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Public Authority and the Provision of Public Goods in Conflict-Affected and Transitioning Regions

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Abstract

This paper uses a systematic literature review to suggest that three emerging critical approaches to the production of public authority are identifiable within the contemporary literature on conflict-affected and transitioning regions. We term these approaches the '*public authority from below perspective*', the '*hybrid political orders lens*', and '*political settlements analysis*'. Although hailing from diverse disciplinary backgrounds, it will be shown that these approaches share important traits. First, they suggest that to better understand the nature of public authority in transitioning and conflict-affected regions it is necessary to uncover how public authority actually works rather than departing from a theory of the state. This includes accounting for how power is legitimated and practiced within each context, and how claims to public authority are connected to the provision of public goods such as security and justice. Second, they view competition, conflict and contestation as enduring features of public authority in such contexts, and call for empirical examinations of these processes to inform understandings of social change. Last, the approaches argue that public authority is an emergent property, always in production and never definitively formed. This implies that neat dichotomies such as formal/informal, private/public, and modern/traditional should be applied with caution by analysts seeking to understand public authority from the perspective of people living with insecurity and change. Despite these similarities, the conclusion suggests the approaches should be unpacked and their normative assumptions challenged. Each can then be drawn upon to arrive at empirical understandings of how public authority is produced and exercised, and how it relates to the provision of public goods in conflict-affected and transitioning regions.

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Introduction

The Fragile States Discourse and its Critics

The post-Cold War era has been marked by a debate over the causes of, and remedies for, conflict-affected and transitioning regions of the world.[2] It is argued that fragile or failing states threaten both the international community and their own populations, who suffer from persistent political instability and underdevelopment (Hegre and Sambanis 2006; Clunan and Trinkunas 2010; Goldstone et al 2010). Indeed the 'fragile states discourse' has been mainstreamed in security, development and policymaking circles.

Examining the rise of this discourse, Di John (2008) identifies two broad strands within the state fragility literature.[3] The first suggests that persistent insecurity and underdevelopment is partly attributable to the failure of states to fulfill their core functions. This perspective frames fragile states and their institutions in terms of a supposed deviancy from liberal or rational-legal Weberian models of public authority and statehood. Fragile states, therefore, are portrayed as lacking central monopolies on the legitimate use of violence, functioning legal systems and rational bureaucracies able and willing to provide public goods to their populations.[4] The perspective also builds on Hobbes' idea of a social contract between states and citizens, with the former providing goods and services in return for political legitimacy from the latter.[5] For proponents of this strand it is the nature of the social contract which determines the legitimacy of public authority. Indeed corruption, predation, exclusion, violence and even war are seen to be symptoms of the weakening of the social contract, not the cause. Thus, the literature often attributes growing distance between citizens and states to afflictions such as 'resource curses' or 'rentier states'.[6] To strengthen the social contract and foster accountable authorities, adherents of this view prescribe democratic structures, economic liberalisation and administrative principles derived from Western models of 'good governance' (Grindle 2007).[7]

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[2] Our use of the term 'transitioning regions' refers to the state of flux and rapid change that is characteristic of conflict-affected and supposedly fragile states, and helps avoid assumptions about the direction or stability of regions before empirical analysis. It is not meant to suggest a way point on a teleological journey towards some ideal political order.

[3] We are aware that this is a heterogeneous body of literature, which comprises several different arguments and positions. Indeed a full treatment is beyond the scope of this paper. Good critical reviews of this literature have been written by Hill (2005) who uses a post-colonial lens and Hameiri (2007) who uses a political economy lens.

[4] For Weber rational-legal authority denotes a belief 'in the legality of enacted rules and the right of those elevated to authority under such rule to issue commands' (Weber 1978:217-220).

[5] Putzel (1999:201) defines political legitimacy as the 'acceptance of the right to rule'. He explains that the 'more legitimate a political regime, organization or individual actor, is in the eyes of a population the less its survival or continuance in power requires the use of coercion or the threat of coercion'.

[6] The literature on 'resource curses' and 'rentier states', including the concepts' detractors, is too vast for an adequate treatment here. The point is that both of these concepts describe afflictions commonly cited by proponents of the first strand of the fragile states discourse. For notable contributions see Collier and Hoeffler (1998, 2001, 2004), de Soysa (2002a, 2002b) and Fearon and Laitin (2003).

[7] As Booth (2012:20) puts it: 'good governance has meant giving priority to civil service reform, to improving public financial management or setting up anti-corruption watchdogs and public audit bodies. Or it has focused on making governments more accountable to citizens by means of multi-party elections, democratic decentralisation and other devices of citizen participation. In relation to the economy, it has meant an at least

Subscribing to this first strand, Zartman (1995) and Rotberg (2002) argue that political orders begin to fall apart when the state faces a crisis of legitimacy. For Rotberg (2002:85), this situation arises when states 'no longer deliver positive political goods to their people'. Thus he suggests a hierarchy of positive political goods that stable states should provide: a) security; b) institutions to regulate and adjudicate conflicts; rule of law, secure property rights, contract enforcement; c) political participation; d) social service delivery, infrastructure, and the regulation of the economy. Similar attempts to delineate state functions in this manner have given rise to a cottage industry devoted to outlining indicators of fragility for use in large cross country comparisons (Stepputat and Engberg-Pedersen 2008). In turn, these indicators have made it possible for states to be profiled and roughly ranked along a spectrum from weak or fragile to failed or collapsed. Torres and Anderson (2004) have shown how this strand of the fragility literature has been endorsed by aid agencies and major donors, each selecting their favoured indicators to define fragility.[8] For instance, the OECD's (2010:15) working definition of state fragility associates state capacity with its ability to develop mutually constructive and reinforcing relations with society. Thus it explicitly links indicators based on service provision with an underlying concern with the social contract.

The second strand of the fragile states discourse has its roots in much of the pre-2001 literature on African states (Bayart 1993; Rhodes 1994; Reno 1998; Chabal and Daloz 1999). In contrast to the first strand, this literature recognises the full range of Weber's ideal types of legitimacy - rational-legal, traditional, and charismatic - as sources of authority.[9] Its authors, therefore, largely abandon attempts to measure fragility in favour of a concentration on how capital accumulation and political legitimacy are maintained in the neo-patrimonial and clientelist orders that they claim characterise conflict-affected and transitioning states. Accordingly, they focus on how supposedly fragile states emerge and how they 'work' in spite of their deviancy from liberal and rational-legal forms of statehood. Taking a *longue durée* view, they suggest that pre-colonial African political culture, colonial legacies, including indirect rule, authoritarianism, and the bifurcation of administrative models between urban and rural regions, have all affected the long run viability of the state.

In a much cited example of this approach, Bayart (1993) uses the notion of the 'politics of the belly' to suggest that African leaders are compelled to strip the state's resources to sustain their patronage networks and legitimise their rule. This compulsion stems from the continuation and adaptation of both pre-colonial and colonial-era institutions to post-colonial political contexts. Indeed these historical legacies are seen to structurally constrain African leaders into seeking political authority through the incorporation of ever-greater numbers of informal political and economic actors into the state's patronage networks. Reno (1996, 1998) builds on this idea by suggesting that while weak rulers use their patronage of informal

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temporary withdrawal of the state from productive sectors, limiting it to policy-making and regulatory functions. The emphasis has been on facilitating private investment by establishing a rule-governed, low-cost, predictable business environment.'

[8] See Stepputat and Hansen (2008) for further examples.

[9] For Weber (1978:226–241, 215) traditional authority rests 'on an established belief in the sanctity of immemorial traditions and the legitimacy of those exercising authority under them' and charismatic authority rests 'on devotion to the exceptional sanctity, heroism or exemplary character of an individual person, and of the normative patterns or order revealed or ordained by him'. For rational-legal authority see note 3

economic networks and connections to international markets to bolster their authority, they corrupt, or in some cases altogether bypass, state institutions. In essence, the state is gradually criminalised in return for the authority needed by rulers to maintain their rule. In another variation on this theme, Chabal and Daloz (1999) suggest that state fragility is a purposeful strategy through which African leaders with few prospects of long terms in power maximise their returns while accommodating potential rivals to their positions. To achieve these aims state-based leaders turn to informal patron-client networks, be they based on ties of kinship, ethnicity, witchcraft, religion or shared business interests. Indeed, the authors argue that for African leaders 'political legitimacy' is derived 'from a creatively imprecise interaction between what might be termed "ancestral" norms and the logic of the "modern" state' (ibid:9). As a result, the state is deemed 'no more than a decor, a pseudo-Western facade masking the realities of deeply personalised political relations' (ibid:16). Furthermore it is suggested that while these social bonds deliver a modicum of political order, attempts to introduce liberal political or economic models to Africa only give leaders greater scope to penetrate state institutions with informal networks. Thus efforts in the post-Cold War period to transfer Western governance models to African contexts have failed to create a developmental state or secure long run political stability.

The two identified strands of the fragile states discourse have been accompanied by important criticisms. The concentration on the social contract and state legitimacy in the first strand of the discourse is particularly susceptible to arguments that it overlooks the exogenous causes of state fragility. Among other factors, these may include a state's position within the global economy, the role of external interventions, the effects of climate change, the global transmission of norms and the contemporary ease of transnational migration. This strand may also risk equating the lack of centralised authority with a Hobbesian state of nature. As Baker (1999: 136) puts it, 'Western eyes find it hard to view the inversion or cessation of the institutional state as anything but a backward step into anarchy'. Accordingly, areas within supposedly fragile states, or sometimes these states in their entirety, are labeled as 'frontiers', 'black spots', 'borderlands' or regions of 'softened sovereignty' (Das and Poole 2004; Stanislawski 2008; Clunan and Trinkunas 2010). Fearing the uncertainty that accompanies lawlessness, Western commentators often point to these regions as incubators of terrorism, illicit markets and destructive ideologies (Krasner and Pascual 2005; Gourevitch 2004; Williams 2006). This discourse may allow policymakers to paper over a thorough investigation of everyday life and politics in such regions or, more worryingly still, to legitimise coercive interventions.

The second strand of the fragile states discourse arguably goes some way towards alleviating the reductionist tendencies of the first and encourages empirical investigations of governance processes in supposedly fragile states, including the ways in which leaders may be able to capitalise on globalisation. However, this strand's authors still tend to argue that African states are characterised by endemic levels of clientelism, which turn state institutions into ciphers of particularistic interests and underpin chronic instability (Nugent 2010:35). Indeed for his part, Di John (2008:26-26) argues that both strands of the fragile states discourse assume that elites are preoccupied with the survival of their regime and personal

accumulation; 'predatory as opposed to developmental aims'. Thus he contends much of the literature neglects to ask why clientelism and patrimonialism leads to fragility in some cases, while in others it may be integral to more positive transitions. This criticism extends to considerations of why both violent and non-violent challenges to state authority, and exclusionary or violent state practices, have led to development and stability in some instances and not in others. Similarly others argue that due to its lack of attention to contextually specific realities below the national level, the fragile states discourse is limited in its capacity to understand the roots of the challenges afflicting these states and to prescribe suitable remedies (Hamieri 2007: 123). Some critics even claim that the fragile states discourse's homogenising brush portrays post-colonial populations as unequipped for modern statehood and consequently as the 'deviant other' to citizens of Western states (Hill 2005). For many, therefore, its line of reasoning is essentialist, ahistorical and teleological (Hagmann and Péclard 2010:541; Titeca and de Herdt 2011:215).

For the purposes of this paper, we begin from suggestions that the theoretical and normative assumptions listed above limit the fragile states discourse's ability to produce empirically grounded and context-dependent data on how public authority is legitimated and exercised, and how this affects the everyday lives of end-users (Nielsen 2007; Englebert and Tull 2008; Hagmann and Hoehne 2009; De Waal 2009).[10] Therefore, in an effort to look beyond these approaches, this paper reviews recent literature on the production of public authority and public goods provision in conflict-affected and transitioning regions. Although we draw upon case studies that take in a variety of contexts, our concentration is largely on analytical perspectives and frameworks developed in African contexts – the main focus of the Justice and Security Research Programme (JSRP) for which this paper was written. Within this literature we identify three approaches; the '*public authority from below perspective'*, the '*hybrid political orders lens'*, and '*political settlements analysis'*. Although categorised as such, it will be shown that the approaches contain both broad similarities and distinguishing variations.

In many ways the approaches under review can be seen as reactions to the deficiencies of the fragile states discourse. However, we also argue that they share many analytical overlaps with its two identified strands. We understand these overlaps to revolve around two concerns, namely, the production of legitimate authority and the provision of public goods. With regard to the latter, we specifically concentrate on the provision of security and justice not only because they are prioritised within the fragile states discourse, but also because these public goods consistently emerge in the reviewed approaches. Thus we show how the relationship between the production of public authority and provision of these public goods is presented within each approach and how they encourage alternative ways of understanding the legitimisation and exercise of public authority in conflict-affected and transitioning regions. The overall aim of the review is to aid future conceptualisations and empirical investigations

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[10] Our use of the term 'end-users' denotes the person or people who are the supposed beneficiaries of public goods provision by those claiming or exercising public authority.

of public authority and public goods provision in conflict-affected and transitioning states.[11] Before moving on it is necessary to provide an account of the methodology deployed to identify the relevant literature.

Methodology

The methodology aimed to identify literature exploring the theoretical, methodological and empirical debates surrounding the production of public authority and public goods provision in fragile and conflict-affected spaces. The review comprised two phases: *a systematic database search*, and a *bibliographical search*. The searches aimed to locate literature satisfying two criteria (a) they should discuss how public authority is established and maintained; b) they should be concerned with the provision of public goods, preferably security and justice. As stated earlier, even before the literature review began the emphasis on security and justice was chosen for two reasons. Firstly it is the primary interest of the JSRP research consortium in support of which this review was undertaken. Secondly, for a number of critical and mainstream commentators security and justice are viewed as core public goods and are often described as prerequisites for development (OECD 2007; Baker and Scheye 2007; Ball et al 2008).[12]

The initial *systematic database search* contained three sets of searches.[13] Utilising Boolean logic, the first set of searches combined the search terms 'public authorit*' with 'justice' AND/OR 'security', depending on whether the searches brought back too much irrelevant material. These searches were complemented at a later stage with a search combining 'public authorit*' and 'conflict'.[14] The second set of searches combined 'patron' AND 'client' AND 'justice' OR 'security'. The third set of searches included the following search terms: 'bifurcated state' OR 'mediated state' OR 'political marketplace' OR 'twilight institutions' OR 'hybrid political order' OR 'patrimonialism' OR 'neo*patrimonialism' OR 'neopatrimonialism' OR 'everyday governance' OR 'real governance' OR 'stateness'. It was anticipated that the term 'public authority' has a very general meaning and the research team acknowledged that words within the term have long histories within the social sciences. Unsurprisingly, searches using this term yielded a vast array of irrelevant results despite narrowing with the inclusion of terms such as 'justice' or 'security'.

Additional search terms were identified during a planning session that drew upon the expertise of the authors, JSRP management and research assistants. It was recognised that this was a necessarily subjective process, limited to each participant's understanding of the field and aim of the paper. Overall the searches using precise terms (i.e. twilight institutions, mediated state, hybrid) were more useful than the general searches on 'public authority'. Of these precise search terms, those such as 'twilight institutions' and 'hybrid' that reflect bodies

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[11] The aim and rationale of the paper were agreed upon at a meeting between Mareike Schomerus; Koen Vlassenroot; Danielle Stein, Craig Valters and Kasper Hoffmann on 8 January 2013 at LSE.
[12] We return to this theme later.
[13] The authors would like to thank Danielle Stein and Craig Valters for their assistance in the initial search.
[14] 'Boolean logic' describes the operations used to combine search terms in many search engines.

of literature known to the research team beforehand were especially useful. While terms such as 'patrimonialism' also yielded useful results they have references in many other bodies of literature and approaches, which required a close scrutiny of the returned sources. The initial search yielded 161 titles.

The second phase of the search was partly based on the authors' knowledge of existing literature relating to discussions of public authority in the domains of security and justice in conflict-affected and transitioning regions, and partly on the bibliographies of the texts yielded by the systematic database search. In addition, the authors added texts considered to be theoretically relevant on a more general level to the discussion of public authority. Accordingly, the authors do not claim that this selection is representative. At this stage two more criteria were added to narrow down the reviewed sources from both phases: (a) sources should be related to conflict-affected or conflict-transitioning countries (b) they should be written after 1989, unless they had enduring theoretical value. These criteria acknowledged our interest in post-cold war conditions for producing public authority in conflict-affected regions.

In the final stage the sources were analysed. Three broad approaches to public authority and its relationship to the provision of security and justice were identified: the '*public authority from below perspective*', the '*hybrid political orders lens*' and '*political settlements analyses*'. The categorisation of authors into the different approaches during the review was based on the differences in their core arguments and theoretical presuppositions concerning public authority, rather than on their geographical focus or methodology. Having said that, we realise that there are substantial overlaps. To begin to understand the convergences, divergences, utilities and limitations of the identified approaches, the next section broadly explores their treatment of the production of public authority.

New approaches for understanding public authority

The literature review revealed a number of different interpretations of how public authority is produced and exercised in conflict-affected and transitioning regions. However not all of the reviewed sources deploy the term 'public authority' and some of those that do, do not define it.[15] Nevertheless, as will be shown throughout the paper, the reviewed texts share certain views on public authority:

First, although describable as emerging literature streams, the three identified approaches largely understand public authority through a Weberian lens. Thus, they hold that any form of genuine authority (*herrschaft*) 'implies a minimum of voluntary compliance, that is, an interest (based on ulterior motives or genuine acceptance) in obedience' (Weber 1978:212). Indeed to differentiate between cases of purely involuntary subjugation such as slavery, which rests on coercion, and public authority, the latter is seen to require a '*belief*' in the *legitimacy* of claims to authority (Weber 1966:328). As Weber argued: 'What is important is

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[15] See for instance Fjeldstad and Moore (2009); Juul (2006); Putzel and Di John (2012); Milliken and Krause (2002); Le Meur (2006); Meagher (2011);

the fact that in a given case the particular claim to legitimacy is to a significant degree and according to its type treated as 'valid'; that this fact confirms the position of the persons claiming public authority and that it helps to determine the choice of the means of its exercise' (Weber 1978:214). Second, despite their different epistemological roots, most of the reviewed literature acknowledges that public authority may be accorded to a variety of actors and institutions, both within and beyond the state. Third, the emerging approaches suggest that actors and institutions legitimise their claims to public authority and the associated right to govern by, consciously and sub-consciously, drawing on the norms and values (e.g. customs, forms of rationality, morality or justice) considered valid among large sections of society. However, as will be shown, this does not imply that public authority is only rooted in traditional, customary or local norms. Indeed the approaches suggest that it may be imported or constructed from a range of material resources and symbolic repertoires. Last, they recognise that the provision of public goods, including security and justice, is often an important means with which to evoke socially accepted norms or exercise public authority. In the three approaches, therefore, public goods provision is a practice central to the production of public authority.[16] Viewed together, this understanding suggests that public authority is built on a modicum of mutual recognition: on the one hand, those claiming public authority recognise the moral values and the norms of wider populations; while on the other, their claims are recognised as legitimate by those at whom they are directed.

The spatial de-centering and the theoretical de-universalisation of public authority outlined above opens up a vast new terrain for the study of public authority in conflict-affected regions. To meet this challenge the reviewed authors delve into a diverse range of overlapping themes connected to the provision of security and justice. These include revenue generation, taxation and the regulation of economic activities (Fjeldstad and Moore 2009; Juul 2006; von Soest 2007; von Soest et al 2011), with the regulation of cross-border trade and the militarisation of the economy as favoured themes (Meagher 2009; Roitman 2004, 2005; de Herdt and Titeca 2010; Garrett et al 2009; Raeymaekers 2009, 2010, 2010; Raeymaekers et al 2008; Vlassenroot et al 2008; Verweijen 2013; Walraet 2008). Another widely researched theme concerns local conflict resolution, peace-keeping, state-building and the provision of security and justice by actors and institutions considered non-state (Kyed 2009a,b; Boege et al 2008, 2009a,b; Hagmann and Hoehne 2009; Menkhaus 2006; Autesserre 2007, 2009; Mallet 2010; Leonard and Samantar 2011). Yet another is the generation of peaceful political settlements, rents, developmental coalitions and the ascriptions of rights, including how local and national level elites turn coercive power into legitimate authority (de Waal 2009b; Di John and Putzel 2009; North et al 2009; 2012; Parks and Cole 2010; Laws 2011). A fourth theme focuses on competing claims to public authority as an entry point to understand the social processes through which institutions are made and un-made, and the consequences this has for access to resources and the recognition of property rights for different identities. By linking access, property (what you have) – in particular land – and public authority with issues of identity (who you are) this theme, also

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[16] Putzel (1999:201) usefully reminds us that the public goods that secure legitimacy are rarely simply physical goods. They often include identities, sovereignty, the promotion of a nation's international standing, a particular agenda or the maintenance of a challenging tradition.

touches upon issues of citizenship rights (Ferme 2004; Lentz 2006; Lund 2006a, 2006b, 2008; Sikor and Lund 2009). A fifth analyses linkages between violence, the control of populations and territory, and public authority. Accordingly, studies treat empirical phenomena such as policing, vigilantism, armed actors, and refugees as windows into local struggles (Buur and Jensen 2004; Buur 2006; Turner 2006; Pratten 2006; Fouchard 2012; Hansen and Stepputat 2006; Lund 2011).

In the following sections we show how many of these themes are treated within each of our three identified approaches. The epistemological foundations of each approach, including their levels of analysis, primary actors and understandings of social change are then examined. This exploration is used to outline three considerations for future research into the production of public authority and its relationship to public goods provision, particularly security and justice, in conflict-affected and transitioning regions.

The Public Authority from Below Perspective

Introduction

A number of authors are empirically studying the practice of public authority at the local level in conflict-affected and transitioning regions. In many cases, their work is filling in the gaps left by the generalising theories of the fragile states discourse. While these authors are not united by a common theme or theory, they do tend to converge on certain points. First, these authors generally carry out long-term fieldwork in one or more specific localities. Second, they tend to focus on the daily conflicts, competitions, contestations and negotiations over claims to public authority. Third, they understand public authority from a pluralistic and processual perspective, as opposed to a property fixed to the state. Thus they blur conventional distinctions between state/society, public/private and formal/informal. Lastly, many focus on daily governance practices and the provision of public goods by public authorities. As such they are interested in how public authority is exercised and institutionalised through everyday social encounters. Out of the three approaches identified this body of literature encompasses the greatest number of reviewed references. In the following section, therefore, we aim to draw out several of its main perspectives.

Public authority and local political economies

Beginning from the recognition that the state's official apparatus has largely retracted from many conflict-affected regions, a growing number of authors focus on how public authority is practiced beyond the official state. In constrast to the earlier literature on non-state or informal governance, which tended to either frame these processes as 'resistance' to totalitarian states (MacGaffey 1987, 1991) or as local surviving cultural forms (Chabal and Daloz 1999), the contemporary literature generally views them as emerging, sometimes legitimate, forms of governance within political orders undergoing conflict-ridden, often violent, socio-economic transitions. Methodologically, many authors in this literature stream

agree with Lund that public authority should be studied through the 'variety of concrete encounters between forms of public authority and the more or less mundane practices of end-users' (2006a:674).[17] This leads investigations to adopt qualitative, often ethnographic, methods, with researchers situated in one or more fieldwork locations for long periods. Alongside the practices of claimants to public authority, the literature also encourages studies that uncover the lived experiences of end-users and excluded groups. Thus the agency to affect the production of public authority is sought among a variety of actors and locations.

Theoretically, the authors lean toward a Weberian understanding of how public authority works.[18] Indeed, for Lund (2006a:678), whose approach to public authority is widely deployed, authority means an 'instance of power which seeks at least a minimum of voluntary compliance and thus is legitimated in some way.'[19] In essence his definition of 'public' is not far removed from Weber's rational-legal ideal-type:

The element of public should direct our attention toward two associated elements. On the one hand, public authority denotes impersonal administrative operations in a wide sense. On the other hand, it refers to public (as in 'not secret') confrontations, discussions and action in concert. Thus, we are dealing with institutions that, in the exercise of power, take on the mantle of public administrative authority (legitimated administrative operations) and in their attempts to govern articulate notions of 'state'(ibid:678).

Lund, therefore, sees claims to public authority as largely legitimated through references to the notion of the state.[20] Indeed he suggests that a multitude of more or less transient institutions deploy the 'language of stateness' and 'strut in borrowed plumes' to legitimise their claims to public authority (ibid:677).[21] This leads to the paradoxical notion that

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[17] Blundo 2006; Blundo and Olivier de Sardan 2006; Olivier de Sardan 2009; Hagmann and Hoehne 2009; Verweijen 2013; Titica and de Herdt 2011; Migdal and Slichte 2005; Pratten 2006.

[18] E.g. Hagman and Péclard (2010:543); Titeca et al (2013:118); Vlassenroot and Rayemaekers (2008:13).

[19] Examples of authors taking their inspiration from Lund are: Schroven (2010:666-7); Grajales (2011:772-3); Meagher (2007:406, 2009:8); de Herdt and Titeca (2010:580); Fay (2008:2); Andersen (2011:12, 2012:114); Peters et al (2012:12); Mallet (2010:81); Rutherford 2011:209); Buur (2006:750-1); Logan (2009:102); Overbeek et al (2009:15); Hagmann and Péclard (2009:3); Titeca (2009:292); Vanderkerkhove (2011:762-3); Suykens (2010:159); Doornbos (2010:671); Prag (2010:15); Hagmann and Hoehne (2009:43); Titeca De and Herdt (2011:216); Büscher (2012:483).

[20] This idea is influenced by Sally Falk Moore (1978), who argued that the 'state' in Africa usually represents itself in at least two different dimensions, i.e. as the embodiment of public authority (represented in a whole range of actors from customs agents to local administrators to school teachers) and in the form of an idea. This distinction applies both to the African state and to other polities and (groups of) actors that want to claim authority over certain governance domains in a context where neither holds an effective monopoly over the means of force. See also Bierschenk and Olivier de Sardan (1997, 1998, 2003), Raeymaekers (2010), and Titeca and de Herdt (2011).

[21] The term 'language of stateness' is borrowed from Hansen and Stepputat (2001), who divide it into a practical and a symbolic language of stateness. The practical language of stateness contains three key themes: (1) the assertion of territorial sovereignty by the monopolisation of violence by permanent and visible military and police forces; (2) the gathering and control of knowledge of the population of this territory; and (3) the generation of resources and ensuring the reproduction and well-being of the population. The symbolic language of stateness also contains three themes: (1) the institutionalisation of law and legal discourse as the authoritative discursive presence and authority to authoritise; (2) the materialisation of the state in a series of permanent signs and rituals: buildings monuments, letterheads, uniforms, road signs, fences; and (3) the nationalisation of the territory and the institutions of the state through the inscription of a history and a shared community on landscapes and cultural practices.

statehood can be 'effectively propelled by institutions which challenge the state but depend on the idea of it to do so' (ibid:688-9). For many authors following this approach there is therefore a co-existence of multiple public authorities, linked to multiple spaces of authority within the public sphere, 'each giving their own meaning to authority and political power' (Raeymaekers et al 2008:9).[22] These various 'power poles', as Bierschenk and Olivier de Sardan (1997:441) call them, interact and negotiate with each other over the daily governance of public services. As such, they are all involved in 'doing the state', processes which can occur in cooperation or competition (Migdal and Slichte 2005:14-15). Furthermore because public authority is influenced by the ebb and flow of conflicts, contestations, competitions, negotiations and collaborative arrangements it is never definitively formed. Instead a constant process of formation takes place (Lund 2006:686). For authors working with this perspective, institutions are continuously moving in and out of a capacity to exercise public authority. Indeed, for Lund 2006a, b, 2008), they are describable as 'twilight institutions'.

A recognition of the twilight nature of many institutions in conflict-affected and transitioning regions implies that conventional distinctions between public/private, state/society, and formal/informal must be seen as relative to concrete political processes rather than discrete entities. It is futile, therefore, to search for a scientific definition that will fix the boundary between these categories. Rather the concrete and everyday practices of a variety of actors must be investigated for the political distinctions they produce between citizen and stranger, owner and squatter, crime and justice, civilised and uncivilised, straight and queer, modern and traditional etc. In short, who is included and excluded from the public sphere and what this implies for their access to justice and security. For instance, some authors argue that distinctions between entities or cultures deemed modern or traditional were designed by colonial authorities as a means to bring the African peasantry into the market economy, while at the same time excluding them from the sphere of civic rights (Mamdani 1996, Ranger 1983; Vail 1989; Lentz 1995).

In order to overcome the constraints of these classical conceptual distinctions, which also tended to be deployed as units of analysis, authors have deployed alternative terms. These include 'local political arena' (Bierschenk and Olivier de Sardan 2003), 'complexes of power' (Vlassenroot and Raeymaekers 2004), 'arenas of negotiation' (Hagman and Péclard 2009) and 'figuration' (Titeca 2009). They are all designed to account for practices of governance, rationalities, forms of legitimacies and networks of power that transcend the political distinctions common to academic and policymaking circles. By the same token a number of terms have been deployed in order to capture the messy and contested reality of public authority. These include terms such as 'twilight institutions' (Lund 2006a, b; 2008), 'mediated state' (Menkhaus 2006, 2008), 'negotiated statehood' (Hagmann and Péclard 2009), 'governance without government' (Menkhaus 2006; Raeymaekers et al. 2008; Vlassenroot and Raeymaekers 2008) 'real governance' (Oliver de Sardan 2008; Blundo and Le Meur 2009) 'diffuse authority' (Suykens 2010) and 'regulatory authority' (Roitman 2005).

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[22] See also Arnaut and Højbjerg (2008:11) and Titeca et al (2013: 117)

Authors adopting these terms argue that to understand public authority and service delivery attention must be given not only to state institutions but to the range of actors in the social field surrounding state institutions. This implies that researchers must leave behind implicit state-centric views of what constitutes governance. Instead, as Raeymaekers et al. (2008) argue, one could choose to see the production of public authority as 'an emergent pattern or order of a social system, arising out of complex negotiations and exchanges between "intermediate" social actors, groups, forces, organisations, public and semi-public institutions in which state organisations are only one – and not necessarily the most significant – amongst many others seeking to steer or manage these relations'. For their part Titeca and de Herdt (2011:216) argue that state practices should be separated from the idea or the image of the state as a coherent organisation controlling a given territory and population. Similarly, Lund (2006:686) argues that in Africa it is difficult to ascribe exercised authority to the 'state' as a coherent institution; rather, public authority becomes the amalgamated result of the exercise of power by a variety of local institutions and the imposition(s) of external institutions, conjugated with the image of the state.

As mentioned, the public authority from below perspective advocates for a focus on the everyday forms of interaction between various claimants to public authority and end-users. Although the 'local' or the 'micro-level' become the privileged empirical socio-spatial sites through which public authority is studied, authors are careful to point out that the local is linked to larger political, economic and social processes. Within the literature there are different ways of establishing these links and great variation in the scale and scope implied by the term 'local'. One of the differences lies in the degree to which local politico-economic dynamics are seen as autonomous vis-à-vis larger processes. This reveals differences in the way authors weigh the importance of larger political, social and economic processes relative to local ones. Furthermore it implies that there are different methods of determining how specific forms of public authority emerge in different localities. For example, whereas authors such as Bierschenk and Olivier de Sardan (2003:148) insist on the particularity of each 'local arena' in terms of the multiplicity and diversity of political institutions, cultures and logics - in short, the 'modes of governance' that exist even at village level in a country; Vlassenroot and Raeymaekers' (2004: 15), on the other hand, highlight multi-leveled and authoritatively structured patterns of social production and exchange that take place in 'complexes of power', defined as 'patterns/networks of social control, protection, and profit emergent within the conflict environment'.

Authors with a similar approach to Bierschenk and Olivier de Sardan tend to look at how different national level policies or global discourses are strategically appropriated in specific localities. For instance, in a study of state policies recognising the role of traditional leaders in Mozambique, Kyed (2009a, b, c) shows how these policies exacerbated existing tensions and sparked new contests over authority (2009c:114). Similarly, Moore (1987) shows how state legislation in Tanzania designed to abolish lineage chiefs and install elected leaders was sidestepped by the ability of elite families to use their personal networks to capture the new public authority positions. Thus leaders maintained local lineage-neighbourhood complexes and perpetuated the exclusiveness of the political order. Raeymaekers and Vlassenroot's

(2004) approach, however, is less concerned with the side effects of discourses and specific national policies. Instead they focus on how conflicts at the local level are embedded in the wider political economy of conflict, and how this affects conflict and security at the local level. While in this respect they build on the insights of the second strand of the fragile state literature, they ultimately go beyond it through examinations of how public authority works in practice in specific localities. Raeymaekers (2010), for instance, shows how during the Congolese war a protection arrangement negotiated between a locally embedded Congolese rebel group (RCD-ML) - enjoying the patronage of key figures in the Ugandan government - and local traders, led to a 'pluralising' moment. Through this reinterpretation of existing relations and regulatory practices a gradual transformation of the institutional framework and local governance practices occurred.

Aiming to encompass both of these concerns, Hagmann and Péclard (2010) have recently offered a heuristic framework for the study of public authority from below in conflict-affected and transitioning countries. They propose the term 'negotiated statehood' to describe, analyse and explore by whom (actors) and how (using which 'material resources and which symbolic repertoires') public authority is created, where these processes take place ('negotiation arenas and tables'), and what are the main outcomes and issues at stake ('objects of negotiation'). The authors advance four core propositions: (i) the (de-) construction of statehood is driven by dynamic and partly undetermined processes. These processes are fuelled by constantly evolving relations of control and consent, power and authority. (ii) Various actor groups compete, both successfully and unsuccessfully, over the institutionalisation of power relations into distinct forms of statehood. (iii) Negotiations over public authority are profoundly unequal because they engage highly heterogeneous groups with highly differentiated assets, entitlements, levels of legitimacy and styles of expression. (iv) Statehood, therefore, should be approached empirically and not judicially (ibid: 544-6). Indeed, with its focus on the contested nature of public authority (statehood), its call for a detailed empirical investigation of the material resources and symbolic repertoires deployed in the struggles over public authority, and its focus on multiple arenas within which legitimate authority is negotiated, Hagmann and Péclard's heuristic framework can be seen as a summary of the research agenda of authors studying public authority from below.

Public authority and a theory of sovereignty

A stream within the literature studying public authority from below links public authority with a theory of sovereignty (Buur 2006; Hansen and Stepputat 2005, 2006; Buur and Jensen 2004; Das and Poole 2004; Turner 2006; Hagmann and Korf 2012). Agreeing with Lund, these authors question the idea that public authority is a fixed property of the state. Furthermore they view the language of stateness as shared across society, with different groups deploying politico-legal discourses to legitimise the rightfulness of their claims to public authority. Yet, in contrast to Lund and others, these authors suggest an alternative substantial theory of political power; drawing on Agamben (1998, 2005) and Schmitt (1985), they define sovereignty as a principle of political power. They use this displacement of the

meaning of sovereignty from a property of the state to a principle explaining how power works, to redefine the nature of political power and, by extension, public authority.

Schmitt famously claimed that the 'sovereign is he who proclaims the state of exception' (Schmitt 1985:5). For Schmitt (1985), the exception defines the rule of law precisely in the formal moment of decision by the sovereign. Sovereignty, therefore, emerges from decisions taken in spatially and temporally bounded spaces of exception. For his part, Agamben's approach to the state of exception goes beyond Schmitt's focus on decisionism and its implicit containerisation of the state of exception (Hagmann and Korf 2012:207). Rather he argues that the state of exception has become the dominant rationale in the exercise of public authority in modernity. Thus the state of exception is a pervasive topological figure within which the state of nature and the state of law (exception and rule) become indistinguishable; 'the state of nature and the state of exception are nothing but two sides of a single topological process in which, what was presupposed as external (the state of nature) now reappears in the inside (as state of exception)' (Agamben 1998:37). Alluding to Hobbes (1996:1651), he argues that a state of nature precedes the formation of the state and rule by a sovereign. Indeed, for Hobbes, anarchy prevailed before humans gave up their freedom to a sovereign. However, in Agamben's depiction of Western forms of sovereignty, elements in the body politic remain in a state of nature even after the formation of a modern state. These elements are depicted as violence without order, as violence that has not yet been tamed and that has not been brought into a contract with the sovereign.

Agamben defines these elements as 'bare life'; those which can justifiably be subjected to sovereign violence because they are considered uncivilised, unruly, or dangerous. In this perspective, sovereignty is defined as the ability to suspend the general principles of law and to kill those who are declared to be 'bare life' with legitimate impunity. One of the consequences of this understanding of sovereignty is that instead of tracing its localisation in particular institutions and incumbents, sovereignty becomes a principle, always secretly in motion in the exercise of public authority that defines the threshold of inclusion and exclusion in the political community (Agamben 1998:19). This threshold is by no means fixed, as different subjectivities – the refugee, the poor, the criminal, the unemployed, the homosexual, the mad, the pagan, the terrorist, etc – can all be deemed as 'bare life'. This encourages an understanding of how certain politico-legal orders are formed by efforts to purify the body politic of dangerous subjectivities.

Working with this theory of sovereignty Buur (2006) argues that the Amadlozi vigilante group, which was active in Port Elizabeth's townships in South Africa in the early twenty-first century, mimicked the formal state's procedures and drew on its symbolic forms in its own 'war on crime'. They also drew on various other symbolic repertoires, including public discourses on crime and the ANC's 1980s struggle to be the sole representative of the people, adapting them to their own moral and tactical concerns. However Buur (2006:750) shows that their actions were not aimed at undoing the state or establishing a different state; the aim was more state not less state. Thus he interprets their war on crime, which at times involved torture, as an example of the workings of the principle of sovereignty. As 'bare life', the group's criminal suspects were framed as the constitutive outsiders of South African society;

they defined both the external limits of society and those belonging to it. In turn, by eliminating the figure of the criminal, the Amadlozi were demarcating the inside threshold of society. This allows Buur to show that in spite of their recourse to torture and their tendency to make arrests based on scant evidence, the Amadlozi's war on crime was seen as a legitimate public good by wider society.

The provision of security and justice from below

The authors writing from within the public authority from below perspective do not take for granted that the rule of law and a monopoly on the legitimate use of violence in a given territory constitute the minimal requirements for the production of public authority. As such, they do not claim that security and justice must be provided by the state. Instead, state service provision is recognised to co-exist with forms of justice and security provided by non-state actors (Kyed 2009a, b, c; Titeca 2009; Titeca and de Herdt 2010; Raeymaekers et al 2008; Raeymaekers 2010; Hagmann and Hoehne 2009). Although this view is consistent with legal pluralism, its proponents do not imply that there are a number of neatly distinguishable politico-legal orders existing side-by-side, with culturally distinct ways of practicing law and security.[23] Rather they uncover the variety of ways of exercising public authority in contexts where the boundaries between governance institutions are always in flux.

This is not to say that the literature on public authority from below does not see a connection between the provision of security and justice and public authority. On the contrary they cannot be dissociated as the former are constitutive practices of the latter. Raeymaekers et al (2008:14), for instance, argue that governance includes 'the active processes of administrating and managing […] regulation mechanisms through the allocation of certain services, goods, and rights. These include processes of describing certain rights (for example to 'public' goods such as security, but also access to resources, or citizenship) as well as the active ascription of these rights and the conflicts these generate within a particular frame or context (as exemplified in conflict resolution mechanisms, political negotiation platforms or judicial bodies)'.

The Weberian approach to authority, which predominates in the public authority from below literature, implies that there exists a relationship of reciprocity between various claimants to public authority and end-users. This reciprocity exists not just in abstract terms of a shared language of stateness, it exists also, if not primarily, in the daily governance of public matters. The question of reciprocity is obvious with respect to taxation and it is equally relevant for institutions that are not government but still exercise authority (Lund 2006b:696). In turn reciprocity is linked to legitimacy. For example, when traders operating in a border

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[23] This recognition of the co-existence of different modes of rule-generation and order-making within a given political order is one of Moore's (1978) major contributions to legal anthropology. This contribution has since predominated within the more recent literature on legal pluralism, which argues that state law is not the only possible source of rule-generation, and that it co-exists with other sources, such as international, folk, customary and religious systems of rules and norms (see, for example, Griffiths (1986); Merry (1988); Moore (1978); von Benda- Beckmann 1997; Galanter (1981); Santos (1987, 1995, 2006); Pospisil (1971); for a critique see Tamanaha (1993, 2000).

area in eastern Congo decided to accept the RCD-ML's offer of protection in return for taxes, both groups stood to benefit: protection was traded for legitimacy and tax (Raeymaekers 2010:572). The point here is that public authority is continually constructed in the imagination, expectation and everyday practices of end-users (Lund 2006b:696).

In their study of public authority in Somali territories in east Africa, Hagmann and Hoehne (2009) argue that the provision of security and justice in these territories is taken care of by locally embedded non-state actors, particularly clan elders and sheikhs. According to the authors this proves that successful public authority can emerge 'from below' rather than being imposed 'from above', even with the absence of a centralised and legitimate monopoly of violence (Hagmann and Hoehne 2009:51). Based on their analysis they claim that a distinctly modern Somali statehood has emerged, which amalgamates customary, Islamic, and statutory norms and practices. The authors, therefore, suggest that local political orders must be explored in terms of institutionalised power relations between revived traditional authorities, 'violent entrepreneurs' such as warlords or militias, and state and party officials (Hagmann and Hoehne:52). As we will show, this theme is present throughout the three approaches to public authority identified in this paper.

In sum, for those studying public authority from below, public authority involves a successful claim to be acting in the interest of the political community, primarily by way of the language of stateness. But public authority is not just a 'language'; it is also exercised as the delivery of services. In many conflict-affected regions the state is only there in name, which allows its institutions to fall into disrepute. Other actors take on the mantle of public authority and provide public goods and services such as security and justice. Even so, the language of stateness, and perhaps even its modes of governance, may survive as a variety of twilight institutions continue to perform state discourses and practices; thus public authority must be performed by acts of governance that are recognised as legitimate by the public. Indeed, as the authors within the sovereignty stream show, even torture, random arrests, public courts, killings and extortion can be seen as public goods in certain contexts if they are recognised as security measures taken in the interests of the state, understood as the guarantor of the 'public' and the security of the community. Thus, to understand the production of public authority, analysts must carefully examine all processes, no matter how far from the state, unusual, or unpalatable they may at first appear.

The Hybrid Political Orders Lens

Introduction

The hybrid political orders (HPOs) lens has become popular in state-building, peace and conflict studies (Clements et al 2007; Boege et al 2008; Boege et al 2009a and b; Kraushaar and Lambach 2009; Mac Ginty 2010; Baker 2010; Mallet 2010; Bellino 2012).[24] Broadly put,

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[24] This perspective is not to be confused with 'civil war' studies, which deploy the notion of 'hybrid political regimes', which are (governmental) regimes that exhibit both democratic and autocratic characteristics (Karl 1995; Diamond 2002). Within this approach 'hybrid political regimes' refer to those regimes, which fall in

it attempts to counter the assumptions of the state fragility literature, including state-centric narratives of public authority and public goods provision, by emphasising the varied and contextually contingent nature of legitimate governance arrangements (Luckham and Kirk 2012). Thus, drawing on frustrating experiences within recent state- and peace-building projects, many of its authors focus on the interactions of traditional, personal, kin-based or clientelistic logics with modern, imported, or rational actor logics, and ask how, and for whom, contests over public authority and the institutionalised distribution of public goods take place.

Through its interest in organising 'logics' the HPOs lens is somewhat indebted to earlier work on informal governance practices such as clientelism, neo-patrimonialism and presidentialism. However it does not discount these practices as necessarily leading to 'disorder', 'corruption' or the 'criminalization of the state'.[25] Instead it argues for a widespread recognition of the part these logics play in ordering society and establishing public authority through the provision of public goods in conflict-affected and transitioning regions. Indeed the emphasis placed on 'logics' reveals a culturalist approach to institutions which depicts them as providing guidelines of appropriate action, backed up by sanctions (material and social) to limit non-compliance (March & Olsen 2005:4; Peters 2011:29-43). Furthermore, for some of the HPOs lens' authors, many of the logics portrayed as destructive by the fragile states discourse may represent the only legitimate forms of ordering in conflict-affected regions (Clements et al 2007:49).

Within the HPOs lens, therefore, cultural logics are often viewed as positively *functional* rather than *dysfunctional* as the second strand of the fragile states discourse claimed.[26] In this sense it could be argued that the HPOs lens is revisionist; so-called fragile states are in reality places where 'diverse and competing claims to power and logics of order coexist, overlap and intertwine, namely the logic of the 'formal' state, of traditional 'informal' societal order, and of globalisation and its associated social fragmentation (which is present in ethnic, tribal, religious forms) (Boege et al 2009a:606).[27] Consequently, where present, the state is argued to share authority and legitimacy with other actors, networks and institutions that transcend the formal/informal distinction (Lambach 2007; Wennmann 2011).

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between the categories of 'autocratic' and 'full democracies' measured by the terms of executive recruitment and the degree of political participation (Goldstone et al., 2010). Countries with non-competitive executive recruitment and non-participatory decision making processes are classified as autocratic; those with fully open recruitment and political participation are classified as full democracies. These studies claim that there is a strong correlation between hybrid political regimes and the likelihood of political instability and conflict (Gates et al., 2006; Goldstone et al., 2010; Hegre et al., 2001; Hegre & Sambanis, 2006).

[25] For an excellent critical review of culture-functionalist renditions of the African state see Blundo and Olivier de Sardan 2006:15-60.

[26] Other authors describable by this term include (Rhodes 1994; Chabal and Daloz 1999; Rotberg 2002)

[27] This point was already being made by Mertonian functionalist studies in the early 1960s on the newly independent developing countries, where this so-called 'revisionist' trend found ideal ground for the testing of its hypothesis. Thus, in the words of one of its most widely quoted authors, corruption acts as an 'emollient, softening conflict and reducing friction' (McMullan 1961: 196).

Multiple interacting logics of legitimacy

From the point of view of the HPOs lens the legitimacy required to sustain public authority is provided by, and can emerge from, a variety of structures. Furthermore it can be cultivated by authorities through their interactions with one another and with the wider populations they govern. However, in contrast to the authority from below perspective, much of the literature portrays legitimacy as partly contingent upon cultural norms and values that have long been present in society. Renders' (2007) exploration of how Somalia's clan leaders and institutions provided Northwestern politicians with the social capital and tools to build a polity typifies this approach to the production of public authority.[28] He suggests that Somalia's civil war created the space for local clan elders to involve themselves in wider political issues, including the provision of security through the negotiation of peace deals for communities outside of their immediate kinship groups. Their activity was subsequently utilised by Somaliland's second president, Mohamed Haji Ibrahim Egal, to legitimise his own claims to public authority. This included a drive for statehood through the establishment of various taxation schemes and a multi-party system that politically incorporated clan elders in 2001.

Summarising this process, Renders (2007:442) argues that the shifting or setting of borders between the formal and informal sphere was the key instrument in political struggles between Somaliland's competing groups. Thus he suggests that it would be a fallacy to view the instrumentalisation of entrenched norms from either the informal or formal spheres as an 'apolitical' act; an argument that highlights one of the HPOs lens' overlaps with the public authority from below literature. Moreover, he argues that informal institutions cannot be described *a priori* as 'inherently good or bad for political legitimacy, governance or the degree of popular participation in it' (Renders 2007:455). Indeed it was only due to the elders' wartime and post-conflict ability to engage in activities outside their supposedly traditional roles that they became recognised as potentially inclusive sources of political authority and public goods provision. Accordingly Renders (2007) argues that policymakers must understand Somaliland's hybrid political order as created through contextually contingent interactions between the conflict, clan logics and nationalist sentiments, and that it would be unwise to try to replicate these dynamics elsewhere.

Seen from this angle, public authority is an emergent function of the wider political order. Indeed studies of HPOs seek to uncover the multiplicity of actors vying to create governance structures in fragile contexts. As shown by Renders (2007), they do not view the abandonment of a narrow focus on formal actors and institutions as a problem of conceptual precision, but as a necessary step towards understanding how HPOs function. Thus much of the literature focuses on 'indigenous', 'customary' or 'traditional' actors and institutional logics, portraying them and their rules as present before the introduction of other organising logics, be they the idea of the state or the designs of international interveners. However, as Kraushaar and Lambach (2009:14) argue, a hybrid lens does not privilege any particular rule, field, or organising logic in its explorations of public authority.[29] Instead, as explored below,

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[28] We use the term polity here because Somaliland has not been recognised by the international community as a state.

[29] See Tamanaha 2008 for a critique of the classical view of legal pluralism.

it understands the production and exercise of public authority as taking place through a variety of practices, from the creation of safe markets to the actions of state-sanctioned militias and international interveners.

Hybridity and the cultural origins of logics of legitimacy

Before moving on, it is necessary to further unpick what the HPOs literature means by references to hybridity and pre-existing cultural logics, which we suggest are its distinguishing features.[30] Offering some guidance on interpreting hybridity, Mac Ginty (2011:8) uses his notion of prior hybridisation to move away from the suggestion that two or more ordering logics are 'grafted' together to create a third, new logic. Thus those actors claiming public authority in HPOs should not be depicted as leisurely choosing between which isolated, homogenous or preserved, modern or traditional logics to combine. Rather hybridisation is a 'dynamic and complex process' in which a diversity of prior-hybridised entities coalesce, clash, and re-coalesce with other prior-hybridised entities (Mac Ginty 2011:51). Indeed for many analysts hybridity is not about creating new governance institutions; it is about the adaptation of existing institutions to contextually specific collective action problems and the hoped for creation of 'practical hybrids' that provide public goods (Booth 2012:14). This process takes place within political contests between actors of differing power. Hybridisation, therefore, is often identified in regions that have recently been decolonised, have weathered conflicts describable as 'new wars', or have been subject to international state-building interventions (Kaldor 2006). These events arguably cause prior boundaries between the local, national and international to blur, and force people to seek ways of coping with the challenges raised by a new multiplicity of normative systems, claims to power and resources. Thus, for the HPOs literature, the production of public authority is often characterised by contests, negotiations and change, with different norms, values, actors and institutions swapping in and out of the driving seat.

Touching upon many of these themes, Cummins (2013) examines the way in which local communities navigate the competing demands of co-existing state and community based governance institutions in East Timor. She reveals how the position of village chief, a state governance institution, is regularly filled by individuals locally considered capable of securing the community's interests in negotiations with state authorities. Her research outlines how community leaders legitimise the election of their chosen village chief through an 'embrace' of both democratic and *lisan* [customary law] 'ideals of legitimacy'

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[30] Mac Ginty (2011:70) suggests that a 'review of the literature on hybridity needs to begin with a health warning: much of the literature on the subject is dense and inaccessible. It specialises in circular arguments, self-indulgent prose, and a single-minded determination to avoid relevance to the 'real world'. It also suffers from 'caveatitis', or an inability to make any statement without smothering it in so many caveats that it becomes meaningless. Much work spends so much time conceptualising and 'problematising' (as though we don't have enough problems) the term 'hybrid' that it does not actually move on to do anything useful with the term'. Thus we do not attempt this here and only report on its current usage by literature describable as reacting to the fragile states discourse.

(ibid:147).[31] Thus, in support of their preferred candidates, communities adapt old rules stipulating that the village chief is a hereditary position and perform the necessary ceremonies to legitimise those elected in the eyes of the ancestors and the people, regardless of their bloodline. Emphasising that this process may rely on prior learned hybridisation, Cummins (ibid.) shows that the adaptation of local governance practices to contemporary challenges also occurred during the country's occupation by Indonesia. Under occupation local leaders would decide amongst themselves who they wished to be village chief (at that time also the local representative of the Indonesian administration) and aggressively lobby state authorities to pick their preferred candidate. In the local vernacular, communities were 'wrapping up' their customary practices in Indonesian governance institutions (ibid.:148). While this study highlights the importance of society's norms for the legitimisation of public authorities, it also demonstrates that hybridity is not about replacing existing practices and value systems with a third new logic. Rather it is often a coping strategy that makes use of the material resources and symbolic repertoires open to those aiming to produce public authority in difficult conditions. Furthermore, Cummins' (ibid.:156) conclusion that the relationship between formal and informal institutions in conflict-affected contexts is often 'intimate and messy', and that non-state authorities, values and institutions can be important in contexts seemingly characterised by top down governance efforts, serves as a call for those examining public authority to unpick the dynamics of local political contests.[32]

Through his careful development of a notion of hybridity that understands all cultural logics as products of prior and ongoing processes of 'hybridisation', Mac Ginty (2011) also aims to remind analysts of the limits of words such as 'traditional' or 'customary' that impart images of static cultures.[33] Rather he suggests that long standing processes of cultural mixing shape and maintain the actors, practices and logics central to the production of public authority. As typified by Cummins' research (2013), this view conceives of hybridity as the 'gradualist', 'everyday processes' through which actors negotiate and renegotiate their own places and interests in political orders (Mac Ginty 2011:72). Furthermore, drawing upon the work of Bhabha (2009), Mac Ginty (2013) also argues that hybridity has been entrenched in most societies since before colonialism, that it accorded agency to colonial subjects, and that it allows those living with contemporary international interventions to resist the designs of outsiders. However, to avoid the criticism that hybridity is ubiquitous, Mac Ginty (2011:73) urges analysts to uncover the societies that are more or less describable as hybridised and to investigate which actors have the power to drive hybridisation.[34]

In light of the above, Mac Ginty's (2011:95) examination of post-2001 Afghanistan illustrates the difficulties faced by those trying to understand the role of hybridity in the production of public authority. For example, he suggests that in their struggle for survival

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[31] The term 'customary law' has been added here for convenience. However it should be noted that it does not accurately describe *lisan*, which may be better thought of as a way of life as it touches upon, if not regulates, the economic, spiritual, social and political spheres in equal measure.

[32] However, as Doornbos (2010) suggests, analysts must also be careful not to assume the negotiability or hybridity of governance arrangements.

[33] See also Boege (et al 2009b: note 12) for a similar take on the limitations, but necessity, of using such labels..

[34] Much of the HPOs literature adopts Knight's (1992:41) definition of power: 'To exercise power over someone or some group is to affect by some means the alternatives available to that person or group.'

farmers may support the Kabul government at the same time as they derive income from the growth of poppies sold to the Taliban. While the latter action could be interpreted as a coping mechanism, it may also be a form of resistance to state interference in everyday life. Moreover it could be further hypothesised that the same farmers utilise local tribal justice mechanisms recently restored by an international NGO and rubber stamped by the Afghan state. Although bringing disputes to this forum may give farmers a role in the hybridisation of the wider political order, it is difficult for analysts to discern to what extent and to what ends. For instance, while the farmers may welcome the legal rulings of the local court and its elders, they may not recognise the international NGO's role in institutionalising the justice mechanism and may even reject the state's claim to authority over its workings. Thus, although manifesting itself on the ground in everyday practices, to understand what, if anything, is being legitimised by hybrid processes is a difficult undertaking. Indeed historically sensitive and multi-sited research is needed, which, as Luckham and Kirk (2012:50) argue, includes understanding hybridisation through the vernacular of end-users.

In a good example of the literature's focus on the often ambiguous role of local politics and traditional authorities, Mallet (2010) describes the post conflict security and governance roles delegated to local chiefs by state officials and international organisations in Northern Mozambique. While he acknowledges the difficulty of labeling these emerging public authorities as either formal or informal, with chiefs acting as both representatives of their communities and agents of the state, he also suggests that traditional authorities are gradually formalised through an 'iterative' process of repeated negotiations with central authorities; a process that eventually creates a political community (Mallet 2010:79). Mallet also (2010:72) draws on Kyed (2009b) to argue that internationally sponsored community policing projects have adopted some of the symbolic and physical forms, including illegal activities and coercion, common to the cultures of wartime paramilitary groups. Thus, for Mallet, hybridity is evident in localised processes of 'unmaking' and 'remaking', as existing and introduced logics of public authority come into contact with one another. As suggested, this focus on the resilience of local social logics is characteristic of the hybrid lens. Yet, as with other authors, Mallet is careful to argue that the outcomes of these processes are always unknown before empirical research.[35] This serves to remind those eager to use a hybrid lens to acknowledge the indeterminacy of processes of social change and not to romanticise supposedly traditional authorities or their ways of exercising public authority.

Developing this theme, the HPOs authors have recently begun to design frameworks for interpreting the outcomes of interactions between different organising logics or institutions. Kraushaar and Lambach (2009:7) build upon Helmke and Levitsky's typology (2004) to hypothesise four possible outcomes when the interests held by 'effective' and 'ineffective' formal and informal institutions converge or diverge; substitution, complementarity, competition and accommodation. Empirical cases of hybridity, however, are arguably characterised by nuanced accommodations and competitions that lie somewhere inbetween these categories. Indeed, although interested in HPOs undergoing liberal peace interventions, Mac Ginty's (2011) alternative model attempts to capture these nuances and comes with

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[35] This description is borrowed from Moore (1978/2003).

many caveats. Thus, suggesting that his model is a 'simplification of reality', he offers four variables to account for hybridity in such contexts (ibid:77-78). Each variable focuses on the compliance power of different actors and their ability to resist one another's designs. However, he ultimately acknowledges that 'Hybridisation is best conceived of as a constantly moving piece of variable geometry...[that]...operates on multiple levels, through multiple mediums, and impacts multiple (if not all) aspects of life' (Mac Ginty's 2011:77). This leads him to highlight the limitations of such frameworks, including their ability to account for the wider geo-political systems and structures within which HPOs reside. In sum, while these early attempts to formalise the HPOs lens remind investigators that the outcomes of hybridisation are far from ordained, they leave much room for improvement by future adopters of the lens.

Justice and security provision – challenging liberal paradigms

Many authors have adopted the HPOs lens to drive a counter-narrative to the fragile states discourse and the peace- and state-building policies that it has engendered. Using the term the 'liberal peace', Mac Ginty (2010:391) defines these policies 'as the dominant form of peacemaking and peace building favored by leading states and international organisations.'[36] Adding further depth, Eric Herring (2008:48) suggests present-day liberalism denotes a 'commitment to principles and practices of individual rights and responsibility in the context of equality of opportunity, the rule of law, freedom of expression and association, a mainly market economy and governments chosen in multi-party free elections'. This commitment is often argued to be at least partly responsible for the kinds of internationally sponsored 'peace' seen in Bosnia and Herzegovina, Afghanistan, Sierra Leone, Somalia and East Timor (Chandler 2006; Duffield 2007; Woodward 2007; Pugh et al 2009). In these contexts liberal peace and state building are practiced through the top-down implementation of formal governance institutions, with the end goal being the creation of a liberal and rational-legal Weberian state (Barnett 2006; Jahn 2007; Richmond and Franks 2009). Indeed, as argued by Schmeidl and Karohail (2009), the 'McDonaldisation' of state- and peace-building since the end of the Cold War has witnessed the speedy rolling out of standard liberal democratic institutional templates in a number of diverse locations.[37]

For those working with a HPOs lens, the standardisation of liberal interventionism is counterproductive to the project of peace building because it ignores and even represses the capacity of non-state sources of order to provide essential public services such as security and

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[36] The term 'liberal peace' has been much used in a number of, mostly critical, accounts of contemporary peacemaking, peacebuilding, post-war reconstruction and development literature (Duffield 2001; Pugh 2005; Fanthorpe 2006; Richmond and Franks 2009; Petersen, 2009).

[37] Building on Weber's rational-legal type, which he saw as the dominant form of authority in modernity, Ritzer argues that McDonaldisation (2009) may arise as a culture moves from traditional modes of thought to those considered rational or scientific, and concerned with efficiency and formalised social control. However Ritzer (1994:154) suggests that in some cases McDonaldisation denotes a strategy which, although rational within a narrow scope, may ultimately 'deny the basic humanity, the human reason, of the people who work within or are served by' it. The poverty of this move neatly captures the criticisms of many authors frustrated with the liberal peace.

justice. This repression renders local societies passive, thereby weakening both a sense of local responsibility for overcoming problems and the local ownership of solutions. Thus the literature highlights persistent instability and underdevelopment in countries that have undergone international interventions to show that, whether formal or informal, modes of governance that are disembedded from societies' values cannot create legitimate public authorities (Wilder & Lister 2007; Richmond 2009; Schmeidl and Karohail 2009). In an instructive case study, Boege et al's (2009b) heavily referenced paper documents how Timor-Leste underwent a top down state building programme that largely ignored existing informal governance institutions and concentrated governance capacity in the capital city. They argue that policymakers effectively took a 'risk' with the decision to side-line the very institutions that had provided the population with ordering logics during the region's occupation by Indonesia (Boege et al 2009b:607). Indeed they even suggest the interveners' exclusionary liberal project may have contributed to a return to violence in 2006/7.

For the HPO lens, therefore, the liberal peace is neither emancipatory, nor does it automatically lead to peace and stronger state institutions. Instead, authors suggest, local societies may have more affinity for local non-state authorities such as traditional leaders, religious figures, landlords, entrepreneurs and warlords, than for the panoply of liberal institutions and democratic procedures that accompany contemporary international interventions.[38] Indeed, for Boege et al (2009:607), as 'members of traditional communities, people are tied into a network of social relations and a web of mutual obligations, and these obligations are much more powerful than obligations as a 'citizen'. People obey not the rules of the state, but the rules of their group. Legitimacy rests with the leaders of that group, not with the state authorities.'[39] For Mac Ginty (2012:34), the attention to legitimacy within the HPOs literature acts as a counterweight to liberal state-building models predicated on the assumption that liberal governance institutions reflect universal human desires. While for Boege et al (2009:606) it uncovers how public authorities may draw upon all three of Weber's ideal types of legitimacy – rational, traditional and charismatic - in their struggles to create political orders (Weber 1968:46). Schmeidl and Karohail (2009) capture these ideas with their description of the different value-systems upon which legitimacy may be built in Afghanistan's hybrid political order. These include the customary practices of tribal elders that have little knowledge of the state; the military might that allows strongmen to dominate illicit economies and provide public goods to client communities; the internationally backed regional warlords who occupy elected positions within the state's formal system; and the religious authorities that have historically rallied the nation's diverse ethno-linguistic groups beneath a single banner in times of occupation. Through such depictions of the diverse norms, value,s and material resources and symbolic repertoires available in such contexts, the

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[38] This critique echoes earlier criticisms of the West's domination of the so-called third world, such as dependency theory (e.g. Amin 1988, Gunder Frank 1991), world-systems theory (e.g. Wallerstein1974- 1989), post-colonial theory (e.g. Saïd 1978) and post-development theory (e.g. Escobar 1994, Sachs 1992). By pointing this out we do not wish to deny that the creation of empires and the subsequent spread of capitalism had a devastating effect in the non-Western parts of the world, we merely wish to point out that the ideas espoused by the HPOs literature are not as new as one might be led to believe.

[39] See also Boege et al. (2008: 28), Boege et al. (2008: 9), Clements et al. (2007: 49); Da Costa and Karlsrud (2011: 17).

HPOs literature projects its analysis of the production of public authority beyond the local and into national or international spheres.

Although dominated by its critique of the liberal peace, the authors within the HPOs literature also examine the production of public authority and provision of public goods in states that have not recently experienced an intervention. However, even in these contexts they look to the interactions between communities, states and international actors to tease out lessons for peace and state building elsewhere. For example, in a number of studies Menkhaus (2008) introduces the concept of the 'mediated state' to explain the process by which the Somali government partners, co-opts, or sub-contracts state security functions to localised coalitions of religious, clan and business leaders. However Menkhaus (2006b:85) argues that while this practice is central to the government's desire to maintain even a token of authority in Somalia's fractured polity, it is also driven by the various interests of non-state actors. With respect to the latter, these interests include the establishment of secure trading markets, the religious stewardship of local courts and the maintenance of clan-based patterns of domination. Thus a mix of traditional, religious, market and state based logics are seen to provide 'organic' forms of public order (Menkhaus 2006b:74). Yet Menkhaus (2006b:102) also takes care to accord agency to ordinary Somalis, who he suggests, fearful of predation by central powers, prevent Somalia's localised 'polities' from forming larger political units.

For Menkhaus, Somalis' aversion to central authority allows localised authorities to provide justice and security when 'the conditions are right' (Menkhaus 2006b:85). This includes dispute resolution and the establishment of private police forces by local leaders. However, beyond the absence of clumsy international state builders and the overlapping interests of local power holders, Menkhaus is less clear about what these conditions may entail. Indeed he talks in terms of a general 'trend' towards the desire for stability (2006b:83). At most, given Somalia's localised secessionist movements and the lack of a monopoly of violence, Menkhaus recommends that the weak government, faced with few options, learn from the experience of Europe's early leaders. In this scenario Somalia's government would continue to work with, manipulate and manoeuvre among local centres of authority in 'a promising variation on the theme' of state building (Menkhaus 2006b:104). Argued to already be the reality for other African countries, this is depicted as the only choice if the Somali state wishes to extend its jurisdiction within its borders. Although Menkhaus appears to have applied the idea of searching for 'practical hybrids' to broad state-society relations, as we will discuss in the conclusion, such calls leave the HPOs lens open to a number of criticisms, particularly by those worried by the translation of European state building experiences to foreign contexts, or the possible excusing of violence in support of a long run state building projects (Booth 2012).

Political Settlements Analysis

Introduction

The analysis of political settlements grew out of the attempts of the new institutional economics (NIE) literature to explain differences in the development trajectories of countries with assumed similar starting conditions. Within the latter literature institutions provide the necessary incentive structures to encourage development.[40] These incentives are conceptualised as sets of rules and rights that lower the transaction costs associated with economic and political activity. Although the NIE literature focused on property rights, the argument is also applied to other entitlements such as personal security and access to justice.[41] Indeed within the NIE literature public goods such as these are ideally provided by formal, state based institutions, with informal institutions offering second best or inferior alternatives (North 1990; Stiglitz 2000; Meagher 2007). However, despite this promising start, the NIE is largely unable to answer why right- or entitlement-providing formal institutions are often inefficient or serve particularistic interests, or why they cannot be easily replicated across contexts; the transferability problem in development.

To account for these realities a divergence from neo-classical economic thought becomes necessary. Thus some authors have begun to argue that governance institutions require legitimacy to enforce rights and that these rights confer important privileges. Moreover many suggest that there is nothing intrinsically efficient about the ability, or fair about the manner, in which institutions confer rights. Instead, the distribution of rights is seen to reflect the unique patterns of control and authority over assets found in each society (Dahlman 1980, 213-214). Observers, therefore, can only begin to understand institutions that provide public goods through a historical political economy analysis of the underlying balance of power (Di John and Putzel 2009:4). This requires investigating conflicts and negotiations between elites, and between elites and non-elites. This includes contests between, and among, those who occupy positions within the state apparatus and those that do not. Termed the 'political settlement', the balance or distribution of power between these contending social groups is placed at the heart of the relationship between public authority and public goods.

Along with an interest in the contests and negotiations shaping institutions, the political settlement literature develops several more of the NIE's defining features. Firstly it understands informal institutions, including social conventions, customs, traditions, beliefs and codes of behaviour, as integral components of formal, state based institutions. Yet while the NIE depicts informal institutions as strong constraints to rapid institutional change, the political settlements literature is somewhat positive about the utility of informal institutions in conflict-affected or transitioning societies (Menocal 2009). Indeed it suggests they may be the only viable option to promote political and economic stability where the imposition of

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[40] As defined by the NIE's most prominent author Douglas North (1990:3), for proponents of this approach institutions are 'the rules of the game in a society or, more formally, are the humanly devised constraints that shape human interaction'.

[41] The proposition that institutions matter in development economics is now routinely accepted and has a number of champions (Collier 2009; Easterly 2001; Grindle 2007; Khan 2004; North 1990; Rodrik 2007; Shirley 2009).

liberal institutions may upset the prevailing balance of power and induce conflict among competing groups (North et al 2009:40). Secondly the NIE's explicit rejection of the neo-classical assumption of instrumental rationality is harnessed by the political settlement authors to place ideas and ideologies alongside rent seeking as a significant determinant of behaviour (Denzau and North 1994; North et al 2012: Chap 1).[42] This builds upon the NIE's depiction of informal institutions as mental models derived from culture and locality. Thirdly the political settlements literature has borrowed heavily from NIE's use of historical institutionalism. However where the latter posits path dependency and belief systems to account for long run processes of incremental institutional change, the former uses history to identify the critical junctures and actors that catalyse rapid institutional change (North 1985; Pierre and Peters 2000:43).[43] Lastly where the NIE literature's acceptance of informal processes allows for 'culturalist' interpretations of the inter-subjective construction of institutions, the political settlement approach uses its focus on coalitions of power holders and ongoing negotiations to emphasise that constant collective action is needed to sustain or change institutions (Hall and Taylor 1996:8; AusAid 2011:92).

Before moving on, it is important to note that authors working with the concept of political settlements are keen to distinguish them from power sharing agreements or governments of national unity. Whereas the latter are seen as formal institutional arrangements, sometimes imposed by outsiders as part of peace-building interventions, political settlements are often defined as 'ongoing' agreements between elites and institutions, both 'formal' and 'informal' (DFID 2010; Parks and Cole 2010; Gleasen et al 2011; AusAid 2011).[44] Not only does this extend the variety of institutions involved in political settlements analysis, as with the other two identified approaches it suggests that the production of public authority is a continuous process.

Public goods providing coalitions

A central contribution of the political settlement literature is the suggestion that not all rent-seeking activity by elites is harmful. Instead it asks analysts to carefully distinguish between instances of unproductive rent seeking with no benefit for wider sections of society and rent seeking that may result in the legitimisation of claims to authority through public goods provision (North et al 2012:chapter 1). Yet it avoids normative assumptions through its assertion that there are no self-perpetuating evolutionary forces driving societies towards this

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[42] In a world characterised by instrumental rationality, ideas would not matter because capable individuals would have perfect information and operate in efficient economic and political markets.

[43] Path dependency suggests that the choices made when an institution is formed, coupled with the increasing costs of dramatically changing that path once it is operational, can explain how institutions evolve in linear directions (Hall and Taylor 1996:9). Critical junctures can be can be defined as moments that increase or decrease actors' range of choice among competing alternatives (Gagliardi 2008:423).

[44] The GSDRC (2009:1) defines governments of national unity as 'broad coalition governments consisting of all parties (or all major parties) in the legislature' and suggests that they are typically formed 'during a time of conflict or other national emergency as relatively brief arrangements'. For LeVan (2011: 34) power-sharing is best 'understood as a purposeful distribution of government posts among the most powerful political parties or groups.' The confusion between these descriptions and the emerging notion of political settlements often arises due to the shared use of terms such as 'pact', 'bargain', 'coalition', 'inclusion' and 'arrangement'.

desired outcome. This idea also appears in de Waal's (2009) concept of 'political marketplaces', which urges a re-examination of patronage systems that in certain circumstances may be describable as locally grounded, legitimate governance mechanisms. Although running against the liberal and rational-legal models of public authority, the combined force of rent seeking elites, expectant client populations and a balanced distribution of power is seen to have the potential to lead to 'developmental regimes' or 'developmental coalitions' (Parks and Cole 2010:22; Laws 2012:17). These regimes are compared to post World War II East Asian polities, such as South Korea and Japan, within which elites secured their rents by gradually responding to broad demands for economic and political rights. This process opened up opportunities for increasing numbers of the population to partake in economic and political activity.[45]

As with the other surveyed literature on the production of public authority, many of the political settlement authors do not confine the provision of public goods to formal actors and institutions. Rather the approach suggests that the inclusion of informal institutions into political settlements is the only reliable method of gaining legitimacy for those claiming public authority in conflict-affected and transitioning regions. This is because informal institutions often reflect the balance of power underpinning elite coalitions and, as they are based on local social conventions, customs, traditions, and beliefs, they allow elites to arrange the provision of public goods in socially acceptable ways. Therefore the imposition of liberal governance institutions may unwittingly upset the distribution of rights and privileges amongst contending groups. In turn, this can force public goods to be distributed in ways that prevent elites from fulfilling their obligations to client groups or give rivals greater access to resources than were previously available. In both scenarios elites or disgruntled groups may seize the opportunity to violently appropriate a greater share of the total rents within a settlement. Thus political settlements that are negotiated between informal and formal actors at multiple levels - local, regional, state, and international - with diverse and sometimes competing institutional arrangements, are seen to be the best means of avoiding violence.

Two distinct approaches to the provision of public goods can be discerned within the political settlements literature. The first depicts violence as the central problem affecting developing countries and adopts North, Wallis and Weingast's (2009) framework of 'limited access orders' (LAOs). At their core, LAOs describe societies within which the underlying political settlement confines access to political and economic opportunities to a narrow coalition of power holders. The concept is contrasted to 'open access orders' within which access to political and economic opportunities are structured in competitive terms through markets, elections and merit. Peace in LAOs rests on the ability of power holders, conceived as elites or groups with the ability to deploy violence, to negotiate credible coalitions and limit non-members' access to economic and political opportunities. These opportunities represent the interests of coalition members and can include economic rents. The framework suggests that

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[45] Acemoglu and Robinson's (2012) latest book, *Why Nations Fail: The Origins of Power, Prosperity and Poverty,* is largely concerned with synthesising their historical explanations for why this process occurs in some countries and not others.

violence occurs in LAOs when elites or groups with the capacity for violence perceive the level of rents they collect as unrepresentative of the distribution of power. Parks and Cole (2010:15-17) frame this change in perceptions as a loss of legitimacy and suggest it may be spurned by excluded groups or elites as well as members of the central coalition. However when in a credible coalition the latter actors may conclude that they are better off peacefully strengthening their patrimonial networks and enforcing each other's domination of political and economic opportunities than rent- seeking through violent means.

For North et al (2009:17), therefore, '[s]ystematic rent-creation through limited access in a natural state is not simply a method of lining the pockets of the dominant coalition; it is the essential means of controlling violence'. However they also argue that strengthening, institutionalising and legitimising the coalition's domination of rents can be achieved through the provision of public goods, such as security and justice, to the coalition's supporters. This can include the gradual extension of political and economic rights (opportunities) to greater numbers of the society. Indeed, as Goodhand and Mansfield (2010) have argued in the case of Afghanistan, given the right incentives predatory actors such as warlords may choose to use their domination of illicit economies and patrimonial 'joint extraction regimes' to build political legitimacy through the provision of security and social services to client communities (Snyder 2006). Although localised and prone to reversals in direction, these processes can even drive development and the centralisation of violence capacity as elites turn their rents into legitimate industries and secure formal positions within the state. Moreover as part of this transition they may seek to fulfill the changing expectations of both local populations and international interveners, who may have adopted or brought with them new governance norms. Yet, as others have shown, the domination of rents and legitimacy can also be achieved through forms of inequality, predation and exclusion, which can lead to the politicisation of identities and a rise in insecurity (Stewart 2001; Fearon and Laitin 2003; Collier and Hoeffler 2004; Østby 2008). Thus, as a recent collection of case studies using this approach suggests, to understand the creation of public authority, predict long run stability and interpret the political settlements underlying different LAOs the underlying political settlement must be carefully investigated through context specific and historical political analysis (North et al 2012).

The second approach to political settlements is found among donors and practitioners keen to interpret the trajectories of ambitious interventions, including state building programmes and localised development projects. On the one hand, they use the concept to suggest that predictable state building programmes are unlikely under exclusionary political settlements or where major inequalities between contending groups exist (WDR 2011; DFID 2012; Di John and Putzel 2012). As a corrective they suggest that programmes should be realised through both formal and informal means (AusAid 2011:32).[46] Indeed the World Bank's influential report *Conflict, Security and Development* (WDR 2011) encourages practitioners to foster 'collaborative, inclusive-enough coalitions' which include 'broader segments of society - local governments, business, labour, civil society movements, [*and*] in some cases opposition

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[46] Although, as Laws (2012:note 20) suggests, AusAid (2011) appears to be in some confusion about how broad a political settlement needs to be to secure stability and development.

parties'. Yet, at the same time, there is a suggestion that if left to operate outside the state's influence informal institutions may provide 'legitimacy' to those wishing to challenge the state (Di John and Putzel 2012:vi).

While on the other hand, practitioners use the political settlements approach to understand how development programmes may be received in sub-national contexts. Interpreting political settlements as 'rolling agreements' made up of powerful 'actors, interests and institutions', they argue that the alignment of local elite interests with broader sections of society will determine the success or failure of localised projects (Parks and Cole 2010:viii). Proponents of this perspective are careful to argue that states and societies cannot be viewed as homogenous entities. Rather, their internal divisions and conflicts must be seen as part of each country's larger political settlement (Laws 2012:1). This approach allows them to posit the importance of understanding 'secondary political settlements', which Parks and Cole (2012:18) define as 'the arrangements among powerful local elites to control political competition and governance below the national level (i.e., province, state, district, city, village, etc.)'. Particularly important in conflict- affected or peripheral regions, this emerging idea recognises the centrality of the relationship between local political contexts, central governments and international forces for peace building and developmental outcomes.

Viewing political settlements across different levels of analysis

Although the political settlement framework is relatively new, it is worth highlighting its application at both the national and local levels in conflict-affected states. Adopting a long run historical analysis, Kaiser and Wolters (2012) explore the nature of post-colonial political authority and instability in the Democratic Republic of the Congo (DRC) from 1965 to the present. They adopt a comparative approach by breaking the period into three phases and compare each period. Within each period a central elite coalition derives rents from the country's abundant natural resources, whilst enjoying the patronage of different international powers and the freedom to funnel wealth to private offshore depositories. This combination of factors provides few incentives for coalition members to use rents for public goods provision or to remain committed to the coalition and to strengthen each other's claims to public authority. Accordingly early stability within each period quickly gives way to corruption, predation and violence as elites faced with disgruntled sub-national groups strip the state of its resources to maintain their own support bases. This process is accompanied by the increased repression of opposition groups, often with the aid of foreign powers. Although prolonging each regime's downfall, in each period outside support came at the cost of foreign interests setting up their own extractive operations. For the authors, this further contributes to the long-run fragmentation of the DRC's weak coalitions as elites, including military leaders, break ranks with the coalition to join outsiders plundering the country's peripheries. Connecting these processes to favourable international resource markets, the authors show how the DRC's elites face a lack of incentives to legitimise their rule through public goods provision, ultimately hampering prospects of long run development and entrenching a 'vicious circle' (Anderson 2005:9).

Beall and Ngonyama's (2009:3) study of post-apartheid South Africa adopts political settlement analyses to interpret the role of customary authorities in averting violence and creating 'development coalitions' in sub-national contexts. It provides a detailed examination of how secondary political settlements interact with national level political settlements. The authors argue that South Africa's national level elites, drawing upon colonial experiences, recognised the ability of customary authorities to adapt to the changing political environment and occupy governance roles in the country's new political order. Accordingly, through their connections with local actors they utilised the power of 'ethnic symbolism, indigenous rituals and customary authority' to win national elections, especially in constituencies historically neglected by central governments. For the authors, this kickstarted an ongoing 'iterative' process which acknowledged the interests of traditional authorities and ushered in legislation that brought them into horizontally connected secondary political settlements (Beall and Ngonyama 2009:31). Although this involved 'trade-offs' within which the basic requirements of liberal democracy were relaxed to include customary institutions and authorities, it allowed democratic elements, including localised elections, to be introduced into local politics. In this manner, the authors suggest South Africa's customary leaders and their institutions were accommodated inside a 'hybrid political order' (Beall and Ngonyama 2009:5). Furthermore the authors argue that these accommodations gave national leaders the ability to 'fast track' the creation of multi-sited elite coalitions that could head off repeated bouts of political violence in South Africa's KwaZulu-Natal province.

The authors also examine local actors with links to South Africa's ruling party and to traditional authorities, and their key role in brokering inclusive political settlements. In the case of Greater Durban the brokers included representatives of the local government, business leaders, NGOs, activists, educators and politicians. They combined their ability to operate across state/society divides to create developmental coalitions that encompassed the interests of labour movements, community organisations, youth groups, business and traditional authorities. Indeed the authors suggest that the opportunities created by South Africa's pre-existing institutions and repeated elections were insufficient for the creation of inclusive secondary settlements. Thus, visionary leaders and local brokers were needed to seize these conditions and create inclusive settlements that could drive development. For Beall and Ngonyama (2009:6), uncovering the role played by 'politically astute and committed leaders' within South Africa's primary and secondary political settlements is vital to understanding local development trajectories.

Conclusion: What do the approaches tell us?

The beginning of the paper argued that the identified approaches share three perspectives on the production and exercise of public authority in conflict-affected and transitioning countries. However our subsequent review of the emerging literature suggests that authors are developing these perspectives in a number of ways. First, the approaches tend to explicitly or implicitly use a classical Weberian understanding of authority, retaining his thesis that authority implies a minimum of voluntary compliance, which is predicated on a '*belief*' in the

legitimacy of a given actor's or institution's governance practices (Weber 1966:328). This belief is often portrayed as contingent on the provision of public goods in a manner that accords with the values and norms held among wider society. In particular, the provision of security and justice serves as a common, but not always successful, method for establishing public authority and exercising power in socially acceptable ways. Second, in their search for links between public authority and public goods provision, most of the reviewed authors move beyond Weber's three ideal-types of authority: rational-legal, traditional and charismatic. Instead they recognise that public authority is exercised by institutions that are neither fish nor fowl, and have given these emerging forms labels such as 'twilight institutions', 'hybrid governance' and 'practical norms'. Indeed they show that public authority is not the prerogative of the state and that it can be exercised by a multitude of more or less transient institutions situated at different spatial levels. Lastly they view social reality as characterised by ongoing contests, conflicts and collaborations. They argue, therefore, that public authority is an emergent property, always in production and never definitely formed. Exploring these perspectives in further depth, the remainder of the paper draws three suggestions from the reviewed approaches. Each is useful for those aiming to understand the production of public authority in conflict-affected and transitioning regions.

Recognise the diverse ways of creating and maintaining public authority

The three approaches discussed above identify public authority as dependent on a belief in the legitimacy of different actors' claims to authority. Furthermore they suggest that legitimacy can be gained through the provision of public goods, particularly justice and security. In this sense the approaches retain the fragile states discourse's suggestion that public authority is the product of a reciprocal relationship between rulers and the ruled. However, by understanding the production of public authority as contextually contingent, the three approaches reject the first strand of the fragile states discourse's tendency to elevate the liberal state-builders' ideal type of legitimacy - Weber's rational-legal type - to a universal model for this relationship. Indeed which forms of public authority are considered legitimate is seen to be dependent on the values and norms animating each context. Thus, whether or not various actors' claims to public authority are considered legitimate depends on their ability to successfully evoke, consciously or subconsciously, these values and norms through their governance practices. The actors involved in the production of public authority, the material resources and symbolic repertoires drawn upon, and the type of security or justice provided, and to whom, differs from context to context. This has important implications for understanding and empirically investigating the production of public authority.

As argued, the reviewed approaches adopt a relativistic conceptualisation of authority. Indeed their shared criticism of the claims to the universality and transferability of rational-legal models of governance, put forth by authors associated with the first strand of the fragile state discourse, to some extent echo Weber's own critique of rational-legal modes of authority.[47]

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[47] In the *Spirit of Capitalism and the Protestant Ethic* (1952:181-2), Weber warned that the rationalist spirit of modernity had achieved a momentum of its own, and that under capitalism, the rationalist order had become an

This is especially the case with the hybrid political order lens that tends to see external liberal state-building models as alien to local societal values and norms. Moreover its authors suggest that such interventions can bring with them governance practices based on efficiency, rational calculation and control that may be peacefully resisted or violently rejected by populations struggling to retain their dignity (Mac Ginty 2011; Richmond and Mitchell 2012). For its part, the political settlements literature's more top down focus suggests that enterprising elites may use the reordering demanded by rational-legal state building programmes to persecute rivals and appropriate greater rents. However none of the approaches accept that societies' interests and social norms will be changed in the short term, much less abandoned, once they come to understand the possibilities of rational-legal modes of ordering, democracy and market economy; a favoured explanation for deploying more of the same in state-building efforts in contexts such as Iraq and Afghanistan even if such remedies do not appear to be working immediately (Chandler 2010). Instead they suggest that claims to authority, of whatever sort, will only be legitimated if they accord with, accommodate, or complement the beliefs and expectations already prevalent among wide sections of society. In this respect the approaches concur with a growing number of authors critiquing the narrow understanding of legitimacy found within liberal peace-building and state-building efforts (Milliken and Krause 2002; Francois and Sud 2006; Grindle 2007; Papagianni 2008; Bellina et al. 2009; Rothstein 2009). As Roberts (2009) summarises, for these authors rational-legal and procedurally democratic institutions will rarely garner the level of legitimacy needed to promote stability and development if they fail to address the social expectations of end-users.

Adding to these arguments, the reviewed approaches acknowledge that both in political orders that are sometimes erroneously described as stateless, such as Somalia, and in those emerging from periods of violence, such as South Africa, a variety of state and, sometimes illiberal, non-state actors and institutions can win legitimacy by providing basic public goods such as security and justice. In some cases groups of actors with shared or overlapping interests may even promote developmental activity, such as the running of safe markets and the securing of basic property rights through local courts. While, as the HPOs lens argues, in other contexts local authorities may work together to overcome the demands of imposed governance institutions and develop strategies to cope with oppression. For their part, investigations of the production of public authority from below show how protection

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'iron cage' in which humanity was increasingly imprisoned 'perhaps until the last ton of fossilized coal is burnt'. Weber, of course, is not the only modern social scientist who has criticized contemporary forms of domination for having a crushing effect on humans. The late 19th and early 20th century was a period marked by a veritable explosion in sociological critiques of modern forms of authority and production. In stark contrast to the optimism of the Enlightenment writers who celebrated humanity's emancipation from the backward beliefs of magico-religious thought and clerical tyranny, modern writers formulated theories of subtle domination. For example, Marx and Durkheim described how the herding of people into the urban workshops of the industrial revolution 'imposed upon mankind monotonous and unceasing labour' (Durkheim 1984:187); ultimately 'conver[ting] the labourer into a crippled monstrosity, by forcing his detail dexterity at the expense of a world of productive capabilities and instincts' (Marx 1999:209). Eventually, Habermas, as the most visible exponent of the Frankfurt School, would summarise a critique of modernity as a colonisation of the 'lifeworld', which is to say a 'penetration of forms of economic and administrative rationality into areas of action that resist being converted over to the media of money and power because they are specialized in cultural transmission, social integration and child rearing' (1987:330).

arrangements negotiated between several different actors can lead to the gradual pluralisation of those able to claim public authority. With its concentration on the construction and make-up of coalitions, the political settlements literature even suggests that previously violent actors can work across national and local levels to foster peace through the accommodation of violence specialists with credible commitments to safeguard one another's rents. The three approaches, therefore, share an encouragement to empirically examine the full range of actors involved in the production of public authority regardless of how they are categorised

Through a focus on legitimacy and the provision of public goods, regardless of the type of actors or institutions providing them, the three approaches concur with the more relativistic conceptualisation of authority in the fragile states discourse's second strand. However they go beyond Weber's three ideal types of legitimate authority to examine the diverse ways in which claimants legitimise and exercise public authority, including the range of material resources and symbolic repertoires used in these processes. However, while suggesting that the production of public authority often requires a variety of practices and resources, each approach retains a focus on particular governance practices and concentrates on the use of one or the other resource. For example, those examining public authority from below produce rich descriptions of the various ways in which local actors strategically appropriate different symbolic repertoires to legitimise their claims to public authority. For instance, various 'twilight institutions' such as traditional authorities, vigilantes, and insurgents are shown to mimic the symbolic and material practices of the state as a way to legitimise their claims to public authority. While the public authority from below literature challenges Weber's categories through nuanced understanding of institutions' abilities to claim public authority through the idea of the state, the concept of hybridity is used to focus on the interactions between an ever expanding list of governance 'logics'. These logics may be located in the local, national or international realms and, among others, contain traditional, religious, bureaucratic, market, or transnational values and norms. Although different logics may be more easily associated with different material resources and symbolic repertoires, such as the physical protection of markets or the use of religious principles to arbitrate disputes in Somalia, the crucial point remains that these logics must have some resonance among wider society in order to produce public authority. Indeed many of the authors working with the idea of hybridity focus on the interactions between those logics deemed to already be present in society and those forcefully introduced from elsewhere. This allows them to suggest that hybridity does not describe the creation of new logics, but rather the adaptation and coexistence of existing norms, values and modes of ordering.

Even the focus on the extraction of material resources within political settlements analysis suggests that securing legitimacy may be as much about forging coalitions between wielders of violence that respect locally accepted values and norms of resource distribution, as it may be about elites' abilities to harness Weber's ideal types of legitimate authority. Indeed, although initially resting on patrimonial practices, the literature suggests that the credibility, legitimacy and longevity of these coalitions may come to be based on the ability of members to turn a diverse range of expropriated material resources into increasingly inclusive rewards, including rights, or, less positively, to uphold popular exclusionary discourses and barriers

that limit the political and economic opportunities of particular social groups. These considerations are well illustrated in the case of Afghanistan where it is suggested that members of the elite coalition underpinning the country's political settlement have used their privileged access to material resources to win legitimacy by according with the norms and values among different sections of society, including growing expectations that their coercive power be formalised within state institutions (even if this has not led to increased security for the majority of end-users). With regard to legitimating public authority, therefore, our three approaches appear to consider material resources and symbolic repertoires as two sides of the same coin.

Although differing in their focus, all the approaches show how legitimate claims to authority and the exercise of power are intimately related to the diversity of values and norms and the resources that can be used to evoke them within the fragmented polities of conflict-affected regions. Unsurprisingly, capturing a contextually contingent understanding of the production of public authority is a tall order; a reality which somewhat complicates the possibility of comparative research. Despite these obstacles we argue that the reviewed approaches have three main advantages over the fragile states discourse.

Firstly, as already suggested in the preceding discussion of legitimacy, they re-orientate the contemporary interest in reciprocal relations between ruler and ruled, found in the fragile state discourse's first strand, away from a reductionist concentration on bureaucratic, rational-legal remedies for security and development. This somewhat challenges the contemporary focus on technical and institutional fixes and the search for quantifiable indicators of state capacity and institutional strength that defines liberal state-building efforts.

Secondly, emphasising that legitimacy has to do with people's norms, beliefs and everyday interactions allows analysts to look into the variety of resources and practices that actors and institutions may draw upon to legitimise their claims to, or exercise of, public authority (Bellina et al. 2009). However, although we applaud the efforts of the three approaches to recognise the diversity of forms of authority exercised in conflict-affected regions, we wish to strike a note of caution: the HPOs literature's use of the term 'logics' risks reifying these forms of authority. This is particularly problematic given the diverse and shifting nature of the resources and legitimate modes of governance that may be drawn upon by claimants to public authority.[48] Indeed it would be a drastic simplification mistake to think of the symbolic repertoires and modes of resource governance deployed in contests over public authority as derived from static, self-contained structures, with built-in logics of authority that control the behaviour of people living in conflict-affected countries. Thus we suggest that these terms go against the spirit of much of the literature, which emphasises the tactical use of these resources, holds prior-hybridisation to be an unavoidable feature of the practice of public authority and highlights the ever-changing nature of social formations. Moreover we suggest that these terms largely fail to capture the reality that many claims to public authority are rejected on the ground by locals who do not passively follow either endogenous or exogenous

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[48] As Boege et al. (2009b:n4) acknowledge a similar criticism is applicable to their use of terms such as 'customary' and 'traditional: 'It would be misleading, however, to think of this traditional realm as unchangeable and static.'

logics (Mac Ginty 2011; Richmond 2011). Rather, as Cummins (2013: 157) contends, public authority is a complex process that is negotiated by local leaders as they use existing resources to meet community needs and to pursue individual agendas. Indeed, when combined with notions of 'tradition' or 'custom', talk of logics may even leave the hybridity literature open to accusations of culturalism.

Lastly, the three approaches share an understanding of public authority as an 'emergent property', always in production and never definitively formed.[49] This suggests that public authority must be consistently practiced or performed by those claiming it. Combined with the need for authorities to accord with local expectations and provide public goods, this depiction of public authority recognises the agency of both power holders and the wider groups they govern, however subtle this may be. This is most evident in the authority from below literature's concentration on the everyday, localised governance practices and actors that produce public authority, and in the hybridity literature's argument that all political orders should be understood as hybridised to differing extents. However, it is also identifiable in the political settlements literature's emphasis on the need for elites to continuously reaffirm the credibility of their coalition through ongoing negotiations and accommodations, that, in some cases, involve providing public goods to ever-expanding sections of society.

In sum, for the reviewed approaches the actors and institutions, material resources and symbolic repertoires, and values and norms that form the basic building blocks of legitimacy are always in motion and subject to change. For that reason diligent empirical research is required to uncover the concrete interactions and practices that produce public authority. Through their identification of a variety of claims to, and ways of, exercising public authority, the three approaches add considerably to our understanding of the production of public authority in conflict-affected regions. Yet, as we will argue in the next section, this way of understanding the production of public authority not only differentiates the approaches from the fragile states discourse, it also puts them at odds with many sociological descriptions of state-building.

Open-ended processes of social change

In a cautionary call, Meagher (2012:1075) argues that a Gestalt shift from a Eurocentric Weberian notion of the state as a set of key functions, including the 'legitimate monopoly on violence' and rational bureaucratic authority (i.e. the first strand of the fragile state discourse), towards Tillian historical sociological models of state formation has taken place in contemporary studies of 'hybrid governance' (Tilly 1985, Plen 1993, Elias 1994). For many of these historical depictions of social change the legitimacy of Weber's monopoly on legitimacy was arrived at through a sequence of necessarily violent eliminations.[50] Meagher

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[49] The notion of emergent properties has a long pedigree in the social sciences, from Mill to Durkheim, Parsons and Luhmann. More recently, Hansen and Stepputat (2006) have used the notion to describe the production of sovereignty. At its most basic it suggests that some properties cannot be reduced to the sum of their parts.

[50] Tilly (1985:169) argues that the first phase of state formation in Europe was characterised by protection agreements between state-builders, which he compared to 'criminal' racketeers, and weaker members of society.

(2012), therefore, warns that this new focus may work to naturalise and thereby justify the chaotic, sometimes violent, nature of resource extraction, governance and security arrangements in conflict-affected and transitioning regions. For instance, it could support policies that assume the positive outcome of violence or the legitimacy of predatory local authorities, potentially encouraging apathy on the part of observers of oppression and conflict. More worryingly still, acquiescence may become assistance as donors provide local elites with resources to compete in supposedly evolutionary violent contests, allowing local and international actors to paper over their lack of interest in building legitimate governance institutions and focus on unrestrained resource extraction in its place.[51] These warnings raise important questions for those wishing to utilise the new approaches to public authority and public goods provision either for the purposes of analysis or for the purposes of development/security interventions.

While, the HPOs literature largely uses historical sociological models to reject the idea of leaving state formation to local authorities, suggesting it would be 'fatalistic – and cynical – to leave it all to an 'organic' historical process, likely to mean 'bloodshed, injustice and misery – as the history of European state formation amply demonstrates', it simultaneously calls for a reorientation of external assistance away from models of state-building based on rational-legal ideal-types and towards an understanding of, and engagement with, non-state actors and institutions (Boege et al 2008:15). In support of this view authors point to the hidden capacities of local ordering logics and highlight their ability to provide public goods in partnership with international interveners (Boege et al. 2008:15). Thus Booth (2012) urges working with 'practical hybrids'; institutions that marry 'modern professional standards or scientific principles with the moral economy or established practices of localised areas.

Despite this apparent embrace of alternative forms of public authority, our review did not find studies that 'emphasize the constructive role of violence in clearing away the wreckage of dysfunctional post-colonial states and catalysing more authentic processes of state formation from locally-embedded systems of order and authority' (Meagher 2012:99). The furthest they appear to go is to suggest as Menkhaus (2006a: 104) does that the form of 'mediated state' which was practiced in Europe during the Middle Ages could be a promising theme through which to build a new form of public authority because it would acknowledge the reality of many fragile states. Furthermore, as with our brief analysis, a recent literature survey of studies of security provision in contexts describable as HPOs found a diversity of outcomes and records a distinct ambiguity surrounding the direction of social change in such contexts (Luckham and Kirk 2012). The literature's use of the notion of hybridity, therefore,

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However the former's interests were not in building states, but in acquiring material resources through coercive action. Similarly Elias (1994) also uses the French experience to argue that state-building's first phase involves struggles among individuals and groups over un-monopolised, yet scarce, resources. For these authors, it is only by passing through these initial periods of violence that a second, perhaps unintended, phase consisting of dialogue between rulers and the ruled can begin to institutionalise the use of force and establish statehood based on a rational-legal bureaucracy. In a variation on this theme, Olson's (1993) description of China's 'stationary bandits' suggests that some predatory actors may find incentives to introduce state like institutions, including tax systems. For a good treatment of Tilly see Leander (2004).

[51] Meagher (2012:1082) cites studies by Reno (2001,2004) and Ferguson (2006) to support the argument that the outsourcing of security and governance functions to local strong men in resource rich countries may allow authorities to 'bypass' the cost of comprehensive state building.

can be read as a reminder that attempts to work with local public authorities should proceed with caution and be premised on thorough understandings of the local context. Indeed what may appear as the legitimate provision of public goods may in fact be a protection racket (Titeca 2009; Rayemaekers 2010). In other words the difference between the provision of public goods and organised crime is sometimes razor-thin and the legitimacy of the supposedly 'local' or 'traditional' cannot be assumed.

For those investigating the production of authority from below, social change is located in the everyday governance practices and strategies deployed in 'semi-autonomous social systems' (Moore 1978), 'local political arenas' (Bierschenk and Olivier de Sardan 2003), 'local politics' (Lund 2006; 2008), and 'arenas of negotiation' (Hagmann and Péclard 2010). These locations are characterised by the conflicts, competitions and contestations that accompany claims to public authority and they tend to place a relatively high causal emphasis on the tactical agency and interests of different social groups. By and large, therefore, the formation of public authority and political order is seen as an open-ended process. This is amply demonstrated by those authors that show how the language and practices of the state are appropriated by twilight institutions in their daily exercise of public authority. They note that while they mimic the state in their actions and language, this does not imply that these practices will lead to a new, rational-bureaucratic, progressive or inclusionary political order. Raeymaekers (2010:546), for instance, describes an emerging relationship between rebels and businessmen on the Congo–Ugandan border as a protection racket. Indeed he argues that the rebellion did not fundamentally change the embedded practices of governance in the area; what occurred was the gradual redefinition of who could share in the economic spoils and wealth that accompanied this relationship. These studies challenge the European experience by showing that the centralisation of 'coercion and capital' may benefit few beyond those claiming public authority (Leander 2004:4).

For their part, the political settlement authors' advice to encompass a wide range of societal institutions as a method of ensuring cooperation between the wielders of violence raises serious concerns in contexts within which the prevailing political settlement rests on the exclusion of particular groups from access to political and economic opportunities. Perhaps more worryingly, the approach suggests that producing public authority and distributing public goods is an inherently political enterprise that creates winners and losers, leading some of its authors to argue that 'conflict is ubiquitous and a normal condition in human society, often driving development in progressive directions' (Di John and Putzel 2012:ii-iii). However, at the same time, the political settlements literature also views violent conflict as a temporary readjustment in the balance of power between contending elites. Indeed North et al. (2009) argue that elites will peacefully provide public goods and resolve disputes when violence is unlikely to return more rents than cooperation. Thus violence is not an inevitable outcome of contests over public authority. Rather it is a marker that someone or some event has called into question the legitimacy and credibility of the ruling coalition to the extent that one or more elites consider violence as a possible course of action. This is aptly demonstrated in a number of emerging case studies that use historical political economy to show how countries with similar starting positions have succeeded or failed to foster peaceful and

developmental political settlements (North et al. 2012). Through long-run perspectives, these case studies suggest that where capacity for violence is spread among multiple groups the factors that contribute to the stability of political settlements are likely to be contextually specific. Moreover, as with the case of the DRC, studies suggest political settlements can oscillate between being describable as inclusive, peaceful and developmental, and exclusive, predatory and violent (Kaiser and Wolters 2012). Further empirical and comparative work, much of which may include times-series analyses, is needed before the key ingredients of enduring and progressive political settlements can be identified.

In sum, a close reading of the three approaches suggests that the real lesson from historical sociology is to understand the creation of public authority and the provision of public goods as ongoing and open-ended processes, and that what determines the success or failure of these processes for the stability and broader structure of political orders is contextually specific. As Jung (2008) has argued, although historical sociological accounts of state-building may be able to tell us what went wrong in Europe, they cannot necessarily shed light on contemporary African contexts or elsewhere. Indeed he suggests that contemporary conflict-affected countries only dimly remind us of forms of rational-legal political authority which Weberians call a state. Rather 'they are characterized by fragmented political arrangements in which international, transnational, regional, national and local interests and competences overlap', and he concludes that '[w]hether these complex social arrangements will ever lead to viable states nobody knows' (Jung 2008:40). The point here is that there is no necessary link between state-formation and violence. It cannot be assumed that because state-formation in Europe was accompanied by warfare and violence the same must be the case in Africa or in other non-European contexts. As our approaches suggest, even where contestation appears to result in inclusive, peaceful and public goods providing governance arrangements, there is no guarantee that governance practices will be considered legitimate on the ground and there are no theories about where such outcomes might lead regions in the long run. Analysts using historical sociological accounts of European state formation to predict the future of conflict-affected regions risk writing history by analogy (Mamdani 1996). This is particularly dangerous in situations where local institutional forms and the patronage of the international community mask the complexity of exclusionary, predatory and violent underlying social processes.

Blurred Boundaries

As we have shown, the emerging approaches largely dismiss normative claims that Western models of statehood are the only viable modes of public authority. Public authority, therefore, cannot be a fixed property of the state. Rather, analysts must recognise that a whole range of actors, who cannot easily be identified as either private or public, exercise public authority. This implies that the boundary between public/private, state/society, formal/informal is not as sharp as conventional theories of governance assume.

There are, however, different ways of explaining why these boundaries are not as well defined as sometimes believed. For the authors writing from the public authority from below perspective this is because the establishment of this boundary is in itself integral to everyday political struggles over public authority. The boundary between public and private is defined by the political developments in different local contexts. For the HPOs literature and political settlement literature, however, the boundary is blurred mainly because the norms and values upon which authority rests in conflict-affected regions constitute a heterogeneous mix. These norms and values are considered valid across the conventional distinctions such as public and private, thus rendering them artificial. Much like the second strand of the fragile state discourse they recognise that public authority in conflict-affected countries is contingent upon values and norms arising from different origins. Each political order is seen to be made up of a changing mix of interacting logics of authority, including clientelism, patrimonialism, and external rational-actor logics. In a further difference from the second strand of the failed state discourse, they see these interactions as potentially beneficial, rather than as necessarily 'criminal' depending to what extent they can produce a form of public authority capable of providing public goods. Yet, as we have argued above, there remains a real risk of reification involved in the deployment of the term 'logic', especially when applied to cultural norms and values.

In addition to the concerns referred to above, we suggest that rather than blurring the boundary between different cultural forms of authority, the notion of logics may in fact sharpen it. Even if they do not judge 'indigenous informal logics of authority' as 'inferior' or 'criminal', and even if they admit that they intertwine inside public institutions with rational-legal Western ones, through their insistence on the existence of indigenous informal logics and exogenous rational-legal Western ones, the authors using this term sharpen the boundary separating different cultural forms of authority (Boege et al 2009:603). As Olivier de Sardan (2008:3) has argued, the exercise of public authority is much more ambiguous, 'having been significantly altered and transformed over more than a century, and sometimes even in part invented'. We argue, therefore, that there is reason to be sceptical about the aggregation of highly dynamic and complex processes of public authority into processes of hybridisation between supposedly informal and formal logics. Indeed neither the formal nor the informal has the logical functionality and necessity ascribed to them, and neither can be assumed to exist prior to their invention and articulation in concrete ongoing processes of institutionalisation (Cummings 2013:143).

In another reminder of the difficulty of applying these dichotomies before empirical evidence has been collected, Mitchell (1991) has pointed out that the definition of the boundary between state and society is first and foremost a political issue engaged in by interested actors. As such there can be no precise universal scientific definition of where this boundary runs. The political struggles to define this boundary and the means through which these struggles are carried out, are fertile ground for understanding how public authority works. He therefore suggests that 'we need to examine the detailed political processes through which the uncertain yet powerful distinction between state and society is produced' (ibid: 78). We argue that this is an important insight, which the public authority from below and, although to

a lesser extent, the hybridity literature have embraced. Indeed by analysing these processes researchers may able to understand the processes through which, for instance, the distinctions between criminal/citizen, indigenous/foreign, soldier/civilian, public authority/rebel, and traditional authority/state official are produced. This would include the material resources and symbolic repertoires that are employed in order to administer, police, and secure the borders between them. The latter is particularly relevant here because it is certain to have an impact upon which of these categories have access to justice and security, and which among them are eligible to be objects of punishment and security measures for those laying claim to and/or exercising public authority. It will also require an understanding of the production of public authority from the vernacular and everyday experiences of those legitimising it and those subject to its exercise.

The renewed emphasis on the importance of context-specific forms of authority has severely challenged the 'fragile state discourse'. Consequently it has become harder to depict militias, vigilante groups, neo-patrimonial regimes and others as necessarily detracting from the production of public authority. As we have shown, such actors are increasingly seen as capable of fostering particular forms of public authority. Yet in spite of the success of the new approaches we echo Olivier de Sardan (2008) in arguing that there is a strong need for empirical research capable of capturing the complexity, variety and ambiguity of the actual practices of public authorities in conflict-affected regions. There remains a noticeable lack of empirical data on the relationships between public authority and the provision of justice and security for end-users in conflict-affected areas.

Despite this, the review has shown that there is a wide variety of ways in which public authority is legitimised and practiced in conflict-affected regions. Each local context is marked by complex relations between various public authorities and between these authorities and different population groups. The challenge as we see it is to take this complexity seriously and to forego the temptation to dismiss it as a sign of disorder. For policymakers, simply comparing state-based institutions that are successfully institutionalised with those that challenge the prevailing ideal-types of public authority will most likely produce a superficial objectification; the former becomes indicative of strong public authority and the latter a fragile public authority. If policymakers fail to recognise the extraordinary complexity of specific processes of institutionalisation and ways of exercising public authority there is a risk that those actors who might otherwise have contributed to the provision of security and justice are not only overlooked but are objectified as 'criminals' or 'spoilers'. Recognising the messy relationship between political economy and processes of institutionalisation provides an avenue for further policy development; an avenue that we suggest is closer to social realities on the ground in conflict-affected countries.

In light of the above, we recommend that donors recognise the production of public authority in conflict-affected countries as an indeterminate process, that can neither be assumed to end in the formation of strong institutions with the political will and capacity to provide public goods in an equitable manner, nor to degenerate into a kind of Hobbesian war of all against all. In this connection it should be emphasised that working through local authorities will hardly assure a better and more equitable provision of public goods, even though certain

authors within the emerging literature appear to suggest so. Those involved in daily struggles over public authority may not be interested in changing existing inequalities, or in extending the provision of justice and security to their adversaries or to those considered as 'dangerous' for their community. Instead we propose that policymakers analyse on a case-by-case basis the material resources and symbolic repertoires that go into the production of public authority. This includes uncovering the concrete practices these allow and how they may affect the daily security and rights of end-users. In addition we recommend that comparative research between case studies is pursued to identify any general patterns.

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