The most comprehensive of all agreements in the 1990s provides for an expanded ECOMOG; the formation of a UN observer mission - UNOMIL; mechanisms for DDR (including amnesty for all fighters) and the establishment of the Liberia National Transitional Government (LNTG), with an executive Council representing key warring factions, and elections to be held in 1994. This is a turning point where the inclusion of

	faction leaders at all costs crystalizes, leading the way towards further fragmentation and splinter groups. Agreement is signed by NPFL and ULIMO		
Akosombo Agreement September 1994	ULIMO splinters into ULIMO-K and ULIMO-J so a new agreement is needed. The agreement is signed by the NPFL, ULIMO-K and AFL, but not by other groups (including ULIMO-J, LPC; LDF etc.). It is seen as a supplement to the Cotonou Agreement. A new executive Council is created, and the requirement of consensus decision-making in the council was removed. The agreement is opposed by civil society groups		
Accra Clarification December 1994	Renewed Ceasefire, confirmation of commitment to the Akosombo Agreement; this time signed by all groups and a 5-member Council of State including a member of civil society and a traditional chief		
Abuja Agreement August 1995	Confirms the agreements from Cotonou onwards, new ceasefire agreement. Creation of Six member (executive) Council of State with various rebel members, as well as a Chairman. The Council now includes the warring parties and a civil society representative and a member of the electoral college		
Abuja Supplement Accord 1996	Replaces the (ineffective) Chairperson of the Abuja Agreement. The threat of sanctions if the peace is broken is added, including freezing of assets and a travel ban within ECOWAS countries. A war crimes tribunal is also included as a possibility. The last agreement, Abuja II, is signed and agreed to by eight groups, most prominently the NPFL, ULIMO- K, LPC, AFL, ULIMO-J and LDF. It also includes even smaller factions like the NPFL-CRC (National Patriotic Front of Liberia Central Revolutionary Council) and LNC (Liberia National Conference).		

Table 3: Power-Sharing in the Comprehensive Peace Agreement 2003

	Ministries (Annex 4 Section 4 and 5)	Seats in the NTLA (Annex 2 Section2)	Autonomous Agencies and Administrative Bodies (Annex 4 Section 12)	Public Corporations (Annex 4 Section 9 and 10)
Government of Liberia (Charles Taylor faction)	Ministry of Posts and Telecommunications; Ministry of Health and Social Welfare; Ministry of National Defense; Ministry of Planning and Economic Affairs; Ministry of Internal Affairs	12	Bureau of the Budget; National Security Agency	Liberia Broadcasting System; Liberia Electricity Corporation; Liberia Petroleum Refining Corporation; Liberia Water and Sewer Corporation
LURD	Ministry of Finance; Ministry of Justice; Ministry of Labor; Ministry of Transport; Ministry of State	12	National Investment Commission; General Service Agency	Liberia Free Zone Authority; Liberian Telecommunications Corporation; Liberian Produce Marketing Corporation; National Ports Authority
MODEL	Ministry of Agriculture; Ministry of Commerce; Ministry of Lands, Mines and Energy; Ministry of Public Works; Ministry of Foreign Affairs	12	Liberia Refugee Repatriation and Resettlement Commission; Bureau of Maritime Affairs	Agriculture, Corporative Development Bank; Forestry Development Authority; Roberts International Airport; National Social Security and Welfare Corporation
Political Parties and Civil Society	Ministry of National Security; Ministry of Education; Ministry of Gender and Development; Ministry of Information; Ministry of Rural	25 (18 to the political parties and the remaining 7 amongst	Bureau of Immigration and Naturalization; Independent National Human Rights Commission; Truth and Reconciliation Commission, National Elections Commission; Governance reform Commission; Bureau of General	Agriculture Industrial Training Board; Liberia Domestic Airport Authority; Liberia Mining Corporation; Liberia National Lotteries; Liberia

Development; Ministry of Youth and Sports	civil society members). The 15 remaining seats were divided amongst the counties.	Auditing, Bureau of State Enterprises; Center for National DOC and Records; Civil Service Agency; Corporative Development Agency; John F. Kennedy Memorial Medical Center; Contracts and Monopolies Commission; Liberia National Police Force; the National Bureau of Investigation; National Fire Services; National Food Assistance Agency	Rubber Development Unit; Liberia National Oil Company; Monrovia Transit Authority; National Housing and Savings Bank; National Housing Authority; National Insurance Corporation of Liberia

List of Interviews and Focus Group Discussions Liberia

Overview

The following classifications are used in order to anonymize the interviewees:

- **Local Government Official**: This includes town councillors, administrators, assistants, superintendents and mayors all related to the daily functioning of local government (not elected). I mention senior officials by position.

- **Political Party Employee:** This includes those who work for political parties or politicians, usually in an assisting function or as a regional general secretary.

- **Human Rights and Peacebuilding Civil Society Member**: This includes persons working for human rights and peacebuilding organisations in their main capacity, despite possible crossovers to other categories. There were also a few development organisations, which I include here in a generous interpretation of peacebuilding. The views they expressed were their own and not necessarily related to their organisation or work. The interviewees worked for the following organisations (in alphabetical order): *Carter Center, Catholic Justice and Peace Commission, Foundation for International Dignity (FIND), Foundation For The Restoration of Democracy and Human Rights (FORD-HR), Norwegian Refugee Council; UNDP; USAID and Peacebuilding Resource Center.* Some of the human rights and peacebuilding organisations are mentioned by name as the interviewees did not mind this. Nevertheless, views are still not necessarily ones of their organisations, but rather their own. These organisations include: *Inter-Religious Council of Liberia, International Alert, MARWOPNET; WANEP and WIPNET.*

- **Women Leader:** Women leader includes those that describe themselves as such, usually heading groups (sometimes elected) that work with female empowerment, literacy campaigns etc.

- „Intellectual': This was a prominent intellectual, who took part in the peace talks, but in an advisory role. The person does not wish to be identified.

The following is relevant background information from some of the on-the-record interview:

- **Ranney Jackson:** He was a diaspora civil society leader who attended the CPA; a former superintended of Bong County (2006 – 2011) and at the time of the first interview a presidential candidate. By the time of the second interview he was working as a Deputy Minister in the Ministry of Internal Affairs

- Zawolo Z. Zuagele: He is a civil society member as well as a politician. At the time Liberty Party Chairman

Most of the interviews and focus groups cited in this work were conducted between June – August 2011 and for those the year is not mentioned in the code. For those from 2013 and 2014 the year is mentioned in the code.

Interviews and FGD

Interviewee / FGD	Code	Date	Location
Teacher	L1	22/06/2011	Gbarnga
Local Government Official	L2	23/06/2011	Gbarnga
Political Party Employee	L3	24/06/2011	Gbarnga
Human Rights and Peacebuilding Civil Society Member	L4	24/06/2011	Gbarnga
Junior Senator Bong County Franklin Siankor	L5	25/06/2011	Gbarnga
Human Rights and Peacebuilding Civil Society Member	L6	28/06/2011	Gbarnga

Human Rights and Peacebuilding Civil Society Member	L7	28/06/2011	Gbarnga
Local Government Official (Development Superintendent)	L8	28/06/2011	Gbarnga
Religious Leader	L9	29/06/2011	Gbarnga
Local Government Official (Mayor)	L10	29/06/2011	Gbarnga
Human Rights and Peacebuilding Civil Society Member	L11	30/06/2011	Gbarnga
Women Leader	L12	01/07/2011	Gbarnga
Human Rights and Peacebuilding Civil Society Member	L13	01/07/2011	Gbarnga
Youth Leader	L14	01/07/2011	Gbarnga
Local Government Official	L15	02/07/2011	Gbarnga
Parliamentary Representative Gbarnga George Morbah	L16	03/07/2011	Gbarnga
Local Government Official	L17	04/07/2011	Gbarnga
Ranney Jackson	L18	04/07/2011	Gbarnga
Mandingo Leader	L19	04/07/2011	Gbarnga
Human Rights and Peacebuilding Civil Society Member	L20	05/07/2011	Gbarnga
Local Government Official (Superintendent)	L21	07/07/2011	Gbarnga
Human Rights and Peacebuilding Civil Society Member	L22	13/07/2011	Ganta
Political Party Employee	L23	13/07/2011	Ganta
Youth Leader	L24	14/07/2011	Ganta
Human Rights and Peacebuilding Civil Society Member	L25	14/07/2011	Ganta
Local Government Official (Chairman City Council)	L26	15/07/2011	Ganta
Political Party Employee	L27	15/07/2011	Ganta
Parliamentary Representative Rebecca Nohn Kidau	L28	17/07/2011	Ganta
Local Government Official (District Commissioner)	L29	18/07/2011	Ganta
Local Government Official	L30	18/07/2011	Ganta
Women Leader	L31	18/07/2011	Ganta
Local Government Official (Mayor)	L32	19/07/2011	Ganta
Zawolo Z. Zuagele	L33	20/07/2011	Ganta
Political Party Employee	L34	20/07/2011	Ganta
Local Government Official	L35	20/07/2011	Ganta
Religious Leader	L36	21/07/2011	Ganta
Youth Leader	L37	22/07/2011	Ganta
Local Government Official (Former Mayor)	L38	22/07/2011	Ganta
Mandingo Spokesperson	L39	25/07/2011	Ganta
Local Government Official	L40	25/07/2011	Ganta
Inter-Religious Council of Liberia (IRCL)	L41	03/08/2011	Monrovia
Senior Senator Bong County Jewel Howard Taylor	L42	04/08/2011	Monrovia
Sheikh Kafumba F. Konneh (former Chairman IRCL)	L43	08/08/2011	Monrovia
MARWOPNET (Amelia Ward)	L44	08/08/2011	Monrovia
International Alert	L45	09/08/2011	Monrovia
The New African Research and Development Agency	L46	09/08/2011	Monrovia
Human Rights and Peacebuilding Civil Society Member	L1_13	15/08/2013	Monrovia
Governance Commission Staff Member	L2_13	15/08/2013	Monrovia
Human Rights and Peacebuilding Civil Society Member	L3_13	16/08/2013	Monrovia
„Intellectual'	L4_13	17/08/2013	Monrovia
Former Parliamentary Representative Rebecca Nohn Kidau	L5_13	19/08/2013	Monrovia
Human Rights and Peacebuilding Civil Society Member	L6_13	30/08/2013	Gbarnga
Liberia Women's Initiative (Mary Brownell)	L7_13	12/09/2013	Monrovia
WIPNET Staff Members	L8_13	12/09/2013	Monrovia
WANEP Staff Member	L9_13	12/09/2013	Monrovia
Professor Debey Sayndee, University of Liberia	L10_13	17/09/2013	Monrovia
Asatu Bah-Kenneth, founding member WIPNET	L11_13	18/09/2013	Monrovia
Gyude Bryant (former Interim Chairperson)	L12_13	20/09/2013	Monrovia
Ranney Jackson	L1_14	02/02/2014	Gbarnga
MARWOPNET (Amelia Ward)	L2_14	10/02/2014	Monrovia

Focus Group Discussion Teachers (7 participants)	LGbT	09/07/2011	Gbarnga
Focus Group Discussion Youth (6 participants)	LGbY	10/07/2011	Gbarnga
Focus Group Discussion Market Women (6 participants)	LGbM	08/07/2011	Gbarnga
Focus Group Discussion Teachers (8 participants)	LGT	27/07/2011	Ganta
Focus Group Discussion Youth (7 participants)	LGY	28/07/2011	Ganta
Focus Group Discussion Market Women (7 participants)	LGM	29/07/2011	Ganta
Focus Group Discussion Youth (7 participants)	LGbY_14	22/01/2014	Gbarnga
Focus Group Discussion Teachers (9 participants)	LMT	05/02/2014	Monrovia

List of Interviews and Focus Group Discussions Kenya

Overview

The following classifications are used in order to anonymize the interviewees:

- **Human Rights and Peacebuilding Civil Society Member:** This includes persons working for human rights and peacebuilding organisations in their main capacity, despite possible crossovers to other categories. There were also a few development organisations, which I include here in a generous interpretation of peacebuilding. The views they expressed were their own and not necessarily related to their organisation or work. The interviewees worked for the following organisations (in alphabetical order): *Centre for Conflict Resolution; Centre for Human Rights and Democracy Eldoret; International Organisation of Migration; Justice and Peace Commission; Kenya Human Rights Commission; Kenya Land Alliance; Reconcile; National Council Of Churches of Kenya; NPI-Africa; Mercy Corps; North Rift Theatre Ambassadors; Peace Corps Nakuru; PeaceNet; Rural Women Peace Link: Usalama Reforms Forum.*

- **Senior Local Government Administration Official:** This includes persons who are working for the administrative sector of the local government in a senior capacity. For purposes of protecting the sources the individual districts within Eldoret are not named. The positions of those interviewed (in alphabetical order) are: *District Commissioners Eldoret; District Commissioner Nakuru; Regional Provincial Commissioner; Provincial Commissioner Rift Valley Province.*

- **Local Government Administration Official**: This includes persons who are working for the administrative sector of the local government. For purposes of protecting the sources the individual wards or divisions within the Nakuru and Uasin Gushin Districts are not named. The positions of those interviewed (in alphabetical order) are: *Deputy Town Clerk; Division Officer Nakuru District; Senior Division Officer Nakuru District; Information Officer Nakuru Municipality, Town Planner Eldoret Municipality; Ward Chiefs.*

- **Political Party Employee**: This includes those who work for political parties or politicians, in assisting function, constituency programme officers, campaign managers.

- **Former National Politician**: This is a formerly very prominent politician in national politics who still holds a strong power –hold locally, though he is now involved in business entrepreneurism

- **Muthoni Wanyeki** is a human rights activist and political scientist. She is currently Regional Director of Amnesty International in East Africa and was formerly the Executive Director of the Kenya Human Rights Commission and former Executive Director of the African Women's Development and Communication Network (FEMNET).

Further, note that there are several interviews with employees at human rights and monitoring bodies that are part of the government administration and have not been further anonymised. The views of those interviewed are however their own and not necessarily related to their organisation or work. These organisations include the *Kenya National Commission on Human Rights, National Steering Committee on Peace and the National Commission on Cohesion and Integration.*

All interviews and focus groups were conducted between October – December in 2011 therefore the year is not mentioned in the code. The exception is the last interview (K55), which was conducted via telephone in January 2015.

Interviewee / FGD	Code	Date	Location
Academic (Political Science) Nairobi University	K1	15/10/2011	Nairobi
Human Rights and Peacebuilding Civil Society Member	K2	17/10/2011	Nakuru
Human Rights and Peacebuilding Civil Society Member	K3	19/10/2011	Nakuru
Senior Local Government Administration Official	K4	19/10/2011	Nakuru
Business Entrepreneur	K5	19/10/2011	Nakuru
Human Rights and Peacebuilding Civil Society Member	K6	19/10/2011	Nakuru
Human Rights and Peacebuilding Civil Society Member	K7	21/10/2011	Nakuru
Senior Local Government Administration Official	K8	21/10/2011	Nakuru
Local Government Administration Official	K9	21/10/2011	Nakuru
Local Government Administration Official	K10	24/10/2011	Nakuru
Local Government Administration Official	K11	24/10/2011	Nakuru
Human Rights and Peacebuilding Civil Society Member	K12	25/10/2011	Nakuru
Local Government Administration Official	K13	25/10/2011	Nakuru
Political Party Employee	K14	25/10/2011	Nakuru
Local Government Administration Official	K15	31/10/2011	Nakuru
Elected Nakuru Town Councillor	K16	31/10/2011	Nakuru
Elected Nakuru Town Councillor	K17	01/11/2011	Nakuru
Business Entrepreneur	K18	01/11/2011	Nakuru
Appointed Nakuru Town Councillor	K19	02/11/2011	Nakuru
Former National Politician	K20	02/11/2011	Nakuru
Human Rights and Peacebuilding Civil Society Member	K21	07/11/2011	Eldoret
Human Rights and Peacebuilding Civil Society Member	K22	07/11/2011	Eldoret
Local Government Administration Official	K23	07/11/2011	Eldoret
Human Rights and Peacebuilding Civil Society Member	K24	08/11/2011	Eldoret
Senior Local Government Administration Official	K25	09/11/2011	Eldoret
Political Party Employee	K26	09/11/2011	Eldoret
Human Rights and Peacebuilding Civil Society Member	K27	09/11/2011	Eldoret
Political Party Employee	K28	10/11/2011	Eldoret
Senior Local Government Administration Official	K29	10/11/2011	Eldoret
Senior Local Government Administration Official	K30	15/11/2011	Eldoret
Human Rights and Peacebuilding Civil Society Member	K31	16/11/2011	Eldoret

Human Rights and Peacebuilding Civil Society Member	K32	19/11/2011	Eldoret
Magaret Kamar MP Eldoret East/Minister of Education	K33	20/11/2011	Eldoret
Mayor Eldoret Town Municipality	K34	21/11/2011	Eldoret
Academic (Philosophy & Religion) Moi University	K35	22/11/2011	Eldoret
Academic (Philosophy & Religion) Moi University	K36	22/11/2011	Eldoret
Appointed Eldoret Town Councillor	K37	22/11/2011	Eldoret
Elected Eldoret Town Councillor	K38	23/11/2011	Eldoret
Chairman of Kalenjin Council of Elders	K39	23/11/2011	Eldoret
Local Government Administration Official	K40	23/11/2011	Eldoret
Elected Eldoret Town Councillor	K41	24/11/2011	Eldoret
Human Rights and Peacebuilding Civil Society Member	K42	24/11/2011	Eldoret
Religious Leader (Bishop Cornelius Korir)	K43	24/11/2011	Eldoret
Human Rights and Peacebuilding Civil Society Member	K44	25/11/2011	Eldoret
Peris Chepchumba Siman (MP Eldoret South)	K45	29/11/2011	Nairobi
Human Rights and Peacebuilding Civil Society Member	K46	29/11/2011	Nairobi
Kenya National Commission on Human Rights	K47	30/11/2011	Nairobi
Human Rights and Peacebuilding Civil Society Member/ Member CCP	K48	01/12/2011	Nairobi
Human Rights and Peacebuilding Civil Society Member/ Member and Co-Founder KPTJ	K49	01/12/2011	Nairobi
Lee Kiyanjui (MP Nakuru)	K50	01/12/2011	Nairobi
National Steering Committee on Peace	K51	02/12/2011	Nairobi
William Ruto (MP Eldoret North)	K52	07/12/2011	Nairobi
Commissioner; National Commission on Cohesion and Integration	K53	07/12/2011	Nairobi
Human Rights and Peacebuilding Civil Society Member	K54	08/12/2011	Nairobi
Muthoni Wanyeki	K55	30/01/2015	Phone
Focus Group Discussion Teachers (9 participants)	KNT	26/10/2011	Nakuru
Focus Group Discussion Youth (10 participants)	KNY	27/10/2011	Nakuru
Focus Group Discussion Market Women (10 participants)	KNM	28/10/2011	Nakuru
Focus Group Discussion Market Women (9 participants)	KEM	17/11/2011	Eldoret
Focus Group Discussion Teachers (7 participants)	KET	18/11/2011	Eldoret
Focus Group Discussion Youth (7 participants)	KEY	19/11/2011	Eldoret

Questions Template Interviews

(Conducted in Liberia, Kenya and via telephone between 2011-2015)

Peace Agreement General

- What was your impression of the XX Peace Agreement?

  o How do you think it improved matters?

  o Do you think there were some issues which were left out?
    ❖ If yes, how do you think they affected the durability of the peace?
    ❖ If yes, do you think there are others actors who could have addressed these?

  o Did any issues of XX/local matters get taken into consideration at the negotiations?
    ❖ Which actors represented these/made sure they got included?

  o According to you were any local issues/grievances included in the agreement XX?
    ❖ Why were those issues included?
    ❖ Why were these issues left out?
    ❖ Should they have been included?

- Do you think local grievances should play a role in national peace agreements?

  o EITHER Which kind of local grievances might be important to include in a Peace Agreement? Who could make sure these grievances are included?
  o OR Why do you think local grievances do not need to be considered in national peace agreements?

- Were any actors in the national peace agreement from XX? Which actors were these?/ Who was included?
  o Do you think this had an effect on XX, and if yes, what happened/changed?

Own Role of CSAs at Negotiations

- How would you define or explain your organisation?

- At what time did you join the peace talks? Who was there from your organisation?

  o Who invited you?
  o Why did you go?
  o What other civil society organisations were present? When did they come? Which individuals were part of these particular organisations? Who was part of the official delegates?
  o Where you immediately given a seat at the table? How did you get to have one?

- What role did you play during the negotiations of the peace agreement?
  o What responsibilities were you given?

    ❖ Why do you think you were given these ones?
    ❖ What about other organizations?

  o How much influence do you think you had?

      ❖ Why do you think you were influential on this matter?
      ❖ What (if anything) had an effect on reducing your influence/that of other civil society organizations?

- What aspects of the agreement were because of issues you/your organisation addressed?

  o Who else was behind these issues? Did you work together on these or separately?
  o What issues did you address that were left out? Why do you think this was the case?
  o Did you interact with the conflict actors / the mediators

- Do you feel like that you represented the grievances of certain sections of the population?

  o Which parts of the population do you feel you represented?
  o Why do you think you were in a position to represent these?
  o How did you make sure to know what their grievances were to be addressed?
  o What is your understanding of representation?

- How did you interact with the other civil society members? Which ones more which ones less? Why?

- How did you interact with the other political parties? How and in what ways did their interests overlap?

- How would you describe the relationship between civil society and political parties generally and especially at the time?

- What efforts did you / your organisation make to communicate about your role afterwards?

  o Who was the audience?
  o Do you think there is a possibility that not everyone was able to hear about what happened? Why not? Does it matter?
      ❖ What did you try to communicate and why do you think this was important?
  o Did you tell anyone about the role you had afterwards? Did you think it was important? Why (not)?

- How do you think your input affected the long-term implementation of the peace agreement?
  o What issues that weren't included in the peace agreements could have improved the implementation period?

Civil Society in Peace Negotiations General

- What kind of civil society groups were involved in the peace negotiations?

- If you had to sum up the negotiations in one sentence how would you do this?

- Do you think the role of CS increased the legitimacy of the negotiations? How? Why not?

- Do you think it's more important for CS to play a role during the negotiation period or the implementation period?

- What efforts were made to bring the negotiations process / agreement to the grassroots? Who made them?

- Do you think the XX CS is representative of the conflict-affected population? In what ways do they represent them?

- How much participation of the grassroots was there in the implementation period?

- Do you think there was "local ownership" of the negotiations process?

Peace Process General

- How would you define legitimacy? Why? Where does this definition come from

- If you could design/improve/change the peace process what would you do?

Questions Template Focus Groups

Extracts of Questions analysed for this Dissertation

(Conducted in Liberia and Kenya in 2011)

- What is the first thing that comes to your mind when you think of the XX Peace Negotiations and Agreement?
- How do you think the local population was affected by the agreement?
- Who are the most powerful actors in XX?
- Which actors are positive or negative with regard to local peace? Why?
- What were the most important local issues during the war?
- Were these issues addressed in the negotiations of the peace agreement?
- Who addressed them?
- How well did these actors address these questions?
- Were there other actors who should have addressed them?
- Which issues remain today?
- Were these left out of the CPA? Why do you think this was the case?
- Who should address these issues?
- Which actors should have addressed these during the peace negotiations?

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