

# Assessing Progress in ‘Legitimate Politics’ .

A CSO input paper to the Expert Meeting in Washington D.C.  
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## Monrovia Objective 1: LEGITIMATE POLITICS - Foster inclusive political settlements and conflict resolution

*“In fragile situations, trust in state institutions and among people tends to be weak. Peacefully resolving and managing conflict and (re) building the state require an increasingly inclusive political settlement, and committed and able leadership. It also requires political institutions that ensure accountability and provide opportunities for participation of all key groups in society, including the most vulnerable and marginalized. An engaged public and civil society which constructively monitors decision-making is important to ensuring accountability. Conflict legacies and the risk of future tensions make it critical to build capacities for reconciliation and conflict resolution at all levels.”*

### **I. Preliminary Observations.**

- Peacebuilding and statebuilding are eminently **‘political’ processes** even if several actions undertaken towards these broad aims tend to be conceptualized and implemented as ‘technical’ exercises. Using ‘indicators’ must not become a **‘technical’ short-cut** to assess what is essentially a complex and dynamic reality in which there will be divergent views.
- Peacebuilding and statebuilding are also **not linear processes** which complicates the assessment of ‘progress’.
- ‘Legitimate politics’ **cannot be separated out** from the questions of security, justice, economic foundation and revenue mobilization and service delivery. Performance in the latter is a stronger factor in shaping the perceptions of the state or a government as ‘legitimate’.

### **II. Discussing and Assessing Legitimate Politics.**

Before focusing on the ‘indicators’ themselves, we must not lose sight of three fundamental issues: 1. What is ‘legitimate’ politics? 2. Whose views on ‘indicators’ are we using here? and 3. Whose agency is causing or impeding the ‘progress’?

#### **1. Legitimate Politics.**

Between its ‘working groups’ (shaped by the Dili Declaration) and the Monrovia Roadmap the International Dialogue on Peacebuilding and Statebuilding has shifted from ‘political dialogue(s)’ to ‘legitimate politics’. It has also oscillated between ‘peace agreement’ and ‘political settlement’. The terminological differences matter.

#### ‘Legitimacy’ and ‘legitimate politics’.

The notion of ‘legitimacy’ is relevant for the dialogue about ‘fragility and conflict’, because ‘fragility’ (of the state) is properly understood not only as a lack of ‘capacity’ and ‘effectiveness’ but also a lack of ‘responsiveness’, ‘accountability’ and ‘legitimacy’.<sup>i</sup> From a peace and statebuilding perspective, the challenge is not only to achieve ‘effective’ but also ‘legitimate institutions’ (WDR 2011).

Having ‘legitimacy’ is critically important because it allows a political community or other grouping of people to function largely by consent rather than by coercion.

The OECD/DAC has itself undertaken valuable work to more clearly frame the complex notion of ‘legitimacy’.<sup>ii</sup> A useful distinction has been made between

- Legitimacy of institutions and of an individual heading/occupying the institution
- Legitimacy of the state as the ultimate political authority, and the legitimacy of a government or a particular political leader.

Contestation can be directed at individuals, government/ruling elites or the institutions and the state itself.

With regard to the 'indicators' the most critical distinction to be made however is that between '**internal**' and '**international legitimacy**'. Contemporary international legitimacy of a political authority is very much premised on a historical but normatively upheld model of rational-legal political institutions and on the preference to see central authority assumed through free and fair elections. This idea of how a political community should organize or appears to have organised its functioning may not correspond to reality. More importantly, the international perception of 'legitimacy' or lack thereof, may not correspond to the internal perception that may be shaped by a different political culture with different expectations about who can exercise authority, what that authority is expected to deliver, and on what grounds consent can be given.

**Legitimacy is a matter of perception, these perceptions can differ and are not static:** The situation is further complicated by the fact that among external/international actors but more importantly among internal actors, different perceptions may exist about the (degree of) legitimacy of political authorities in a fragile or violence-affected state. And perceptions also change as societies and the expectations of their people evolve.

Moreover, there are different sources of (internal) 'legitimacy':

- Input/process legitimacy: how the state functions (rules, procedures, decision-making)
- Output/performance legitimacy: the perceived effectiveness, quality and fairness of services provided (including 'security')
- Shared beliefs: a sense of 'community' and common 'identity', which can be related to the state but also to very different references such as language, religion etc.

The perception of 'legitimacy' may base itself on any or all of these sources which means that in practice it tends to be an aggregate view or opinion, that has weighed a variety of factors.

If this is the case then 'legitimate state authority' is derived from a predominant perception among the people living under its jurisdiction that the '**state is the pre-eminent political authority (that can supersede other political authorities)**'. A 'legitimate government' is one whom most people under its jurisdiction most of the time ('sufficient legitimacy') **see as having come to power, as functioning and performing, in ways that they deem acceptable and meeting their expectations, as a result of which they generally consent.**

So what is 'legitimate politics'? "Legitimate politics" might simply be any politics that supports the sustained power and position of any type of authority that is deemed 'legitimate' in the eyes of its followers. "**Legitimate state politics**" would be politics that strengthens the perceived legitimacy of the state and its institutions, in the eyes of most people under its jurisdiction. That perception will be very influenced by the state institutions being seen as meeting expectations in a manner that is generally felt to be fair and just. The distinction between 'legitimate politics' and 'legitimate state politics' is important because there are states where individuals in position of state-authority actually practice a different kind of politics (e.g. patronage; patrimonialism) that sustains them in power but competes with and undermines the legitimacy of the state institutions.

#### 'Peace agreement and political settlement'

A very recent OECD/DAC publication has usefully unpacked the concept of 'political settlement' and differentiated it from its previous association with 'peace agreement'.<sup>iii</sup> A 'peace agreement' is the output of a particular historical event (peace negotiations or a military victory). A 'political settlement' is a dynamic and evolving but nonetheless sustained elite consensus on the preferability and means of avoiding violence. A 'peace agreement' may constitute or give rise to a sustained 'political settlement' or not.

The emphasis on 'inclusion' and progressively 'more inclusive', ultimately is more important for the 'political settlement' than for the 'peace agreement'. Though there is a tendency to see a 'peace agreement' as the successful resolution of a problem (ending violence), from a peacebuilding and statebuilding perspective it is only the beginning of a much longer process. The critical issue is whether the peace agreement creates the conditions to pursue the ongoing competition and struggles for power, influence, recognition and rights, without resort to violence. That is a wider and ongoing socio-political process in which sustained peace is also dependent on the ability especially of the elites to come to a 'political settlement'.

A durable elite settlement may result in a period of absence of (visible) violence and in that sense sustained peace. But it may be exclusionary or discriminatory of large parts of the population and in that sense be a peace with structural violence and probably a strong threat of coercion. History shows that in the long term this is likely to lead to violence. So we need an 'elite pact' but also forms of 'governance' that generate and sustain the voluntary consent of most of the people most of the time.

The notion of '**inclusiveness**' therefore needs to be looked at in its horizontal dynamics (elites) and its vertical dynamics (elites/rulers/authorities – people). The current articulation of the first suggested indicator talks about "all major parties to the conflict and most major sub-groups". We suggest this be rephrased to avoid it being (mis-) interpreted as referring to the elite-level only.

## **2. Whose Views on the 'Indicators' are we Using Here?**

If the above resonates fairly well, then we can distinguish at least **three major categories of people/actors who will have views about what are relevant indicators and how a particular country situation can be assessed against these indicators**: external/international actors (whose expressed views may be shaped by a normative model of good governance but also by their strategic interests in a given country), the national elites, and the population at large (which is not a homogeneous group, elites of course have some constituencies/followers who may give a positive view while others may have a more negative view).

The current draft work rightfully cautions against 'EA' or 'expert analysis' (but does not identify who would count as 'expert') and acknowledges the possibility of poll/perception-based data. But it doesn't put the indicator debate in the real world context.

It would be unhelpful for the IDPS to determine some 'indicators' that are held to be universally valid and to subsequently pilot their measurement in a rather technical manner, or at best as a dialogue between external actors and national governments. A much more interesting approach, that itself can contribute to peacebuilding and statebuilding, would be to have **a broad-based multi-sectoral (political) dialogue about what different actors see as relevant indicators and how they assess progress against them**. A set of indicators can be proposed to get the discussion going, but should not be presented as definitive, exhaustive and uncontestable.

## **3. Whose Agency is Causing or Impeding the Progress?**

Well performing indicators can tell us something about a 'state' of a situation at a given moment in time – and compare that state with a previous one to assess the differences. But **indicators as such don't tell us why** things have progressed, regressed or remained as they were, and more importantly, **whose agency is responsible** for the changes or lack thereof. Surely if the intent is to contribute to (sustainable) peacebuilding, statebuilding (and society-building), this latter question is very important. If 'progress' is largely due to the strong presence and action of external actors, then perhaps it is not so 'sustainable'. If it is largely due to non-state actors, then this gives us some guidance on where to concentrate our further efforts and engagements. So too if it is very much due to the actions on the incumbent government. The discussion about 'agency' is of course sensitive and delicate – but happens anyway. A robust political dialogue about indicators and progress can and probably should look into these questions of 'agency' – ideally in a constructive manner.

## II. THE INDICATORS.

'Legitimacy' is not directly observable. Legitimacy is a matter of perception, and perceived legitimacy can be fragmented (different actors have different views) and evolve over time. A 'political settlement' in its understanding of an 'elite pact' and a 'state-society' pact, is also not directly observable, and will evolve over time. ***There are no straightforward 'indicators' to assess their presence and evolution.*** 'Inclusiveness' cannot be assessed without a solid analysis of what the separate actors or groups might be something again for which there are no straightforward indicators. In other words, ***indicators cannot substitute for robust and ongoing socio-political analysis of the dynamics of every specific context.*** It is such analysis as well, undertaken from close up, that can reveal the possible discrepancies between 'form' and 'function'.

The Monrovia Roadmap paragraph on 'legitimate politics' contains three centers of gravity:

- a. Capacities at all levels in the society concerned for reconciliation and conflict resolution.
- b. Inclusive settlements: among the elites (elite pact) and between the elites/authorities and society at large.
- c. Legitimate institutions: institutions that people trust and use because they perceive them to be effective, equitable, responsive and accountable.

What could be ***dialogue stimulating indicators*** for these?

### a. Capacities for reconciliation and conflict resolution.

- Leaders in state and non-state sectors signal through their discourse and behaviour a willingness to be coalition builders and consensus seekers. People in positions of power and influence in their discourse and behaviour support prevention and non-violent resolution of conflict;
- There is a range of respected individuals and (formal and informal) institutions in the state and non-state sectors that can effectively act as conveners, facilitators, mediators and, if needed, arbitrators to settle disputes and conflicts without recourse to violence. Members of society recognize the need and value of 'dialogue' (mediation, arbitration) as a way of dealing with disputes and conflicts. They resort to and accept the functioning of respected individuals and institutions as 'peace makers';
- Internal actors act quickly and effectively when and where tensions are rising to prevent escalation;
- There are low levels of inter-group violence because disputes and conflicts are settled through non-violent means. Disputes settled do not re-erupt because they are underpinned by acceptance of the resolution and/or reconciliation.

### b. Inclusive political settlements (elite pacts & elite/authorities-people pacts).<sup>iv</sup>

- All contextually significant socio-political constituencies are present in the political institutions of the state: the Cabinet, the Parliament, the judiciary, the political parties, the leadership of the security forces;
- All significant socio-political constituencies have equal access to and can benefit from state controlled resources (the civil service, the security forces, the allocation of import licenses, the allocation of land rights etc.);
- Inclusive political coalitions are formed;

- Leaders in state and non-state sectors signal through their discourse and behaviour a normative affirmation of values of human rights, human dignity and the rule of law, without any discrimination.
- The political leadership promotes and protects the institutions and procedures of the state as the predominant political authority;
- Leaders and authorities actively connect to rural populations and not only those of the capital city – the voices of rural populations are heard and taken into account in capital city politics;<sup>v</sup>
- Constitution-making and constitutional reforms are transparent and broad participatory processes. The Constitution ensures equality of access and opportunity and equality before the law, asserts and protects individual and group rights, enshrines checks and balances on power, institutionalises civilian oversight.
- People have increasing confidence in the political process and in the ability of the state and its institutions to handle grievances and conflict;

c. Legitimate state institutions, with opportunities and capacities for effective public participation.

- Leaders in state and non-state sectors signal through their discourse and their behaviour a commitment to financial and political integrity. Sensitive issues are addressed, justice is applied evenly – including to government insiders, friends and associates.
- Designated oversight mechanisms (parliament, audit office, election commission, ombudsperson office etc.) are independent and have influence and clout;
- The state authorities promote and effectively protect freedom of association, freedom of assembly, freedom of speech and the right to information.
- Public information is available about the functioning of parliament and its commissions, and parliamentary decisions, conclusions and recommendations. Executive policy and decisions and their rationale are widely communicated.
- The media have the ability and competency to report properly on political and public policy deliberations and decision-making.
- The public policy making process is participatory and engages all stakeholders from the outset. To this effect the authorities legally and practically protect and promote a 'right to information'<sup>vi</sup>, which also expresses itself in 'open budgets' (information about the sources of revenue, planned and effective expenditures and audit reports are in the public domain); other relevant information is provided regularly, proactively and accurately so that people can participate from an informed point of view; there is timely and relevant follow-up feedback after public consultations;
- There is adequate knowledge among the general public about the formal mandates of key institutions and their expected mode of functioning. Basic legal literacy is increasing and a growing proportion of the population understands the basics of the laws that affect their daily life. Basic financial literacy is widespread and there is an increasing capacity among the public and non-state actors to read and analyse public budgets and accounts.
- There is in-depth knowledge in sectors of civil society about the actual processes of public policy and decision-making and an ability to pro-actively and effectively engage with them.

Non-state actors have an increasing capacity to make relevant and informed public policy proposals.

- Intermediary 'civil society' organisations communicate actively with a wider public, demonstrating the qualities of participation, responsiveness and accountability.
- People increasingly perceive the state institutions as sufficiently meeting their expectations in a manner that is generally seen as fair and just. A growing trust of people in the state is expressed in their increasing readiness to take recourse to the institutions mandated to deal with the issue at stake, and their willingness to pay tax to the state.

### III. OBSERVATIONS ABOUT THE INDICATORS.

**1. Number of indicators?** The current working draft on indicators has only 6 indicators under the heading of 'Legitimate Politics' whereas this draft has a significantly larger number. However these six 'indicators' are not simple and measurable. Measuring them would inevitably require unpacking them into more specific indicators. At the moment it is not yet clear how we can keep the number of indicators to a 'minimum' without having to unpack and proliferate them once they are put into practice?

**2. Normative models?** The above indicators reflect a normative model of state-society functioning that, as has been mentioned at the outset, may not be the desired or required practice to gain 'legitimacy' in a given context. This underscores the point made earlier that 'indicators' about 'legitimate' politics are not 'value-free' and hence need themselves to become part of an inclusive dialogue.

Relevant in this context however is the 'Dili Declaration' and its 'Statement by the g7+':

*"We recognize the need for good governance that empowers the people through open and transparent public administration and financial management, political representation and leadership. It is through the principles of good governance that effective and efficient public administration can be achieved. Leadership and effective systems of political empowerment are also essential to ensure development and social inclusion. There is recognition that democracy must be implemented in accordance with local circumstances."*

**3. Sources of Information.** The current working document prepared by the consultant lists a variety of possible sources of information. To this can be added other sources e.g. (the Open Budget Survey global report; the Freedom of the Press survey, the Ibrahim Index of African Governance etc.). What needs to be clarified and rendered explicit however is how solid these 'data sets' really are (given the acknowledged lack of reliable data in many of the countries of concern) and whose assessments they actually portray. Moreover, what happens if different such sources come up with different assessments?

Using global or regional 'data sets' however cannot be sufficient. A consistent and constantly reinforced message of the Paris Declaration process, the Fragile States Principles discussions, the World Development Report (2011) etc. is the need to bring the whole international cooperation process (including these assessments on progress on legitimate politics) much closer to the specific country level, so that they can be much better informed by a deeper understanding of the actual realities and dynamics (visible and not so visible) and be in a better position to find the 'best fit' for the given situation.

That means that the **key efforts to work with 'indicators' in practice need to be at the country (and sub-national) level**. This is once again an argument in favour of a process of inclusive and constructive multi-sectoral dialogue, rather than a more remote assessment.

**4. Different types of indicators:** The current working draft distinguishes between three types of indicators: RS (reducing stresses), CB (shorter-term confidence building) and IR (mid-to longer-term institutional reform). While this is on the one hand inspiring, it also begs the question who determines this (who says that confidence is being built?), and whether this can be assessed in real time or only very retro-actively?

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<sup>i</sup> See OPM/IDL (2008) Evaluation of the Implementation of the Paris Declaration: Thematic Study - The applicability of the Paris Declaration in fragile and conflict-affected situations.

<sup>ii</sup> OECD 2010: The State's Legitimacy in Fragile Situations. Unpacking complexity. Paris, and NORAD 2009: The Legitimacy of the State in Fragile Situations. Oslo.

<sup>iii</sup> OECD 2011: From Power Struggles to Sustainable Peace. Understanding political settlements. Paris

<sup>iv</sup> This section draws on work done by the Crisis States Research Centre in London, notably Lindemann, S. 2008: Do Inclusive Elite Bargains Matter? A research framework for understanding the causes of civil war in Sub-Saharan Africa. London, LSE, Crisis States Discussion paper, and Hesselbein, G. 2011: Patterns of Resource Mobilisation and the Underlying Elite Bargain: Drivers of state stability or state fragility. London, LSE, Crisis States Centre, disc. paper

<sup>v</sup> See e.g. Landau-Wells, M. 2008: Capital Cities in Civil War: The locational dimension of sovereign authority. London, LSE, Crisis States Research Centre, Discussion Paper.

<sup>vi</sup> See Darbshire, H. 2010?: Pro-active Transparency. The future of the right to know. Washington, D.C., The World Bank/CommGap