SUSAN L. WOODWARD

# Can We Measure Legitimacy?

**Abstract.** The newest phase of both the academic and practitioner discussion on state-building policy has converged on the failure of international missions to focus on domestic, as opposed to international, legitimacy. This literature does not, however, elaborate why legitimacy is important or, even more difficult, how practitioners can measure when local political authorities are gaining legitimacy or how the process of achieving legitimacy, which does not occur overnight with signatures on a peace agreement, can be measured. This article begins the discussion of why and how legitimacy matters with reference to Max Weber's analysis of political organization. This is followed by an examination of the claims made in the empirical literature on state-building in the Balkans as on why legitimacy matters to peace and how it can be measured – studies which reinforce the need to shift the focus from international to domestic legitimacy. Finally the article discusses how we might measure legitimacy and, especially, how we might measure the domestic process of its creation.

**Susan L. Woodward** is Professor at the PhD Program in Political Science at the Graduate Center, City University of New York.

## Introduction

The concept of state-building as an international activity to assist countries in ending civil wars has a curious history. Those most engaged in it, those in peacekeeping missions authorized by the UN Security Council to oversee the implementation of negotiated peace agreements beginning in the early 1990s, resisted the idea: State-Building was not peacebuilding, they insisted, and was most likely to be counterproductive and would generate more conflict and violence than peace. Nonetheless, as Simon Chesterman demonstrated, international norms and law emerge most from practice and not from theorizing.[1] Thus when the transatlantic community – NATO, the US, and the EU – took the leadership in implementing peace in Bosnia-Herzegovina and by late 1997 called what they were doing "state-building", the next UN missions, those in

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[1] Simon Chesterman, You, The People: The United Nations, Transitional Administration, and State-Building. Oxford 2004.

Kosovo and Timor-Leste in 1999, became full-fledged transitional administrations to build states.

In the same period, on the economic side of such interventions, the World Bank began explicitly in 1995, with a Task Force on State Failure, to refer to and develop policy for state-building (though the World Bank called it "post-conflict reconstruction") on the grounds that violent conflict was caused by weak or collapsed state institutions. Aid donors soon followed. By 2007, after many iterations the Development Assistance Committee of the Organization for Economic Cooperation and Development (OECD DAC), the organization of western donors, combined forces with the World Bank (in a joint task force formed in 2002 on countries they classed as "fragile" and "conflict-affected") and committed to "focus on state-building as the central objective". This was principle three (out of ten) of their Paris Declaration.[2]

At first the academic literature lagged behind these policy developments. But by 2005 it was actively criticizing existing practice for neglecting state-building – a position most associated with Roland Paris' insistence in 2002 on "institutions before liberalization" (IBL) – on the argument, reversing the UN resistance, that the dominant peacebuilding paradigm of "liberal internationalism" was destabilizing, not promoting it. At the same time, a group of critical theorists criticized existing practice for designing state-building in so technocratic and problem-solving a fashion that it neglected peacebuilding (and its task of transformation).

Perhaps surprisingly, the newest phase of policy discussion on state-building brings the academics' and the practitioners' conversations together, most notably in a series of papers crafted by the staff of the UK's Department for International Development (DFID). Another series was commissioned from policy-oriented academics by the DAC, who argued strongly for a focus on what the empirical literature generating both kinds of criticism had to recommend conceptually about the state. Around 2007/2008 in an independent development, economists concerned with conflict and peace proposed a return to social contract theory (Lockean not Hobbesian, just as one might expect from liberal internationalists).

Although these contributions differed in their criticism of existing practice, all proposed a reconceptualization of the approach to state-building, beginning with the concept of the state itself, by focusing on legitimacy and, particularly, recognition of the neglect by post-conflict state-builders of domestic legitimacy. Each reached this conclusion in different ways. The DFID papers delved deeply into the academic literature on the state and its implications for state-building practice and chose to refine the goal of state-building to that of

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[2] OECD/DAC, Principles for Good International Engagement in Fragile States and Situations. [Paris] 2007, 2, available at <http://www.oecd.org/development/conflictandfragility/38368714.pdf>. All cited internet sources were last accessed on 10.12.2012.

building a particular kind of state, what DFID calls "capable, accountable, and responsive states".[3]

The DAC papers, which appear to have received a greater hearing and to have had a greater influence in the donor community beyond the UK (judged by a widely shared new policy discourse and the frequency of both oral and written citations), contain two contributions: hybridity and state-society relations.

The idea of hybridity, promoted by Australian scholars based on their research on peacebuilding in the Pacific islands (though a concept occurring simultaneously among rule of law/justice sector practitioners in UN peacebuilding missions), is that the model of the state underlying current policy and practice is "Weberian" (they add the label "Westphalian"), by which they mean that it is based on the history of west European state formation and, although they concede that some of its components are necessary ones for all contemporary states, point out that this model does not recognize that the effective role in conflict management and resolution (that is, peacebuilding) in post-conflict societies is played by traditional, customary authority outside formal state institutions.[4] Thus, in order to achieve peace, state-building must be based on both components – a hybrid.

The second, state-society emphasis on legitimacy came from a French-Norwegian team who argued that state fragility or failure was a result of (or defined by? it is not clear) a loss of authority, and thus that state-building must be analyzed and redesigned in terms of the relation between states and their societies.[5] They urged two steps: to see that any competent, authoritative state depends crucially on a constructive link between state and society and, at the same time, depends necessarily on the state's autonomy from society – the absence of which, they argue, is the primary characteristic of fragile states. Thus, international actors, both missions and donors, who insist on a "standardized recipe", contradict the very idea of the state and the necessity of combining it with the local conflict-

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[3] See Alan WHAITES, States in Development: Understanding State-Building. London 2008. (DFID Working Paper), 3, available at <http://tna.europarchive.org/20081212094836/http:/dfid.gov.uk/pubs/files/State-in-Development-Wkg-Paper.pdf>. The more recent emphasis of DFID on what they call political settlements (taking the label but not the concept and its theory from Mushtaq H. Khan) is a reversion however, to political elites.

[4] Volker BOEGE et al., On Hybrid Political Orders and Emerging States: What is Failing – States in the Global South or Research and Politics in the West?, in: Martina FISCHER / Beatrix SCHMELZLE (eds.), Building Peace in the Absence of States: Challenging the Discourse on State Failure. Berlin 2009 (Berghof Handbook Dialogue Series, No. 8), 15-36, available at <http://www.berghof-handbook.net/documents/publications/dialogue8_failingstates_complete.pdf?LANG=>.

[5] Severine BELLINA et al., The Legitimacy of the State in Fragile Situations. Oslo 2009 (Report for the OECD DAC International Network on Conflict and Fragility, Final Version, Norad Report no. 20), available at <http://www.norad.no/en/tools-and-publications/publications/publication?key=134243>.

management mechanisms of a country. This recipe and international policies also weaken "popular sovereignty" because they build states that are "accountable to donors rather than to their own citizens".[6] Lockean social contract theory as wielded by economists comes close to the same argument: states are about the relationship between rulers and ruled, and authority (or effective rule) rests on the judgment of the ruled.

The reasons for refocusing on legitimacy differ. For DFID, it would appear that democracy promotion is as important as post-conflict capacity-building. For the "hybridity" group, the goal is still negative peace, placing priority on conflict management and resolution. As in the first phase of the state-building enterprise, stability comes first and the group's aim is more effective international intervention to promote peace. Unlike earlier phases, however, their respect for cultural sensitivity and for the differences between western and non-western societies departs from the institutional template focus of either Roland Paris or the World Bank.

The state-society group's position would appear to fall between these two, sharing the respect for difference of the hybridity group but more in the sense of the literature on economic development associated with Harvard economists Dani Rodrik and Lant Pritchett (and varying co-authors) who agree with the World Bank's insistence on good governance, namely that institutions ("state-building") matter to economic growth, but who, in contrast to neoliberal recipes, demonstrate that a wide variety of such necessary institutions (e.g., property regimes) are equally effective. At the same time, the state-society group sides more with DFID, the World Bank, the DAC, and Paris in arguing that the goal of state-building must remain the transformation of what they argue is a patron-client, neo-patrimonial, non-autonomous state into a liberal one.

Despite these differences, all three agree that state-building must be tailored to particular societies, economies, and cultures if it is to be effective and that the priority should be domestic, not international, legitimacy.

As one who has written extensively about the problems of state-building practice because of its focus on international legitimacy, not domestic legitimacy,[7] I find this shift in thinking about state-building extremely welcome. What would it mean for external state builders to focus on domestic legitimacy if current practice could be reformed?

The difficulty with this newest phase of policy documents is that they never elaborate on why legitimacy matters; it is simply taken for granted that legitimate states are peaceful and stable and that illegitimate states are the cause of violence, the vulnerability to external shocks ("fragility"), and war. But that is

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[6] Ibid., 4.
[7] Susan L. Woodward, Construire l'État: légitimité internationale contre légitimité nationale?, *Critique Internationale* 28 (2009), 139-152, available at <http://www.cairn.info/revue-critique-internationale-2005-3-page-139.htm>.

almost a truism if one accepts Max Weber's classic analysis of the state. Second, by not specifying why domestic legitimacy matters, they do not feel the need to provide empirical measures of it. How do practitioners know whether a new state is gaining legitimacy or has achieved it? What should they look at? How should researchers test their argument? Third, and most important for countries emerging from violent conflict and building new states or reforming prewar ones, how does one measure the process by which political authority is established, knowing that legitimacy is not created overnight with signatures on a peace agreement?

## Measuring Legitimacy: the Theory

The widespread critique of international state-building operations now common in academic literature is that they follow a "Weberian" model of the state that is everywhere ill-attuned to what works to constrain violence and repair "conflict-affected" societies, and that they misunderstand Weber's analysis of legitimacy. In contrast to normative analyses, especially those based on social contract theory, Weber's analysis is empirical and thus explicitly non-normative. Although in the 1920s he argued that empirically the modern state has tended toward a mean based on those characteristics that the critics of state building practice target (impersonal and rule-based bureaucratic authority, recruitment to positions of authority based on standardized criteria and merit – a civil service, and impersonal, equal application of the law), his argument about legitimacy applies to all types of political organization, not just to the modern state.

In Weber's view no social organization based on domination, of which political orders and states are the primary examples, can survive over time, let alone succeed as a system of rule-making aimed at creating a stable social order, if they rely solely on coercion or the threat of force. Political decisions need to be implemented by either willing or habituated operatives. Force has to be the last resort.

But the basis of legitimacy for a particular political order, that is, the principles on which rulers in a society are seen to have a right to rule and make decisions for the entire community so that the members of the society, in turn, willingly comply with those decisions, laws, or regulations, will vary. In Weber's analysis the principle on which power gains legitimacy is so fundamental to any functioning society that it is the primary distinguishing characteristic of any political system. This basis defines the criteria for selecting the staff who will execute a ruler's decisions, whether priests, police, tax collectors, judges, or customs officials, and is the foundation of their authority.

I would argue, then, that the critics of what they call a Weberian model of the state in state-building practice, because they seek to shift attention to the

social bases of political legitimacy within each country at issue, are being profoundly Weberian. Indeed, Weber's analysis takes us much farther than the simple accountability of government to the governed. The basis on which rule is considered rightful by the administrative staff and the public also defines the criteria for state employment, thus the system of education, the criteria for social status, and related aspects of culture (social values). The basis for political stability and effectiveness – that rule is considered legitimate and why – necessarily connects state and society.

Weber's analysis of the state, in fact, would go even further than these proposals in criticizing current state-building doctrine. It allows us to see, first, the excessive focus in current practice and doctrine on the monopoly over the use of force. The more legitimate a system, the less force should be necessary; building up a standing army to ensure domestic order turns priorities upside down. For Weber, moreover, a state is not defined by a monopoly over the use of force, as is repeated ad nauseum in state-building literature and practice, but by the claim to have a monopoly on the right to decide when the use of force is legitimate and by whom. Yes, that claim may have to be enforced in some cases so that a monopoly over its use is helpful, but an actual monopoly never occurs; it is still only a claim, with varying probabilities of success, based on the state's (rulers and staff) legitimacy.

Second, the dominant view in the development community that state-building is about creating a state friendly to a market economy and that community's neoliberal agenda would not find support in Weber for whom principles of market exchange are distinct from principles of power (and the third principle of social organization, that of status). The modern state has emerged in response to capitalism because of its bureaucratic efficiency, but privatization (particularly of education and the recruitment of staff such as foreign consultants) is state-destroying, not state-building.

Although these recent donor documents provide little theoretical justification for focusing on legitimacy, one can find more explicit statements in the empirical literature, beginning with the World Bank's evaluations of its own programs in 1996 to 1998. The first comparative study of state building programs by the Bank's own internal evaluation department argued that project outcomes were far more effective when local actors designed and implemented them.[8] This criticism of existing Bank projects had little or no effect on programming. Thus our evidence for this conclusion remains scant and the causal mechanism is insufficiently specified, but the implication for state-society relations and legitimacy seems clear even if the causal mechanism is not.

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[8] Alcira KREIMER et al., The World Bank's Experience with Post-Conflict Reconstruction. Washington/DC 1998, available at <http://books.google.de/books?id=fHQhhMFUkwC&printsec=frontcover&hl=de&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false>.

The effectiveness of international programs was also Paula Pickering's primary justification for studying "ordinary people" in Bosnia-Herzegovina in her analysis of minority return. She wrote, "ignoring their input can […] spell defeat for institutional reforms".[9] But the consequences she drew were that

> "if international reconstruction programs […] do not resonate among ordinary people, they will alienate citizens, compelling them to emigrate or leaving them susceptible to mobilization by extremist elites willing to send them back into war."[10]

Why the threat to emigrate should be a threat to a sustainable peace or political authority within Bosnia (or elsewhere in the region) is not spelled out, even if it is indeed very high (as recent as 2009 no less than ⅔ of Bosnians between 18 and 35 wanted to leave the country[11]) and one should regret such an outcome. Moreover, this has been the case, all along, since the end of the war. The desire of Bosnians to leave is as likely a realistic response to economic conditions (unemployment for ages 15-24 is 60 %)[12] as it is a judgment on either the new state's political legitimacy or the effectiveness of international programs. Nor does it imply anything about national identity, loyalty, legitimacy, or future residence, if studies of the extensive migration for work from former Yugoslavia are relevant. Most of those who worked abroad either returned (typically when their child/children reached school age) or at least maintained strong bonds, through nationalist political action (including organizational dues and taxation), sending remittances, building homes, and visiting yearly; all examples of behavior that has recently led scholars to study it as an emerging form of citizenship that they call transnational.

However, Pickering's theory, that the main threat to peace is the presence of disaffected citizens who might be mobilized by challengers (and even return to war), permeates the evaluation literature. For example, though less explicitly stated, it seems to underlie the public opinion surveys for the regular United Nations Development Programme (UNDP): "Early Warning Surveys/Reports for Bosnia and for Kosovo". While providing extremely useful information about citizen opinion, including attitudes in Bosnia that bear directly on political legitimacy, the behavioral consequences of these attitudes remain unexplored: the declining trust in governmental authorities, particularly in the judicial system, the widespread belief (and fear) that war will resume if the international military presence ends, the unchanging public opinion over the entire decade, 2000-2009 (except for the increasing ethnic distance among the three ethno-national groups and the declining feeling of pride in belonging to the Bosnian state, alarmingly,

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[9] Paula Pickering, Peacebuilding in the Balkans: The View from the Ground Floor. Ithaca/NY 2007, 2.

[10] Ibid., 1f.

[11] UNDP BiH, Early Warning System 2009. Sarajevo 2010, 7.

[12] UNDP BiH, Early Warning System, Jobs and … More Jobs. Sarajevo 2006, 7.

even among Bosniacs).[13] The reader is also left to infer the consequences of the evidence that in Kosovo among the citizens surveyed dissatisfaction with the government and with the political and economic direction of the country is dramatically high and has increased in recent years.[14]

## Measuring Legitimacy: the Practice

Looking for further evidence in the peacebuilding literature, both practitioner and scholarly, on the relationship between citizen disaffection and the lack of compliance with state authority and its laws and regulations, or even worse, the willingness to shift allegiances to new challengers, reveals very clearly why there is a new emphasis on building accountable, responsive, culturally and socially embedded states.

The evidence shows that in the question of whose decisions should produce compliance and whose power (authoritative domination) is at stake, it is clearly not that of the new post-war political leaders but that of the international mission, civilian and military, and the aid donors. These external actors' policies and programs continue to build state institutions and prescribe rules and legislation to create internationally responsible states (elections that will provide reliable sovereign partners, financial institutions that will be able to service foreign debt and repay aid, customs and border guards to police trafficking, migration, and trade to other countries). Andrew Gilbert shows in this issue that even on the ground, international actors also actively work to achieve their authority locally through discourse and action so as to be effective in their task. While they also reach out to public opinion, their intention is to obtain compliance to international decisions from local elites – party leaders and elected officials.[15]

To cite a few examples: elections, the most common legitimating mechanism in democracies, are judged in terms of whether voters selected parties and politicians wanted by the external actors. If voters choose politicians who are not considered cooperative with international preferences and policies, the legitimacy of those choices is denied with such labels as "nationalist", "extremist", "spoiler"; in contrast those wanted by the external actors are termed "moderates" and "reformers".

The criteria for the recruitment and selection of judges, the police, and the military are found in an international vetting process based on international

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[13] UNDP BiH, Justice and Truth in Bosnia and Herzegovina: Public Perceptions. Early Warning System Special Edition. Sarajevo 2005, 16, and UNDP BiH, Early Warning System 2009. Sarajevo 2010, passim.

[14] UNDP, Kosovo, Public Pulse Poll: Fast Facts IV. Pristinë/Pristina 2012, 2f., available at <http://www.kosovo.undp.org/repository/docs/PP-FF-4-Eng_282612.pdf>.

[15] Andrew Gilbert, Legitimacy Matters: Managing the Democratization Paradox of Foreign State-Building in Bosnia-Herzegovina, *Südosteuropa* 60 (2012), n. 4, 485-498.

human rights standards. Civil service reform in Bosnia aimed "to create a professional, meritocratic civil service […] 'in accordance with European standards'".[16] Dominik Zaum's study described this internationally directed process in great detail and how, when local politicians resisted, they turned to imposition. He concluded that

> "by imposing the law, the High Representative […] compromised the authority of the political institutions that it had established, by denying them the right to amend legislation according to their conception of legitimacy."[17]

But is this denial of the right of Bosnian elected politicians to make their own decisions on something as fundamental as the criteria for state officials the same as compromising their authority domestically? It would seem that their resistance to the international dictate was a challenge to international authority, but no measure of the legitimacy of the Bosnian state.

One could speculate that in both examples, elections and civil service reform, the international actors are signaling to citizens that the procedural component of legitimacy – that rules, once adopted, are followed – does not matter. Yet we have no research on this hypothesis. Voter turnout in both Bosnia and Kosovo has declined (quite dramatically) over time, but explanations that might account for it have not been tested. Nor is it clear that standard measures of political participation in established democracies, often applied by liberal internationalists to judge state-building progress, are any judge of legitimacy under early post-war conditions.

As Roger MacGinty argues, "individuals and groups who do not participate" or do so minimally "in public political and civic processes such as elections, marches, or civil society projects" cannot be assumed to be either compliant or resistant when many people everywhere are "not consciously political" and "the primary task for many people is one of survival."[18] This economic dimension suggests that what some call the output, rather than the input, aspect of

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[16] Dominik ZAUM, The Sovereignty Paradox: The Norms and Politics of International Statebuilding. Oxford 2007, 107, 115.

[17] Ibid., 113.

[18] Roger MAC GINTY, Between Resistance and Compliance: Non-participation and the Liberal Peace, Journal of Intervention and Statebuilding 6 (2012), n. 2, 167-188, 172, 180. But the case of Bosnia may be an extreme example of non-participation and this might raise the opposite question of why. In random surveys done by the polling organization PRISM for UNDP in 2007, aside from voting (where turnout had been declining), Bosnians were not found to be politically active. Only 8.3 % of Bosnians aged 15 or older were members of political organizations and only 9.3 % belonged to non-governmental organizations, cultural associations, or sports clubs. 90.7 % had never participated in any meeting organized by a political organization: UNDP, Social Inclusion in Bosnia and Herzegovina. [Sarajevo 2007] (National Human Development Report 2007), 52, 197-206 (= Annex 4), available at <http://hdr.undp.org/en/reports/nationalreports/europethecis/bosniaherzegovina/BOSNIA_AND_HERCE-GOVINA_2007_en.pdf>.

legitimacy (in a simple Eastonian conception of the state but one that domi-nates the state-building rhetoric of the external actors) is a better measure. But donor insistence on delivering aid and services themselves, whatever the local capacity, both destroys existing capacity[19] and confuses citizens on the issue of "who is government and who is not".[20] Moreover, the priority donor demand (particularly from the World Bank and USAID) of the privatization of formerly public services and of user fees for services that had been free, eliminates most opportunities for output legitimacy.

## Measuring Legitimacy: the Process

The example of Bosnian civil service reform does suggest, however, that the process of creating a legitimate state in Bosnia, in which citizens accept its authority and state officials implement decisions, is being delayed by such a dictate. This temporal component of legitimacy raises the more difficult, and I propose more relevant, task in its study in cases of state-building (whether domestically generated or internationally imposed), namely, how to measure the process by which political authority is being established.

The fear of destabilization cited above originates in research into the causes of civil war (and regime change, such as democratization) as a crisis of legitimacy. While there is a very rich literature on the sources of decay, the emergence of viable alternatives, and tipping points, it is not clear that this literature applies to the reverse process, that of the the direction and content of (re)establishing domestic authority after a war. One might argue that the first step would be to measure the emergence of domestic politics rather than international imple-mentation, and thus the construction by local elites of domestic legitimacy as opposed to games of international compliance. But this is neither simple nor, as yet, a subject of much research. Public opinion surveys taken regularly provide some evidence of change over time. For example, the declining trust in governmental authorities in Bosnia cited above and the "absence of even a minimal level of political consensus on the future" found in 2009[21] suggests that the legitimating process is declining in Bosnia, not progressing.

On the other hand, in Kosovo, while among Serbs, Albanians, and "others", citizens distinctly differ in their survey responses, they overwhelmingly hold their government (specifically, prime minister, parliament, and so on) respon-sible for their various disappointments rather than the EU or UN authorities.

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[19] Francis Fukuyama, State-Building: Governance and World Order in the 21st Century. Ithaca/NY, London 2004, 39.

[20] Lisa Bornstein, Politics and District Development Planning in Mozambique, *Journal of Contemporary African Studies* 18 (2000), n. 2, 243-264, fn. 23.

[21] UNDP BiH, Early Warning System 2009. Sarajevo 2010, 5.

Moreover, and also in contrast to the Bosnian polls, one of the few positive results from the most recent UNDP surveys in Kosovo is the citizens' perception that police-community relations are good or very good and a large majority say they feel safe on the streets.[22] This is a far more fundamental measure of emerging state legitimacy than simple concepts of service delivery and output legitimacy.

The literature on the consolidation of democracy – distinguishing between the process of democratization and its habituation when, in Adam Przeworski's oft-quoted definition, democracy becomes "the only game in town"[23] – argues that statehood is a precondition of democracy, that is, that a sense of common political community (with territorial borders) must come first. This would suggest that the legitimating principle of national self-determination – the right of a nation to be a state – which was claimed, but not won by all those fighting for separate statehood in the territories of the former Yugoslavia, would satisfy that precondition. It does not tell us anything about the subsequent process of domesticating legitimation after the independence struggle in Slovenia, Croatia, Montenegro (and by default, Serbia), but it does tell us that the first legitimating principle has yet to be established in Bosnia-Herzegovina, Kosovo, and Macedonia.

In fact, in both Bosnia and Kosovo, public opinion surveys say that the measures of distrust, ethnic distance, and even physical separation between and among ethnically identified citizens have continued to grow since the war and in 2010/2012 were worse than ever. Roland Kostic argues, based on extensive empirical research among citizens and politicians in Bosnia, that this is a direct consequence of the international state-building policies and methods,[24] while focus groups meeting to discuss the results of the UNDP Early Warning Report for Kosovo in mid-2010 say that the "deterioration of situation in terms of inter-ethnic relations"[25] is due to public discussion about alternatives for the north of Kosovo – substantial autonomy, separation, exchange of territories between Kosovo and Serbia, the status quo, or full implementation of the Ahtisaari Plan.[26] That Greece continues to contest a Macedonian right to national identity (refusing to accept the name of the state for over 20 years) combined with the ever greater separation physically and politically of the ethnically Albanian and Macedonian populations as a result of the Ohrid Accord (internationally

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[22]  UNDP, Kosovo (above fn. 14), 7.

[23]  Adam Przeworski, Democracy and the Market. Political and Economic Reforms in Eastern Europe and Latin America. New York 1991, 26.

[24]  Roland Kostic, Ambivalent Peace: External Peacebuilding, Threatened Identity and Reconciliation in Bosnia and Herzegovina. Uppsala 2007 (Doctoral Dissertation, Department of Peace and Conflict Research, Uppsala University).

[25]  UNDP, Early Warning Report Kosovo, No. 28 (April-June 2010). [Prishtina] 2010, 40, available at <http://www.kosovo.undp.org/repository/docs/EWR_eng_web-opt.pdf>.

[26]  UNDP, Kosovo (above fn. 14), 7.

designed to create peace) have also worsened the process of first-stage legitimation in Macedonia.

Must we therefore conclude that it is fruitless to study (or even expect) legitimacy in contested states? Donors would argue that new governments can still build legitimacy by effective delivery of services. But the impact on the Balkans of externally driven economic reforms (i.e., privatization, liberalization, and monetary stability) and of ever greater vulnerability to external economic conditions (including the effects of the European and global financial crisis of 2008) has produced ever greater poverty (as a proportion of the population) and unemployment and an accelerating decline in the fiscal resources needed to provide services. The absence of both political and economic conditions for common measures of legitimacy suggests that a search for less obvious measures and an appreciation of long-term processes might be more fruitful.

Perhaps the focus, for example, on ethnic identity is limited as a measure of state legitimacy. Surely the threat of so many to emigrate from Bosnia is evidence of the failure of nationalist appeals. Moreover, as Hirschman argues in his classic study, exit (from product markets but also organizations and states) is usually the last resort after one loses an opportunity to use the option of voice (political action).[27] While taking political action ("voice") is costly and varies with influence and bargaining power, explaining why "non-participation", or in Hirschman's terms, "apathy", is the more common behavior, opinion surveys state that people in Bosnia are more likely and willing to take to the streets over job losses than over national rights. Moreover, those most willing to protest are not the youth but those aged 36-50,[28] the generation stratum that creates political society everywhere. In Kosovo, 55 % of the population in April 2010 was willing to protest political matters and 62 % economic issues.[29] Veterans in the Republika Srpska and the Federation in Bosnia have joined forces across national lines to defend their pensions against the cuts required by the IMF and the World Bank, and Serbs and Albanians in Kosovo do not differ in their unwillingness to pay taxes or electricity bills.

A different form of exit is internal, with a very high level of participation in informal activity, including in some cases the criminal sector. Some of this may be voluntary, but positive. For example, Pickering's informants avoid the formal institutions such as the NGOs created by the internationals because they do not work. Instead they are designing personal strategies for "rebuilding their lives" that defy cultural exclusivity[30] and their informality may yet become the new (formal) structures of "voice".

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[27] Albert O. Hirschman, Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations, and States. Cambridge/MA 1970.

[28] UNDP BiH, Early Warning System 2009, Sarajevo 2010, 8.

[29] UNDP, Early Warning Report Kosovo (above fn. 25), 9.

[30] Pickering, Peacebuilding in the Balkans (above fn. 9), 4f.

Some of this exit is simply the reality of a liberal economy and state-building project that limits the size of the public (formal) sector, as Strazzari argues in this volume. Moreover, because international power defines what is legitimate and legal and what is criminal, Strazzari adds that one cannot assume that these alternatives and their organizers are locally illegitimate, quite the opposite (and, importantly, they use violence rarely).[31] Those alternatives may even be, as Hozic suggests, forms of nationalism that reproduce a centuries-old Balkan tradition of resistance against international dictate.[32]

Finally, the "common normative universe" and "shared values" that the French-Norwegian analysis identifies as the primary source of legitimacy may not be that of nationhood in these contested cases. A long-term perspective suggests that one should look instead at values held during the Yugoslav period: as Stark and Bruszt argued for Hungary, values that are being "recombined" rather than replaced and are thus still emerging.[33] The success of union activism in Kosovo against donors' privatization policy was aimed at protecting workers' rights to company assets (20 % of the proceeds) along lines that no one familiar with the Yugoslav system of worker self-management can ignore.[34]

Jašarević finds that traders at Arizona market in Bosnia negotiate "customary, normative claims to subsistence against neo-liberal claims to profit",[35] that they simply ignore talking about ethnicity, and that "claims to social equality still inform relationships between owners and employees".[36]

> "The legacy of socialist and peasant notions of work informs an ideal of the state […] Traders call for equality and welfare as well as the kind of independence that the Yugoslav socialist state bestowed on the landowners […] but […] devoid of the socialist bureaucracy with its initiative-stunting pace and paperwork."[37]

Democratic stability is based as much on silences, on agreed taboos, as it is on explicit values, and these may also be in a process of active construction.

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[31] Francesco Strazzari, The Informal and the Criminal: State-Building as an Extralegal Field, *Südosteuropa* 60 (2012), n. 4, 576-590.

[32] Aida A. Hozic, The Paradox of Sovereignty in the Balkans, in: Douglas Howland / Luise White (eds.), The State of Sovereignty: Territories, Laws, Populations. Bloomington/IN, Indianapolis/IN 2009, 243-260.

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