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State legitimacy and government performance in the Horn of Africa

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ABSTRACT

This article examines state legitimacy and government performance in the Horn of Africa (HOA). Drawing on the literature of the state and specifically on the HOA, as well as on primary research, this article seeks to examine the nature of state legitimacy. The wider literature indicates that state legitimacy derives from two sources: domestic and external. In an ideal situation, a symmetry exists between the two. In reality, however, there is usually an inverted relation. The notion of inverted legitimacy describes a reality where only one source of legitimacy, either domestic or external, prevails at a time. The inverted nature of state legitimacy causes chronic state crisis. The article provides a theoretical and conceptual analysis of legitimacy followed by empirical illustration. To that end, it discusses a number of theoretical and conceptual strands of state legitimacy. It argues that the origin of the state and consecutive external interventions destabilise and distort state legitimacy in the HOA. The article concludes that inverted legitimacy leads the state to malfunction and crisis. It further argues that state legitimacy determines government performance, as the latter also determines the former.

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Introduction

This article examines the legitimacy of the state and government performance in the Horn of Africa (HOA). It argues that the origin of the state and successive external interventions have destabilised and distorted the legitimacy of the state in the HOA. The article contends that state legitimacy determines government performance and vice versa. The HOA – consisting of Sudan, South Sudan, Somalia, Ethiopia, Eritrea and Djibouti – is a highly conflicted region.¹ Indeed, the HOA suffers from convoluted pathologies that makes it a cogent case for the illustration of deficiency of legitimacy. Multifaceted sources underpin the pathologies afflicting the HOA. They include conflicts, state crisis, lack of development, environmental degradation, youth unemployment and migration, and external interventions (Bereketeab 2013; De Waal 2015; Mengisteab 2014; Schmidt 2013; Tvedt 1993; Woodward 2006, 2013; Yordanov 2016). The variables certainly feed into each other. The origin and structure of the state constitute crucial contributing factors to these concerted

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pathologies. With the exception of Ethiopia, the HOA countries are a colonial construction, even though modern Ethiopia was a product of the colonial period (Markakis 1974; Tareke 1996; Zewde 2001). Eritrea and South Sudan emerged as sovereign states following a protracted liberation struggle. This spawned challenges of transition from national liberation culture to post-national liberation civic culture (Bereketeab 2018, Young 2012). The current ethno-federal state in Ethiopia is also an outcome of decades of festering ethno-nationalist rebellion that brought a novel experiment in state reconfiguration but proved difficult to implement (Gudina 2003). This historical turmoil has distorted state legitimacy and government performance in the region.

The article has a number of objectives. It discusses theories, concepts and sources of legitimacy. It examines the structural and historical origin of legitimacy deficit and factors that foster it, as well as conditions that disrupt the social contract between state and society. The role international interventions play in terms of the social contract and their adverse effects on domestic legitimacy are also briefly examined. The article concludes that inverted legitimacy leads to chronic crisis and the malfunctioning of the state. It critically examines the factors that contribute to the deficiency of legitimacy and an abysmal government performance.

The article consists of six sections. The first introduces the objective of the article. The second discusses the sources of state legitimacy. Theories of state legitimacy are discussed in section three. Section four discusses government performance. Section five analyses the situation in the HOA. Finally, section six provides concluding remarks.

Source of legitimacy

The literature of state legitimacy refers to two sources. The first concerns internal legitimacy, and the other concerns external legitimacy (Coggins 2014; Jackson & Rosberg 1984; Osiander 2001). The general presumption is that the two confer legitimacy on the state. Nevertheless, it is important to take note that both internal and external notions of legitimacy do not always coalesce equally. Rather, they are characterised to varying degrees by an inverse relation. Indeed, over time, states do suffer from deficiency of one or the other source of legitimacy. Quite often, states, particularly developing societies, may suffer from legitimacy deficiency of both. This legitimacy deficiency thus underpins the chronic state crisis in the HOA.

Postcolonial African states were granted international legitimacy following ascension to sovereignty, due to the world state system (Henderson 2015). Sovereignty endowed erstwhile colonial entities membership as equals in the club of states. From the very outset, however, the postcolonial state was deprived of internal legitimacy, since it was not an outcome of the consent of its citizens. This situation therefore led to juridical statehood but was devoid of empirical de facto statehood. In juridical or de jure statehood, sovereignty is a provision and function of the international law and international state system (Watson 1990). Although the state may not have control of the entire territory it purports to own, which is the presupposition, in a normal ideal circumstance, of complete sovereignty, yet, it is afforded external legitimacy (Henderson 2015, 117; Jackson & Rosberg 1982). In this form of state legitimacy, it may suffice for the government to control only the capital city. The rest of the territory may fall under control of hostile forces or could be no-man's land. The historical roots of the juridical source of state

legitimacy is associated with the Peace of Westphalia, signed in 1648, which came to regulate inter-state relations and founded the state system (Kreuder-Sonnen & Zangl 2014; Watson 1990). The Peace of Westphalia is predicated on three conjectures. These are sovereignty and equality of states, territorial integrity, and non-interference in the internal affairs of member states (Evans & Newnham 1990; Coggins 2014, 8; Morgenthau 1985; Osiander 2001, 261; Teschke 2002). As long as the state behaves properly in the international arena, it garners international legitimacy (Jackson & Rosberg 1984, 184). Andreas Osiander (2001) is, however, highly critical of the views that purport that the Peace of Westphalia is the foundation of state sovereignty and territorial integrity; he calls it the Westphalian myth. For Bridget Coggins (2014) also, state legitimacy is vested in the external rather than the internal prerogatives. She further notes:

Actors may demonstrate a number of qualities indicative of internal sovereignty: standing military, popular authority, a system of taxation, contested elections, heads of government, and other officials. Without recognition, those actors may be many things: secessionists, liberation movements, insurgents, anti-colonialists, terrorists, ethnic rebels, or indigenous people, but they may not be states ... Without external recognition, even the most internally sovereign actor cannot function as a state outside of its borders. (Coggins 2014, 27)

Coggins' conceptualisation has truth with regard to two dimensions of legitimacy. The first dimension concerns *de jure* legitimacy, which is juridical existence, where the state is received by its equals (club of states) as an equal. The second dimension concerns the initial entry to the house of states. Once an entity enters into the house of states, however, it cannot survive on external legitimacy for long.

Nevertheless, international legitimacy, predicated on the Peace of Westphalia world state system – which respects sovereignty, non-intervention and equality – is progressively being eroded with the celebration of the neoliberal humanitarian intervention (Kreuder-Sonnen & Zangl 2014). Geostrategic politics that are based on the supremacy of big powers may easily obliterate national leaders perceived to be non-compliant with the geostrategic politics, something that was unthinkable a few decades ago; Saddam Hussein of Iraq and Muammar Gaddafi of Libya are good examples (Downes 2011; Held & Ulrichsen 2011). Additional consequences are violation of territorial integrity, national sovereignty and unity (Gagro 2014). Generally, however, African leadership is more vulnerable to internal than to external forces. Subsequently, there are more intra-state than inter-state wars (Henderson 2015, 120–21). When international legitimacy is devoid of domestic legitimacy, it generates elite insecurity, where the state security apparatus is deployed against internal opponents, thereby producing internal suppression that in turn creates dissent and rebellion (Coggins 2014) – the very situation leaders intend to avoid. Inverted legitimacy therefore produces internal instability and, by extension, international (external) instability (Henderson 2015, 124).

External legitimacy derives from a number of sources. One source is, as mentioned, the Westphalian-driven world state system. This system privileges the sovereignty, integrity and equality of states, irrespective of their size, power and wealth. In accordance with the world state system, states are protected by international law enshrined in the United Nations (UN) Charter and other international institutions and conventions. It is also harnessed by the development of a constellation that Alexander Wendt and Michael Barnett (1993, 334) call an 'informal empire', where there is some kind of patron-client relation between the 'dominant' state, which has a significant degree of *de facto* political authority over the

security policies of another ‘subordinate’ state. Since the client state lacks internal legitimacy and perceive a security threat emanating from its own citizens rather than from other states, it depends on military supply or support from the patron state to bring the internal threat under control. This is why throughout the postcolonial period, France, for instance, has regularly intervened in its ex-colonies to save an incumbent regime from internal rebels (First 1970; Schmidt 2013, 180ff). Describing this situation, Gary Busch (2017) notes, ‘Acting as a general command, the Cell [African Cell] uses France’s military as a hammer to install leaders it deems friendly to French interests and to remove those who pose a danger to the continuation of the system’. This inverse legitimacy produces an inverse constellation of security arrangements. When the threat is internal, the government seeks external military support; when the threat comes from outside, however, the government seeks support from its own population and carries out intensive popular mobilisation that increases its internal legitimacy (Henderson 2015).

The post-Cold War, neoliberalism-driven interventions are systematically and consistently eroding the principle of mutual coexistence, sovereignty and integrity of nations (Kreß 2014). Increasingly, small nations pay the price of such developments. Indeed, without changing the UN Charter, big powers, mainly Western, are changing the rules of the game. The erosion is predicated on the promotion of international neoliberal values, norms and belief systems that are rapidly assuming universality (Poku & Whitman 2018). The neoliberal revolution (Harrison 2010) is striving to rearrange the world state system in order to ensure it fits Western domination. The much-celebrated Responsibility to Protect (R2P), adopted by the UN General Assembly, has also ended up as new instrument in the neoliberal intervention drive (Gagro 2014; Glanville 2012; Welsh 2010; Zaum 2012, 53), a clear manifestation being NATO’s conversion of the R2P into regime change in Libya. Hence, the big powers’ selective implementation of the R2P principle – to serve their own geo-strategic interests – undermines the principle’s integrity and credibility. As David Held and Kristian Ulrichsen (2011, 4) argue, ‘Responsibility to Protect became discredited or associated with militaristic western-centric approaches’. This selectivity is being flagrantly exercised in Iraq, Libya, Syria, Yemen and so forth (Held & Ulrichsen 2011).

The dangers of the current neoliberal drive manifest in various ways. First, the existing UN Charter, as well as international conventions and laws are being violated. Secondly, it fails to provide an alternative model of statehood, nationhood and genuine international relations. Thirdly, the non-Western world perceives this neoliberal drive as perpetuating Western imperialist domination (Tom 2017, 89–90; Welsh 2010). Fourthly, it is destroying relatively stable nations, thereby engendering wars, conflicts, mayhem, state fragility and collapse. This, in turn, is producing radicalism, extremism and fundamentalism of all sorts. This is rendering the world dangerously uncertain, unstable and precarious.

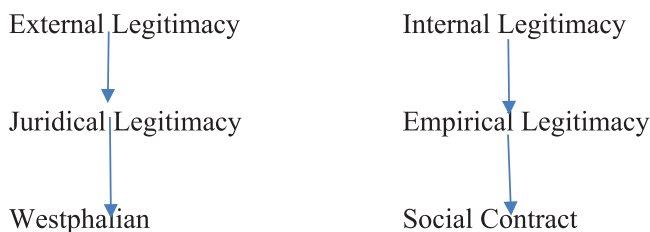


Figure 1. Sources of legitimacy. Source: The model is extracted from the general literature.

Definitions of legitimacy

There are numerous ways of defining legitimacy. One definition refers to distinctions between traditional and modern meanings of the term. It states that a government or sovereign prevails in accordance with law or principle. Another distinction refers to conformity to a rule or principle, in other words, lawfulness (Schaar 1981, 19–20). This general understanding springs from the notion that governments/states need to justify their power. 'All governments need to legitimize their rule, to justify their right to promote their authority as a means to gaining popular support, or at least, acquiescence, without which they are likely to collapse.' (Reyes 2010, 146).

Schaar (1981, 20) writes that the term legitimate expresses (a) a 'status, which has been conferred or ratified by some authority, (b) conformable to law or rule [...], (c) normal, regular, conformable to a recognized standard type, (d) sanctioned by the law of reasoning; logically admissible or inferable'. According to the Webster dictionary, legitimate means '(1) lawfully begotten (2) real, genuine; not false, counterfeit, or spurious. (3) accordant with law or with established legal forms and requirements; lawful. (4) conforming to recognized principles, or accepted rules or standards'.

In its internal dimension, legitimacy is defined as the 'recognition of a state and its government as rightful by its popularity, which during the modern era has increasingly meant a popular recognition democratically expressed' (Jackson & Rosberg 1984, 177). 'Legitimacy facilitates the exercise of authority in a system, and makes it more acceptable.' (Watson 1990, 106) Authority is exercised not as a result of constitutional promulgation by the state, but rather as an outcome of practice. The practice is then codified to form rules. Practice is legitimised through time and custom. (Watson 1990, 106) In the latter sense, over time and contingent on spatiality, practice is codified to constitute a rule that citizens automatically recognise and abide by. Codification of practices thus generates formal institutionalisation that may be enhanced by jurisdictional promulgations.

In his seminal definition of legitimacy, Max Weber distinguishes between convention and law. 'Conventions entail mere voluntary compliance while law entails compliance at the threat of sanctions.' (Hermann 1983, 4–5). Violation of convention spurs social sanctions such as boycotts, social disapproval and isolation. Violation of law, on the other hand, spurs legal sanctions enforced by specialised agencies such as the police, judges, prosecuting attorneys, administrative officials, prisons and so forth, and legal sanctions are intended to cause physical or psychological coercion (Hermann 1983, 5). Weber's definition, however, differs from that of legal positivists. For Weber, crude force is not necessary to compel observance; social sanctions are enough to engender compliance. A legal system is legitimised, says Weber, once those subject to it obey the laws it promulgates. Two things are of great importance here. The first is acceptance of the legal order (law) as valid. The second is the acceptance of the validity that should motivate compliance. Citizens' compliance with the legal order is what confers legitimacy on the system. Others stress that deliberation in decision-making confers legitimacy on the political processes that increase the degree of compliance (Barnett 2006). Compliance rests on two aspects. One aspect concerns objective fear of sanctions or expedience, while the other concerns subjective intrinsic value. Weber's emphasis is on the sociological rather than the legal. Sociological norms, values, belief systems and rites are more effective in bringing durable compliance than mere coercive legal instruments.

Theoretical framework

This section discusses the theories of legitimacy. Overall, we can discern three notable theories of state legitimacy: (i) the Weberian trinity: charismatic, traditional and rational-legal; (ii) the social contract theory; and (iii) the performance theory. Among these, Weber's monumental trinity theory is to date the most influential theoretical position concerning legitimacy.

A plethora of theoretical strands related to the three mentioned above provide numerous analyses and explanations of state legitimacy. Underpinning the three distinctions is a specific historical, political, cultural and socio-economic societal formation. A cluster of such theoretical approaches is one commonly known as juridical legitimacy and empirical legitimacy (Henderson 2015). These two theories stem from the conception whether legitimacy is derived intrinsically or extrinsically, that is whether it derives endogenously or exogenously. Juridical legitimacy concerns an extrinsic dispensation. It focuses on the external state system that confers legitimacy on states. Intrinsic legitimacy theory explains the circumstances and situations that produce internal legitimacy, empirical legitimacy. Intrinsic legitimacy explains how and when the state earns legitimacy from its citizens. Internality of legitimacy dictates state-society relations. It is a condensed and associated expression of social contract theory.

Broadly, while the rational-legal may correspond to bureaucratic legitimacy, social-contract-based legitimacy could refer to state building: state-society relations. The latter explicates the evolution of the state and how it relates to society in its quest for legitimacy. Performance legitimacy would refer to the democratisation process as well as revolutionary situations. It describes a particular form or historical stage of state formation and how that particular state relates to society in its quest for legitimacy. Below I will succinctly discuss the three theories. I begin with Weber's trinity.

Weber's trinity theory

Weber (1948) provides a three variable theory of legitimacy. These are charismatic, traditional and rational-legal. The first two are of a personal nature, while the third is of a legal nature (Cotterrell 1997). Charismatic legitimacy is a trait of an extraordinary personality with a special gift of grace. The leader exhibits unique devotion, personal confidence in revelation, heroism or other individual leadership qualities (Cotterrell 1997; Gerth & Mills 1948). This personality trait or quality confers legitimacy on the system. Charismatic legitimacy is, however, time-bound. To overcome temporality and ensure continuity, charismatic legitimacy eventually embarks on routinisation and institutionalisation (Schaar 1981, 15). With the death of the charismatic leader, the likelihood of the death of the movement is greatly increased. To preclude the demise of the movement with the demise of the leader, charismatic legitimacy needs to be converted to non-personal institutions and bureaucracies.

In traditional legitimacy, the powers of the leader spring from customary practices. It evokes myth, magic or the authority of God (Reyes 2010). For example, practices that have been in operation and that people have recognised, lived and complied with for many generations undergird traditional legitimacy. Also, compliance with the patriarchal order demonstrates the belief in the legitimate authority and its source. Further,

practices, customs and habits that have been running for generations invoke emotion and familial loyalty and attachment to the system and the authority it upholds.

Legal-rational systems, on the other hand, confer legitimate power to impersonal organs. Here, the formal and rational manner through which legitimacy is gained makes it of great significance. For a legal order to be legitimate, it only needs to adhere to the formal procedural requirements of law (Hermann 1983, 15). Modern state authority cannot be derived from either charisma or tradition (Cotterrell 1997). Legal domination is an essential prerequisite for the bureaucratic administration on which modern authority is based. Legitimacy is claimed to spring from the 'will of the people as reflected in the results of elections and written constitutions' (Reyes 2010, 146). Power is ascended through a legally codified constitution anchored in open and transparent and competitive politics. As it is the law (constitution) that brings a person to power, the law also removes them from power in a peaceful and orderly manner. The rational-legal order is intimately connected with the emergence of the modern state, which profoundly shifts power relations and the nature of authority and, in turn, the sources of legitimacy. The modern state, unlike the absolutist or feudal state, rests on formal democratic principles. Legitimacy is therefore to be sought through democratic channels and processes, in the ballot box (Held 1995).

In a nutshell, the structure of authority in the three typologies of legitimacy are: personal rule found in the charismatic; patriarchy in the traditional; and bureaucratic rule in the rational-legal (Cotterrell 1997).

Weber emphasises how law is administered rather than on how it originates. What is important for Weber is that law 'is administered by a specialized staff charged with the particular responsibility of enforcement' (Hermann 1983, 6). Therefore, it is seen as, 'a theory of law that emphasizes the mode of administration of rules or norms' (Hermann 1983, 7). Whether these are organised by a sovereign, group of individuals or aggregation of groups is of secondary importance.

The social contract theory

Social contract theory addresses the obligations, commitments, responsibilities and materialisation of a healthy, functional, beneficial and successful relation between state and society. A social contract in its various forms attempts to explicate the genesis and formation of state and society, the relation between the two, as well as the foundation and development of that relationship. Moreover, it attempts to explicate the gains and losses of the evolution, consolidation and sustenance of the relationship. The formation of societies and states is succinctly expressed by the notions of *Pactum Unionis* and *Pactum Subjectionis*. While the former refers to the formation of society, the latter refers to the formation of state (Laskar n.d.). The first stage of the social contract concerns establishing a just society, the second stage concerns establishing a sovereign or a state endowed with legitimate powers of coercion. Both address the question of justice and legitimacy respectively (Neidleman 2012). Social contract theory is grounded in the works of scholars such as Thomas Hobbes, David Hume, John Locke and Jean-Jacques Rousseau (Faison 2016; Hermann 1983, 12–13; Laskar n.d.; Neidleman 2012). However, these classical political philosophers of the social contract diverged in their understanding of it. As the promulgators of social contract theory are divergent, so are their theories.

Some scholars even claim that social contract is a myth, that it never took place. For philosophers like Hobbes, the social contract was precipitated by the lawlessness of nature (Mouritz 2010). For Hobbes, the social contract was emancipatory. In his view, individuals agreeing to a social contract ‘give the liberty into hands of a sovereign, liberated themselves from a life that is solitary, poor, nasty, brutish and short’ (Britannica Online Encyclopedia). For Locke, on the other hand, the state of nature represented a ‘golden age’. It was a state of peace, goodwill, mutual assistance, and preservation, ‘of perfect and complete liberty to conduct one’s life as one best sees best fit’ (Laskar n.d., 3). The state of nature recognises the right of life and property (Mouritz 2010, 126) thus ‘the obligation to obey civil government under the social contract was conditional upon the protection not only of the person but also property. If a sovereign violated these terms, he could be justifiably overthrown’ (Britannica Online Encyclopedia). For Rousseau (1988), it is the *volonte generale* (general will) that should inform the moral character of the government where governing rests on the consent of the governed. The social contract, in this sense, is the product of people’s agreement for mutual protection to surrender individual freedom of action and establish laws and government, which means that they acquire a sense of moral and civic obligation (Britannica Online Encyclopedia). In the social contract theory, compliance with the legal order is of great significance (Hermann 1983, 14).

At the centre of social contract theory stands the relation between state and society. The fundamental assumption rests on the prediction that state and society equally contribute to the fostering of legitimacy. The state is expected to deliver basic services that include security, health, education, infrastructure, employment, food, shelter, clothing and so forth. Society will then respond by conferring legitimacy on the state, allowing it to rule. The rule, however, should rest on reciprocity, on the consent of those ruled. Adherents of the liberal state advocate that the state could only provide security of life and property. The state admonishes:

Do not take matters into your own hands, do not resort to any and all means to protect yourself and your goods, but transfer your authority to us, and though we cannot guarantee that you will never be harmed or robbed, we will make every good faith effort to provide defense for your life and property.

Do not take matters into your own hands, do not resort to any and all means to secure material goods, but transfer you authority to us, and though we cannot guarantee that you will never be without adequate food, clothing, and shelter, we will make every good faith effort to provide you with these necessities. (Faison 2016, 4)

If the state ceases to provide the basic services, and members are compelled to make their own arrangements outside the state to survive, it means going back to the state of nature. It also constitutes a breach of the contract, rendering the state illegitimate and its existence redundant. For the individual, it is a double loss: freedom and as well as survival. In the conceptualisation of Locke and Rousseau, when a government fails to fulfil its obligations, citizens have the right – even the duty – to withdraw legitimacy, even to rebel.

Performance or revolutionary legitimacy

Unlike the Weberian trinity, performance legitimacy rests on practical action and the corollary results. The sources of legitimate authority emanate from the credentials of the

movement or leadership. The credentials rest on the actual performance. One of the performances is revolutionary performance. Revolutionary performance constitutes revolutionary legitimacy, which is endowed to a movement or leader on the basis that they led revolutionary struggle and delivered a preferred outcome. The national liberation movement is one of these, as it fights for self-determination or reform (Bereketeab 2015, 2016, 2018). Delivery is understood as achieving the popular objective of the struggle, the common good. National liberation movements that succeed in bringing independence or change of government are usually rewarded by recognition and acceptance of their authority as bearers of state power.

These movements capitalise on the fact that they led the struggle and ensured its success, which is considered a miracle. They are therefore under the assumption that this entitles them to the leadership of the nation in the post-revolution era too (Melber 2007; Salih 2007; Southall 2013). The general population also supports them, at least initially, in their claim of entitlement. They earn the entitlement through the personal sacrifices they made for the cause. Any criticism or opposition coming from those who did not participate in the struggle for the cause is simply rebuked on the grounds that they did not contribute to the struggle, so they do not have the right to criticise, let alone to share state power. This is what guides national liberation movements that ascended to state power following a protracted armed struggle (Bereketeab 2018). Generally, the people also sympathise with and accept these movements for their claim.

Instead of seeking legitimacy at the ballot box, they seek it by making promises that they will replicate the miracle they performed during the liberation struggle. The track record of revolutionary liberation era performance is to repeat itself. The general population is, therefore, asked to trust them and be patient. Deviation in perception and interpretation of the official version and norm is perceived as betrayal, disloyalty and ungratefulness. According to Chalmers Johnson (1999), revolutionary authority is that of people committed to the transformation of their social, political or economic order. He contends that legitimisation occurs from the state's achievements, rather than from the way it comes to power. In this context, the manner of ascension to state power is not significant. What is of significance is what is going to be done with the power that has been secured. The lofty promise of generating economic, social, cultural and political transformation undergirds the legitimacy of state power holders.

In conclusion, it is therefore possible to discern three conceptions of legitimacy endowment. The first refers to political representation or the equal distribution of power. This is presumably elitist; it concerns power sharing among elites. The second conception is concerned with the delivery of basic common goods. This refers to the state's ability and willingness to provide basic services – such as education, health, employment, housing, and so forth – to the general population in exchange for its permission to rule. The third conception is performance or revolutionary legitimacy, which characterises liberation movement governments. This final understanding promises social transformation for the better; by its very nature, it is ephemeral.

Government performance

This section will succinctly examine government performance. The concept of government performance is used and defined in multiple ways depending on purpose, discipline

and by whom it is used (Coggburn & Schneider 2003; Ford 2016; Fukuyama 2013; Knott & Payne 2004). For the purpose of this article, government performance is conceptualised as how the state performs in its provision of services that may increase or decrease its legitimacy capital. Two notions are conflated to tease out the political and administrative/managerial and practical implementation dimensions of decisions and policies regarding service provision. Governance may imply the day-to-day running of the state/government, comprising administrative/managerial and political functions. The political pertains to the decision-, legislation- and policy-making process, while the administrative/managerial pertains to the processes and mechanisms through which these political decisions, legislation and policies are implemented. The administrative or managerial dimension is associated with the bureaucratic organs of the state.

Arguing along this line, Francis Fukuyama (2013, 350) defines governance as a government's ability to 'make and enforce rules, and to deliver services, regardless whether that government is democratic or not'. Moreover, Fukuyama (2013) observes that governance is about the performance of agents carrying out the wishes of principals. In this context, governance would relate to translating decisions and policies into practice, while performance would relate to how effective and efficient this translation is.

Performance is gauged against how effectively and sufficiently policies and political decision are implemented, but also how equitably and justly they are implemented. Further, it measures the degree of deliveries of societal services. The state's ability and willingness to provide basic social services thus constitutes government performance. States capable and willing to provide efficient, regular, equitable and just social services would proportionally increase their level of legitimacy.

Government performance is one indicator of state legitimacy. States that fails in the performance indices would not elicit legitimacy from society. Nevertheless, it is significant to note that legitimacy is not the same as performance. While performance or failure of performance is measured by how duties such as basic service delivery are executed, legitimacy is conferred upon a state by its citizens as well as the international state system. Performance failure may occur due to the lack of capacity, resources or external interference, among other aspects, yet a state could still earn legitimacy. Conversely, a state may perform well – from a technical perspective, for instance – yet it may still suffer from a deficiency of legitimacy as it fails to represent identity groups. Gauged against all the social service indicators – economy, health, democracy, human rights, conflict prevention, environmental degradation, youth unemployment, gender inequality – the states in the HOA have considerable limitations. This will be illustrated in more details in the next section.

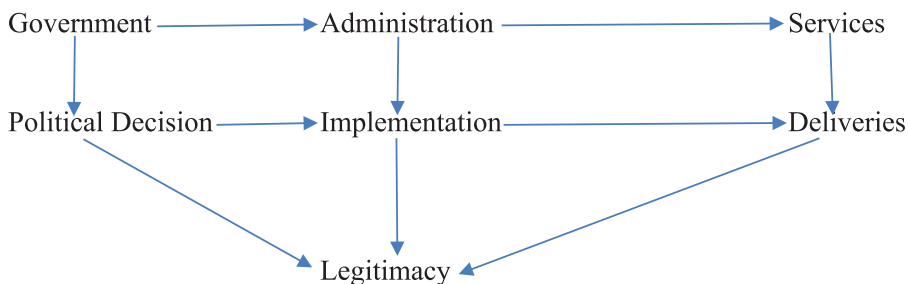


Figure 2. Government performance. Source: The model is extracted from the general literature.

Horn of Africa: deficiency, obstacles and search for legitimacy

Following the conceptual and theoretical discussion, I now examine the empirical case study of the HOA. This section will interrogate the empirical manifestation of state legitimacy and performance in the HOA. The central concern of this empirical section is state legitimacy and performance in the HOA, and the factors that affect it. A range of factors affects state legitimacy (or lack thereof) in the HOA. Among these are, first, the origin and formation of the state. Second, external intervention. Third, the relation between state and society (nation building). Fourth, festering conflicts and concomitant instability and underdevelopment. The HOA earned a reputation of a region that suffers from convoluted pathologies. Most conspicuously, the HOA suffers from state crisis, rampant conflict, environmental degradation, underdevelopment and external interventions (Bereketab 2013; Woodward 2013; Mengisteab 2014). The sources of these pathologies are multiple. Perhaps the source par excellence, which could also account for the lack of legitimacy, is the ontology of the state, notably the very creation of the state. In the HOA, three kinds of states can be identified: (i) proto states, (ii) colonial states and (iii) national liberation states. These three could be said to engender three forms of legitimacy. Ethiopia is a proto state, yet its modern formation can in large parts be attributed to the colonial era collusion between Ethiopian Emperor Menelik and European imperial powers Britain, France and Italy (Bulcha 2002; Markakis 1974; Tareke 1996; Ullendorff 1973; Zewde 2001). Sudan, Somalia, and Djibouti are the creation of colonialism, while Eritrea and South Sudan emerged as sovereign states following protracted liberation wars. Arguably, the way these countries came to be have certain implications for their current form and scope of legitimacy. As colonial creations (or products of the colonial era), states in the HOA are perceived as social misfits, which help to explain the festering conflicts. They are perceived as such arguably because they are incompatible with colonially imposed structures, institutions, authorities and mechanisms on the one hand, and the indigenous structures, institutions, authorities and practices on the other, both of which coexist in parallel (Ekeh 1975, 1983; Mamdani 1996). This in turn has spawned a number of consequences.

In terms of legitimacy, the major consequence of the colonial as well as national liberation ontology of the state in the HOA is the destruction or relegation of indigenous institutions to informality. The formal precolonial institutions were relegated to informality under colonialism, a status that continued even in the postcolonial era (Ekeh 1983; Englebert 2005; Herbst 2000; Mengisteab 2009). The postcolonial reality, however, has had to come in terms with two sets of institutional arrangements leading to duality (Tom 2017, 28). The duality arose as a result of the cohabitation of the pre-colonial and colonial institutional entities in the postcolonial reality, albeit in an unequal status. The upshot of this institutional cohabitation is what Mahmood Mamdani (1996) refers to as 'institutional bifurcation' and what Peter Ekeh (1975) also calls the 'two publics': urban/modern versus rural/traditional. This has engendered different socio-economic systems; one based on modern/urban capitalist political economy system and the other on rural pastoral/farming political economy system. This is further compounded by the formal-informal cleavages of political economy system. This institutional bifurcation, in turn, has led to privileging of one system over the other, in particular the privileging of the modernity over tradition, and the urban over the rural consequently the state exclusively

catered the urban population. This in effect has meant that the rural majority has largely been alienated in the postcolonial state, and in turn deprived the state from gaining legitimacy from this constituency. A key aspect of this marginalisation has been the almost total annihilation of traditional conflict prevention and resolution mechanisms (Henderson 2015, 258; Osundare 2017), a mechanism that would have played a significant role in the pacification of society and emancipation of the state (Callaghy 1984; Chabal & Daloz 1999; Young 1994).

The popular endowment of legitimacy of the state is generally perceived to derive from traditions, institutions, identities and commonalities within multi-ethnic societies (Jackson & Rosberg 1984). Robert Jackson and Carl Rosberg claim that these attributes are markedly absent in the African societies primarily due to the colonial origin of the state and societal formation. They therefore recommend a special kind of majoritarian representation rule system that is not based on simple majority rule. Majority rule, they stress, stems from the assumption that the society is an aggregation of individuals, which African societies are not (Jackson & Rosberg 1984, 181). It also relates to the establishment of just society and legitimate state, what exponents of social contract advocated. They contend that the absence of aggregation of individuals is a source of the preclusion of many communities from state services that motivates them less to confer legitimacy on the state. This is a typical case in the HOA.

The marginalisation and relegation of traditional indigenous institutions, authorities and mechanisms to informality has rendered the state an alien entity in the HOA. The alienation places a wedge between state and society where citizens, particularly in the rural regions where the state becomes perceived as an enemy. This situation impedes the development of a social contract where citizens consent on constructing a state that fits them is of paramount significance. This is of great significance, since legitimacy revolves around state-society relation where the state stands for the provision of basic services, while society confers legitimacy on the state. This mutuality of reaffirmation is the ideational, institutional, structural and constitutional foundation of modern society. In addition, the societies in the HOA are multi-ethnic, multilingual, multi-religious and multi-cultural, and where the very nature and structure of the state spawns the marginalisation and alienation that may also take an ethnic form. In these cases the state is perceived as being dominated by a single ethnic group. All of the countries in the HOA display this phenomenon; even the ethnic federal arrangement of Ethiopia does not escape ethnic domination. State ethnic-domination, in turn, adversely affects the project of nation building, such that national cohesion, consciousness and common overarching supra-ethnic civic national identity is not consolidated. One of the key problems the HOA faces is the failure of nation building manifested in widespread identity-based conflicts (Bereketeab 2011; Keller 2014; Markakis 1987; Mengisteab 2014). The diversity of identities in the region has its challenges and potentials. The idea that multiculturalism prevents cultural integration and cohesion is evoked as one of the factors that limits the loyalties to the state and hence weakens its legitimacy. However, plurality of identity is in itself not a problem. Rather it is the failure by the state to manage differences of identity that poses a challenge (Mengisteab forthcoming) and in turn generates identity based conflicts. For example, in the event that the ruling class represents a minority, legitimacy faces considerable hurdles due to inadequate representation in governance by other groups, as the Ethiopian case would illustrate (Markakis 2011). Moreover, state legitimacy

is forthcoming 'when its structures have evolved endogenously to its own society and there is some level of historical continuity to its institutions. State legitimacy is thus a historical, structural, conditions of the entire state apparatus' (Englebert 2000, 4). In addition to this general problem, national liberation states also face a problem of transition and transformation from a revolutionary liberation political culture to civic post-liberation political culture. The revolutionary legitimacy they initially claim is difficult to maintain in the long run, and they often end up losing legitimacy. Sooner rather than later, liberation states are therefore required to formalise state-society relations in order to forestall crises of legitimacy (Bereketeab 2018). Even Ethiopia, which escaped colonisation, experienced a turbulent formation process to progress from a feudo-bourgeois through a pseudo-Marxist to a rebellion (liberation) state. This process tainted the legitimacy of the Ethiopian state, since it failed to win the consent of its peoples (Gudina 2003; Markakis 1987, 2011; Tareke 1996).

The very fact that colonial creation amalgamated polyethnic communities into territorial nations inhibits cohesion and integration and thus makes nation building problem ridden and consequently state-society relation precarious. This condition in turn thus undermines legitimacy because of the weak or non-existent social, economic, administrative and political integration within the society or the system. Instead of cohering society, these regions end up having states of a divided *ethnos*, and thus disrupts state-society relations, and instead engenders state-many societies relation.

In addition to the colonial origin of the modern state in the HOA, the successive external interventions throughout the postcolonial period have disrupted and distorted state legitimacy in the HOA. The Cold War, War on Terror, fight against piracy, and the scramble for resources that have dogged the HOA have created an inverted legitimacy where states could easily elicit external legitimacy but have weak internal legitimacy. During the Cold War, the superpowers crafted their respective client states. While the USA abetted and advised the imperial regime in Ethiopia and the El Nimieri regime in Sudan, the Soviet Union abetted and advised the Siad Barre regime in Somalia (Yordanov 2016). France protected its interests through protecting a family dynasty in Djibouti (Shehim & Searing 1980). The very existence of the regimes in HOA depended on the support from their patron. When the USA and Soviet Union abandoned them, the regimes of Siad Barre and Mengistu Hailmariam collapsed (Yordanov 2016).

The dependence of the regime on external actors has hampered a natural evolution in state-society harmony. Indeed, external support was employed in suppression and aggression of society, and external support served regime survival, and, therefore, society was rendered helpless against the combined dexterity of the state and its external patrons.

How does this lack of legitimacy impact government performance in the HOA? Theoretically, the state is expected to provide basic services. Government performance is therefore measured against those indicators of service provision. Some of these indicators are social (education, health, shelter, housing), economic (employment, food, growth), political (basic civic and political rights, freedom of speech, democracy, elections and so forth), security (peace, stability, life and property protection, territorial integrity), law (rule of law, constitution and constitutionalism, due process, equality before the law and so forth), humanitarian (respect of human right, right to life and so forth), identity politics (fostering social harmony, unity, nation building, ensuring equality, sense of belonging).

The global War on Terror necessitated abetting client agency in Somalia, therefore warlords in the body of Somali Alliance for the Restoration of Peace and Counter-Terrorism funded by the US Central Intelligence Agency were preferred instead of the Union of Islamic Courts (UIC) (Samatar 2013, 170–71). For the first time in 15 years, the UIC succeeded to create a semblance of state in the war-torn country, thereby earning qualified legitimacy in the eyes of the population. External actors who detested the politics of the UIC decided to vanquish it and instead bring the unpopular Transitional Federal Government (TFG) (Harper 2012). The TFG never earned internal legitimacy from the Somali people but could survive because it was protected by external legitimacy drawn from UN, European Union, African Union and donors, a legitimacy that was rebuked by other society stakeholders.

Just a couple of months after the highly contested election of May 2015, US President Barak Obama visited Ethiopia and praised the regime of conducting a democratic election where the ruling Ethiopian People Revolutionary Democratic Front party claimed 100 percent of the casted vote, endowing legitimacy to the regime. In November 2015, a massive peaceful popular uprising paralysed the country, compelling the regime to declare state of emergency as the society rejected the election result thereby denying the regime internal legitimacy. The situation in Ethiopia grew worse, until the reform in 2018.

Such examples abound throughout the region and indicate how the inverted nature of state legitimacy prevails in the HOA. The President of Djibouti changed the constitution in 2010 in order to enable him to run for third term against strong opinion of the opposition parties. The service in global War on Terror and fight against piracy permits the regime to get away with grave violence without any concrete reaction from the international community. This silence confers inverted legitimacy on the regime.

Displaying signs of ‘political cannibalism’ following the outbreak of civil war in December 2013, the Sudan People’s Liberation Movement government lost both internal and external legitimacy.

Both Sudan and Eritrea have uneasy relations with the Western world that undermines their external legitimacy. To compensate for external legitimacy, the Eritrean government embarked on massive mobilisation of its citizens that so far has proved very effective.

As was mentioned earlier, modern states are expected to base their political exercise on democratic principles and practices. It is assumed that a democratic state has greater chance of eliciting legitimacy. Juxtaposed against this perception, states in the HOA display considerable democratic deficiency. The democratic deficiency, in turn, certainly adversely affects their legitimacy. Undergirding democratic deficiency is also the pervasive underdevelopment and abject poverty that characterise these societies. A state displaying veritable legitimacy deficiency would also suffer from bad government performance.

Moreover, following the vein of the social contract, the states in the HOA display deficiency in the provision of services: security (life and property), health, education, food, shelter, employment, economic development and so forth. This is a breach of contract that is supposed to bind state and society in the HOA. This breach delegitimises the state where it could only enforce its existence and relevance by sheer coercion. Many of the states in the HOA therefore compensate internal loss of legitimacy with external legitimacy that make them highly unstable. Despite the differences that exist among the states in the HOA, the search for state legitimacy continues to be in full swing.

Conclusion

This article set out to examine state legitimacy and government performance in the HOA. It sought to trace sources, theories and concepts of legitimacy. Following analysis of the origin, evolution, theory and sources of legitimacy the article discussed deficiency of legitimacy in the HOA. It also demonstrated how deficiency of legitimacy is intimately associated with government performance and how the latter impacts on legitimacy. The colonial origin of the state coupled with consecutive external interventions deranged and distorted state legitimacy and government performance in the HOA. The diversity of societies in the HOA has also adversely affected relations between society and the state. The colonial state as well as its successor, the postcolonial state, was characterised by institutional cleavages and tensions represented by the urban-rural dichotomy. Representing predominantly the urban middle class, the state alienated the majority rural population, which lost its trust in the state. This alienation of the majority constituted a major source of legitimacy deficit. It also led to what some call state deformity. A deformed state is usually characterised by a deficit in legitimacy and tenuous government performance.

The national liberation state pursued the same *modus operandi* as the colonial/postcolonial state. The national liberation state displays a different calibre regarding two dimensions. The first is the level of penetrating society. The second is that it elicits its legitimacy from revolutionary performance. One pathology the national liberation state suffers from is its failure to undergo a transformation from liberation political culture to post-liberation civic political culture. This failure is responsible for the preclusion of the evolvement of plural state institutions. The state therefore suffers from none, or inadequate institutionalisation. It is marked by individual or group domination of power instead of institutional domination. Usually, individual or group domination occurs at the expense of other stakeholders that deny the post-liberation state needed legitimacy capital.

Both postcolonial and national liberation states in the HOA display glaring legitimacy and government performance deficiencies. Hence, both types of state are chronically in conflict and crisis. A state suffering from rampant conflict and crisis certainly would not be able to provide basic services, not because it lacks the desire but because it lacks the capacity and resources. Instead, the state finds itself in a continuous struggle for survival. This survival-centred state struggle neglects, undermines and marginalises society, adversely affecting the state-society relation or social contract. This means citizens do not possess the right, even the duty, as per the social contract theory, to withdraw legitimacy or even depose a government that fails to fulfil its tasks.

Another element that strongly contributes to state legitimacy and government performance is the flagrant presence of external interventions. The consecutive external interventions have often served regime survival at the expense of citizens' rights and have distorted legitimacy by tilting the balance towards external legitimacy. Indeed, external intervention in the HOA has been aggressive and suppressive towards internal resistance.

Note

1. There are different definition of the Horn of Africa. For this article, I use the connotation of the HOA as consisting of the six countries. The rationale behind the selection of the six

countries is the fact that all suffer from interwoven conflicts. The intra-state and inter-state conflicts bedeviling these countries are intimately connected that warrant treating them as a unit of analysis.

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