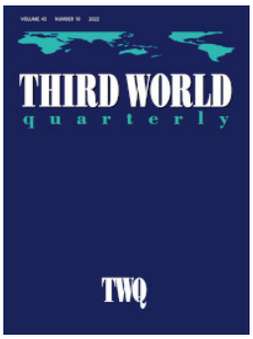

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The grey areas of political illegitimacy

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ABSTRACT

This article looks at the conceptual characteristics of illegitimacy with the aim to understand the nuanced nature of its consequences. With legitimacy at the heart of state-building, its absence (or loss) is likely to lead to a collapse of public institutions and the ultimate failure of the state. But this article explores whether there are more factors at play when understanding the causal relation between legitimacy and stability. It scrutinises the notion that illegitimacy can be reduced to the absence of legitimacy, before re-examining the relationship between illegitimacy and instability. To do so, the article analyses some of the variables under which legitimacy becomes absent, then studies the relation between institutional and informal legitimacy to determine the conditions for illegitimacy. It is consequently shown that illegitimacy is a more fluid concept and is, like its counterpart, a combination of institutional performance and normative perceptions among audiences. The article then presents some real-world examples to back up these arguments, where the absence of conventional legitimacy can bring about stability under particular circumstances, thus suggesting an alternative view of illegitimacy, particularly in the developing world.

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Introduction

There is an inherent ambiguity about state-building. As a concept and a field of research, it possesses so many variables that not only alter perspectives but create subfields of their own. It does, nevertheless, revolve around a central element: political legitimacy. Legitimacy's role in statehood, famously analysed by Weber, has recently gained further examination within state-building, with works such as Levi and Sacks (2009), Lake (2016), Schmelzle and Stollenwerk (2018) and Mcloughlin (2018). Building a *legitimate* state is, after all, the inherent goal of state-building. The conceptual fluidity of legitimacy, though, leads to more obstacles. Still, if there is an agreement that legitimacy revolves around 'an acceptance of the state's right to rule', the who, what, and why, are not as clear. As early as 1985, Rasinski, Tyler, and Fridkin (1985) studied and discussed the psychological effects of 'personal' and 'institutional' legitimacy on political evaluation. And though these distinctions have shifted from the psychological into the political field of research, the debate itself is still very much alive, with the source and the effects of legitimacy at the heart of the relevant arguments. What has

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remained, at least, is one consensus: political legitimacy is desirable for any system of governance, mainly because it is assumed that there is a positive relation between political legitimacy and political stability (the variables in play are, instead, what needs to be discerned). In fact, when studying political stability, Hurwitz (1973) characterised legitimacy as one of its 'definitional constructs'. Similar assumptions have been held in the academic literature since that time: see Fraser (1974), Gilley (2006) and Walker and Waterman (2008), for example. Over the years, the debate as to whether one is a consequence of the other has continued, with the general agreement that the two are congruent. It is certainly not the purpose of this article to disagree with this logical assumption of a positive relation between legitimacy and stability; its objective, rather, is to focus on the concept of illegitimacy. As for what is meant by political stability, Hurwitz's more extensive definition can provide a useful characterisation; political stability can be understood as a dynamic phenomenon that involves one or more of the following: the absence of violence, governmental longevity or endurance, and societal harmony (Hurwitz 1973).

So what is illegitimacy? At first glance, the answer seems somewhat obvious: it is the absence of legitimacy. But the different 'kinds' of legitimacy leave more to be answered. Furthermore, if one is to accept such a definition, then one could also infer that the absence of legitimacy should bring along with it the absence of the *effects* of legitimacy. Thus, it is not enough to accept that legitimacy bolsters political stability; one must also accept that illegitimacy weakens political stability or, at the very least, decreases the probability of political stability. But can illegitimacy, like its counterpart, have different forms of its own? To answer such questions, one must first attempt to clearly define what is meant by illegitimacy: using the main approaches of legitimacy to explore whether or not illegitimacy is simply the absence of the former. Fortunately, as mentioned above, recent research on legitimacy has been both extensive and profound. The following will use that research to analyse the limits of illegitimacy before moving on to look at some examples which could provide guidance in producing appropriate frameworks for looking at legitimacy in the developing world.

Performance

Analyses that deal with performance-based legitimacy have usually focused on specific institutions, for example central banks, security forces and democratic institutions (Ciorciari and Krasner 2018; Qehaja and Prezelj 2017; Visoka and Richmond 2017; Rathmell 2005; Aras and Toktas 2008). Such studies have been at the forefront of both the academic and the policy sectors. Indeed, Mcloughlin (2015, 342) showed the extent to which 'the idea of a direct causal link between service delivery and state legitimacy' has almost reached 'the status of a received wisdom in aid policy'. More recently, the concept of the virtuous circle has gained much weight within institutional theories. The virtuous circle posits that performance and legitimacy continuously feed into each other to create a self-enhancing cycle. The concept manages to draw a relation between performance, legitimacy and stability. In other words, so long as institutions are efficient in responding to their recipients' demands, legitimacy and stability can be ensured.

So if legitimacy within such institutional theories comes from performance – or 'anticipated' performance according Schmelzle and Stollenwerk (2018) – along with the relevant variables (attribution, procedural fairness, etc.), then a safe conclusion is that the failure or

outright absence of such performance (relative to the expectations) can be defined as illegitimacy. But does each area of performance carry the same weight? If the state takes responsibility for any resulting illegitimacy that arises from its inability to perform its 'duties', then it is important to know the nature of the relation between illegitimacy and those various duties. For instance, Weber's definition of the state implied that legitimation comes from the monopolisation of the use of force (Weber 1978, 213). This provides a first possible definition of state illegitimacy: the failure to claim a monopoly of the use of force and, by extension, the absence of security.

While this conception of illegitimacy has been developed since Weber's definition, the argument that security is an essential service that a state should deliver to acquire legitimacy is certainly just as strong today and forms the bedrock of many state-building theories. A focus on security has been especially prevalent in analyses of exogenous state-building policies that involve humanitarian interventions. In those cases and others, however, the notion of attribution has emerged as a key variable: recipients need to become aware of the actor that is providing security before attributing the delivery of services to that actor, which would then bestow upon them this form of legitimacy (Stollenwerk 2018, 509). In other words, provision of security without attribution might also lead to illegitimacy. Stollenwerk's (2018) work on the International Security Assistance Force (ISAF) in Northeast Afghanistan perfectly embodies this argument and shows how crucial a role attribution can play with regard to the ability of actors to gain legitimacy. But the development of the legitimacy of a particular institution or service has to be matched by a perception that the state as a whole has become more legitimate; this has been termed 'generalisation'. Conversely, there have been many cases where a state fails to provide security without having its overall legitimacy being called into question. For example, the Metropolitan Police Service came under heavy scrutiny during the 2011 riots in England, for its part in igniting the violent episode and its failure at containing it. Despite a barrage of criticism of both the police and governmental policy, there was never a possibility of the British *state* losing its legitimacy, and an overall agreement on the sub-par performance in the delivery of security did not transform into a generalised loss of legitimacy for the state (though the government itself might have suffered). Similarly, a study on the overemphasis of the Israeli National Police on homeland security and terrorism at the expense of local crime in communities showed that 'Israeli Jews who believe the police often neglect their crime responsibilities for homeland security obligations view the police as less legitimate' (Metcalfe et al. 2016, 830). Despite such perceptions, however, there is no evidence to suggest that those Israelis viewed the state as less legitimate. Such examples demonstrate that the absence of security *alone* cannot account for illegitimacy.

A follow-up hypothesis would then be that security could nevertheless be a necessary component of a larger package of delivery service, whose *total* absence is sufficient for illegitimacy. One can surmise that, in such cases, illegitimacy evolves from one of three scenarios: the total absence of service-delivery, the partial absence of service-delivery (in which case it becomes imperative to establish which services are necessary and which are not), or the presence of underwhelming service-delivery (in which case certain standards of performance-based legitimacy need to be established). The first scenario is defined by characteristics similar to the previous security-centred definition: it involves a 'failed state' in which security – among other services – is absent and is thus typically characterised by internal chaos. Such is the definition of Robert Rotberg's failed state when it becomes

illegitimate: it loses 'its capacity to secure itself or to perform in an expected manner' (Rotberg 2004, 9). The second (partial absence of service-delivery) and third (sub-par service-delivery) scenarios are somewhat interrelated, in that the state is rarely fully performing in one sector and completely absent in the other. Rather, the likely scenario involves an uneven distribution of effectiveness across different sectors, with possible areas of absence. The more relevant difference lies instead in *how* one can detect the presence and measure the performance of the state: some focus on a broad cross-sector analysis of state service-delivery performance, and in particular its attribution by the recipients – as a study by Böhnke, Koehler, and Zürcher on Afghanistan has done (2017) – while others focus on particular input/output dynamics of specific institutions, such as Blease and Qehaja's work on the security sector in Afghanistan (2013), or Ciorciari and Krasner's (2018) focus on the relation between the performance of the central banks in Liberia and Timor-Leste and political legitimacy.

Whether or not unevenness in performance is itself sufficient for illegitimacy, however, is another matter. There is rarely an empirically observed threshold for when a certain institution becomes illegitimate, or if a certain number of underperforming institutions lead to state illegitimacy, or if the institutions themselves (and the services they deliver) are on an even footing with regard to their causal relation to legitimacy. It is certainly accepted that security is an important service and that its erosion is likely to lead to state illegitimacy; but *how much more* crucial is it to political legitimacy than other sectors such as health service, political representation or functioning infrastructure? Similarly, is unevenness in performance itself sufficient for illegitimacy? In the United States, for example, the historical unevenness in police performance has led to the sporadic rise of gangs in many regions, and one could argue that pockets of illegitimacy have operated in certain areas where the state is not as present, and gangs sprout to enforce their own brands of security and protection. This is the case for some African American gangs, whose roots are traced to street groups that attempted to protect the community's youth against violence and discrimination (Cureton 2009, 351). Similarly, Mexican American gangs that originated in parts of the western United States pushed the notion that their purpose was to 'protect and maintain ethnic traditions' (Howell and Griffiths 2019, 14). The Yakuza in Japan have also relied on a form of service-based legitimacy, adopting the *bushido* (or samurai code) so as to reinforce their image as modern-day chivalrous protectors of the honour of Japanese society. They have also used patriotism, social welfare and a deliberate policy to contain criminal activities within internal rivalries to legitimise themselves in the eyes of Japanese society (Gragert 1997). The idea that gangs are aware of their own service-delivery expectations towards the communities they control is not new: Jankowski also showed that, in most cases, 'the gang and the community strike up a working relationship, which lasts as long as the two mutually aid and respect each other' (1991, 179). Such language is itself reminiscent of the social contract between society and state. There have been, as these examples show, clear pockets of state inactivity or ineffectiveness with regard to the monopoly of the use of force, the delivery of services, or even the security of citizens. And yet, the legitimacy of the United States' federal government is rarely called into question, nor is that of the Japanese state. In such instances, the question needs to be raised as to what comprises the threshold of unevenness that could bring about illegitimacy.

Overall, what this performance-based approach confirms is that there is certainly a causal relation between service-delivery and political illegitimacy. Moreover, while there is a certain variance among the impact of the different services delivered, those expectations and

prioritisations seem to be much more dependent on the recipients of those services. As such, there is room here to assume that a certain minimum standard across the board can prevent illegitimacy. After all, at no point does legitimacy imply complete satisfaction on the part of the recipients, but if a minimum of acceptability is achieved, then the effect of unevenness does not go so far as to create across-the-board illegitimacy. Such an argument implies that certain benchmarks are always inherently set by the recipients, even in states with much fewer democratic institutions. Respective vertical or horizontal divisions within certain societies can change definitions of fairness and justice, while the degree of input allowed by the residents in the first place can itself depend on local political culture. Such informal aspects of legitimacy are discussed in the following section.

Societal attitudes

The more intangible sources of legitimacy are usually characterised by certain norms or values that are meant to be reflected within and by the state (eg through its procedures, symbols, public messages, post-holders, or social policies). In this sense, state-building involves different processes that are tailored to ensure not only a degree of institutional efficiency, but also a reflection of the nation's (if one is to assume the existence of a nation) character within state institutions. Accordingly, the reasons why a population would accept a state's right to rule can vary: pragmatic agreements, ideological/religious conviction or the support of one particularly dominant group within society. Likewise, an origin myth, or what Krader (1968, 63) calls the 'myth of power', can play an equally important part in endowing the state with the ability to develop a right to rule. In all such cases, the state can only derive the legitimacy it needs to remain stable from outside the realm of its own institutions. The state must therefore remain conscious of this endowment at all times, and adapt both functionally and institutionally. This form of legitimacy is best represented by what Barry Buzan called 'the idea of the state' (Buzan 1991, 44).

There is no question that this notion of societal legitimacy is tailored for the ideal nation-state in which both components live in a reinforcing circle of legitimacy. The issue of state legitimacy in such cases becomes much less contentious, and questions arise instead over regime or governmental legitimacy. In such cases, 'whether or not intrinsically legitimate actors [ie the state] govern effectively is of secondary importance as long as they perform above a certain threshold' (Schmelzle and Stollenwerk 2018, 457–458). Still, its compatibility or lack thereof with countries that are bereft of more organic nation-state characteristics is not excluded. Indeed, the lens of societal perception has helped shed light on many issues of state legitimacy in developing countries. For example, Dressel showed how competing notions of political legitimacy among different factions of the Thai population have remained the main reason behind continuous political instability. Dressel emphasised that in any given situation, a state can have multiple sources of illegitimacy, many of which are informal and societal. In the case of Thailand, performance as a source of legitimacy competes with nationalism, monarchism, religion, constitutionalism and popular sovereignty. According to Dressel, 'the Thai case makes a compelling argument for anchoring the analysis of legitimacy at the socio-structural level within social struggles over access to power' (Dressel 2010, 464). This incorporation of informal sources of legitimacy can allow for a much more holistic view of state legitimacy, though it also adds more variables to the

definition of illegitimacy. With its inclusion, the absence of informal, or societal, legitimacy needs to be taken into account, and illegitimacy is thus defined by the absence of institutional *and* societal legitimacy.

But does one take precedence over the other with regard to illegitimacy? In vertically divided societies that are certainly common among developing countries, it is somewhat obvious that there is rarely a common idea of the state, thus presenting an immediate and fundamental hindrance to state legitimacy. In cases where one group gains political dominance, the issue of socio-political 'fulfilment' engulfs state institutions, and the problem of societal legitimacy becomes ubiquitous, even overshadowing 'good' state performance in arbitrary sectors. Mcloughlin's study of Sri Lankan education policy is certainly a relevant example here. In that case, an attempt to standardise university entrance examinations across the ethno-linguistic divides in Sri Lanka was met with significant social unrest within the minority Tamil community. The existing educational system had carried with it a colonial legacy and was perceived to disadvantage the rural Sinhalese majority, which also formed the major legitimacy audience for the state. And yet, 'the ostensible pursuit of fairness for this majority in turn collided with, and undermined, the perceptions of fairness of the Tamil minority' (Mcloughlin 2018, 534). In essence, Mcloughlin showed how the apparent improvement of a particular service at the expense of existing social structures 'may undermine it [state legitimacy] when delivered in ways that challenge those same normative criteria' (Mcloughlin 2018, 528).

Thus, in cases where a minority is in possession of a very different idea of governance to the one present in the state, then a similar case of illegitimacy occurs (though its extent might be alleviated where democratic institutions exist). Additionally, the fact that such rule of one group over another is often a legacy of previous forms of unfair representation (eg colonialism) only serves to further threaten the state's legitimacy. In many of those cases, performance-based legitimacy is again overshowed by the absence of societal legitimacy in the eyes of the 'oppressed' group, making the actor illegitimate from their perspective. Furthermore, it is difficult in many of those cases to accurately distinguish between the traces of performance-based and societal legitimacy, since groups that are perceived as foreign (or associated with foreign powers) are usually at a disadvantage. For example, in the study conducted by Böhnke, Koehler, and Zürcher (2017) on Afghan respondents' assessment of the roles of the ISAF and the Afghan state, it is shown that, along with the impact of performance in basic services, 'appreciation of state formation by respondents is bound to be affected by a cognitive frame'. In other words, it is assumed that Afghan residents granted the state a 'goodwill bonus' while being far less tolerant towards the foreign ISAF (Böhnke, Koehler, and Zürcher 2017, 110).

Yet this certainly cannot lead to the conclusion that internal state-builders are always permitted this goodwill over external actors, as the relative nature of the cognitive bias that might exist within a group in vertically divided societies means that internal state-builders might be regarded as equally illegitimate (societally) as external actors – if not more so, in some cases. The recent case of Crimean secession, for example, sheds light on the extent of 'goodwill' that can be afforded to a state before actively seeking outside help. Opinion polls prior to 2014 showed that there was not only a presence of Russian nationalism and identity among many of Crimea's social groups, but also a particular 'anti-Ukrainian' feeling among the group qualified as 'discriminated Russians' (Knott 2018, 291). While institutional weakness and corruption had played a major role in feelings of dissatisfaction among the Crimean

population, evidence showed that affinity with the Russian identity in the peninsula had been fluctuating up until 2014. After the Euromaidan protests, however, feelings of exclusion rose in Crimea and demands for secession started to drastically increase (O'Loughlin and Toal 2019, 11). Notwithstanding the questionable circumstances under which the referendum took place in March 2014, and the disputable results thereof, it is clear that the feeling of alienation in Crimea had been triggered by the question of European versus Russian identity, and that degree of societal illegitimacy resulted in calls for external help from a more societally legitimate actor (Russia).

The cases of Crimea and Sri Lanka show how societal illegitimacy can overshadow its institutional counterpart. In developed countries, the quasi-independence of societal illegitimacy from state performance is particularly highlighted in secession currents, like the Catalonian independence movement in Spain, or Scottish independence in the United Kingdom. Without diminishing the importance of uneven (or unjust) service-delivery in those countries, the evidence shows how strong a part societal legitimacy plays in calls for secession. In the case of Catalonia, for example, Germà Bel argued that 'the main reason for the increase in support for independence in Catalonia is the failure of the attempts to generate a sufficient level of trust that would make possible acceptable and stable degrees of cooperation within the Spanish State' (Bel 2015, 49). There is no doubt that, just like the Crimeans, Catalans calling for independence assume that independent Catalan institutions can perform better than the Spanish ones. But it is precisely this tit-for-tat relationship of these minority groups with the state that is such a characteristic of societal illegitimacy. Such a delicate relationship is usually typical of exogenous state-building that involves foreign intervention, yet it is strongly felt for what are internal groups in those cases. This relationship highlights how groups like the Catalans and the Scots perceive the state in which they exist as partially alien. Therefore, the following trait of societal illegitimacy appears: though feelings of alienation might vary in such scenarios, the simple presence of such sentiments significantly lowers the 'threshold of performance' for the state (Schmelzle and Stollenwerk 2018, 457). This hinders the state's acceptability which is central to the definition of legitimacy we are operating on: acceptance of (or belief in) an actor's right to rule. Interestingly, despite the inherent subjectivity of societal legitimacy, and the difficulty with which one might measure the degree of acceptance, the absence of societal legitimacy can manifest itself in a clear and more direct manner than its institutional counterpart (eg in the form of liberation movements, calls for secession and referenda, armed revolutions, etc.). This is especially the case over a long period of time, after groups allow for a 'grace period' before they openly declare their alienation from the state and begin to take political action. Overall, what these examples show is the different ways in which informal or societal illegitimacy, still assumed to mean the absence of legitimacy, manifests. They also illustrate how institutional and societal legitimacy work in tandem to create what has been described as the vicious circle of governance, in which 'a lack of legitimacy leads to a lack of voluntary cooperation or even active resistance against a governance actor or institution' and 'illegitimacy leads to ineffectiveness in a mutually reinforcing process' (Schmelzle and Stollenwerk 2018, 458). The main contribution of societal illegitimacy can be summed up as follows: feelings of alienation relative to the state further diminish the likelihood of acceptability, particularly when there is no perceived self-interest, thus altering any threshold of performance that can be expected. In other words, societal illegitimacy,

especially during the period of the creation of a political system, decreases the likelihood of achieving a *virtuous* circle.

Negative legitimacy

There is not, however, a general rule for the measurement of societal legitimacy. In fact, where such overt actions as discussed above are missing, particularly in developing countries, the state's acceptability – or lack thereof – becomes extremely difficult to grasp, since the absence of acceptance might not necessarily mean rejection, in the practical sense. In fact, studies in the field of policing have dealt with the phenomenon of 'dull compulsion' (a concept which had appeared in the literature on resistance in prisons) in Ghana and Nigeria when it comes to compliance with policing. The first case, studied by Tankebe (2009), claimed that in the case of societies where police brutality exists at high levels,

> survey-based findings of public expressions of obligation to obey police directives are pointers to some form of 'dull compulsion' and are not based on normative factors but on prudential calculations or social habits that are, in turn, founded on feelings of endemic powerlessness and resignation. (Tankebe 2009, 128).

In the case of Ghana, police abuse was considered by many to be a 'fact of life', leading to the effect of compliance without acceptance in the positive sense of the word. After Tankebe's work, Akinlabi and Murphy (2018) attempted to test the notion of dull compulsion with respect to policing in Nigeria. The authors' data indicated 'that those who perceived police as predatory and corrupt were more likely to pragmatically acquiesce to police (ie express dull compulsion)' (Akinlabi and Murphy 2018, 194). Indeed, the police institution was judged by many of the respondents as 'alien' and 'incompatible' with traditional Nigeran morals and values (Akinlabi and Murphy 2018, 191). And while the authors concluded that neither legitimacy (defined as 'acceptance') nor dull compulsion can be directly attributed to self-reported compliance in Nigeria, their results do suggest 'a situation in which people's response to police "misconduct" points toward pragmatic acquiescence to the power of police' (Akinlabi and Murphy 2018, 196). A similar test for 'dull compulsion' was conducted in South Africa by Bello and Matshaba (2020) on the factors behind compliance of university students with policing methods, with the explicit belief that existing Western literature on relations between legitimacy and acceptance has proven conceptually inadequate. It found less evidence for dull compulsion than the Nigerian study, though contextual elements like national political culture and heritage, as well as age range, were emphasised as a possible factor for this. In fact, both the Nigerian and the South African studies emphasise the need for further tests in those countries.

Notwithstanding the methods used in the three studies mentioned, and the fact that they focus on one institution of the state (policing), what is pertinent in such studies is that they highlight a scenario where legitimacy or the absence thereof does not always lead to active resistance or institutional instability, ie the 'effects' associated with the absence of legitimate rule. In fact, the explicit objective of all three studies was to find out why existing notions of legitimacy have failed in explaining police–society relationships in transitional African countries. A study on police–society relations in Central America showed how an increase in police legitimacy can also reduce 'long-term attitudinal reserves of legitimacy for the whole system' (Cruz 2015, 273). As for the notion of dull compulsion, it is not too

dissimilar from Joel Migdal's argument for why some weak states resist disintegrative forces: naturalisation, or 'that people consider the state to be as natural as the landscape around them; they cannot imagine their lives without it' (Migdal 2001, 137). This attitude is embodied in Ghanaians' responses that the police abuse is simply a 'fact of life'. Migdal does not equate this naturalisation with legitimacy, or 'the acceptance of the state's rules of the game' as 'just and right' (Migdal 2001, 52), but he does use the former to explain stability – or at least the survival of the state – particularly in the developing world.

Of the many countries in the Middle East that are possible candidates for similar phenomena, Lebanon presents itself as a particularly pertinent case study. Since the creation of modern Lebanon in 1920, the Lebanese state has suffered from what could be considered a continuous legitimacy crisis while still managing to maintain its confessional shape that ironically seems to always be at the root of its legitimacy problems. The different communities of Lebanon have always expressed a feeling of alienation towards the state as it is, and as it has been for the last century. In its early decades, such feelings were most vehemently present within the Muslim (Sunni and Shia) communities, who felt that a foreign, French political creation has been imposed upon them. This state was seen to exist for the benefit of the Christian community, a regional minority, and more particularly the Maronite population who form the major Christian sect in Lebanon. Such feelings were expressed in official political dialogue, through communal and regional representatives, and by the boycotting of elections and national institutions, and were generally expressed wherever possible, in the form of protests and political movements, and in news outlets (see eg Bayhum 1969, 24; Shanahan 2005, 52; Sa'īd 1934, 417). In the case of Lebanon, cross-community acceptance has been crucial to the legitimacy of the state. After all, examples mentioned above show how some states remain legitimate despite certain institutions serving to alienate sections of society. Nevertheless, there is rarely a set majority formula that determines when the state's right to rule is no longer accepted (even in the most democratic of countries), but some indicators are contextual and can apply in specific cases. One such element to societal legitimacy is the objective set out during the formation of the state. A socialist state, for example, is inherently built on the transcendence of class struggle and on the destruction of bourgeois dominance, such that when such a state participates in capitalist practices that allow for the dominance of a particular class over the population, its own legitimacy is threatened and it can only maintain acceptance if it manages to convince the population of such a radical shift in its character. For a more concrete example, one can look at the creation of the Constitution of Fiji in 1997, during which it was explicitly declared that the legitimacy of the state was to be derived from 'the principle that it has been developed with the free and full participation of everyone' (Hatchard and Ogowewo 2003, 94). This particular emphasis on representation arose as a result of the inter-racial tensions that had plagued the country since the late 1980s. As such, this self-ascribed goal on the part of those state-builders sets a threshold with regard to legitimacy, and a few years later, when the party that won the elections nominated an Indian (the minority ethnic group) for prime minister, it was clear that the majority of Fijians were not ready to accept such an outcome, and the state faced collapse (Fry 2000, 297–298). In other words, the state as an egalitarian and participatory governor was not accepted by those it *specifically* targeted for its acceptance. A similar situation arose very early on in Lebanon, whereby the state, which based itself on power-sharing and proportional representation, was expressly rejected by the

majority of its Muslim population, thus falling short of its *own* thresholds for acceptance and legitimacy.

Despite this early legitimacy problem at the heart of the state, the circumstances of Lebanese independence meant that the National Pact, an enshrinement of the consociationalism and power-sharing that had shaped the Lebanese political system, was struck between the two major Christian and Muslim communities (at the time, the Maronites and the Sunnis). The pact has formed the main pillar, however shaky, of the Lebanese state ever since. While direct political perceptions of citizens in the form of polls and surveys were not commonly known in pre-war Lebanon, the attitudes of the different communities towards the state have always involved varying levels of suspicion, mistrust and pragmatism. The studies that delve into perceptions of government in pre-war Lebanon confirm this (see Crow and Iskandar 1961; Johnson 1986; Fetter 1964). Put simply, the Lebanese political game, ie power-sharing and elite bargaining, continued to prioritise 'the balance of power, in the absence of positive legitimacy for the institutions of the state' (Hudson 1969, 245). During the years when the state was afforded the luxury to remain 'equally' illegitimate (ie it was not considered legitimate by one audience over the other), public institutions were able to maintain stability despite their consistently weak performances, and the continued alienation of different communities at different times. In fact, those institutions were accepted in the more negative sense: they were tolerated. When the state was put in a position to pursue a particular source of societal legitimacy, a more violent vicious circle appeared in which the absence of its institutional legitimacy became more relevant, and the result was the descent into political instability. What this case highlights is the possibility of a phenomenon that at first appears paradoxical: where illegitimacy, or what we have accepted so far as the absence of legitimacy, can coexist with stability. That is why, as late as 1969 and only a handful before the civil war, Hudson was still arguing that 'the system has worked tolerably well for two decades' despite the Lebanese not 'investing the state with innate worth or trust' (Hudson 1969, 249). Prior to the civil war, and after almost 50 years of existence, one could argue that the Lebanese state had achieved partial institutional legitimacy, in the sense of its scope (ie it had delivered *some* services to many parts of the country). Societally, however, there is much less room for nuance in the Lebanese case. In the twentieth century, the state simply failed at propagating a ubiquitous idea of the state, and a unifying Lebanese identity, as intra-confessional tensions continued to increase and identification with the state further decreased (see O'Ballance 1998; Rabinovich 1984; Butros 2011; Suleiman 1967b), for example. This was reflected not only in political speeches and violent political actions, but also in the few studies that explored public opinion, like the early 1970s study of students' opinion by Barakat (1977). It ultimately took the presence of an exogenous factor – the armed Palestinian resistance – to finally force the Lebanese state to collapse. And even then it limped on for 15 years, only to emerge in 1990 in what was essentially an identical system, even if its constitution was officially altered to reflect more up-to-date demographics.

What the examples above tell us is that the manifestation of political legitimacy – or illegitimacy – in many cases is not so binary. In other words, states do not exist only within vicious or virtuous circles, as has been expressed in the literature. Not all states have their stability threatened, their institutions resisted and their acceptability decreased when they lose legitimacy, even though they naturally lose their ability to grow, politically and economically. Instead, some cases present themselves wherein state institutions become mostly irrelevant to everyday lives of their populations. Their existence is tolerated and perceived

as being of low quality, to be used when local, more immediate options (whether familial, tribal or communal) are exhausted, and otherwise avoided due to their inefficiency. The identity itself is foreign and feels imposed, and its attempts at gaining sympathy or support are usually looked at with suspicion and contempt. These states have international legitimacy, and are supported by national elites as avenues through which to exercise their power, and those elites have established their own local legitimacy through a combination of factors that include cultural (identity-based) and politico-economic power. While such situations are present in the developed world, as mentioned above, they are generally restricted to minority communities within largely legitimate states. In the case of Lebanon, ie a failed power-sharing system in the developing world, however, this feeling permeates the ethno-religious communities that make up the Lebanese population. Some writers had noticed this unorthodox manifestation of the Lebanese state's legitimacy: Michael Suleiman reiterated the argument that 'Lebanon's political system rests upon a tradition of *non-legitimacy* and dispersed, balanced, power' (Suleiman 1967a, 289). The Lebanese population's lack of identification with the state across the board, combined with the absence of any overwhelming majority that can dominate state institutions (regardless of the desirability of this scenario), led to such a situation. This phenomenon leads one to suggest a new category that falls under the 'absence of legitimacy': negative legitimacy. This category differs from outright illegitimacy since, firstly, the state does receive a very minimal degree of acceptance in the form of compliance and tolerance; and, secondly, some effects of legitimacy remain present (mainly, political stability and a degree of participation). Negative legitimacy, in the case of Lebanon, was so strong that it ensured the endurance of its political system – further highlighted by its reappearance after the civil war – while guaranteeing relatively peaceful cohabitation between citizens of different, and antagonistic, groups for decades. And Lebanon has been dealing with its negative legitimacy ever since its creation, with consistent low levels of trust in its successive, inefficient governments, and feelings of alienation within the communities that have resulted in different forms of political activism and movements. Yet the status quo survived and the political system was so robust that it even survived the civil war and has reappeared in a barely altered form for Lebanon's so-called Second Republic.

Ultimately, it is tempting to posit that the most straightforward way of measuring political legitimacy is through recurring polling, surveys, interviews, and the like with the relevant subject population. Fraser conducted research on such a premise decades ago, using a very similar definition of legitimacy: 'perceived performances of regimes and authorities judged against whatever norms or standards members of the system wish to employ' (Fraser 1974, 119). But even modern polling in Lebanon shows how flawed straightforward questions can be when put to a population that has experienced such alienation from the state for a long period of time, or where the state has gained negative legitimacy. In a 2015 study on perception of Lebanese security institutions, it was initially found that almost 75% of respondents would turn to state institutions when victims of a crime, with about 17% turning to other social institutions like family or political parties, and 8% not resorting to anyone (Geha 2015, 4). And yet the same survey found that only about 50% of the Lebanese trust the Internal Security Forces (ISF), the national police. The level of trust varies, with only 10% of citizens in Tyre expressing trust for the ISF, for example. Levels of trust are only slightly higher for other security institutions, but only the Armed Forces – long perceived as the unifying institution that holds the country together – gained over 70% trust (Geha 2015, 4). More

important, however, is the lack of exclusivity for the state when it comes to providing security (naturally, in this context, this is related to the use of armed violence): the survey also shows how much the different Lebanese communities trust their own political parties with their security. These levels vary, with some cases where there is around 40% trust of Christians in their political parties to provide security, and others where Shia communities place over 90% trust in Hezbollah and Amal – the two main Shia parties – to guarantee their security (Geha 2015, 7). Additionally, political parties are not the only alternatives available to the state, as non-governmental organisations, religious institutions, and community mediators are also trusted sources of security for Lebanese citizens (between 5% and 30% depending on region and confession).

Similar results have been obtained elsewhere in the developing world, where seemingly contradictory results can also surface. In a 2013 study on police corruption across Africa, it was found that 55% of respondents believe that all or most of the Ghanaian police is corrupt, and only 42% expressed trust in the institution (those levels were at 66% in 2006). And yet, 91% of respondents also believe that the police 'always have the right to make people obey the law' (Wambua 2019, 13). Such a high belief in the rightfulness of the police's duty might provide an explanation of the dull compliance phenomenon hypothesised above. In other words, the belief that the police are *always* right to make people obey the law implies a degree of acceptability, however passive, giving the impression of legitimacy since no active resistance takes place. And yet the same survey showed that, among those that had been victims of crime in Ghana, 75% did not report it to the police. Similarly, Ghanaian respondents were on the low end of the cross-African average of respondents who had paid bribes to the police in that year – 11% (Wambua 2019, 10–15). This could naturally speak to the economic conditions of the relevant households, but it could also provide another element of the feeling of alienation between the people and the police institution.

Naturally, these opinions and levels of trust vary. A series of six surveys between 2018 and 2019 in Lebanon conducted by the ARK group on behalf of the United Nations Development Programme showed that trust in the Lebanese Armed Forces had declined to about 50% at one point, before climbing back up to 75%. Again, however, where the results concerned whether or not government policies 'had changed life in the area for better or worse': the overwhelming majority of respondents (between 30% and 55%) over the six waves answered that governmental policies had no effect on quality of life in their area (ARK 2019). By the latest survey in 2019, the negative answers claiming that government policies had worsened life by a little or a lot had reached over 30%. On their own, such survey results do not give away much, especially as these surveys preceded the October 2019 protests in Lebanon prior to which (and after which) public trust in public institutions surely declined as the country has spiralled into successive crises. They do, however, mimic citizens' attitudes towards the state in pre-war Lebanon, suggesting that the state might not have been able to shake off the negative legitimacy that it had acquired prior to the civil war.

This provides scope to assess whether or not illegitimacy is truly the absence of legitimacy. In his description of Lebanon in the 1960s, Michael Hudson specifically referenced the 'absence of positive legitimacy', which indicates that he also discovered a nuance between overt support and a phenomenon not dissimilar to the dull compulsion touched upon in earlier African examples (Hudson 1969, 245). For the Lebanese communities (specifically, their elites), the state has for the most part been simply just there, to be ignored whenever

possible and used whenever convenient. Indeed, while failing to wholly meet any criteria within, for example, the Schmelzle and Stollenwerk classification of legitimacy, the Lebanese state can boast of many *consequences* (or effects) of legitimacy. Namely, the state developed an almost-infamous ability to make tit-for-tat deals with the respective Lebanese communities, which are willing to cooperate with its 'alien' institutions so long as it is advantageous to them and, more importantly, so long as their own norms and values are not threatened in any way. In fact, if one were to use Schmelzle and Stollenwerk's classification of the degrees of legitimacy to locate the state, one would have to place the Lebanese state under the 'benefit-of-the-doubt' column (Schmelzle and Stollenwerk 2018, 457). Though, as the table itself suggests, such a source of legitimacy is usually associated with external missions such as that of the United Nations, suggesting that this form of legitimacy is hardly viable for state–society relations. Instead, those relations in Lebanon are guided by pragmatic considerations: community leaders recognise that to openly rebel against the state would have drastic consequences in the form of violent conflict, and thus accept that it is appropriate to tolerate the state so long as it maintains appropriate relations. This particularity shows the weakness in existing frameworks that place states in specific boxes that cannot help but skew towards existing, Western-based entities and norms.

Conclusion

In the arguments above, some of the limits of performance-based and societal legitimacy were assessed. Many of the arguments that have previously dealt with the nuances in legitimacy were tackled, in order to discover what could constitute a threshold for political legitimacy. What is made clear by previous studies on both performance-based and societal legitimacy is the lack of a universal threshold: on the one hand, because the measurement of institutional performances is rarely clear enough to issue a verdict; and, on the other hand, because the normativity of legitimacy means that audiences' perceptions play a major role in determining the levels of acceptability and rightfulness of the governing actor that they interact with. The circumstances under which this interaction occurs, along with the relevant actors' own preferences for governance, are two (of many) crucial factors that shape the legitimacy of the state. It is therefore not surprising find that existing theories on the causal nature of legitimacy can fall short of explaining political phenomena in the developing world, where many state-building projects are shaped by historical context and deep internal divisions. In other words, the expected state–society relationship that could result in an acceptance of the state's right to rule was absent, and what flourished instead was the society's toleration of the state's existence under specific conditions (mainly non-involvement). Whenever actors within the state try to change this formula in the search of a new form of legitimacy, this 'agreement' breaks down and the country descends into instability. Since this absence of conventional legitimacy does lead to some desirable consequences (particularly stability), it is difficult to term this phenomenon illegitimacy. Instead, the term 'negative legitimacy' seems apt to describe the situation.

When understood in this manner, negative legitimacy can become a useful lens through which to look – or at least begin to look – at situations where legitimacy is, for lack of a better word, ambiguous. Of course, as I have tried to demonstrate above, deciding whether political legitimacy is present or absent is itself a difficult endeavour in most cases. But in situations

where enough data – on public opinion in particular – is available, one can usually discern a more inconclusive state of legitimacy. Some countries display identifiable patterns in this regard: eg tense political systems with a history of vertical divisions, strong tendencies to have elites negotiate and bargain on behalf of unparticipating socio-political groups, or in many cases a post-war system that is held together by foreign interventions and guarantees.

Northern Ireland, for example, presents a potential candidate for such a study: The 1998 Good Friday agreement created a power-sharing system that has itself lasted and prevented further armed violence, though its devolved executive is regularly paralysed by deep-rooted tensions between its two communities and their relative elites. Its situation as a devolved nation within the UK, and the ability of Westminster and the government of Ireland to continually ensure lines are not crossed, also provides a very peculiar scenario not unlike that of Lebanon. A study into political legitimacy there could yield similar results, or at least shed light on the applicability of negative legitimacy. The Balkan, post-Communist states are also candidates for such research, as are a number of developing countries in the Middle East and beyond whose institutional make-up has been almost completely shaped by a fear of internal violence as opposed to positive political expression.

This last point is key: it is in the dynamic between the institutional and the societal factors (and thus societal legitimacy) that the key to discovering negative legitimacy lies. Understanding the nuances in peoples' attitudes and aspirations when faced with a fait accompli is crucial for identifying the different facets of legitimacy or the lack thereof. As shown above, a loss of societal legitimacy can occur within groups in any given society – in some cases on a more temporary basis and in others more long term, particularly when it occurs at a foundational level. The evidence suggests that negative legitimacy is more likely to be found in the latter scenario, when different communities are essentially placed under an authority that might suit short-term material purposes (particularly for influential elites) without ideational and societal fulfilment for the groups themselves across a prolonged period.

As such, an accurate appraisal of societal attitudes, aspirations and behaviours is crucial, with a particular focus on the causal elements of state–society relations. In this regard, targeted, in-depth, historical studies that include both hard and soft data on the subject population and its surrounding structures are best positioned to obtain illuminating results on all facets of political legitimacy. It is certainly this author's intention to conduct such studies in the future, in the hope that further comprehension of (il)legitimacy could improve our knowledge – and application – of state-building.

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Notes on contributor

Tarek Abou Jaoude is an independent scholar who received his PhD from the University of Durham, with expertise on political legitimacy and state-building and a particular focus on the Levant. He has previously published on Lebanese institutional reform in *Middle Eastern Studies*, and his book *Stability and the Lebanese State in the Twentieth Century* is set to be published in September 2022 by Bloosmbury/I. B. Tauris.

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