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A multidimensional approach to restoring state legitimacy in Yemen

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Abstract

The pursuit of legitimate governance in post-conflict state-building is fraught due to its subjectivity, normativity and complexity. Despite this, legitimacy is widely recognised as foundational to the establishment of peaceful and stable political orders. The roots of Yemen's civil war can be traced in part to a crisis of legitimacy, making the realisation of a legitimate governance all the more pertinent to its peace process.

Focusing on the essential role of legitimacy in paving the path beyond Yemen's fragility, this Fragility Commission report argues for a new, multidimensional approach to legitimacy that embraces complexity. This approach has its origins in the people of Yemen, as opposed to the international community. The realisation of a legitimate political order requires not only the technical realisation of legitimacy, but *perceived* legitimacy, most importantly internally but also internationally.

In the context of Yemen's "chaos state", realistic policy objectives and timelines must be set to reinforce the state-building process. In this effort, the role of all key players, including the international community, must be recognised and optimised appropriately. It must also be acknowledged that stable systems of governance have traversed the journey from fragility to legitimacy by forging internal consensus, at the very least, that there is not a more attractive alternative to the current status quo. This journey cannot be externally imposed, instead requiring local initiative and time to come to fruition.

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About the commission

The LSE-Oxford Commission on State Fragility, Growth and Development was launched in March 2017 to guide policy to address state fragility.

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Cover photo: Protesters during the Yemeni Revolution in 2011.

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Introduction

No single term is more loaded in debate and discussion regarding Yemen's civil war than that of "legitimacy". Yemen has a "legitimate government", largely based outside of the country. It is also the focus of the activities of the self-proclaimed "Coalition to Restore Legitimacy in Yemen", which is accused of war crimes against Yemen's civilian population. Some Coalition members stand accused of "acting like occupiers" by the same "legitimate" government they purport to be restoring. Meanwhile, a group that is not recognized as legitimate by any international entity acts as de facto authority in the country's main population centres.

The subjectivity of legitimacy

The French writer Nicolas de Chamfort wryly noted that it "[is] easier to make certain things legal than to make them legitimate". This witticism highlights the extent that a term which, to the casual observer, would appear to be simple enough, is highly subjective and indeed contentious, particularly in as complex a situation as the one Yemen finds itself in. Arguably, as this paper will discuss, "internationally recognised" is a better description of the government of Abd Rabbu Mansour Hadi.

This is problematic because the idea that legitimacy is a foundational principle for stable governance is one that has gained increasing prominence in academic and policy-making circles over the past decade. Legitimacy is "the social and political contracts that manage formal and informal relationships between states and citizens, and between traditional or charismatic leaders and their constituencies and communities" (Ramsbotham and Wennmann, 2014). It "matters for peace" because it is "critical to political order, stable peace and development [and] transforms coercive capacity and personal influence into durable political authority" (Clements, 2014).

Yemen's crisis of legitimacy

Framed through this lens, Yemen's civil war can be seen as a long-gestating crisis in and struggle for political legitimacy. The conflict erupted into plain sight in 2011, after years of erosion of popular support for the regime of Ali Abdullah Saleh. The then-president was ousted by the end of that year, freezing an incipient conflict that metastasised during a subsequent two-and-a-half year

transitional period. The crisis has become more complex as the country has fragmented into different geographical zones of military control and political authority.

Some kind of political order widely viewed as “legitimate” will be essential to a meaningful peace process. But with no single institution viewed as legitimate by a plurality of the population, the crisis in and contest for legitimacy is unlikely to be resolved by a peace deal or a United Nations Security Council (UNSC) resolution.

Outline

This paper, written between March and April of 2018, attempts to do several things:

1. It argues that *legitimacy is a crucial building block in state formation in that it provides the basis for authority exercised without the need for coercion*. This argument draws on the work of Sue Unsworth for the International Network on Conflict and Fragility (INCAF) and others including the United Kingdom’s (UK’s) Department for International Development (DfID), the Organisation for Economic Co-operation and Development (OECD) (OECD, 2010), and the findings by the LSE-Oxford Commission on State Fragility, Growth and Development, established under the auspices of the International Growth Centre (IGC) (IGC, 2018).
2. It builds on frameworks set out by Unsworth and others *to paint a multidimensional picture of the different forms of legitimacy at play in Yemen*
3. Building on the author’s own work for the UK think tank Chatham House on Yemen’s “Chaos State” (Salisbury, 2017), it *calls for a fresh approach at an international level to conceptualisations of both the state and state legitimacy*.
4. Finally, building on this framework, he author calls for *a fresh approach to peace- and state-building, using multidimensional indicators of legitimacy to guide strategy*. Such an approach would prioritize Yemeni voices in restoring peace, stability and state structure in a manner that is grown organically from the bottom up, rather than being imposed top-down.

Legitimacy in a chaos state

The term “legitimacy” is often used in reference to political orders and state structures as if it were a self-evident concept. While there is some broad agreement on its overarching meaning, it can be opaque, subjective, and subject to the whims of those who choose to wield it. Broadly, “a political order, institution or actor is legitimate to the extent that people regard it as satisfactory and believe that no available alternative would be vastly superior”(OECD, 2010). The legitimacy of a political order is also seen as an important component of any process aimed at preventing or ending violent conflict.

The World Bank has said that legitimate institutions and systems of governance are “crucial to break[ing] cycles of violence” (World Bank, 2011). The United Nations Development Programme (UNDP) has argued that a social contract between the governing and governed is an important mechanism for peace when “popularly viewed as legitimate”. But there is less clarity on how such a state of legitimacy is achieved.

Many Western states often expect other, less stable territories to evolve into stable, legitimate state structures that mirror the way their political systems have worked (and not worked) for centuries in a relatively short space of time (OECD, 2010). There is often an expectation that certain structures, strictures, and norms are universal rather than arrived at through a gradual, evolutionary process (Unsworth, S. in OECD, 2010). For example:

“[Western policymakers] take for granted a central concept underpinning the Western idea of statehood, namely the clear distinction between public and private spheres. This... is the product of a very long history of intense interaction, bargaining, tension and conflict between and among different state and societal actors that resulted in people coming to accept the state as the highest authority, able to make and enforce binding decisions for society as a whole... [elsewhere] distinctions between public and private spheres are likely to be much more blurred. It follows that people’s expectations of the state, and their ideas about what constitutes legitimate political authority and acceptable behaviour by state officials, will differ fundamentally in Western and non-Western states” (page 16, OECD, 2010).

International versus internal legitimacy

Legitimacy is an often profoundly normative concept. Much work on the subject to date has focused on the nation state – and as a result has tended to ignore the popular legitimacy of non-state actors and *de facto* authorities. This adds a layer of complexity because, in an international system of powerful and weak states, the legitimacy of a political order is often conferred by external actors and stakeholders, not just by the “people” over whom the order in question hopes to exercise authority. That is to say, the international legitimacy of a political order is often as important as its internal legitimacy.

The United States (US) invasion of Iraq in 2003, for example, was predicated upon the notion that Saddam Hussein posed such a threat to international peace and security that his rule could no longer be considered legitimate. A March 2011 UNSC resolution approved a ‘No-Fly Zone’ over Libya – because, UN representatives from Colombia, Lebanon and the United Kingdom argued, the Gaddafi regime had “lost all legitimacy” (UNSC, 2011).

International and domestic legitimacy can also become a technical and legalistic concept. A political order built around an individual or regime that breaches state laws may be legitimate in that its authority is widely accepted by the general population. However, this otherwise legitimate authority may be removed by rules or procedure, like impeachment (often, legal proceedings begin only after the popularity of the current political order dwindles, as was the case for US president Richard Nixon).

In extremely rare cases, breaches of international law may lead to a government being declared illegitimate. Again, popular domestic perceptions of legitimacy may be interrelated with international proceedings, as with the indictment of Liberia’s Charles Taylor by the Special Court for Sierra Leone in 2003, shortly before his resignation.

Multidimensional legitimacy

Legitimacy is multifaceted. The authors of the OECD report argue that legitimacy can come from one of four different sources:

1. *Input legitimacy*: Based on agreed rules of procedure.
2. *Output legitimacy*: Defined by the effectiveness of public goods.
3. *Shared beliefs*: A sense of political community, often fostered through religion or the presence of a charismatic leader.
4. *International legitimacy*: The consensus among foreign powers that a state is sovereign and that its leader is legitimate.

The author of this paper adds a final dimension of legitimacy – *the perceived legitimacy of the role played by foreign powers among the population of the country in question* – particularly in cases where external stakeholders play a role in shaping and sustaining the overall political order, as has been the case in Yemen in the past. This in turn shapes perceptions of the legitimacy of any peace process the international community may play a role in brokering.

Political order and perceived legitimacy

The legitimacy of a political order, then, is crucial to its stability, while being multidimensional and complex in nature, hard to achieve, and harder yet to sustain. Indeed, the sign of a healthy political order may be that its legitimacy is under constant strain. That is to say, if it can withstand the scrutiny of external power, lawmakers, judges, and ordinary citizens, it is probably as well balanced as can be hoped for. Correspondingly, more brittle political orders are more likely to reject any question that they might not be entirely legitimate.

Most importantly, legitimacy is *earned* through behaviour, action, and persuasive rhetoric as part of a continuous, ongoing process; it is not simply conferred by elections or purely legalistic procedure. This is because, ultimately, legitimacy is as much an issue of perception as a quantifiable value: it requires people to “regard [the political order] as satisfactory and believe that no available alternative would be vastly superior” (page 7, OECD, 2010). A political order can be technically legitimate and may even display all the indicators of a thriving society (as Tunisia did before 2011); however, if it is not perceived as such, it is likely to face challenges and instability.

From fragility to legitimacy

Finally, as the authors of the IGC report note:

“All countries were once fragile. No society started off with the institutions and norms needed for peace and security. The first governments did not strive to fulfil some purpose agreed by society” (IGC, 2018).

The process by which many societies have escaped from fragility, the authors argue, “has long been studied by historians”(IGC, 2018). Such studies, compellingly, can only be successful if they feature a “synthesis of political economy and social psychology” that encompasses formal rules and institutions along with collective social values and a civic culture.

Moving from fragility to legitimacy is not something that is achieved overnight: it requires a strenuous, long-term effort and can only, ultimately, be achieved through local initiatives. External interventions that attempt to achieve overambitious targets for internal cohesion across tight timelines are, more often than not, counterproductive.

Political transition and the Arab Spring

Any number of explanations have been offered for the Arab Spring uprisings of 2011, among them climate change, unemployment, corruption, high food prices, impending generational change within ruling regimes, and the advent and spread of mobile phone technology and the internet.

The uprisings can also be attributed to a sense among large swaths of the populations of the affected countries *that the existing political order was no longer satisfactory and that an alternative system would be superior* – even if the cost of change was high. In other words, the fundamental legitimacy of the existing political order had reached an inflection point after years if not decades of gradual decay.

Output legitimacy

While the grievances of protestors varied from country to country, perceptions of economic decline and weakening governance standards, including but not limited to basic service delivery, were a common denominator.

In a 2010 survey conducted by the Yemen Polling Center (YPC), a Sana'a-based data-gathering organisation, almost 40% of respondents said that living conditions, the economic situation, and job creation should be a top priority for Yemen's political parties. Yet some 57.5% of respondents believed that party leaders did not care about the interests of citizens, and more than three quarters submitted that "candidates only address issues important to citizens during elections" (Yemen Polling Center, 2010).

It can be argued that the *output legitimacy* of the political order of the time – the 32-year-old regime of President Ali Abdullah Saleh, which over the course of the previous decade had reinvented itself as a key Western counterterrorism partner - was clearly limited.

Loss of cohesion

Over the first decade of the new millennium, clear fault lines had also emerged in the shared beliefs of Yemeni society at large. The Saleh regime fought six wars with northern Zaydi Shia Houthi rebels between 2004 and 2010, while from 2007 onwards an increasingly vocal secessionist movement had emerged in the south of the country.

Al-Qaeda in the Arabian Peninsula (AQAP), is a militant Islamist organisation, primarily active in Yemen. The movement had grown in strength since its formation in 2009 through a merger of the Saudi and Yemeni branches of Al Qaeda. As AQAP's profile and footprint grew, tribal groups increasingly contested the state's presence in their traditional territories, particularly in the central Mareb governorate, creating an opening for the group. Nadwa al-Dawsari, a prominent scholar of tribal society in Yemen, noted regarding tribal support for Al Qaeda, "Many of those who took a neutral stance or aided AQAP did so, not because they sympathize with the group, but rather out of hopelessness and frustration with the government" (al-Dawsari, 2014).

Saleh, who fashioned himself "Abu Yemen", or father of Yemen, had reached a peak in popularity after the unification in 1990 of the previously separate north and south Yemens. His standing declined after a brutal 1994 north-south civil war and increasingly public accusations of corruption and mismanagement directed towards his regime from the late 1990s onwards.

The internal cohesion of a regime built on a balancing act of key tribal, military, religious and political personalities, also began to unravel. By 2009 Hamid al-Ahmar, a senior member of a prominent tribal family and a leading player in Islah, Yemen's biggest Sunni Islamist political party – historical allies of the Saleh regime - was openly discussing Saleh's overthrow in meetings with US diplomats (Wikileaks, 2009).

Unravelling of the state

Over the course of 2011, the input legitimacy and the international legitimacy was also further eroded by the Saleh regime's response to the protest movement. From January 2011 onwards, state security and military institutions responded with violent attacks on protestors. This in turn precipitated an internal schism within the regime. Political, tribal and military affiliates of Islah joined the opposition and Islah-associated state and non-state military forces battled Saleh loyalists on the streets of Sana'a and Taiz.

From mid-2011 onwards, Saleh came under growing pressure from Western diplomats to step down as the state lost control of security and could not prevent (or indeed may have deliberately caused) a fuel crisis that in turn sparked a collapse service delivery (Salisbury, 2011). By most measures, the legitimacy of the political order had broken down or at the very least was in deep existential crisis by the end of 2011.

The diplomatic community - fearful of state collapse and of a vacuum from which Al Qaeda (at the time the top priority of most foreign policymakers) might benefit - attempted to find a solution that addressed the country's overlapping crises. Under the auspices of the Gulf Cooperation Council (GCC) they

attempted to simultaneously broker an elite deal to end the fighting between the constituent parts of the regime. They also aimed to develop a mechanism that would signal to protestors, southern secessionists, the Houthis, and others that a more inclusive political order was being constructed, in which their voices would have weight and the elite would govern in a more consensual, legitimate manner.

The GCC Initiative

The solution came in the form of the “GCC Initiative”, first proposed by the Gulf states in April of 2011, and an accompanying implementation mechanism largely developed by Jamal Benomar, the UN envoy to Yemen, along with key elite Yemeni interlocutors.

The initiative called for Saleh to step down within 30 days of signing the deal, after the formation of a unity government made up of a 50:50 split of his General People’s Congress Party and the Joint Meeting Parties (JMP), an opposition coalition led by Islah. Upon his resignation, Saleh would hand over power to his long-time vice president, Abd Rabbu Mansour Hadi, who would become “legitimate President by appointment”. Hadi would then hold presidential elections, in which he was to be the only candidate (this is not directly stipulated in the initiative but was agreed by the GPC and the JMP). He would then oversee a two-year transitional period that would end with parliamentary and presidential elections.

In the interregnum between the two elections, Hadi was to oversee a broadly inclusive National Dialogue Conference (NDC), which would bring together “all forces and political actors, including youth, the Southern Movement, the Houthis, other political parties, civil society representatives and women” (United Nations Peacemaker, 2011).

The NDC was to provide recommendations that would form the basis of a new constitution, to be drafted by a constitutional committee whose membership was to be decided at the conference, which would be put to referendum before the elections were held. The process, Benomar argued, would help foster a political order that was perceived as legitimate by both the ruling elite and ordinary Yemeni citizens (Root, 2014).

After multiple rounds of fighting and an attempt on Saleh’s life, the deal was signed on 23 November 2011, and Hadi took power soon after, forming a coalition government led by Mohammed Basindwah. On 21 February 2012, Hadi was the sole candidate in what was described as a presidential election.

A crisis of legitimacy

The GCC Initiative was not universally popular and was interpreted by different parties in different ways. The GPC and other political groupings from the outset belaboured the point that the transitional period was to last only two years, and that Hadi was a transitional president rather than a truly legitimate head of state.

For many of the protestors who had taken to the streets in 2011, the deal was a thinly veiled elite compact that maintained the status quo they had tried to overturn. Activists were particularly incensed by the fact that, as part of the

initiative, Saleh had been given immunity from any crimes committed over the course of his presidency. Some argued that the one-candidate presidential election was a referendum on Saleh's rule rather than a procedural poll that made Hadi a legitimate president.

Many marginalised actors – particularly the Houthis and most southern secessionist groups – made similar arguments and said they would not ratify or participate in the transitional process. Analysts meanwhile worried that elite competition had not been resolved but frozen or paused, and that issues like security, justice, the economy, and service delivery would need to be addressed in order to present the Hadi presidency and the unity government as a legitimate political order.

Benomar was generally perceived as an objective mediator who had a genuine interest in building peace and addressing the legitimate aspirations of most Yemenis.

Internationally, the initiative was highly popular, a rare occasion of consensus among the major powers that make up the UNSC. As other transitions in Egypt and Libya stalled, and Syria descended into brutal civil conflict, Yemen came to be seen as a “model” for conflict prevention and political transitional arrangements (Root, 2014).

Arguably, the core logic of the transition was that the existing political order was no longer accepted as sufficient by the majority of Yemenis, and that it would need to change – to become more broadly legitimate – to prevent conflict or collapse. The argument for the political order created during the transition – in which Saleh-era elites remained in power – was that it would lead to a new system that was more inclusive and met the needs of all citizens. The process, according to the UN envoy Benomar in 2013, was “all about addressing the inclusion deficit of the political process” while preventing civil war between the different blocs that had made up the Saleh regime (Root, 2014).

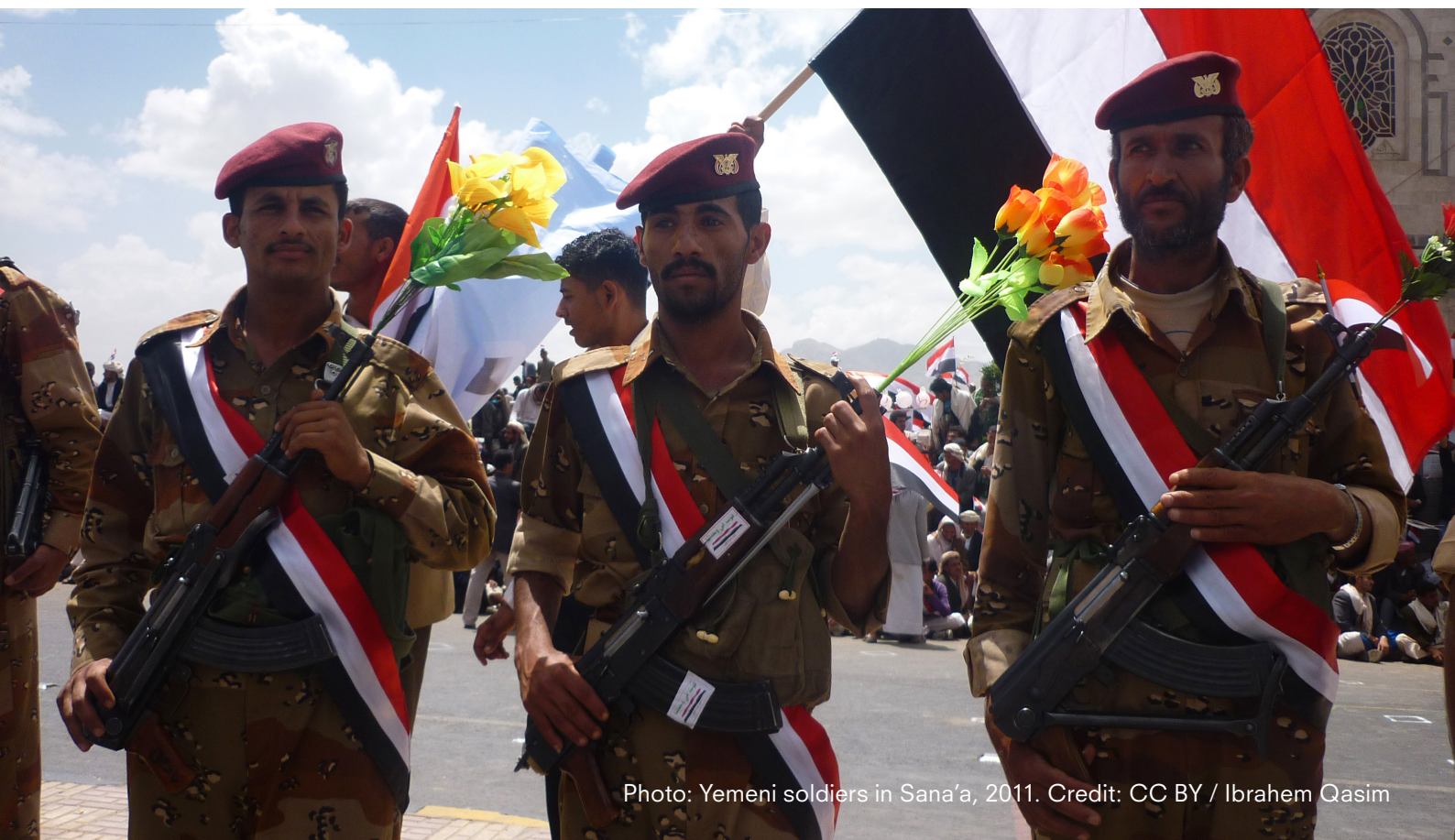


Photo: Yemeni soldiers in Sana'a, 2011. Credit: CC BY / Ibrahim Qasim

The road to civil war

The crisis of legitimacy in 2011 that led to the Arab Spring was only temporarily halted by the GCC Initiative. Rather than receding, it metastasised over the course of the transitional period.

The political transition, which ran from Hadi's election in February of 2012 until the Houthis-Saleh takeover of Sana'a in September of 2014 (or more charitably until the Houthis placed Hadi and the government under house arrest in January of 2015 in response to the provision of a draft constitution), was a period of both great hope and brinkmanship - and of serious missteps by almost all stakeholders in the process.

Absence of a common vision

By the time the Houthis besieged Sana'a in 2014 the country was in the midst of a separate, if intertwined, crisis: no single vision of Yemen's political order was seen as universally legitimate by a plurality of Yemenis or external stakeholders. The central state, overseen by Hadi, was widely perceived as failing to fulfil many of the basic criteria of input and output legitimacy. It provided diminishing services and was seen as not following procedural norms, particularly after February 2014, which passed without parliamentary or presidential elections being held.

Yemenis were increasingly mistrustful of the argument for any kind of output order – they saw little in the way of actual implementation of rule of law, while the formal rules of the transition and the Yemeni state were often bent to serve the interests of key groups, individuals, and external stakeholders.

While the NDC – which began in March 2013 and ended the following January – did go some way towards fostering a sense of shared beliefs among those who participated and engaged urban elites, many if not most outside of the capital remained largely unaware of the talks and what was agreed at them. Those who were aware of the conference became “increasingly sceptical that either the NDC or the transition process [would] result in a government that responds to their needs” (Gaston, 2014).

Loss of internal legitimacy

Arguably, the only strong perception or relationship of legitimacy was between Hadi and the international community. This relationship was arguably detrimental to perceptions of the legitimacy of the overall political order. Hadi came to be seen as the “president of the international community” rather than the Yemeni people.

Hadi worked closely with Western governments in particular and was widely seen as being closely aligned with the US on counterterrorism matters. Given that Saleh had enjoyed support of foreign powers over the previous decade, despite diminishing legitimacy among the general population, and that most foreign powers were perceived to be fixated on counterterror issues rather than governance, this strong relationship – combined with the use of drones to attack suspected terrorists, resulting in significant civilian casualties - hurt the legitimacy of both the transitional president and his foreign partners.

Mounting tension

At the same time fuel, electricity and water shortages mounted while crime, or at least perceptions of crime, rose. An April 2014 report from the United States Institute of Peace described the “virtual collapse” of the formal judicial system. “Instead of bringing matters to the courts, citizens are increasingly taking matters into their own hands or turning to nonstate power brokers to resolve disputes”, the authors noted (Gaston, 2014).

In 2013, fighting between the Houthis, Salafist groups based in the Houthi heartland of Sa’dah, and Islah-affiliated militias, intensified as the Zaydi militants expanded their territorial control and besieged two Salafist madrassas in Sa’dah. Southern, pro-independence militias in the Al Dhale governorate repeatedly clashed with local military forces, while tribes in Hadramawt seized checkpoints across the governorate, refusing oil and gas companies access to production facilities. Tribal groups in Mareb repeatedly attacked a major export pipeline in 2013 and 2014.

Repeated Al Qaeda attacks, along with a campaign of assassinations against both security officials and senior political figures, also led to a sense of deepening insecurity. As the Houthis edged their way towards Sana’a, southern secessionists launched a new wave of protests centred around Aden, demanding independence. The rise of the Houthis in the north only increased the urgency of their protests.

Vocal criticism of President Hadi grew in the capital over perceived mismanagement of the transition. A committee formed to decide on federal divisions and did not reach a unanimous decision – Houthi delegates refused to approve the move and the socialist leadership expressed reservations.

There were also delays in the formation and empowerment of a so-called National Body, created to oversee the implementation of the NDC outcomes. Many Yemenis had seen the body, eventually formed in April of 2014, as having a quasi-law-making function, but it remained a muted presence after its formation.

In the wake of the NDC, both Islah and the GPC had begun to focus on potential elections, while GPC officials complained that Hadi’s term as interim

president had run its course by February 2014, on the basis that the GCC Initiative described the transitional period triggered by his election as lasting for two years (7. (b), page 3, United Nations Peacemaker, 2011). Foreign officials argued that there was no formal deadline for Hadi's term, and that he should remain in place until elections were held.

Fiscal crisis

The transitional government was failing to ward off an increasingly imminent fiscal crisis caused by winnowing government receipts, particularly from oil exports, and record levels of spending. With foreign exchange reserves declining, the government struggled to maintain costly fuel subsidies, leading to widespread fuel shortages in June of 2016, which caused protests in the capital, Sana'a. Hadi administration officials argued, somewhat convincingly, that both the fuel crisis and the protests were engineered by Saleh and his allies.

It was agreed by the government and external economic advisers, most importantly the International Monetary Fund (IMF) and the World Bank, that the best way to improve the fiscal and foreign currency situation would be to cut fuel subsidies gradually while increasing social welfare payments. However, the Hadi government chose instead to slash subsidies almost entirely. This increased fuel prices by as much as 90% overnight in July 2014, sparking widespread protests (b. Salisbury, 2014).

It would later transpire that not only had the government not increased welfare payments as agreed, the state-run cash transfer programme had not dispersed funds to recipients in six months. Social Welfare Fund officials blamed poor government finances, although Saudi Arabia had transferred the money needed to underwrite the payments in June of 2014 (the payment was eventually made in October of 2014) (Herrero, 2015).

Houthi advancement

The fuel price hike was instrumentalised by the Houthis. They continued a march towards Sana'a, which had started at the beginning of the year and would end in September of 2014 with the group in control of the capital. In the run-up to their siege of the city, the group had held a months-long series of protests, including the formation of a number of protest encampments in and around the city. Abdelmalek al-Houthi, the group's leader, gave a number of televised speeches criticising the government for mismanagement, corruption, and not meeting the legitimate demands of the Yemeni people (a. Salisbury, 2014).

Hadi did little to prevent the Houthi advance south, even after a senior military commander, Hamid al-Qushaibi, was killed during the Houthi siege of Amran city, some 50 kilometers from Sana'a. And indeed, he did not order a formal military campaign to push the Houthis back, allegedly, because he saw a battle between the Houthis and Islah-affiliated militias and military units as boosting his own popularity and legitimacy, in effect by allowing him to paint the rival forces as nonstate actors engaged in sectarian warfare.

The Peace and National Partnership Agreement

However, this led many Yemenis to (further) question his fitness to lead. This sentiment was exacerbated after the Houthis seized the capital city in September of 2014 and he signed the Peace and National Partnership Agreement (PNPA), a deal brokered by Benomar, aimed at preventing further violence.

The PNPA contained a number of provisions related to the economy, corruption, social welfare payments, and service delivery, along with the completion of the transitional period by the passage of a new Constitution and a bigger role for a reformed National Body (United Nations Peacemaker, 2014).

The PNPA also called for the withdrawal of Houthi forces from Sana'a, along with the removal of the protest camps they had used to encircle the city. The camps were dismantled but the Houthi militias stayed, and in fact began to expand south, west and east, meeting mounting resistance from local forces.

Houthi state capture

Further confusing matters, Saleh loyalists from state security forces also joined the Houthis in their campaign, while large numbers of Houthi militiamen were formally integrated into the Yemeni armed forces. Foreign officials, including military experts, continued to treat the government in Sana'a as "legitimate" even as Houthi supervisors entered government-run institutions and began the slow process of state capture.

In November of 2014, the GPC announced that it was stripping Hadi of his party membership and his position as Secretary General, arguably reducing his claim to a political constituency (Welle, 2014). In January 2015, the committee tasked with producing a draft Constitution completed its work and presented its work to the National Body in Sana'a.

The Houthis, who did not want to see the constitution ratified, chose to place the cabinet and president Hadi under house arrest, leading to the resignation of both. In response, secessionist groups in the south demanded independence. Then, on 6 February of 2015, the Houthis issued a "constitutional declaration", amidst UN-mediated discussions over the formation of a new unity government. The declaration called for the formation of a new parliament and government but was soundly rejected by most Yemeni political parties.

Later the same month, Hadi escaped house arrest in Sana'a and fled to the southern port city of Aden, where he rescinded his resignation. He declared all agreements and government action taken since the Houthis entered Sana'a "null and illegitimate". Shortly after, Benomar declared a "breakthrough" in negotiations over governing arrangements in Sana'a. According to multiple individuals involved in those discussions, there was consensus over a governing arrangement that excluded Hadi (Ghobari, 2015).

Conflict

As these discussions continued, the Houthis advanced on Aden. Hadi called on Yemen's Gulf Cooperation Council neighbours to intervene militarily. They did so on 26 March 2015, launching an intensive campaign of aerial bombardment, promising to restore Hadi, the "legitimate president", to Sana'a.

Justifying their role in the war, they cited a written request from Hadi for military intervention. It should be noted that most external players did not question Hadi's rescinded resignation, his removal from the GPC, or the broad consensus among the major political parties who had selected him for the presidency that he should be removed, as undermining his input legitimacy.

Despite Hadi's lack of internal legitimacy, throughout the conflict there has been heavy reference to the legalistic or input aspects of the legitimacy of the Saudi-led intervention. External recognition of Hadi persisted and on 14 April the UNSC passed resolution 2216, which named him the "legitimate president" of Yemen and demanded Houthi disarmament and withdrawal.

Photo: Air strike in Sana'a. Credit: CC BY / Ibrahem Qasim



The current context

Civil war

At the time of writing this, in early 2018, the civil war in Yemen had gone through several distinct phases:

1. During the first year of conflict, the Houthi-Saleh alliance first continued its expansion, before being pushed back to key frontlines. Most notably, Houthi-Saleh aligned forces were pushed back from Aden city and much of the major surrounding governorates (Al Dhale, Lahj, Abyan and Shabwa) by southern militias backed by the United Arab Emirates (UAE). In Mareb and Al Jawf, hard frontlines were established in the west of both governorates. Fierce fighting took place in the Al Baidha governorate and Taiz city.
2. During the second year of the conflict, these frontlines changed little and internal dynamics within the different segments of territorial control came to the fore. The Houthis began the gradual process of forcing Saleh loyalists into a position of submission in national institutions and across the military.

Meanwhile, the UAE developed an increasingly dominant position on the ground across the south through local military proxies that it trained and equipped. The UAE also began to push for its allies to be given positions of power in local governance. This was in part because of its dislike of both the Hadi government and its alliance with Islah, particularly Ali Mohsen al-Ahmar, who Hadi named vice president in April of 2016. This phase also saw Hadi announce the move of the Central Bank of Yemen to Aden as he attempted to assert control over key state institutions.

3. The most recent phase of conflict came at the end of the third year of the war. A schism in the Houthi-Saleh alliance saw former president Saleh killed and the Houthis assert complete control over the northern highlands and red sea coast. They soon lost territory to UAE-backed forces, including units commanded by Tareq Saleh, the former president's nephew and their recent ally.

This phase has also seen mounting tensions between UAE-backed southern forces and the Hadi government, and growing cantonisation of the country. This is most notably evidenced by the formation of the Southern Transitional Council (STC), a self-styled southern government in waiting. It announced

the quasi-legalistic “Aden Declaration” calling for STC control of southern governorates, followed by a push to independence.

State fragmentation

In effect, the country has fragmented into a series of areas of territorial control and contestation, each of which in turn contains its own political order:

- In the *northwest* of the country, the Houthis are the de facto authorities, and oversee day-to-day government operations while imposing security in an increasingly authoritarian manner.
- In the *southern* governorates of Yemen (Al Dhale, Lahj, Aden, Abyan, Shabwa, Hadramawt and Al Mahra), UAE-backed forces are the dominant security actor. The STC, which is widely seen as being UAE-backed, has become the most prominent political force. Hadi-affiliated military and governance actors also compete for authority and legitimacy. Governance is uneven, as is support for different actors.
- Meanwhile, in the *northern central* governorates of Al Jawf and Mareb, and in northern Hadramawt, military and political actors associated with Islam perform most security and military functions. The governor of Mareb, Sultan al-Aradah, has been able to generate revenues from the sale of bottled gas and fuel from local oil fields, which he manages locally. Hadi has repeatedly demanded the governor transfer revenues to the central bank in Aden (similarly, local authorities in Mukalla have refused to transfer income to Aden, using it to pay for local services). Few of the self-styled local and national authorities have been able to make regular salary payments since at least late 2016.

Earning local legitimacy

For many Yemenis in areas outside of Houthi-Saleh control, and indeed, for many inside of the areas the alliance holds, legitimacy is no longer conferred by elections or capital-level politics. Rather, it is *earned at the local level through the provision of security, basic goods and governance* – a lesson that AQAP demonstrated an awareness of during its yearlong stewardship of Mukalla.

Local leaders who understand the current conception of legitimacy and are able to balance these needs have earned a great deal of local support, unsettling President Hadi. Accordingly, after two and a half years of wartime leadership, Hadi has developed a reputation for undermining his local government appointees and replacing those he sees as a threat.

Overall, no actor in Yemen has been able to generate legitimacy across the multidimensional matrix mapped out earlier in this paper. International legitimacy accrues solely to Hadi. With the rule of law broken down across the country, it is

possible to argue that input legitimacy has become a relative concept, as local norms, customs and rules outweigh international or national-level legislation. Furthermore, in the northwest, new structures are put in place to underpin de facto rule. Where output legitimacy is earned through the provision of social goods and services, it varies widely, is locally implemented, and rarely attributed to national-level political players.

Third-party legitimacy

The Hadi government and Houthi-Saleh alliance are not alone in having lost legitimacy among Yemenis. Third-party states involved in the war – Saudi Arabia, the UAE and Iran – are viewed with mistrust by large segments of the population. The international community and the UN have also come to be seen as lacking in impartiality. This can be attributed to their tacit support of the US, UK and France for the Saudi-led coalition; and because of perceived failures to hold the Saudi-led coalition to account for its alleged violations of international law. Members of the Hadi government have accused the UAE of acting as an “occupier” for its role in the south and with the STC (a rapprochement in June 2018 that led to Hadi’s brief return to Aden is seen as a fig leaf for what continues to be a deep rift).

President Hadi’s legitimacy

Another complicating factor is the international view of Hadi’s “legitimacy”, which diplomats quietly concede is a double-edged sword. As Yemen’s elected President, he is a symbol of both international norms of sovereignty and of the transitional process. To all intents and purposes, Hadi is the symbol of the Yemeni state from the perspective of many external actors. Yet it is also widely acknowledged that he was a weak, ineffective and divisive leader before the war.

Throughout 2014, Hadi was under pressure from foreign officials to appoint a more competent vice president, who he could be replaced with. He has proven unwilling to govern in a meaningful sense since the war began. Hadi is also seen as a key barrier to a peace deal. In private, diplomats and coalition officials agree that to be successful, any peace process will need to side-line or entirely remove Hadi – yet this received wisdom also provides Hadi with a clear disincentive for agreeing to the terms of a deal.

The Hadi government, meanwhile, has consistently resisted attempts to include a broader range of voices in diplomatic efforts, arguing that working directly with forces on the ground - from the Houthis to secessionists and tribal groups - undermines the legitimacy of the state and confers legitimacy on nonstate actors.

“From my viewpoint, Hadi’s legitimacy was given by the Yemeni people in an election”, says a senior diplomat who worked on Yemen throughout the transitional period and during the war. “But Hadi didn’t pay much attention to the people’s misery. That is wrong. 2216 says withdraw from territory, return state to control, but that is difficult under these circumstances. In a way, we are trapped by Hadi’s legitimacy”.

Recommendations

Legitimacy is not the same thing as the broad, legal authority that the international community can confer on an individual or group in the way that they have President Hadi. Nor does it automatically accrue to a central government, even when an election has been won. Rather, *legitimacy of the kind that helps build peace and stability is earned over time.*

In the case of Yemen, multiple political orders now hold varying degrees of legitimacy at the local, national and international order. The question is not how these different political orders can be replaced by something new and overarching; nor if a single, charismatic individual can bring them under his aegis; but rather *how they can be integrated into an inclusive system of governance.*

This in turn requires a reciprocal, mutually beneficial and reinforcing relationship that builds legitimacy at every level, rather than trying to impose authority and calling it legitimacy. How can this happen?

1. Embrace complexity

The author of this paper has argued elsewhere that Yemen has become a “Chaos State”:

“a place where the central government has either collapsed or lost control of large segments of the territory over which it is nominally sovereign; and where a political economy has emerged in which groups with varying degrees of legitimacy cooperate and compete with one another. Yet ‘chaos’ is a relative term: although Yemen indeed appears to be chaotic from the outside, in the sense that general disorder visibly prevails, it contains its own internal logic, economies and political ecosystems... Yemen more closely resembles a region of mini-states at varying degrees of war with one another, and beset by a complex range of internal politics and conflicts, than a single state engaged in a binary conflict.” (page 3, Salisbury, 2017).

In other words, the situation in Yemen is complicated and volatile. Yet much policymaking directed towards Yemen seeks to simplify the context. Instead, policymakers need to embrace complexity. In particular, this means:

2. Understand and adapt to the local environment

Power and legitimacy are diffuse and contested in Yemen, and there is no individual “champion” or charismatic leader who will be able, in the short-to-medium term, to act as a unifying force. Instead, good policy on Yemen will require an understanding of the networks of power and influence that exist at a local level and intersect with one another at a regional and national level – along with the relationships between these groups and individuals and external actors.

As Unsworth and her colleagues noted:

“Fostering state legitimacy requires a comprehensive approach that addresses different sources of legitimacy, and also the way they interact” (page 37, OECD, 2010).

An important part of such a process will by necessity involve understanding how people at a local level perceive legitimacy while remaining self-aware of the effect international legitimisation of individual actors and groups can have on the political order. This may require withholding support for national-level political players, despite the temptation to empower a seemingly capable interlocutor of any faction to achieve the goals of international policymakers.

Policymakers will also need to avoid the temptation of demanding Yemen fit itself into reductive Western-centric models of what the “state” should be and what they think it might need as a result. Instead, they should try to make themselves adaptable to the local environment and be willing to embrace unorthodox arrangements.

Removing such impositions and expectations requires listening to local needs. This may mean, for example, not holding national-level elections as quickly as possible.

As the authors of the IGC report argue:

“Stop assuming that fragility can be ended by processes that simply replicate the OECD model of political governance through new constitutions and multi-party elections. Promote the resolution of situations of open conflict by power-sharing rather than by a leap to winner-take-all elections” (page 11, IGC, 2018).

3. Set realistic policy objectives and timelines

Arguably, the transitional period of 2012-2014 was a classic example of policy overreach: an attempt to restructure the political order, constitution, economy and security forces in a 24-month timeline, while key elite players competed with and attempted to undermine one another. The issue was compounded by public messaging on the country’s bright future, even as basic services, governance and security visibly collapsed.

As the authors of the IGC report note:

“The condition of realism implies that the programme set by the

government should only be supported if it is likely to achieve its specified goals within the politically pertinent time frame, and if achieved would take the society in the right direction by easing some of the constraints, and by strengthening domestic checks and balances on the abuse of office. Realism sounds a modest requirement, but to date, neither international programmes nor government preferences in fragile states have typically met it. IFIs and bilateral agencies have been tempted to use their power to overload programmes, sometimes to a ludicrous extent” (page 20, IGC, 2018).

Ultimately, policymakers need to learn to deal with Yemen as it is, not as they would like it to be. Rather than trying to push Yemen towards becoming a Weberian/Westphalian state, policy makers should focus on a more limited, and realistic set of goals in the months and years that follow the conflict in Yemen, aimed at strengthening existing institutions viewed as legitimate by Yemenis themselves. This approach will be far better able to restore security at the local level and deliver services – key to output legitimacy.

Then consider the best approach to integrating these existing institutions into a national-level political order based on inclusive governance. Goals set by the central government should be streamlined, achievable, and focused on producing tangible benefits on the ground.

4. Prioritise (local) services and governance

In 2011, and during the transition, Yemenis felt disconnected from the ruling class, disregarded by both the government and the international community. Utopian promises of a bright future are likely to be met with scepticism by a population that has little access to water, electricity, education, or health services, and few tangible economic prospects. If rule of law is not applied and enforced resentment is likely to be compounded.

Donor countries often feel pressure to work with and support the national government, and all too often end up ignoring local actors, or refraining from local-level work because the national government explicitly demands that they do not. In turn, the funds provided by donors all too often come to be treated as a source of rents, like oil, rather than a resource designed to help ordinary people. In doing this, elites in turn undermine their own, and their international partners', legitimacy.

A good short-to-medium term solution is to provide funds for capital spending – on projects – only to local government; and to prioritise the deployment of current spending – on wages and overheads – for support for projects and local service delivery. This would force national-level players to work with their local counterparts to unlock external funding. This inverts the usual budgetary process and brings government closer to the local level. But in doing so, international actors will need to take care to be self-aware about the role they are playing.

5. Recognise the role of international players

Finally, any attempt to build a legitimate political order should not be rooted in analysis that isolates Yemen from the wider international context it sits in or abstracts the role external parties might have. During the transition, perceptions of US influence on the Hadi government, and an undue focus on counterterrorism initiatives, served to undermine both Hadi's legitimacy and the legitimacy of international efforts to set the country on a new path.

External funding can also help bolster non-state actors' legitimacy by providing them with the resources needed to develop output legitimacy. Both aspects are likely to be pertinent in post-conflict Yemen, given the roles played by Saudi Arabia, the UAE, Iran, the US and others in recent years, and ongoing regional competition for influence.

Photo: Old City of Sana'a. Credit: CC BY



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