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The Legitimacy of States and Armed Non-State Actors

Topic Guide

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Contents

Key Messages

- **The 'legitimacy' of a state or of a non-state actor refers to the acceptance of its authority among both political elites and citizens**, although not all citizens are equally able to confer legitimacy. Without legitimacy, power is exerted through coercion; with legitimacy, power can be exerted through voluntary or quasi-voluntary compliance. Quasi-voluntary compliance is compliance motivated by a willingness to comply but backed up by coercion, particularly coercion that ensures that others will obey the law. In theory, lack of legitimacy is closely linked to instability; however this has not been adequately investigated in the literature.

- **Legitimacy can be assessed through a set of 'right standards' – a normative approach; or through the perceptions and acts of consent of the authorities and citizens in a given society – an empirical approach.** Perceptions and acts of consent are influenced by local social norms.

- **Donors have tended to focus on a normative approach.** This is risky. Donors' assumptions about the 'right standards' will influence their understanding of how to strengthen legitimacy – which may not be aligned to local social norms.

- **An empirical approach to legitimacy draws attention to the importance of people's expectations about the relationship between state and society, rather than the capability and characteristics of the state itself**. If, for example, people do not expect the state to deliver services, then its failure to do so will not necessarily result in them perceiving the state as illegitimate.

- **The weight given to different sources of legitimacy depends on who is making the judgement.** Expectations of political actors differ enormously between and within societies. These expectations change quickly and can be influenced by media, ideology, and events.

- **Effective service delivery can influence perceptions of legitimacy, but this relationship is complex.** It is affected by expectations of what the state should provide, subjective assessments of impartiality and distributive justice, the ease of attributing performance to the state, and the characteristics of particular services. Donors cannot assume that better service delivery through state channels or that the delivery of 'core services' will increase the perceived legitimacy of the state. Security is often considered a core state service but perceptions of safety do not necessarily correlate with perceptions of legitimacy. In Pakistan and Sri Lanka, perceptions of safety were correlated with legitimacy while in Uganda, they were negatively correlated. Even where people's expectations are met, the legitimising effects of service delivery are subject to people's shifting expectations. In Colombia, it was found that, once expectations were met in one area of service delivery, satisfaction with the state diminished as citizens turned their attention to other services that needed improvement.

- **Donors often overestimate the importance of inclusive political processes and legal structures in perceptions of state legitimacy**. In practice, most states (developed and developing) rely on a range of sources of legitimacy which are based on people's beliefs about the rightness of authority. In the South Pacific, the competitive dimension of liberal democratic elections, for instance, is alien to local custom in many places, and people that come into power on the basis of such elections are not necessarily seen as legitimately authoritative. Instead, legitimate authorities tend to draw on traditional sources to justify their power. Where expectations about the level of vertical inclusion are low, more inclusivity can risk undermining stability. In Iraq, it was found that the redistribution of services to previously excluded groups in the post-war period diminished the state's overall legitimacy gains.

- **Non-state groups gain legitimacy through a range of strategies.** Those include filling perceived gaps in state performance (e.g. Al Shabaab in Somalia, and MILF in the Philippines); drawing on nationalist and religious ideological narratives to build a shared identity (e.g. LTTE in Sri Lanka, Al Shabaab); and challenging existing states that are perceived as illegitimate by significant parts of the population (e.g. LTTE, Provisional IRA).

- **State-building interventions which aim to increase state legitimacy in addition to increasing state capacity, need to be based on a deep understanding of local expectations**. A greater understanding of the construction of legitimacy in a particular environment is required before donors can decide whether an intervention is (a) an appropriate strategy, and (b) likely to be effective.

- **Donor interventions are likely to have impacts on perceptions of legitimacy of various actors. These impacts may not always be intentional**. Interventions which deliver services separately to state channels can challenge a state's legitimacy. In Zambia, citizens who thought the state had little to do with service provision were less likely to pay tax. As the findings on citizens' perceptions of the state shows, the impact of delivering services separately to the state is dependent on citizens' expectations of what the state should provide. Humanitarian work which involves delivering basic services outside state channels often requires negotiation with non-state actors, thus providing them with legitimacy. Al Shabaab capitalised on this opportunity in Somalia by requiring that all NGOs get its approval to operate in areas it controlled. Interventions which aim to work with formal and informal governance structures can also weaken those structures' legitimacy if they don't meet people's expectations. In Mozambique, support for informal governance systems decreased the perceived legitimacy of chiefs as they imposed a range of new and unfamiliar obligations which were not aligned with people's expectations about the role of chiefs.

- **Some existing analytical frameworks can be helpful in understanding expectations**. Political Economy Analyses (PEAs), for example, explore formal and informal rules within society. However, PEAs which focus on elite bargains tend not to analyse whether the allocation of power, dictated by an elite bargain, is perceived as legitimate by the non-elites.

- **Perception surveys can provide insights into the degree of legitimacy an authority enjoys however there are a number of methodological problems associated with this**. Legitimacy is too unwieldy and complex a concept to be measured with one indicator; virtually all perception surveys break it into component parts. This means that perception surveys on legitimacy are measuring a range of different indicators which are related to legitimacy but are not necessarily measuring the same thing. Furthermore, expressing dissatisfaction with an authority may not be strategic for interviewees. Finally, legitimacy is not only constructed through perceptions, but also through people's acts of consent. More robust approaches to measuring legitimacy should include a measurement of perceptions and of behaviour.

Executive summary

This Topic Guide explores the meaning of legitimacy in relation to state and armed non-state actors. It examines the dominant meanings of legitimacy used in international development and analyses how these have emerged. It also identifies and uses alternative conceptualisations of legitimacy to interpret the evidence on the relationship between legitimacy and service delivery, institutions, international interventions, social media and religion/ideology. Finally, it discusses approaches used by donors to either increase state legitimacy or to measure the legitimacy of an intervention. It analyses current tools used by donors for their relevance to understanding legitimacy, and also assesses the relevance of new tools and methodologies designed specifically to analyse and measure legitimacy.

The importance of understanding legitimacy

Legitimacy is a crucial aspect of all power relations. Without legitimacy, power is exerted through coercion; with legitimacy, power can be exerted through voluntary or quasi-voluntary compliance. Quasi-voluntary compliance is compliance motivated by a willingness to comply but backed up by coercion, particularly coercion that ensures that others will obey the law (Levi & Sacks, 2009). This holds for both power exerted by a state and by armed non-state groups. Thus legitimacy can be understood as an acceptance of authority by both elite and non-elite groups, although not all citizens are equally able to confer legitimacy.

Legitimacy lies at the core of state-citizen relationships and thus of the whole state-building agenda. In theory, a lack of legitimacy should be closely linked to instability, however this relationship has not been adequately investigated in the literature. If an authority which experiences weak legitimacy has access to resources to exert power through coercion, its power may not be widely challenged (for example Algeria, North Korea). There is evidence to support the idea that citizens who perceive their government as relatively effective, competent, and procedurally just, are more willing to comply, albeit quasi-voluntarily.

Ways of assessing legitimacy

There are two principal approaches to assessing legitimacy. One is concerned with normative standards to which an actor, institution or political order must conform in order to be considered legitimate. Using this approach, there is a right way to exercise authority. A normative approach to state legitimacy, based on western liberal values, typically understands a legitimate state as a state which features democratic elections and respect for human rights. An empirical approach assesses legitimacy through the perceptions and acts of consent by both the governed and the authorities in a given society.

In his exploration of how to think about legitimacy and illegitimacy, Robert Lamb (2014) emphasises the importance of not only identifying what entity is being evaluated for legitimacy/illegitimacy (which he termed the 'conferee') but who is making that judgement (the 'referee'). It follows that the legitimacy of individual actors, political parties, states or political settlements will vary according to who the referee is. Using the normative approach to evaluating legitimacy, the referee is the evaluator him/herself whereas, in the empirical approach, the referee is the population over which the conferee exerts authority.

Dominant understandings of legitimacy

Donors' understanding of legitimacy has been heavily influenced by Weber's theory of state and by his categorisations of sources of legitimacy. In the first instance Weber's ideal type of bureaucracy, based on legal-rational principles, influenced an understanding of the state in terms of institutions and service delivery. Fragile states were defined as states which failed to fulfil these core functions. A lack of service delivery in fragile states was understood as a key factor in their weak legitimacy, which can be seen, for

example, in the OECD reports on Service Delivery in Fragile States, (2008a) and the Dilemmas of State building in Fragile Situations, (2008b). As a result, legitimacy was understood as something which could be strengthened through service delivery.

Just as Weber categorised legitimacy in terms of sources (rational-legal, tradition and charisma), the OECD's 2010 typology of legitimacy identifies sources of legitimacy (input legitimacy, output legitimacy, beliefs and international legitimacy). While Weber's approach to legitimacy was distinctly empirical and the broad categories identified by the OECD report are non-normative, the treatment of potential sources of legitimacy under each of these categories tends towards the conceptualisation of a legitimate political system based on the principles of liberal democracy. For instance, sources of input legitimacy which have been identified include participation, transparency, checks and balances on centres of power, procedural norms, auditing of public funds, appropriate media coverage and public political debate, the principle of legality and rule of law following bureaucratic institutions. Patronage is also acknowledged as a source of input/output legitimacy in non-western states although, even when this is included, this account of the sources of input legitimacy fails to explain the high levels of legitimacy enjoyed by countries such as China, which feature few of these characteristics.

The risk of using a normative approach to understanding how to build legitimacy in fragile states is that interventions, which support western interpretations of legitimate states, will encounter the same problems that were encountered when state-building was understood as an exercise in building institutions which mimicked western ones.

The 2010 DFID practice paper *Building Peaceful States and Societies* uses an empirical approach to legitimacy. However, the understanding of the interaction between state and society in building legitimacy tends towards a state-centric approach: 'states are legitimate when elites and the public *accept* the rules regulating the exercise of power and the distribution of wealth as proper and binding' [italics added] (DFID 2010, p16). Furthermore, the legitimacy of the UN and international donors as peace-building and state-building actors is assumed (DFID 2010, p11). The 2011 DFID Strategy document *Building Stability Overseas* does not define its understanding of legitimacy but tends towards a normative understanding of what a stable state looks like. For example, it states that democracy can provide an effective mechanism for allocating political power and managing conflict, and understands elections as a 'critical part' of building legitimacy.

Legitimacy is symbiotic, multidimensional and constantly shifting

The symbiotic, multidimensional and shifting nature of legitimacy was discussed in the OECD 2010 report; however it is the typology of sources of legitimacy which tends to be extracted from the report leaving behind the nuance. David Beetham's (1991) theory of legitimacy emphasises the symbiotic and multidimensional nature of legitimacy. Beetham understood legitimacy not in terms of the different sources from which authority arises, but in terms of three dimensions upon which all legitimacy relies. According to Beetham, for an authority to be legitimate:

- it must conform to established rules;
- the rules must be justifiable in terms of people's beliefs;
- there must be evidence of consent by the subordinate.

This allows for a level of symbiosis; that people's perceptions of legitimacy are influenced by the justifications provided by an authority and that an authority's justification for its legitimacy, in turn, is influenced by the shifting beliefs of the people. Furthermore, the acts of consent displayed by the subordinate contribute to the construction of justification for an authority. In a similar way, Robert Lamb's research on how gangs establish legitimacy in slums in Colombia emphasises the multidimensional, multilevel and bilateral nature of legitimacy (2014).

Legitimacy, institution building and service delivery

The evidence reviewed indicates that the influence of service delivery, job creation, formal institutions, and international interventions on legitimacy will depend on whether the intervention is aligned with the values and expectations of the population. In her review of the impact of service delivery Mcloughlin (2014) concludes that the relationship between a state's performance in delivering basic services and its degree of legitimacy is likely to be conditioned by:

- shifting expectations of what the state should provide;

- subjective assessments of impartiality and distributive justice;

- the relational aspects of provision;

- how easy it is to attribute (credit or blame) performance to the state;

- the technical and normative characteristics of particular services.

Donors cannot assume that better service delivery through state channels or delivery of 'core services' will increase the perceived legitimacy of the state. Security is often considered one of the core services that a state should provide but perceptions of safety do not necessarily correlate with perceptions of increased legitimacy. In Pakistan and Sri Lanka, perceptions of safety were correlated with legitimacy while, in Uganda, they were negatively correlated. Even in places where people's expectations are met, the legitimising effects of service delivery is subject to people's shifting expectations. In Colombia, it was found that, once expectations were met in one area of service delivery, satisfaction with the state diminished as citizens turned their attention to other services that needed improvement. In addition to being subject to variations over time, legitimacy is rarely monolithic and perceptions of legitimacy among a group of referees vary according to their beliefs which are influenced by age, gender, socioeconomic status and location.

More inclusiveness does not necessarily result in increased legitimacy

Inclusiveness in political settlements and peace processes is often understood as a key factor in ensuring the legitimacy of the process and the resulting agreement. However, the theory of legitimacy reviewed for this Topic Guide indicates that inclusivity will only contribute to the legitimacy of a process or agreement when the level of inclusiveness achieved aligns with the mainstream expectations of inclusivity among the group the process or agreement affects. There is some evidence to support the theory. For instance, in Iraq, it was found that the redistribution of services to previously excluded groups in the post-war period diminished the state's overall legitimacy gains. In the Algiers Peace Accords signed in 2006 between the Government of Mali and the Tuareg insurgency groups, provisions were included which attempted to increase the participation of Tuaregs in the government and bureaucracy. This provision led to lower class Tuaregs accessing positions of power within the state which in turn, began to threaten the 'traditional' power structure among the Tuareg clans, thus giving some of the more elite Tuareg increased incentives to attempt once again to establish a Tuareg state (Ag Erless and Kone, 2012).

Non-state groups gain legitimacy through a range of strategies

Non-state groups gain legitimacy through a range of strategies which include filling perceived gaps in state performance (e.g. Al Shabaab in Somalia and MILF in the Philippines); drawing on nationalist and religious ideological narratives to build a shared identity (e.g. LTTE in Sri Lanka, Al Shabaab); redistributing wealth through taxation (e.g. Al Shabaab and FARC), and challenging existing states that are perceived as illegitimate by significant parts of the population (e.g. LTTE, Provisional IRA).

Approaches to influencing legitimacy

Despite the increasing attention legitimacy has received in critical research and donor strategies, the translation of this into tangible interventions has been slow. Legitimacy is rarely explicitly discussed in state-building strategy documents, although it is occasionally addressed indirectly, through strengthening mechanisms of accountability. Yet, there are some indications of an 'emerging consensus' among donors that interventions need to include a mix of activities most likely to contribute to increased legitimacy in the short-term (what the World Development Report 2011 calls restoring confidence) and longer-term efforts to legitimise the state by strengthening its links to society. Examples of this approach include the National Solidarity Programme (NSP) in Afghanistan and social protection programmes which have been used in emergencies and situations of acute poverty.

The evidence reviewed for this Topic Guide suggests that, if these programmes are *well designed*, they could play a significant role in strengthening state-citizen relations. 'Well designed' does not necessarily mean a programme that efficiently meets its top-down and externally-defined outcomes but one that is designed to consider the ideational and relational significance of an intervention; how a programme relates to beneficiaries' values and expectations. Donors considering interventions which are intended to contribute to either short-term and long-term state legitimacy will need a greater understanding of the dynamics of legitimacy construction in contextually-defined power relationships to assess whether the intervention is appropriate and likely to be effective.

Some existing analytical frameworks can be helpful in understanding expectations around legitimacy. Political economy analyses (PEAs), for example, explore formal and informal rules within society. However, PEAs which focus on elite bargains tend not to analyse whether the allocation of power (the elite bargain) is perceived as legitimate by the general population.

Interventions which don't attempt to understand issues of legitimacy can have unintended impacts

Interventions which deliver services outside of state channels can challenge a state's legitimacy. In Zambia, citizens who thought the state had little to do with service provision were less likely to pay tax. However, it should be noted that the impact of delivering services outside state channels is dependent on citizens' expectations of what the state should provide. Humanitarian work which involves delivering basic services outside state channels often requires negotiation with non-state actors, thus providing them with legitimacy. Al Shabaab capitalised on this opportunity in Somalia by requiring that all NGOs got its approval to operate in areas it controlled. Interventions which aim to work with formal and informal governance structures can also work to weaken those structures legitimacy if they don't meet people's expectations. In Mozambique, support for informal governance systems decreased the perceived legitimacy of chiefs as they imposed a range of new and unfamiliar obligations which were not aligned to people's expectations about the role of chiefs.

Measuring perceptions alone may not be adequate for assessing legitimacy

Development programmes commonly measure legitimacy through perception surveys. These can provide insights into the degree of legitimacy an authority enjoys, however, there are a number of methodological problems. Legitimacy is too unwieldy and complex a concept to be measured with one indicator; virtually all perception surveys break it into component parts. This means that perception surveys on legitimacy are measuring a range of different indicators which are related to legitimacy but are not necessarily measuring the same thing. Furthermore, expressing dissatisfaction with an authority may not be strategic for interviewees. Finally, legitimacy is not only constructed through perceptions, but also through people's acts of consent. More robust approaches to measuring legitimacy should include a measurement of perceptions and of behaviour.

1 Key language and concepts defined

1.1   The importance of understanding legitimacy

Legitimacy is a crucial aspect of all power relations. Without legitimacy, power is exerted through coercion; with legitimacy, power can be exerted through voluntary or quasi-voluntary compliance[1]. This holds for both power exerted by a state (Levi 1997; Beetham, 1991; Hurd 1999; Tyler 2006; Kelman & Hamilton, 1989) and by armed non-state groups (Maher 2012). Thus legitimacy can be understood as an acceptance of authority by both elite and non-elite groups, although not all citizens are equal in their capacity to confer legitimacy.

Legitimacy lies at the core of state-citizen relationships and thus of the whole state-building agenda. The logic used in the state-building agenda is that an authority which lacks legitimacy will be challenged, resulting in increased instability. The evidence for this assertion is, however, mixed. If an authority which experiences weak legitimacy can exert power through coercion, its power may not be widely challenged (for example, Algeria and North Korea). Some legitimacy theorists argue that these situations are not sustainable and that states which lack legitimacy devote more resources to maintaining their rule and less to effective governance, which reduces support and makes them vulnerable to overthrow or collapse (Gilley, 2006). The evidence is not clear. However, there is some evidence to support the corollary, i.e. that if states are legitimate, they use fewer resources to coerce, have more resources to devote to improving governance and can rely on citizens' consent even when certain groups disagree about policies. Levi and Sacks explored the relationship between citizens' perceptions that government is relatively effective, competent, and procedurally just, and their stated willingness to engage in quasi-voluntary compliance. Based on their research in African countries, they argued that, where such a relationship exists, there is the potential for the development of a virtuous circle (Levi & Sacks, 2009).

1.2   Approaches to assessing legitimacy

There are two principal approaches to assessing legitimacy. One is concerned with normative standards to which an actor, institution or political order must conform in order to be considered legitimate. In this approach there is a right way that an actor, institution or political order should exercise power. A normative approach to state legitimacy, based on western liberal values typically understands a legitimate state as a state which features democratic elections and respect for human rights. Andersen (2012) termed the state-centred normative approach based on western liberal values the 'state institutional-normative approach', while Lemay-Hebert characterised it as 'neo Weberian', emphasising its treatment of legitimacy, in terms of functionality of institutions, based on a Weberian conceptualisation of the state (Lemay-Hebert, 2009, 2010, 2015)[2]. Examples of this approach include Fukuyama, 2004; Rotberg, 2004; Paris, 2003, 2004; Ignatieff, 2003; and Kaplan, 2004, 2005. The UN employs a normative approach to legitimacy. Since the 1990s, the normative approach has increasingly been questioned by scholars and practitioners (c.f. Chandler, 2004; Clements, 2008; Teskey et al., 2012).

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[1] Quasi-voluntary compliance is compliance motivated by a willingness to comply but backed up by coercion, particularly coercion that ensures that others will be obeying the law (Levi & Sacks, 2009).
[2] It should be noted, however, that a state which conforms to the Weberian ideal type does not necessarily feature democracy nor respect for human rights. For example, e.g. the Prussian state conformed to the Weberian ideal type but would not be understood as legitimate from a modern liberal perspective.

The second approach treats legitimacy or the 'rightness of an authority' as being determined by both the governed and the authorities in a given society. This approach tends to focus on the perceptions which people hold about an actor, institution or political order, but is also concerned with the factors that incentivise a society to consent to power. It is referred to as the descriptive or empirical approach (e.g. Papagianni, 2009; Gilley, 2006; Beetham, 1991, 2013; Roos & Lidström, 2014).

It is useful to identify which approach is being used, because an entity could be described as both legitimate and illegitimate based on whether a normative or empirical approach is being used. A state could be considered legitimate by its citizens, for example, despite failing to conform to the normative definition based on features such as democratic elections and respect for human rights, or vice-versa. In everyday use of the term legitimacy in the media and in development, the state institutional-normative approach is often used to evaluate the legitimacy of states. The state institutional-normative approach is less relevant for evaluating armed non-state actors, although normative evaluations of non-state actors are often made based on the same values. Thus the Free Syrian Army is judged to be legitimate by international actors because it advocates a secular democratic state and the protection of human rights, whereas ISIL is judged to be illegitimate as it advocates an Islamic state and does not adhere to the liberal concept of human rights.

Figure 1: Two principal approaches to understanding legitimacy
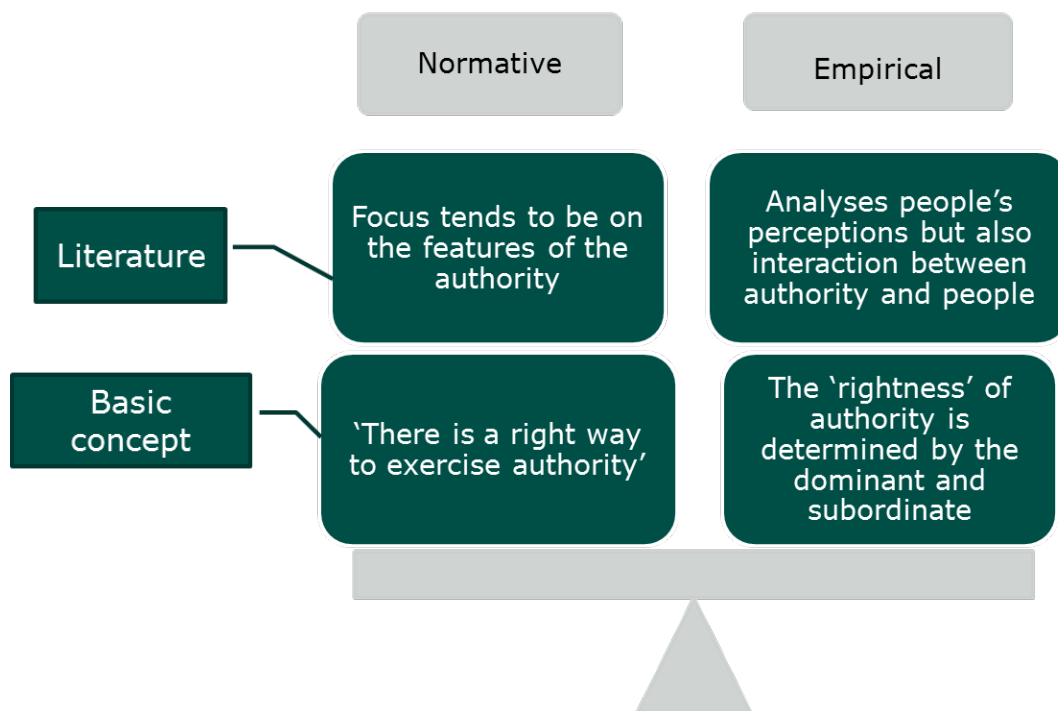
In his exploration of how to think about legitimacy and illegitimacy, Robert Lamb (2014) emphasises the importance of not only identifying what entity is being evaluated for legitimacy/illegitimacy (which he termed the 'conferee') but who is making that judgement (the 'referee'). It follows that the legitimacy of individual actors, political parties, states or political settlements will vary according to who the referee is. Using the normative approach to evaluating legitimacy, the referee is the evaluator him/herself whereas, in the empirical approach, the referee is the population over which the conferee exerts authority.

1.3   Dominant understandings of legitimacy

In international development, legitimacy has been heavily influenced by Weber in two ways. The first is through the fragile state discourse[3] which draws heavily on Weberian definitions of the state. Weber's ideas on the ideal-type bureaucracy, based on legal rational principles, influenced an understanding of state strength in terms of capacity to provide for the security and wellbeing of its citizens, while state fragility is understood in terms of a lack of capacity to provide these services (DFID, 2005; OECD, 2007). As fragile states are presumed to be suffering from weak legitimacy, strengthening legitimacy is thus imagined in terms of strengthening state capacity to provide services (Lemay-Hébert and Mathieu 2014). For example, the OECD report on Service Delivery in Fragile States state that the 'effectiveness of service delivery' is the core component of 'the legitimacy of the political order' (2008a). In another OECD report which explores the dilemmas of state-building in fragile situations, it is proposed that state legitimacy can be threatened if the state does not deliver core services (2008b).

Figure 2: The influence of Weber on understandings of how to strengthen legitimacy in international development
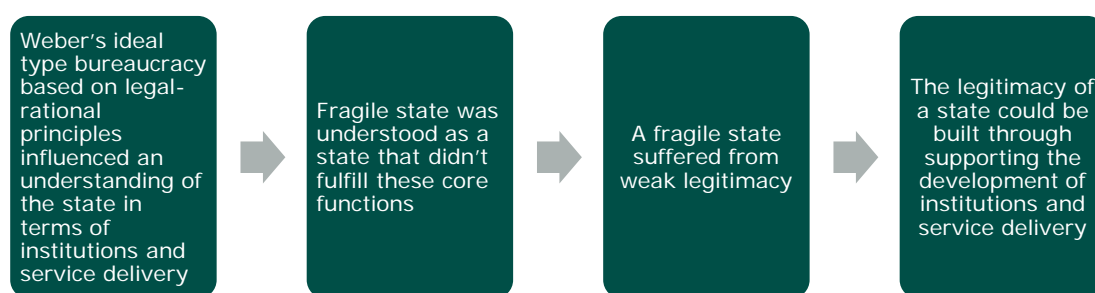
The second way that understandings of legitimacy in international development are influenced by Weber is in the dominant treatment of legitimacy in terms of sources. Weber identified three sources of legitimacy: legal rational (rules and procedural correctness); traditional; charisma. Similarly, the OECD (2010) conceptualises legitimacy in terms of sources which expand on Weber's original categorisation (see Figure 4).
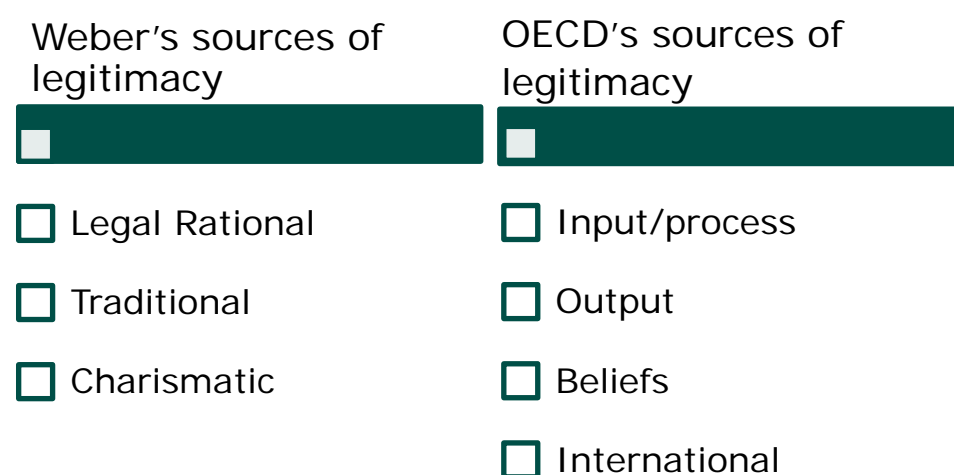
While the OECD 2010 report emphasises the importance of shared beliefs and that sources of legitimacy are relevant only to the extent that the relevant constituency considers them to be so, the discussion of the potential sources of legitimacy under each of these categories tends towards a conceptualisation of a legitimate political system based on the principles of liberal democracy (a normative understanding of legitimacy). For instance, sources of input legitimacy identified include participation (although it is acknowledged that elections might not necessarily represent a source of legitimacy), transparency, checks and balances on centres of power, procedural norms, auditing of public funds, appropriate media coverage and public political debate, the principle of legality and rule of law following bureaucratic institutions. Patronage is acknowledged as a source of input/output legitimacy but, even with this inclusion, this account of the sources of input legitimacy fails to explain the high levels of legitimacy

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[3] For further information, see the GSDRC Topic Guide on fragile states http://www.gsdrc.org/docs/open/CON86.pdf

enjoyed by countries such as China which feature few of these characteristics (in a cross country analysis of state legitimacy, China is ranked 17 out of 72 democratic and non-democratic countries – see Gilley, 2006).

DFID's approach to working in fragile states has been influenced by the OECD's treatment of the concept of legitimacy. The 2010 DFID practice paper *Building Peaceful States and Societies* draws on the OECD report on legitimacy when it states that legitimacy lies at the heart of state-society relations. The understanding of the interaction between state and society in building legitimacy tends towards a state-centric approach; 'states are legitimate when elites and the public *accept* the rules regulating the exercise of power and the distribution of wealth as proper and binding' [italics added] (p16). The legitimacy of the UN and international donors as peace-building and state-building actors is assumed (p11). The 2011 Strategy document on *Building Stability Overseas* does not define its understanding of legitimacy but it tends towards a normative understanding of what a stable state looks like. For example, it states that democracy can provide an effective mechanism for allocating political power and managing conflict and understands elections as a 'critical part' of building legitimacy.

Figure 3: Conceptualising legitimacy in terms of sources

Weber's sources of legitimacy	OECD's sources of legitimacy
☐ Legal Rational	☐ Input/process
☐ Traditional	☐ Output
☐ Charismatic	☐ Beliefs
	☐ International

The risk of using a normative approach to understanding how to build legitimacy in fragile states is that interventions, which support western interpretations of legitimate states, will encounter the same problems that were encountered when state-building was understood as an exercise in building institutions which mimicked western ones. As the OECD report on legitimacy emphasised, there are likely to be many sources of legitimacy in fragile states, including tradition, religion and patronage. The effects of normative approaches to legitimacy which are based on western values can be subtle. For example, the 2010 OECD report on legitimacy is explicit about treating legitimacy empirically and clearly states that donors need to broaden their understanding of legitimacy to encompass aspects of it that derive from people's shared beliefs and traditions, not just from a western state model. Yet, the analysis of the distinction between western and non-western states and their vulnerability to legitimacy/illegitimacy builds in a teleological understanding that the stronger a state becomes, both in terms of its institutional capacity and its state-society relations, the more legitimate the state is likely to be.

1.4 Alternative understandings of legitimacy

Other scholars of legitimacy have advocated conceptualising legitimacy, not in terms of sources but in terms of its dimensions. According to Beetham (1991), the three categories of legitimacy outlined by Weber are, in fact, all different types of beliefs and form a component of legitimacy rather than

representing a type of legitimacy. For Beetham, legitimacy embodies three distinct elements or levels which are qualitatively different from one another. The first level of legitimate power is its conformity to established rules; the second is that the rules can be justified by reference to beliefs shared by both dominant and subordinate groups and the third is evidence of consent by the subordinate to the particular power relation (see Table 1). Beetham's concept allows for an appreciation of the symbiotic nature of legitimacy, in that the conferee and referee influence and shape each other. Weber thought that legal-rational legitimacy was the most progressive and that, eventually, all states would move towards relying principally on rational-legal means to exert authority. Beetham's conceptualisation of legitimacy is less teleological and so is likely to reduce the likelihood that normative biases will be built into this typology. Beetham's inclusion of evidence of consent as a core component of legitimacy demands that legitimacy be assessed through both perceptions and actions.

Table 1: Beetham's three dimensions of legitimacy

	Criteria of legitimacy	*Form of non-legitimate power*
(i)	Conformity to rules (legal validity)	Illegitimacy (breach of rules)
(ii)	Justifiability of rules in terms of shared beliefs	Legitimacy deficit (discrepancy between rules and supporting beliefs, absence of shared beliefs)
(iii)	Legitimation through expressed consent	De-legitimation (withdrawal of consent)

Robert Lamb's conceptualisation of legitimacy is somewhere between Weber and Beetham. He takes a panoptical view of legitimacy by conceiving of it as multidimensional, multilevel and bilateral. The multidimensionality of legitimacy is distilled into five features, which can be used to assess legitimacy:

- predictable (a necessary but not sufficient condition that includes transparency and credibility);

- justifiable (judgements about important values: what is right, good, proper, admirable);

- equitable (ideas about fairness, that is, inequalities are justified);

- accessible (having a say in processes for making decisions that affect one's life, a weak version of consent);

- respectful (treatment consistent with human dignity and pride).

Lamb proposes that the more a conferee conforms to these features, the more likely it is to be considered worthy of support. Lamb's conceptualisation suggests that it is not so much the source of legitimacy which matters but rather the features which the authority displays. Lamb's idea of legitimacy is of a two-way process. Just as referees judge whether a conferee is legitimate, a conferee also judges whether a referee is worthy of inclusion. Thus, to measure legitimacy, a conferee must be assessed on the degree to which it considers its referee as worthy of citizenship.

2 Debates

2.1   Service Delivery and Legitimacy

Research on the relationship between service delivery[4] and perceived legitimacy of states indicates that this relationship is contingent on a multitude of factors. Access to services does not necessarily result in increased state legitimacy (Mcloughlin, 2014; Mallett et al., 2015). Some research indicates that the quality of services can have a positive impact on perceptions of state legitimacy (Mallett et al., 2015) but in other situations, satisfaction with a service did not correlate with trust in state (Brinkerhoff et al., 2012). In situations where quality does improve perceptions of the state, it does not guarantee ongoing legitimacy; in Colombia it was found that, once expectations were met in one area of service delivery, satisfaction diminished as citizens turned their attention to other services that needed improvement (Guerrero, 2011).

Some of the apparent contradictions in different studies could be attributable to the different methods used to measure and assess legitimacy. The study conducted by Mallett et al., (2015) was part of the Secure Livelihoods Research Consortium (SLRC) funded by DFID. It sought to measure legitimacy by assessing the degree to which citizens thought their government's decisions reflected their own priorities, and the degree to which it cared about whether its decisions reflected their priorities or not. Brinkerhoff et al. used willingness to pay for water services as a proxy for trust in government. While these two studies are probably measuring different things (albeit both related to legitimacy), the research conducted by SLRC included cross-country comparisons. Even when using the same measure, there were significant variations in factors which affected perceptions of legitimacy. For example, security is often considered one of the core services that a state should provide but perceptions of safety do not necessarily correlate with increased legitimacy. In Pakistan and Sri Lanka, perceptions of safety were correlated with legitimacy while in Uganda, they were negatively correlated.

In her paper analysing when service delivery improves the legitimacy of a fragile state, Mcloughlin (2014) draws on Beetham's concept of legitimacy but also represents legitimacy as a social construction. Using this, these variations across countries would be expected. Thus, in one place the provision of good quality services in one place may be interpreted as evidence that the state is efficient and worthy of support whereas, in another, it could be seen as evidence of increasing state control and an attempt at pacification (Van de Walle & Scott, 2011). Mcloughlin found that, in practice, a number of factors interrupt any direct causal relationship between a state's performance in delivering basic services, and its degree of legitimacy. She concluded that this relationship is likely to be conditioned by:

- shifting expectations of what the state should provide;
- subjective assessments of impartiality and distributive justice;
- the relational aspects of provision;
- how easy it is to attribute (credit or blame) performance to the state;
- the technical and normative characteristics of particular services.

This understanding of legitimacy in relation to service delivery has several repercussions for the aid industry. Mcloughlin recommends that donors look beyond the material to the ideational and relational

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[4] For further information, see the GSDRC Topic Guide on service delivery http://www.gsdrc.org/go/topic-guides/service-delivery/

significance of services for citizens' evaluations of the state. There are several examples of specific current approaches that are worth discussing in more detail.

First, the dominant position in aid policy has been that parallel (non-state) service delivery structures undermine state legitimacy because they reduce the state's visibility as provider (Bellina et al., 2009). There is some supporting evidence of this from Zambia, where citizens who (rightly or wrongly) credited non-state providers with service delivery were found to be significantly less likely to have confidence in their government, or to pay tax and comply with regulations (Sacks, 2009). However, if people do not expect their state to deliver services, their concept of a legitimate state may be unaffected by a non-state actor delivering services. Stel (2011) found that, in Burundi, as people did not expect the state to be involved at the point of delivery, they were not disappointed when it was not. Thus whether the delivery of services by non-state actors will influence legitimacy depends on people's understanding of what the state's role is. It will also be influenced by the socioeconomic status of the population; if a population can afford to pay for private education, they may not expect the state to provide it.

Health is often understood as a core service that is likely to increase the legitimacy of a government. Indeed in her statistical analysis of cross-country public opinion data, Sacks (2011) concludes that basic health services potentially have a greater overall effect on the general population's approval of the incumbent government, compared to water and sanitation services, and she attributes this to the acute significance of health for people's daily lives. However, although sanitation and water services could be directly linked to health considerations, and that the relative weighting of different services will vary according to population needs, numerous other studies have concluded that the evidence that health contributes to increased state legitimacy is 'flimsy' at best (Gordon, 2013; Rubenstein, 2009). Gordon highlights how, in Afghanistan and Iraq, health provision has become part of counter insurgency and stabilisation strategies which may engender suspicion towards these programmes. This seems to have already happened in northern Pakistan where it is widely believed by local communities that the polio vaccination programme is really a scheme by the West, in collaboration with the Pakistani government, to make Muslims infertile (Murakami et al. 2014).

There are some tentative findings that indicate that there may be common features to service delivery which engender perceptions of legitimacy. Qualitative research in Liberia, Nepal, and Colombia found that unequal or exclusionary access to public goods was detrimental to citizens' views of the state's right to rule (Dix et al., 2012). Of course, the definition of 'unequal' or 'exclusionary' will be shaped by normative values. Citing the case of Iraq, Brinkerhoff et al. (2012) note that the redistribution of services to previously excluded groups in the post-war period diminished the state's overall legitimacy gains. The opportunity to influence the form of service delivery either through decision-making opportunities or grievance mechanisms also seems to be a feature of service delivery that is associated with more positive perceptions of government. This effect was found in post-conflict, developing and developed countries (Mallett et al., 2015; Roos & Lidström, 2014).

2.2 Job creation and legitimacy

Influenced by the conceptualization of legitimacy in terms of performance (or 'output' in the OECD typology), there is a tendency in the literature to relate the legitimacy of a state to social and material improvement (e.g. Burnell, 2006) or more directly to the creation of jobs (e.g. Teskey et al., 2012). There is some evidence which supports this line of reasoning; research indicates that the 'tangibility' of government and public service delivery affects how people think and feel about the state (Wild et al., 2014; Kingdon et al., 2014). Job creation is certainly a tangible performance output that a state can offer but there has been no research on the nature of the relationship between job creation and perceptions of legitimacy. As with service delivery, the relationship is likely to be complex and influenced by many of

the factors that dictate whether service delivery increases positive perceptions of the state (see Section 2.1).

There is some research which provides insights into the potential particularities of the relationship between legitimacy and job creation. Grindle's (2004) study of reforms in the education sector in Latin America between 1977 and 1996 provides insights into the potential for job creation to foster support for a reform process. The study showed that reforms which increased access to education encountered relatively little resistance, whereas reforms which attempted to improve quality experienced extensive resistance. The key difference was that the reforms giving access to education resulted in the construction of more schools creating more jobs for teachers, administrators, service personnel, construction workers and publishers of textbooks and makers of school equipment, while the reforms to quality threatened job loss.

In political systems where legitimacy is predicated on a system of patronage, the provision of jobs through the civil service and government contracts is less likely to be based on merit. Drawing on the theory of legitimacy outlined in Section 1, whether the provision of jobs and contracts to unqualified personnel will undermine the legitimacy of a ruling party or system, will depend on what citizens expect from civil servants and government contracts and whether the patronage benefits compensate for the civil service or government contracts failing to meet expectations.

2.3   Formal political processes, institutions and legitimacy

The concept of state and legitimacy used in international development has been strongly influenced by Weber (See Section 1). As discussed, donors have tended to prioritise legal-rational legitimacy and, as a result, have understood the process of increasing legitimacy in terms of institution building, service delivery, and policy making. Clements (2007) criticises2008) criticizes this preference for legal rational legitimacy by donors, and argues that the imposition of formal political processes and institutions based on a Weberian ideal-type of state does not always produce the increase in legitimacy that donors are hoping to achieve. Clements bases his analysis on his experience of working on various donor-funded governance programmes in the South Pacific. He observes that many people living there have difficulty understanding formal bureaucratic capacities [and political processes] and institutions associated with a Weberian state. Indeed, they are often perceived as being incompatible with the traditional understanding of how legitimacy is generated. He suggests that there is a tendency of western outsiders to overestimate the potential of democratic and statutory legal processes to secure legitimacy. The competitive dimension of liberal democratic elections, for instance, is alien to local custom in many places, and institutions and people that come into positions of power on the basis of such forms of competition are not necessarily seen as legitimately authoritative. Tim Kelsall (2008) also observes similar tensions between some African politicians' need to deliver resources through personalised clientelistic networks to local communities to maintain their traditional sources of legitimacy, and their obligations to respect a legal and governmental system that expects a separation between public and private life.

While these observations are useful, the distinction between western states, where legitimacy is based on rule conformity and procedural correctness, and developing countries where the sources of legitimacy are a mixture of traditional and charismatic with some weak influence of rule conformity and procedural correctness, may represent an oversimplification. In western states, plenty of leaders still draw on charismatic and traditional sources of legitimacy to enhance their authority. For example, former Italian Prime Minister Silvio Berlusconi drew heavily on charisma to support his claim to legitimacy when there were valid legal-rational arguments to delegitimise him. Similarly, Russian President Vladimir Putin draws on Russian ideas of the 'strong man' to boost his legitimacy as a leader, in the face of accusations of violating international law over Crimea and Ukraine. Furthermore, the distinction between the different sources of legitimacy in Weber's categorisation suffer from some of the problems that the OECD

categorisation suffers from i.e. that rational-legal could be understood as traditional (in the West) and vice versa.

Another widespread assumption in the development industry is that increased inclusivity will increase the legitimacy of an authority. There are some studies which seem to support this. For example, in Sweden, it was found that perceptions and evaluations of opportunities to influence local municipal decisions and activities were positively correlated with the perceptions of legitimacy of the local government (Roos & Lidström 2014). In China, a system for allowing citizens to nominate the head and secretary of township party committees was found to increase trust in government (Ma & Wang 2014). Interestingly, similar to the findings on service delivery, quality of inclusivity mattered in Ma and Wang's study – only in places where some type of genuine open election was introduced was there a tangible boost to political trust in the local government. Mallett et al. (2015) also found that, across different contexts, higher degrees of participation (or knowledge of opportunities to participate) were correlated with higher levels of legitimacy for local government.

What these studies don't reveal is the extent to which legitimacy is dependent on total vertical inclusivity. According to Beetham's (1991) conceptualisation of legitimacy, the degree to which inclusivity will influence legitimacy will depend on citizens' concept of the degree to which they should be included. It is likely that, as long as inclusivity is in line with mainstream societal norms, inclusivity is likely to increase legitimacy. This means that, in societies where certain groups are not deemed qualified to participate, including them may affect the justification for the legitimacy of the ruling party. In the Algiers Peace Accords signed in 2006 between the Government of Mali and the Tuareg insurgency groups, provisions were included which attempted to increase the participation of Tuaregs in the government and bureaucracy. This provision led to lower class Tuaregs accessing positions of power within the state which in turn, began to threaten the 'traditional' power structure among the Tuareg clans, thus giving some of the more elite Tuareg increased incentives to attempt once again to establish a Tuareg state (Ag Erless & Kone, 2012).

There is some literature which indicates that inclusivity in peace processes is associated with more sustainable peace (e.g. Doyle & Sambanis, 2000). Again, the theory on legitimacy indicates that the degree to which inclusivity will increase the legitimacy of a peace process depends on the expectations of those affected by the peace process. To get a sense of what is appropriate in terms of inclusivity, donors need to pay attention to the perceptions of different groups who exert power in different ways. In conflict situations, this may not necessarily be the groups directly involved in conflict. To return to the Mali example, local youth groups were involved in providing security during the conflict in the city of Gao. When the peace talks began in 2013, they were angry that they hadn't been included. Furthermore, they expected to be rewarded with jobs (just as the Tuareg were perceived to be rewarded with jobs in the civil service) (McCullough, 2014).

2.4   International standards and local perceptions of legitimacy

A lot has been written about the irrelevance of international norms and standards to local conceptions of legitimacy (Roberts, 2011; Chandler, 2004). The success of Somaliland in developing a legitimate post-conflict government without any recognition by international fora or compliance with international norms and standards would seem to provide further evidence that international factors are not important in the eyes of local citizens (see Richards 2015).

Morphet (2002) attempted to address this question through qualitative analysis of four case studies of international intervention which relied on international legal norms and standards to different degrees. The case studies included the UN military and civilian intervention in East Timor (UNTAET), the UN military and civilian intervention in Croatia (UNTAES), the Office of the High Representative in Bosnia and

the UN Interim Administration in Kosovo (UNMIK). Morphet proposed that international interventions are more likely to achieve political legitimacy if peacebuilding is based on international legal standards and norms as opposed to local ones. However, in her analysis, Morphet failed to account for other sources of legitimacy which may have influenced the legitimacy of the different interventions.

According to both Weber and Beetham's conceptualisation of legitimacy, the influence of international factors on local perceptions of legitimacy is unlikely to be a clear-cut negative or positive one. In a recent assessment of progress in security in Liberia, Karen Barnes Robinson and Craig Valters (2015) found that, although it was difficult to identify the specific contributions of the UN peacekeeping force, UNMIL, to continuing security, it was largely credited by Liberians as the main actor providing security. Barnes Robinson and Valters concluded that the positive perception of UNMIL's role in providing security was largely due to the symbolism of the UN, in that it represented international standards of justice and security. In the case of Liberia, local perceptions of international justice tend to be largely positive and so a force which represents that international system is likely to contribute to the legitimacy of the ruling regime. In contrast, a country that experiences the contradictions and hypocrisies of the international system, or perceives it as the enemy, is likely to view a UN peacekeeping force as a delegitimising one. In discussions about local perceptions of legitimacy it is, of course, important to note that there is never a coherent or homogenous perception of the influence of international factors and, indeed, individuals may demonstrate what appear to be contradictory attitudes to political regimes. As Roger Mac Ginty (2011) observed in Afghanistan, 'A farmer might be politically supportive of the Kabul government but subsidise the Taliban through his economic activity.' (p. 94).

2.5   International intervention and legitimacy

There are many who question the ability of the prevailing approaches to international interventions in fragile contexts to build legitimacy, particularly the prioritisation by some actors of elections and capacity-building of institutions.

Roberts argues that international interventions which address and empower elites, while offering citizens the plebiscite, do not represent the creation of legitimate regimes (2013).[5] Richmond (2008) and Reno (2008) conclude that the prevailing approach to peacebuilding undermines prospects for generating the kind of legitimacy that lies at the heart of a durable social contract between state and society. In his discussion of legitimacy in Afghanistan, Rubin (2008) argues that the electoral model is not sufficient for winning the loyalty of the security forces, which is indispensable for stabilisation.

Lemay-Hébert (2013) questions whether international interventions, which take the form of international administrations, can ever support state legitimacy as they create a 'legitimacy dilemma' where what interveners do to reinforce the legitimacy of the intervention perpetuates their illegitimacy. In other words, the creation of everything that legitimises a western-oriented conception of a state can incite resistance. In the case of Kosovo in particular, it is argued that the interests and politics of the international community were prioritised to the detriment of the context, needs and interests of local constituents.

It should be noted, however, that perceptions of international interventions are not monolithic. In her study of local perceptions of political legitimacy, in relation to the international intervention in

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[5] However, sometimes they do, as in the international stand against apartheid in South Africa. One should also bear in mind that international position is rarely monolithic.

Afghanistan, Hove (2012) finds that, if Afghans judge the international intervention as satisfactory, they are more likely to support the state. It seems that the reverse effect is not nearly as strong; the perception of an intervention as unsatisfactory does not significantly weaken support for the state.

2.6   Traditional/social media and legitimacy

There are plenty of examples documented in the literature of states and non-state groups using both traditional and social media to strengthen their legitimacy. From the publication of a 'soul book' by Saparmurat Niyazov, while president of Turkmenistan, which was intended to act as spiritual guidance for the nation (Matveeva 2009) to Al Shabaab's multimedia operation (Mwangi 2012, see Box 4), states and non-state groups use innovative means to justify their authority. The extent to which state and non-state groups are willing to invest in media indicates that this approach is effective in strengthening their legitimacy.

Studies which analyse the use of media by states and non-state groups have not measured the extent to which this use affects their legitimacy. If a major component of legitimacy is people's beliefs about the justification of authority, then research in communication studies and psychology on the influence of framing by the media on people's beliefs is relevant (Harris & Sanborn 2013). Of particular relevance is research which examines the impact of framing on US citizens' perceptions of protest groups (McLeod, 1995; McLeod & Detenber, 1999; Shoemaker, 1982). These studies indicate that framing can influence audience perceptions of the nature of the protest, the groups involved, and the degree of public support they receive. The latest World Bank World Development Report (2015) also highlights how framing can influence perceptions and decision-making.

Box 4: The role of media in increasing Al Shabaab's legitimacy

Al Shabaab has a media wing 'the Al Kataib Foundation for Media Productions' which produces professionally edited and lengthy movies that are distributed through Al Qaeda's outlet the Global Islamic Media Foundation. Al Shabaab also maintains websites which demonstrate a certain media savviness and professionalism that other factions in Somalia don't have. Its website also allows it to communicate with the Somali diaspora and global jihadi movement, giving it international recognition and legitimacy (among other Islamists). In terms of more traditional media, Al Shabaab runs several radio stations such as Quran Karim Radio FM, Somali Wayen Radio FM, HornAfrik Radio and Radio Al-Andalus which not only disseminate its jihadist rhetoric but also portray the movement as a provider of basic economic and political goods and services (Mwangi, 2012).

2.7   Ideology, religion and legitimacy

The literature provides a mixed picture of how religion and ideology shape the claims of states and non-state actors. For instance, in Uzbekistan and Tajikistan, the state is aware of a growing respect for Islamic values among the younger generation. To stop opposition movements using Islamic narratives as a source of legitimacy, the state draws on nationalist ideology to strengthen its claim to authority and also curtails the display of religious symbols (Matveeva, 2009, see Box 6 for more details). Other rulers have sought to bolster their legitimacy by appealing to their Islamic credentials. In Egypt, President Sadat launched an ambitious mosque-building programme (Gilsenan, 1988). Similarly, Libyan dictator Muammar Ghadaffi aimed to increase his legitimacy with a mosque-building programme in Muslim countries across the Sahel.

Box 6: When religion threatens state legitimacy

In Uzbekistan and Tajikistan, the younger generation tend to be more religious than their secularised fathers. Islamic political movements such as Nashriya-i Hizb-i Nahzati Islomii Tojikiston (the Islamic Renaissance Party) or Hizb ut-Tahrir are active in both countries. Their claims that they can provide better security, growth and welfare at the local level because they fear God and are thus incorruptible, resonate with the young generation. The secular ruling party in Uzbekistan uses the law and nationalist ideology to counter this message. The country imposes strict limits on religious observance including the wearing of Muslim dress by non-clergy in public) and local customs and traditions to counter the message of foreign clergy. Imams also have to pass a political awareness test, know the national anthem, be familiar with the president's writings and express support for the state, president and constitutional order to counteract religion as a competitive source of legitimacy (Matveeva, 2009).

In China, socialist ideology has recently been reformulated to increase the regime's legitimacy in the face of potentially weakening legitimacy from increasing economic growth and nationalism (Holbig and Gilley 2010). Both Jiang Zemin and Hu Jintao both invested much conceptual energy and large sums of money in modernising the Chinese Communist Party (CCP) ideology (Ibid). Hu Jintao required all 70 million party members to familiarise themselves with 'Sinicised Marxism' and founded an Academy of Marxism whose aim was to develop theoretical innovations of Marxism and compile new Marxist textbooks catering to the tastes of younger generations. While the Chinese government regularly polls its citizens to measure its legitimacy, this data is not publically available so it has not been possible to assess the impact of CCP's reintroduction of ideology.

In terms of non-state groups, religion and ideology have been used to delegitimise existing power structures and systems of inequality throughout history. Recent examples include Al Shabaab's successful use of Islam to create an identity across clans in Somalia and to promote a more pluralistic representation of different clans than that promoted by the traditional clan structure. This increased their legitimacy among the younger generation and those who were members of less powerful clans (Mwangi 2012). Likewise, part of the source of legitimacy of the Pakistani Taliban for people living in the province Khyber Paktunwa is drawn from their rhetoric on the need to dismantle the feudal system and promote equality between the classes (albeit a Wahhabist version of equality where women are subservient to men). In Sri Lanka, the Tamil Tigers used Marxism to increase their legitimacy among lower castes (Biziouras 2012). The Irish Republican Army (IRA) drew on human rights ideology to legitimate their claims to better treatment in British prisons.

As Beetham's conceptualisation of legitimacy indicates, the use of religion or ideology will gain legitimacy only among those who share similar beliefs and values to that promoted by the religion/ideology. Thus the legitimacy of the revolutionary Islamic Republic of Iran, based on its Islamic principles and rejection of liberal democratic philosophy, was accepted by a broad swathe of the more conservative/religious Iranians but was questioned by most of the non-Muslim West for precisely the same reasons. The use of Islam to promote equality between clans or classes by Al Shabaab and the Pakistani Taliban resonates with Muslims who experience inequality in each of these countries, but it fails to gain these groups any legitimacy among non-Muslims both domestically and internationally. In contrast, the IRA's use of human rights ideology resonated with some British citizens and increased the legitimacy of its demands. In analysing the influence of religion or ideology in shaping legitimacy claims, it is clear that different actors wield tradition/religion, nationalist, ethnicity-based, ideology international or other narratives of legitimacy to mobilise different actors for distinct political purposes.

2.8 The interaction between the legitimacy of states and non-state actors

The framing of violent extremist groups in opposition to the state is especially subject to normative bias. For donors, the actions of such groups are often understood to 'exploit' the failures of the state rather than to fill a gap; or to undermine a state instead of presenting an alternative to a receptive constituency. Depending on the referee and his/her values, Al Shabaab either exploited the limited presence and legitimacy of Somalia's Transitional Federal Government (TFG) or it filled a much-needed gap by providing services in areas that the TFG did not reach. It could be argued that, for many living in Somalia, the actions of Al Shabaab do not work to delegitimise the state, as the state is largely irrelevant to them. Similarly, the 'narco-terrorist' label imposed on FARC in Colombia has obscured its role as an alternate provider of social welfare in a context where the state is relatively weak (see Brittain, 2010; Maher, 2012; Leech, 2011). Brittain argues that FARC filled the void left by the state by helping to build roads and provide electricity, law enforcement, judges and other public services. Mampilly's (2011) research on the rebel groups' ability to achieve legitimacy in eastern DRC, Sudan and Sri Lanka supports the findings on the relationship between service delivery and legitimacy. Mampilly's research suggests that, where states have a strong record of providing public services to citizens, rebel groups also need to also provide strong services to be seen as legitimate in the eyes of the populations under their control. However, when the state has been historically weak and predatory, armed actors can gain relative legitimacy with only minimal provisions of security and protection.

There are other ways in which the legitimacy of states interact with non-state actors' legitimacy-building strategies. Mwangi indicates that Al Shabaab worked to undermine the fragile legitimacy of TFG by drawing on nationalist and xenophobic narratives to imply that working with foreign forces was bad for Somalia. Again, depending on the referee and his/her values, Al Shabaab's rhetoric could equally be interpreted as promoting unity among Somalians by emphasising a national entity in opposition to foreign forces. In Sri Lanka, Biziouras (2012) describes how the Tamil Tigers, in order to justify their rejection of compromise with the Sinhalese, needed to delegitimise the (predominantly) Sinhalese state in the eyes of Tamils. They thus conducted a brazen attack on an army convoy which incited indiscriminate attacks on Tamils coordinated by the state. According to Biziouras, the retaliatory actions by the state increased the perceived legitimacy of the Tamil Tigers. From another perspective, the attack by the Tamil Tigers on the army convoy, which represented a predominantly Sinhalese government, was justified as the government was no longer a legitimate authority. The resulting response by the government only confirmed their position of illegitimacy.

An alternative way to phrase this question is to ask whether state violence increases the legitimacy of violent extremist groups. In the early 1960s, in Northern Ireland, the peaceful protest movement led by John Hume was arguably more legitimate among the Catholic community than the Provisional IRA. However the violent action of the British state against citizens at a football match in Omagh increased the legitimacy of the violent protest movement represented by the Provisional IRA. Similarly, research carried out by CRISE indicates that the marginalisation of groups by a state can lead to the emergence of extremist groups (Stewart & Brown, 2010).

2.9 Legitimacy strengthening strategies of armed non-state groups

In Somalia and the Philippines, Al Shabaab and MILF boosted their legitimacy using similar strategies. Both groups provided social services, with a particular emphasis on justice and security. Both groups drew on Islamic narratives to promote unity among disparate ethnic groups (in the Philippines) and clan-based groups (in Somalia). The Tamil Tigers (LTTE), Al Shabaab and MILF all drew on nationalist (and in the case of Al Shabaab and LTTE), xenophobic narratives to boost their legitimacy. Al Shabaab and LTTE both promoted social transformation; the promotion of equality between classes/clans which appealed to the younger generations and disenfranchised groups. Al Shabaab was much more active in using social

media to bolster its legitimacy. The LTTE, at its height, was operating in a time before widespread internet access and relied more on symbolic media such as the use of the symbols of the Chola kings to highlight the long history of Tamil military prowess (Nithiyanandam, 2001) and instigating a tradition of publically venerating fallen heroes that hearkened to earlier traditions of Tamil heroism (Roberts, 2005). In short, their strategies to increase their legitimacy are not very different from strategies used by states or, indeed, development agencies.

3 Approaches, tools and interventions

3.1 Development interventions designed to affect legitimacy

Despite the increasing attention legitimacy has received in critical research and donor strategies, the translation of this into tangible interventions has been lagging. Indeed if the aim of state building in fragile states is to build legitimate states, the process of building a state has tended to remain vague in donor strategies. Teskey et al. (2012) find that, in World Bank strategies in 37 fragile states from 2000 to 2010, the term state-building is employed as a proxy for a range of concerns, from a very narrow perspective of state building as service delivery through the state, to a very broad understanding of state building as a fundamental transformation in political, economic, social and security spheres. Strengthening the capacity of central state institutions is the most common focus in the country strategies. Legitimacy is rarely explicitly discussed, though it is occasionally addressed indirectly, through strengthening mechanisms of accountability.

Despite this lack of clarity about how to build a state, Teskey et al. describe an 'emerging consensus' among donors that interventions need to include a mix of activities most likely to contribute to increased legitimacy in the short-term – what the WDR 2011 calls restoring confidence – and longer-term efforts to legitimise the state by strengthening its links to society (what the WDR 2011 terms transforming institutions) (World Bank, 2011).

One example of a programme which aimed to increase the legitimacy of the state, or rather win 'hearts and minds' is the National Solidarity Programme (NSP) in Afghanistan. The NSP is funded by a pool of international donors, run by the Afghan Ministry of Rural Rehabilitation and Development and implemented by civilian facilitating partners (Beath, Fotini, and Enikolopov 2012). The authors argue that, as the programme is presented as a government programme, in the eyes of NSP recipients this development aid is primarily linked to the Afghan government although they concede that it could, to some extent, also be attributed to the efforts of NGOs (who are implementing the project) and foreign donors (who are sponsoring it). Their findings indicate that the NSP has a strong positive effect on people's attitudes towards the Afghan government (both central and local). NSP also appears to improve the attitudes toward NGOs and, to some extent, to coalition forces on the ground.

A great deal of literature theorises a link between legitimacy and social contract (Hawkins, 2012). Social protection programmes are posited to strengthen the social contract. For example, based on 18 months of research, including field work in Sierra Leone, northern Kenya and Sudan, Osofisan (2011) argues that social protection programmes in the form of cash transfers, if *well designed*, could play a significant role in strengthening state-citizen relations. 'Well designed' does not necessarily mean a programme that efficiently meets its top-down and externally-defined outcomes but one that is designed to consider the ideational and relational significance of an intervention; how a programme relates to beneficiaries values and expectations (Mcloughlin, 2014). Donors considering interventions which are intended to contribute to either short-term and long-term state legitimacy will need a greater understanding of the dynamics of legitimacy construction in a particular environment to assess whether the intervention is (a) an appropriate strategy; and (b) likely to be effective.

3.2 Tools for understanding context

A key challenge in planning an intervention is to understand the extent to which the justification of the organisation of power by a state or non-state actors is aligned with the beliefs of significant proportions of the population. Several questions would arise.

- To what extent does the justification of the allocation of power align with the beliefs of the population?

- How much disagreement is there about the justification?

- Is there evidence of extensive coercion by state or non-state actors?

This section presents tools used by international actors to answer these sorts of questions.

Political economy analysis

Political economy analysis (PEA).[6] provides an understanding of the prevailing political and economic processes in society – specifically, the incentives, relationships, distribution, and struggle for power between different groups and individuals. In this way, it provides insights into the established rules on how power is allocated. The OECD 2010 report drew on PEA to demonstrate how rules, relating to the allocation of power, can result in very different perceptions of legitimacy. A good PEA will explore both formal and informal rules. The drawback of using PEA to understand the legitimacy of state and non-state actors is that some, which focus on elite bargains, do not include an analysis of whether these bargains are perceived as legitimate by the subordinate group. The DFID guidance note on carrying out a PEA notes the importance of understanding the effect of political ideology, religion and cultural beliefs on political behaviour and public policy, but does not include an analysis of the impact of these values and ideas on the population's perception of the rules on how power is allocated. There is quite a variation in how PEAs are conducted and some are more conducive to focusing on legitimacy than others. For instance, the Politics of Development Framework included an analysis of the legitimacy of a political process, but did not provide guidance on how legitimacy should be assessed.

Political settlement analysis

A political settlement approach integrates a broader perspective than that provided by most PEAs, as a stable political settlement relies on its perceived legitimacy. Thus, in a typology of political settlements proposed by David Booth (forthcoming), the primary modes of legitimation/enforcement are identified as one dimension in the typology. Two modes of legitimisation are identified; enforcing rules/providing public goods, and by appealing to group loyalties/ providing private and club goods. Thus attention is given not only to 'horizontal' relations among elite factions (which tends to be focused on in PEAs), but also 'vertical' relations between elites and non-elites. The second dimension is the mode by which elites overcome collective action problems. This could be potentially useful as an initial analysis of a country's type of political settlement, and could provide theories as to how it could lose legitimacy.

Dilemma analysis

Dilemma analysis is a state-building diagnostic tool that examines donor objectives, contradictions between objectives, competing objectives, and trade-offs in prioritisation and sequencing decisions (Paris & Sisk, 2007). However, the concept could be used to analyse how the beliefs and values of the donor differ from those of a country's dominant and subordinate groups to understand what dilemmas the differences may present, and whether a proposed intervention will need additional work to build its legitimacy.

The authority, legitimacy and capacity framework (ALC)

The authority, legitimacy and capacity model (also known as 'ALC') stems from the Country Indicators for Foreign Policy (CIFP) project[7]. Fragility is understood in terms of the degrees of authority, legitimacy and capacity that a state demonstrates. Although the tool defines legitimacy in a generally empirical way (the extent to which a particular government commands public loyalty to the governing regime, and can generate domestic support for that government's legislation and policy), the indicators it uses to measure legitimacy are normative (regime type, human rights and gender equality).

A multidimensional, multilevel and bilateral approach

Robert Lamb's (2014) framework for measuring legitimacy was suggested as a possible typology in Section 1. Lamb advocates understanding legitimacy as multidimensional, multilevel and bilateral. In his assessment framework, he outlines core questions which attempt to clarify the unit of analysis and the criteria used:

- what entity is being assessed for legitimacy, (referred to as the 'conferee');
- whose version of legitimacy is being assessed (referred to as the 'referees').

Lamb recommends using the norms and expectations of the referees to devise a set of indicators, based on his multidimensional concept of legitimacy. He draws attention to the importance of accessing the norms and expectations of subcultures within any group of referees, especially low status groups. He outlines four different types of legitimacy assessments that can be carried out depending on the time and resources available for the analysis. All assessments use the multidimensional understanding of legitimacy, but the fastest assessment assesses only the macro level of legitimacy, while the more sophisticated assessments include the micro and meso levels and the bilateral aspects of legitimacy. For more details on the challenges of measuring legitimacy using this approach, see Section 3.4. This framework of analysis was used to inform revisions to the U.S. military's counterinsurgency strategy.

3.4 Tools for building legitimacy

Donors have used several different strategies to deal with indications that an intervention is likely to decrease state legitimacy, increase the legitimacy of an illegitimate actor, or suffer from weak legitimacy itself.

Prioritising outcomes

This strategy is often used in the humanitarian sector where the legitimacy of an intervention is understood in terms of the outcome. For example, many humanitarian organisations now accept that negotiation with terrorist groups is a feature of their work in fragile situations (Jackson & Aynte, 2013). They accept the risks of potentially legitimising terrorist groups by focusing on the outcomes – getting aid to those most in need. Indeed in Somalia, Al Shabaab has capitalised on this opportunity by establishing an 'Office for Supervising the Affairs of Foreign Agencies' which approves NGOs' applications to distribute food in the areas Al Shabaab controls.

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[7] See www.carleton.ca/cifp

Working with hybrid polities

The 2010 OECD report on legitimacy promotes the strategy of working with, and supporting, hybrid systems, where sources of legitimacy may be very different from rational-legal systems. As the report notes, the very diversity of legal and normative orders found in many fragile states poses a particular challenge for policy-makers. They cannot deal with this diversity merely by trying to integrate a codification of customary practice into formal state law; nor by trying to anchor new rules in 'traditional' practice. The report concludes that constructive interaction between different sources of legitimacy has to be negotiated 'through a political process of bargaining between the state and different groups in society, through which institutions and norms can be reshaped' and that external actors are likely, at best, to have a role in helping to create spaces for this interaction to take place (p32).

Clements (2008) describes how, in the autonomous region of Bougainville in Papua New Guinea, a process of post-conflict state formation aims to combine traditional and legal-rational legitimacy. Direct democratic elements stemming from the customary sphere are incorporated into the formal processes of liberal democracy (such as voter-initiated legislation and plebiscites, or the recall of members of parliament), which enhances the legitimacy of these processes. The Councils of Elders, which provide the mainstay of political order, are legal institutions but allow for local variations in the election/selection of members, and include traditional chiefs and elders together with representatives of societal groups (women, young people, and the churches). They thus combine traditional and legal-rational authority. It should be noted that this process is being led by domestic actors with little participation by donors.

However, fostering hybrid solutions can have its own pitfalls. In Mozambique, it was found that efforts to integrate informal and formal governance systems resulted in decreased legitimacy for the chiefs, as the obligations placed on chiefs to collect taxes and to police rural communities were perceived as pitting them against the communities from which they derive their legitimacy (Kyed & Buur, 2006, p. 14).

Governance Delegation Agreements

Governance Delegation Agreements (GDAs) are contracts or treaties intended to address the challenges of working in fragile states while minimising the potentially delegitimising effects of direct intervention. They rely on host states to request and enact them through domestic institutions, rather than trusteeships that occur through coerced imposition (Matanock, 2014). Because the host country must ratify them, they are perceived as having more domestic legitimacy than trusteeships. An analysis of case studies of full and partial GDAs in the Solomon Islands, Papua New Guinea, and Guatemala found that full delegation can accomplish complex tasks, such as restoring the rule of law, while partial delegation can accomplish only simpler tasks, such as increasing criminal convictions (Matanock, 2014). In restoring the rule of law, it appears that Governance Delegation Agreements could contribute to output legitimacy. However Matanock did not specifically measure the impacts of the GDAs on perceptions of state legitimacy.

Public Private Partnerships

Another approach to reduce the delegitimising effects on direct donor intervention on states has been to use transnational public private partnerships (PPPs). Two different PPPs were analysed by Beisheim et al. (2014); the Water & Sanitation for the Urban Poor (WSUP), which provides solutions to water and sanitation deficits in eight low-income urban communities in Kenya, India, and Bangladesh; and the Global Alliance for Improved Nutrition (GAIN), which helps distribute fortified school meals in two states of India All of the projects operated in similar contexts but varied in their level of local legitimacy and in their institutional design. Beisheim et al. found that partnerships with high empirical legitimacy and an appropriate institutional design are best able to fulfil complex tasks in contexts of limited statehood. However, there is no measurement of the impact of these approaches on state legitimacy.

3.5 Monitoring and evaluating legitimacy

So far, the comprehensive measurement of legitimacy has been mainly the preserve of academics and has been attempted only over the last decade. Considering the difficulties experienced in doing this, it is not surprising that there are few examples of donor programmes successfully monitoring and tracking legitimacy and linking these measurements to programming decisions. In this section, the various approaches to measuring legitimacy are described and evaluated.[8]

As normative approaches understand legitimacy as something identifiable in the features of the governing entity (the conferee), these approaches to measuring legitimacy usually involve identifying whether a feature is present, or not, and rating the system accordingly. This was the approach used by the CRISE research programme (Stewart and Brown 2010) and proposed by the Authority, Legitimacy and Capacity tool, mentioned above. Empirical approaches can treat legitimacy as residing in the beliefs of the governed population but more comprehensive approaches treat legitimacy as residing in the interaction between the dominant and the subordinate (drawing on Beetham's conceptualisation).

Use of perception surveys to measure legitimacy

Quantitative measurements of legitimacy to monitor and evaluate the impact of programmes have tended to rely on perception surveys which ask about whether central and local governments act for the benefit of all (Beath et al., 2012) or whether decisions made by central and local government reflect personal priorities (Mallett et al., 2015). It does not appear that this approach to measuring legitimacy has been incorporated into monitoring and evaluation strategies and used to inform programming decisions.

There are some methodological problems with relying on perception surveys alone to measure legitimacy. As this Topic Guide illustrates, legitimacy is too unwieldy and complex a concept to be measured with one indicator. Thus, virtually all perception surveys on legitimacy break it into a range of different indicators which are related to legitimacy but are not necessarily measuring the same thing, making it difficult to compare across studies.

Furthermore, it may not be safe or strategic for interviewees to express dissatisfaction with an authority. Finally, legitimacy is not only construed through perceptions, but also through people's acts of consent. For example, citizens may express a belief in the legitimacy of a state but pay an accountant to help them avoid paying tax.

Moving beyond perception surveys

There have been some attempts to overcome the problems of measuring legitimacy only through perceptions. Perhaps the most comprehensive attempt has been Bruce Gilley's cross national study on legitimacy (2006). He set out to measure legitimacy in democratic and non-democratic regimes through perceptions of legitimacy and through features of the state which may indicate stability. Gilley drew on Beetham's work (see Section 1 for more details) by conceptualising legitimacy in terms of three components:

- perceptions of legality;
- perceptions of shared principles;
- ideas and values by the state (Gilley named this 'views of justification') and acts of consent.

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[8] Claire Mcloughlin at the University of Birmingham is currently developing a method for measuring legitimacy with reference to state-building and service delivery. For more details see - www.dlprog.org

Using this approach he was able to overcome the problems of relying on perceptions alone to measure legitimacy, especially in relation to non-democratic regimes. Based on his findings, Gilley argued that legitimacy is best understood as a dynamic process of interaction or dialogue between states and their citizens in which performance and legitimacy respond to each other. In Sweden, Roos and Lidström (2014) also measured perceptions of legitimacy but then compared these with government actions at local level. Their approach wasn't as dynamic as Gilley's but was a useful counterbalance to relying on perceptions alone. Robert Lamb (2014) proposed a multilevel assessment method that includes thinking of legitimacy as multidimensional, multilevel and bilateral. The levels are categorised as:

- micro (individual beliefs);

- meso (group behaviours which represent publically expressed judgements of public attributes);

- macro (public attributes of the entity on which legitimacy is being conferred).

Lamb's method differs from other approaches on three counts. First the assessment of the public attributes is missing from other approaches to measuring legitimacy. Second, it is designed to be used to assess the legitimacy not only of political regimes, but also of systems that need legitimacy to survive (such as organisations or non-sovereign groups). Thirdly, Lamb argues that legitimacy is bilateral and thus includes provision for analysing the extent to which a conferee considers their referees legitimate (see Box 7).

Box 7: Measuring legitimacy as an interaction between the governor and the governed

Bruce Gilley Cross National Survey (2006)
Gilley drew on Beetham's work (see Section 1 for more details) by conceptualising legitimacy in terms of three subcomponents; perceptions of legality, perceptions of shared principles, ideas and values by the state (Gilley named this 'views of justification') and acts of consent. Initially, he selected a range of indicators to measure these three components (see Appendix 1). In the end, Gilley was not able to access this type of data on a varied sample of countries to make his analysis worthwhile. He thus narrowed his indicators and unfortunately, his final list contained a built-in normative bias towards democratic regimes, e.g. one of his indicators measured satisfaction with 'development in democratic development', while another measured satisfaction with 'operation of democracy'. Considering the built-in bias towards democratic regimes in the actual survey instrument, it may be worthwhile returning to his initial approach which appears not to include such biases.

Roos and Lidström's study of impacts of local government action on perceptions of legitimacy in Sweden (2014)
Roos and Lidstrom drew on the same typology used by OECD; input and output legitimacy. To measure input legitimacy, Roos and Lidstrom used citizens' perceptions and evaluations of opportunities to influence municipal decisions and activities in general, while perceptions and evaluations of welfare services (childcare facilities, schools, care for the elderly, social services) and municipal basic collection services (streets and local roads, sports and recreational facilities, cultural facilities, environmental services etc.) was used to measure output legitimacy. The perceptions were collected from Sweden's census data. While not all national census include questions about perceptions of government performance, this approach could potentially be used in both democratic and non-democratic states. Due to its focus on the link between perceptions of legitimacy of local level government and local actions, this approach might be most relevant to linking measures of legitimacy with programme intervention.

Lamb's multidimensional, multilevel, and bilateral approach (2014)
Robert Lamb proposed a multilevel assessment method that includes a conceptualization of legitimacy as a multidimensional, multi-level and bilateral. The levels are categorized as micro (individual beliefs), meso (group behaviours which represent publically expressed judgments of public attributes) and macro (public attributes of the entity on which legitimacy is being conferred) levels. Individual beliefs can be captured through surveys, focus groups or interviews with the population which aim to capture how much confidence or trust do individuals express about the conferee. Group behaviours that express judgment of a conferee might include participation in elections, payment of taxes in the case of a government. Public attributes can be measured by examining whether the conferee operates in a way that is consistent with the values of its citizens, e.g. whether the conferee treats citizens with respect according to the citizens definition of respectful treatment, whether the ideological or religious beliefs are shared by the conferee and its citizens. Presumably the researcher would need to have deep knowledge about the values of the citizens or else devise a way for assessing the values before assessing the public attributes.

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Annex 1: Indicators proposed and used by Gilley 2006

Component of legitimacy	Initial indicator	Actual indicator used	Data source
Perception of legality	Attitudes about legality	Evaluation of state respect for human rights	World Values Survey 1999-2002
	Attitudes about corruption	Confidence in police	World Values Survey 1999-2002
	Acceptance of electoral or revolutionary mandate	Confidence in civil service	World Values Survey 1999-2002
	Views of police, judges and civil servants		
	Demonstrations or social movements over legal or constitutional issues		
	Dissonance over elections		
Views of Justification	Surveys of political system support	Satisfaction with democratic development	World Values Survey 1999-2002
	Views of effectiveness of political institutions	Evaluation of current political system	World Values Survey 1999-2002
	Political violence	Satisfaction with operation of democracy	GlobalBarometer regional surveys, 2001–2002; EuroBarometer, 2001; EuroCandidate, 2002
	Size of internal secret police	Use of violence in civil protest	World Handbook of Political and Social Indicators IV, 1996–2000
	Political prisoners		
	Mass emigration		
	Anti-system movements/ secessionism/civil war		
	Crime levels		

Acts of consent	Election turnout	Voter turnout	International Institute for Democracy and Electoral Assistance, 1996–2002
	Military recruitment/use of mercenary soldiers	Quasi voluntary taxes	International Monetary Fund, Government Finance Yearbook, 1996–2002
	Tax payments/ reliance on foreign loans or resource export taxes		
	Popular mobilisation in authoritarian states		