

Introduction

Legitimacy and peace processes

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This 25th publication in Conciliation Resources' Accord series explores the relationship between peace processes and legitimacy. Using first-hand case studies and expert analyses, it maps the perspectives and experiences of a range of actors engaged in processes of transition out of violent conflict – "from coercion to consent". In the spirit of the Accord series, the various insights presented in the publication hope to inform and inspire better peacebuilding policy and practice by sharing real experiences of endeavour and innovation.

International policy has increasingly stressed the importance of legitimacy in relation to preventing or ending violent conflict. The World Bank's *World Development Report 2011* declared as its "central message" that "strengthening legitimate institutions and governance ... is crucial to break cycles of violence". The 2011 *New Deal for Engagement in Fragile States* lists "legitimate politics" as the first of five Peacebuilding and Statebuilding Goals. And the UN Development Programme's 2012 *Governance for Peace* report declares that the "social contract" between states and societies can help reduce armed violence when "popularly viewed as legitimate".

Legitimacy is generally understood as the popular acceptance of political authority. Kevin Clements in this publication defines legitimacy as the acceptance of unequal political relationships (stated or unstated), where some are given, assume, or inherit authority over others. Legitimacy is not universal, but is specific to particular contexts, constituencies and circumstances. It refers to the social and political contracts that manage formal and informal relationships between states and citizens, and between traditional or charismatic leaders and their constituencies and communities. Clements explains how legitimacy "matters for peace" as it is "critical to political order, stable peace and development [and] transforms coercive capacity and personal influence into durable political authority".

Legitimacy is contested, however – especially in situations of violent conflict in which perceptions of the acceptability of political leadership or institutions are likely to be polarised. In civil war, for example, the legitimacy of the state is almost by definition fundamentally challenged by a significant proportion of its citizens. Non-state actors who use violence, such as armed groups, militias or gangs, are often seen as illegitimate (for example by certain states), but may have specific legitimacy within a given context: as champions of a popular cause; as providers of security and essential services to local communities; or as defenders of the interests and identity of their supporters.

Policy commitments to enhance legitimacy as a response to conflict have proved hard to implement. The Institute for Peace, for example, in a 2012 report asserted that the 2005 Paris Declaration on Aid Effectiveness revealed assumptions about state capacity and legitimacy that in reality did not exist in many countries affected by conflict. The report further asserted that the 2011 *New Deal* commitment to promote legitimate politics exposed contested ideas among its signatories, some of whom preferred to see legitimacy captured through election-related indicators, while others favoured a more comprehensive understanding that could incorporate the strength of opposition parties, civil society, the media, or local conflict resolution mechanisms.

So how might a focus on legitimacy help build peace in practice? One function of a peace process can be understood as providing a structure to accommodate diverse or competing sources of, or claimants to, legitimacy in conflict-affected states and societies, and to cultivate broad consent on a satisfactory way forward for peace. A peace process can help to manage transition from coercive to consensual governance as a basis for advancing sustainable peace. The legitimacy of a peace process can be understood as the extent of popular support both for

the process itself – its specific initiatives and components – and for its outcomes, including a peace deal or political settlement.

The case studies in this publication examine processes of national dialogue and constitutional review as two approaches that can help to promote political legitimacy and consensual governance in situations of violent conflict and transitions from military rule. Case studies also look at actors: at local governance and leadership as potential sources of legitimate authority and representation in peace processes; and at the transformation of “coercive actors” who use force instrumentally – specifically military regimes, armed groups and urban gangs – through engagement in processes of political transition. Case studies consider the relationship between the legitimacy of a peace process and of its outcome, and suggest that peacebuilders need to pay attention to both.

Structure of the publication

This Accord publication is structured in five main sections. Section 1 presents analyses of some key concepts and trends relevant to legitimacy and peace processes. Sections 2 through 5 present case studies – of national dialogue, constitutional review, local governance, and transformation of coercive actors. A sixth sub-section looks at efforts to measure peacebuilding performance, in particular from local perspectives. The publication concludes with analysis of the main findings and lessons.

Key concepts

Kevin Clements opens the publication by exploring **why legitimacy matters for peace**, reviewing the rich and long intellectual tradition of political legitimacy. He describes how legitimacy “lies at the heart of all political discourse and determines much political competition in both developed and less developed societies”, and is “by definition ... determined by whether the contractual relationship between the state and citizens is working effectively or not”. He explores challenges of addressing non-state, informal, “traditional”, kin and community sources of authority, as well as state-based, formal, “modern” sources. He makes the link to current peacebuilding practice by emphasising the importance of “grounded legitimacy”, which exists “when the system of governance and authority flows from and is connected to local realities”.

Alex de Waal explains **how peace processes work in the political “marketplace”**. In complex conflicts involving multiple armed actors, diverse forms of violence and a breakdown in central political authority, much of politics functions through patronage. De Waal explains how external actors failed to navigate the political order in

Darfur, where violence has been used not to achieve military victory but to raise actors’ status in a patronage hierarchy. International peacebuilders have not taken account of the micro-dynamics of the conflict and, as a result, peace initiatives have been unable to adjust to changing characteristics of violence, or to engage authentic sources of representation. An African Union initiative based on thorough local consultation succeeded in developing a much more accurate diagnosis of the conflict and a convincing and inclusive way to resolve it, but nobody has been prepared to back it.

Jean Arnault explores the relationship between **international norms and local realities** in peace processes – in particular means to build domestic support. He discusses three specific ways that domestic legitimacy was built in the Guatemalan peace process: through the participation of key constituencies, the representation of significant views and values, and the delivery of tangible dividends. Building the legitimacy of a peace process is especially important in low-intensity armed conflicts. International assistance can play a big role in helping to improve and ensure the performance of a peace process, but Arnault argues that a growing list of “universal” norms and guidelines risks constricting the space for international mediation.

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This section also takes a more detailed look at the issue of **inclusiveness** in peace processes, especially with respect to contemporary trends regarding **gender and civil society**. **Rosa Emilia Salamanca** looks at the current peace process in **Colombia**, where in November 2013 two women were for the first time appointed to the government’s team to negotiate with the *Fuerzas Armadas Revolucionarias de Colombia* (FARC) at peace talks in Havana. She stresses that the urgency of ending Colombia’s 50-year-old war has lent a degree of “imperative legitimacy” to the official talks, but establishing broader legitimacy for the peace process can only come from a wider peace agenda that responds to the needs and interests of Colombian society.

Yasmin Busran-Lao tracks the increasing prominence of women in formal and informal talks in the **Mindanao** peace process in the Philippines. This has coincided over time with the evolving engagement of civil society in the process and the growth of the women's movement in the country more broadly. Although women still remain underrepresented, they currently hold key positions around many of the various negotiating tables, including as Head of the Office of the Presidential Adviser on the Peace Process. The adoption of a Basic Law on autonomous governance in Mindanao, planned for 2014, can institutionalise inclusivity in the peace process.

A box by **Desiree Nilsson** presents recent statistical analysis of 83 signed peace agreements from 40 different civil wars between 1989 and 2004 to demonstrate significant correlation between the inclusion of **civil society** in peace agreements and an increase in their durability.

Tim Sisk analyses the function of **elections in peace processes**. Elections can either support transition to more legitimate governance or lend artificial legitimacy to coercive regimes. A convergence of global norms and local expectations means that elections are well-established elements of peace processes. He argues that elections can induce violence, and that at a minimum they must "do no harm", but there are good examples of elections that have helped to promote peace. Experience shows that elections can contribute to more inclusive politics, and Sisk highlights the significance of matching the choice of electoral system to the local context and circumstances. However, the legitimacy of elections can be undermined if they are treated as an international exit strategy, rather than as one part of a much broader process of change.

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National dialogue

Hannes Siebert introduces **Section 2 on national dialogue**, explaining how these processes seek to address entrenched and protracted conflict through constructing forums for political reform and constitutional change. National dialogues prioritise domestic ownership as the stakeholders determine the process, decision-making

and implementation mechanisms. They have evolved as ways to try to fix discriminatory or dysfunctional political systems and constitutional frameworks that contribute to violent conflict. They look to bring together major political decision-makers and other stakeholders and can help to promote political representation by incorporating key interest groups in society. National dialogues are extra-constitutional, and so a key challenge is how to link them effectively to existing or transitional constitutional bodies in order to effect real structural change.

Paul Rios describes civil society efforts to initiate an "informal" national dialogue process for the **Basque Country**, specifically a Social Forum organised in March 2013 and a citizen's network. In the absence of formal dialogue between *Euskadi Ta Askatasuna* (ETA) and the Spanish or French governments, Basque social movements have been working to mobilise support for a more participatory peace process that can respond to the priorities of Basque citizens – such as changing Spanish policy for ETA prisoners, and ETA's disarmament. The organisers of the Social Forum have sought to include key stakeholders and have tried to ensure that key issues for Basque society are represented on the peacebuilding agenda. Rios explains how building momentum faces many challenges, from the inflexibility of the conflict parties to the fragmentation of the Basque political scene.

Harn Yawngwhe explores the genesis of the national dialogue process in **Burma** following President Thein Sein's surprise announcement of his willingness to address decades of armed conflict in his inaugural speech in March 2011. After 50 years of absolute rule, few Burmese regard the military as the rightful authority: "not the ethnic population, not the person in the street, and not even the international community". Peacebuilding in Burma has a daunting agenda to accommodate an array of competing claimants to legitimacy, including the government and the army, Daw Aung San Suu Kyi's National League for Democracy, political parties, civil society, ethnic entities, and more than 18 ethnic armed groups. A proposed national ceasefire aims to encompass every armed group. An even more ambitious national dialogue process looks to include all stakeholders – armed groups, political parties and civil society – not just to resolve armed insurgencies, but to shape a peaceful future for the nation.

Ali Hassan explains how the National Dialogue Conference in **Yemen** has tried to tackle drivers of conflict and respond to imperatives of social and political change. The conference has organised working groups to address specific topics such as self-determination for the south, transitional justice, and rights and freedoms. It has sought to allocate representation inclusively – including 50 per

cent participation from the south, 30 per cent for women and 20 per cent for youths. The intractable challenge of southern Yemen and secession has caused an impasse, and Yemeni women and youths have clashed with established conservative powers on rights and freedoms. Meanwhile promised outreach activities to consult civil society and the Yemeni public have been piecemeal and shallow. But the conference has still created powerful political dynamism and an appetite to escape from intense crisis.

Constitutional review

Cheryl Saunders introduces Section 3 on constitutional review. She explains how a constitution can help safeguard foundations for peace by developing a new or revised framework for state-society relations. The “performance legitimacy” of a new constitution (how it works in practice) is a major test, assessed over time through the effectiveness of the state and its level of popular approval. Constitutional reviews and peace processes share core principles of best practice, including wide public participation and fair representation of views and interests, but they are not always easily compatible. The imperatives of making peace may bring in stakeholders who appear ill-suited for leadership under a civil constitution. Such realities do not contradict the potential for transformation of coercive actors, but they highlight the challenges of including controversial actors in constitutional government.

Abdihakim Ainte examines the complexities of constitutional processes in **Somalia**, explaining how the allocation of decision-making responsibilities at key moments has undermined the legitimacy of the 2012 Provisional Constitution for many Somalis. The Provisional Constitution has a core peacebuilding function to define an acceptable social contract. Many problems with the process have related to representation – from the controversial “4.5” power-sharing formula, to the opaque and rushed selection for the National Constituent Assembly. Federalism has presented difficulties, as it has tried to respond to challenges of sub-national entities and clan-based politics. Nevertheless, the current constitution-making moment offers an opportunity for Somalis to reflect on and negotiate their future political system.

Virisila Buadromo describes the constitutional process in **Fiji** in 2012, and in particular the experiences of the women’s movement and civil society in engaging with it. The women’s movement had initially feared that involvement in a weak constitutional process risked legitimising a flawed outcome. In the end, the process was derailed after the government rejected the constitutional commission’s draft in January 2013, and subsequently enacted its own constitution in September by military

decree. However, the 2012 process demonstrated that civil society can mobilise significant levels of participation and leave a legacy of change.

Bipin Adhikari explains how peace and constitution-making processes in **Nepal** are at a pivotal point. The dissolution of the first Constituent Assembly in 2012, after four years’ deliberation and with no constitution agreed, reflected the scale of the challenge of post-war transition in Nepal. Elections for the new assembly saw the Communist Party of Nepal, the largest party in the first assembly, relegated to third place. Adhikari argues that the second assembly needs to learn the lessons of its precursor’s failure and engage political leaders, embrace civil society dialogue and overcome political differences in order to advance the ongoing transition.

Local governance

Ken Menkhaus introduces Section 4 on local governance by asking how viable it is to mobilise the legitimacy of local leadership for peace. Legitimate representation is difficult to identify in talks to end violent conflict that can include a proliferation of armed groups, severe social and political fragmentation, or communal or criminal violence. Local governance and leadership is not a panacea – and can encompass warlords, vigilante justice or thinly veiled political platforms. Nevertheless, there are many examples of sub-national governance arrangements emerging or enduring in the most lawless and violent environments to provide basic protection and order, structured dispute resolution, and mediation with local militia or inter-communal settlements. Local civil leadership can often make a convincing claim to a seat at national peace talks, through its proximity to local events and communities.

Doreen Khoury describes how analyses of the conflict in **Syria** routinely ignore the achievements of grassroots opposition and the resilience of the Syrian people. Syrian society is the ultimate target of deadly sectarian violence between *shabbiha* (regime enforcers) and jihadist groups. But behind this devastation lie concrete popular efforts at inclusive local organisation and self-rule, and countless local peacebuilding initiatives aimed at bridging political, ideological and sectarian divides. This capacity needs to be better recognised and supported, and local civilian leadership should be included in peace talks and transition processes to provide local legitimacy and connection to communities inside Syria.

Karim Merchant and **Ghulam Rasoul Rasouli** analyse attempts in **Afghanistan** to use Community Development Councils (CDCs) to roll out a national reintegration programme for ex-combatants at the local level. The

CDCs' main function is to implement the National Solidarity Program (NSP), established in 2003 as "the largest people's project in the history of Afghanistan". There have been challenges related to the level of CDCs' accountability to local communities. But linking CDCs with national reintegration has blurred boundaries between development priorities and a counter-insurgency agenda that many Afghans see as primarily serving foreign interests, which has further raised concerns over CDCs' integrity.

Joanna Wheeler explores relationships between citizenship, violence and authority in Rio's *favelas* in **Brazil**. Drug trafficking groups and para-state militias have become dominant actors in the city's informal settlements. Militias provide apparently contradictory functions: they protect communities from violent state intrusion into the *favelas* in the form of predatory and corrupt police; but they also dominate communities politically and socially through the use of violence and other forms of coercion. Ultimately, citizenship is "drained of meaning" by all sources of violence. The complex relationship between violence and authority materialises as "perverse politics" in which interventions made by the state to promote democracy and citizenship actually reinforce the authority of armed actors.

Transformation of coercive actors

Veronique Dudouet introduces **Section 5 on the transformation of coercive actors**. She argues that engaging different types of armed actor is an essential part of a peace process. Negotiations to end fighting also require that armed actors reconsider their reliance on coercion to achieve their objectives. This section of the publication explores the experiences of coercive actors involved in processes of transition out of violence, charting their trajectories and identifying what factors have influenced their progress. The term "coercive actors" covers a range of conflict stakeholders that use violence instrumentally, for material gain or political power. This includes authoritarian (military) regimes, armed opposition groups that challenge state authority, and urban gangs that use violence for internal discipline and control over economic transactions – often resulting in very high levels of social fragmentation.

Isabel Aguilar Umaña, Bernardo Arévalo de León and **Ana Glenda Táger** discuss the truce between the two main gangs in **El Salvador** reached in March 2012. Levels of gang violence were comparable with war zones, with a rate of 66 homicides per 100,000 in 2011. Increasingly tough *mano dura* (iron fist) policies of criminal legislation proved counter-productive. But the truce delivered an immediate reduction in homicides: from 402 in February 2012 to 156 in April, with a sustained 60 per cent reduction up to April 2013. The truce's implementers reached out

to civil society to legitimise the process, in response to criticism and to enrol partners to support reintegration of ex-gang members. There have been worrying rises in violence in late 2013. Nevertheless, the achievements of the truce deserve recognition and offer valuable lessons for peacebuilding.

Bassel Saloukh examines the evolution of **Hezbollah in Lebanon** – as a political and social actor that maintains significant independent military capability. Developments inside and outside Lebanon have influenced Hezbollah's progression from an armed militia and revolutionary party to one of Lebanon's principal domestic political actors. Hezbollah's refusal to disarm challenges the authority of the state and is anathema to many in the international community. But Hezbollah is a source of security, service provision and identity to significant numbers of Lebanese, and of solidarity to strategic regional allies. Hezbollah's 2013 intervention in the Syrian conflict has added another dimension to its complex identity and possible future path.

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Agus Wandu and **Nezar Patria** discuss Asian perestroika in **Indonesia**. Years of reformist mobilisation underpinned the collapse of President Suharto's New Order dictatorship in 1998 – ultimately sparked by the Asian economic crisis. Transition since then has required difficult processes to disentangle the military from the political sphere and to decentralise power. Reform has allowed the state to address conflicts in the periphery more progressively and effectively – in Aceh and Timor Leste at least, although West Papua remains beset by violence. *Reformasi* in Indonesia is incomplete and ongoing, but it has gone a long way to rectify the social contract and lay foundations for more legitimate government and a peaceful republic.

Measuring peacebuilding performance

Andrew Mack describes the extent of the current dearth in available data to realise "evidence-based" policymaking globally and to ascertain people's perceptions of the local impact of peacebuilding initiatives. Despite increasing donor emphasis on the importance of evidence, there

is very little funding available to support data gathering capacity – especially for developing countries affected by conflict. Agreeing indicators to measure peacebuilding impact and ways to gather data to monitor progress is politically contentious. But other sectors, such as health, provide workable models that peacebuilding could use, while new technology and investment in local capacity offer ways that good data could start to be collected.

Abdifatah Tahir describes efforts of the Observatory of Conflict and Violence Prevention in Hargeisa, **Somaliland**, to track peacebuilding progress in Somalia and in particular to gather local perspectives on the effectiveness of public service provision as it relates to peacebuilding.

Conclusions

A **concluding article** by the editors draws together insights and observations on peace processes and legitimacy, and distils lessons for peacebuilding policy and practice. It suggests the importance of applying a “legitimacy lens” to designing and implementing peace processes. This involves paying attention to three priorities in approach. First, context – recognising that legitimacy is specific to the circumstances and constituencies of a given conflict; second, *consent* – acknowledging that legitimacy is contested in situations of violent conflict; and third, *change* – understanding that peace initiatives are best seen as key components in ongoing processes of transition, rather than as ends in themselves.

The editors suggest that a legitimacy lens helps ensure that people affected by conflict remain central to peacebuilding responses, and that peace efforts are placed in broader processes of positive change towards more consensual forms of governance.

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