

# On Hybrid Political Orders and Emerging States: State Formation in the Context of ‘Fragility’

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## 1. Introduction

Over the past few years an important focus of peace and conflict research, and also of security studies, has been on the relationships between large-scale violent conflict, the performance of states and global security. State fragility is seen to engender violent conflict which leads to state failure or even collapse. As states have a dual role, namely providing security and order for their citizens (internal role) and serving as the building blocks of the international system (external role), state fragility not only affects the citizens of the state and society in question, but also neighbouring states and the international community at large. Regions of state fragility are perceived as providing breeding grounds and safe havens for transnational terrorism, weapons proliferation and organised crime. The issue of fragile states is thus seen as being at the core of a variety of today's most pressing security problems. Fragile and failed states are ranked as "one of the most important foreign policy challenges of the contemporary era" (Krasner/Pascual 2005, 153). Accordingly, "learning to do state-building better is thus central to the future of world order" (Fukuyama 2004, 120).

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At the same time, the fragile states discourse also heavily frames the development policies and development assistance of major donor countries and multilateral donor organisations. State-building today is seen by major donors as a central dimension of development assistance, and functioning and effective state institutions are seen as a prerequisite for sustainable development. Fragile states are presented as a challenge to both development and security policies by policy makers and governments all over the developed world. The Swiss Department of Foreign Affairs, for example, posits: "... the problem of fragile states (...) now represents one of the most serious and fastest growing challenges in the areas of development, peace and security policy" (FDFA Working Group 2007, 45). Part of the particular appeal of the state-building discourse seems to lie in the possibility of integrating development, security and conflict prevention policies.

This article examines the rationale and underlying assumptions of this mainstream discourse on fragile states. We argue that the conventional perception of so-called fragile states as an obstacle to the maintenance of peace and development can be far too short-sighted, as is its corollary, the promotion of conventional state-building along the lines of the western OECD state model as the best means of sustainable development and peace within all societies.

State fragility discourse and state-building policies are oriented towards the western-style Weberian/Westphalian state. Yet this form of statehood hardly exists in reality beyond the OECD world. Many of the countries in the 'rest' of the world are political entities that do not resemble the model western state. In this article it is proposed that these states should not be considered from the perspective of being 'not yet properly built' or having 'already failed again'. Rather than thinking in terms of fragile or failed states, it might be theoretically and practically more fruitful to think in

terms of hybrid political orders. This re-conceptualisation opens new options for conflict prevention and development, as well as for a new type of state-building.

We will now first offer a brief overview of the propositions put forward by mainstream thinking on state fragility and state-building (*Sections 2 and 3*), and then introduce our alternative interpretation of governance in so-called fragile states (*Section 4*). We will go on to point out the shortcomings of what we see as a mainstream example of external state-building, and present some innovative approaches to state-building (*Section 5*). We conclude by focusing on challenges for external actors committed to assisting in state-building.

## 2. The State of the Art

There is considerable scholarly debate (and much confusion) regarding definitions, terminology and typical characteristics of “weak”, “fragile”, “failing”, “failed” and “collapsed” states.<sup>1</sup> Definitions are vague and distinctions blurred. The focus, however, is on state institutions’ lack of willingness or capacity to perform core state functions in the fields of security, representation and welfare. There is consensus that different degrees of state fragility or different stages of state failure can be identified. Fragile states can be conceptualised along a continuum of declining state performance, from weak states through failing states to failed and finally collapsed states. However, there can be, and in fact there are, various other ways of ordering the vast field of state fragility.

USAID, for example, “uses the term fragile states to refer generally to a broad range of failing, failed, and recovering states” and “distinguishes between fragile states that are vulnerable from those that are already in crisis”; “vulnerable” refers to “those states unable or unwilling to adequately assure the provision of security and basic services to a significant portion of their populations and where the legitimacy of the government is in question”, whereas states in “crisis” are the ones “where the central government does not exert effective control over its own territory or is unable or unwilling to assure the provision of vital services to significant parts of its territory, where legitimacy of the government is weak or nonexistent, and where violent conflict is a reality or a great risk” (USAID 2005, 1).

There is debate about the ubiquity of the phenomenon. The general view is that the number of fragile, failing and collapsed states is increasing. A look at the various rankings and indices shows that approximately 100 states are labelled “fragile”; approximately half of those figure prominently in several of the rankings (Schneckener 2007, 7).<sup>2</sup>

The solution recommended for these states is state-building, which is presented as sustainably strengthening state institutions in addition to enhancing the capacities of state actors for control, regulation and implementation, particularly in the core fields of statehood, namely internal security, basic social services, the rule of law and legitimacy of government (*ibid.*, 9).

Ghani et al. (2005, 2006a, 2006b), for example, identify ten features of statehood that have to be accomplished in order to overcome fragility and guarantee state stability. These are (1) a legitimate monopoly on the means of violence, (2) administrative control, (3) sound management

<sup>1</sup> For an overview of the debate see the edited volumes by Debiel and Klein 2002; Milliken 2003; Rotberg 2004a; Schlichte 2005a; Chesterman, Ignatieff and Thakur 2005; Debiel, Lambach and Reinhardt 2007. For definitions and typologies see Rotberg 2004b, 4-10; Schneckener 2004, 10-11; Milliken/Krause 2002, 754, 764; see also Milliken/Krause 2003; Crisis States Research Centre 2006, 4.

<sup>2</sup> The ‘top ten’ in the Foreign Policy/Fund for Peace 2007 *Failed States Index Rankings* were: Sudan, Iraq, Somalia, Zimbabwe, Chad, Cote d’Ivoire/Ivory Coast, Democratic Republic of the Congo, Afghanistan, Guinea and Central African Republic (The Failed States Index 2007, 57). The most fragile states according to the *State Fragility Index and Matrix* are: the Democratic Republic of the Congo, Afghanistan, Sierra Leone, Somalia, Chad, Myanmar/Burma, Sudan, Burundi, Cote d’Ivoire/Ivory Coast, Ethiopia, Liberia and Nigeria (Marshall/Goldstone 2007, 15-19). The CFP group’s (Country Indicators for Foreign Policy) index has Burundi at the top of its list, followed by DR Congo, Afghanistan, Somalia and Liberia (Carment, Prest and Samy 2007, 18).

of public finances, (4) investment in human capital, (5) the creation of citizenship rights and duties, (6) provision of infrastructure, (7) market formation, (8) management of the assets of the state, (9) effective public borrowing, (10) maintenance of rule of law (Ghani et al. 2005, 2; with slight variations Ghani et al. 2006a and 2006b).

These or similar lists of state functions inform the strategies of various national and international donor agencies. The underlying credo is that states “have to become more effective in order to make aid more effective, and vice versa” (Fritz/Menocal 2006, 27).

Over the last few years, donors have focused on addressing this challenge. For instance, the World Bank’s so-called LICUS (Low Income Countries Under Stress) initiative aims at improving development aid effectiveness in fragile states, and the “Fragile States Group” (FSG) of the OECD Development Assistance Committee (DAC) also pursues the improvement of international engagement in fragile states.

Furthermore, the ministries responsible for development cooperation and the current development agencies of the major OECD donor countries all address the specific conditions of aid activities in fragile states. USAID, for instance, asserts that “there is perhaps no more urgent matter facing USAID than fragile states” (USAID 2005, 1).

The preoccupation of USAID and various other development agencies with the issue of “fragile states” clearly demonstrates that this is not a topic of merely academic interest, but has considerable impact on the practical development policies of major donor countries. The same holds true for their security policies. National security and military policies are increasingly occupied with the issue of fragile states. One can even argue that the topic of fragile states only gained major prominence when – and because – it was framed in the context of the security discourse of the major developed states. The preoccupation with transnational terrorism and the international ‘war on terror’ provide the specific background for this approach. Fragile states are seen “through the dominant lens of Western security interests” (Boas/Jennings 2005, 388), and through this lens they appear as breeding grounds for terrorism and safe havens for terrorists, and hence as a matter of “international security” – which is, above all, the security of the developed states. The discourse of the national security community in the United States in particular is shaped very much along these lines. Fragile states are presented as a ‘threat’ to the national security of the USA and to ‘international security’, and it is for this reason that ‘rebuilding states’ is a challenge that US policy has to take on. The focus of state-building generally is very much on the security dimension, with building the capacities of security agencies (police, military, customs and border protection) as a priority field of external assistance. This becomes an avenue for security agencies to address development issues, to ‘securitise’ these issues and thus add to the legitimacy of the military and other security agencies which are expanding their areas of activity.

### 3. Putting State-building into Historical Perspective

It is clear from this brief summary of the fragile states discourse that states are being measured against the OECD type western state, which is regarded as the model stable state (i.e. a liberal constitutional democracy based on an industrialised market economy). Mainstream ‘state talk’ refers to various representations of the ‘classical’ model of the western Weberian sovereign state, and other states are presented as deviant cases, evaluated according to the degree to which they approximate the Weberian benchmarks (Hameiri 2007, 138). However, as Morten Boas and Kathleen Jennings (2005, 388) point out: “To say that something ‘fails’ or ‘is failing’ is a normative

judgement that is only meaningful in comparison to something else; in this case, that something else is the existence of a Westernised, ‘healthy’ state that, unfortunately, has little relevance to most of the states in question because it has simply never existed there.” Promoting the liberal state as the ultimate model is to ignore the historical context, and with it the fact of the rather recent historical emergence of the modern state.

The history of those regions of the world in which modern states originally emerged shows that the process of state-building (or better: state-formation) was inherently violent. In the pursuit of a monopoly of force, those agencies that came to stand as the state had to expropriate the means of violence from different social entities that competed with the emerging state (Weber 1988, 511). In the process, state agencies exerted violence themselves. The establishment of the ‘monopoly over the legitimate use of force’ against local resistance was a highly competitive and violent endeavour. Charles Tilly amply demonstrates this fact in his account of state-building in Europe (Tilly 1992). Further, similar to the formation of the state, the formation of citizenries and citizens was also replete with (structural, cultural and direct) violence. People had to be “transformed into obedient subjects by the work of state institutions such as armies, schools, and universities (...). The spread of discourses and narratives that legitimized state rule was thus supplemented by practices that made peasants and unruly classes into law-abiding subjects of state institutions” (Schlichte 2007, 36). As a result of these processes, states were able to control internal societal insecurity, lawlessness and violence by successfully monopolising the legitimate use of violence and providing a framework for the nonviolent conduct of conflicts.<sup>3</sup> This can be considered an enormous historical achievement of the modern state. Yet, although states provide for (internal) order, protection, security and conflict management on the one hand, they also amass means of violence, control and coercion on a large scale. Thus they can contribute to insecurity in the international realm (note the ‘security dilemma’).

Whereas the processes of state-formation in Europe and the western world took centuries, western state forms were ‘delivered’ like products to many parts of the Global South in a relatively short time span during the era of decolonisation. The decolonisation process was guided by the replication of European political models. In the decades following the Second World War a host of independent ‘nation states’ came into being in the formerly colonised parts of the world, driven to a significant extent by the exhaustion of the colonial powers and the specific international post-war dynamics. Both the political elites of the new states and the international state community at large welcomed newly achieved statehood, often confusing the formal declaration of independence with the formation of a state, unaware of the myriad of obstacles that actual state formation still faced. In many cases, at the time of independence the state was nothing more than an empty shell. Critically, in many of the newly independent states there was no history of pre-colonial unitary rule and people did not have a tradition of national identification; only few of these states shared one common language and one common culture. Moreover, whether or not they were democracies at home, colonial powers by and large had acted as authoritarian regimes in their colonies. Hence there was generally little preparation for sustainable statehood.

Attempts to consolidate the newly introduced form of statehood once it had been formally established were often unsuccessful, and efforts to impose this new form of political order came at considerable costs (as had been the case with state formation in Europe before). Christopher Clapham reminds us that

“from the viewpoint of the indigenous peoples, on whom states were imposed, this process can readily be seen to have brought with it very significant *costs*, in social,

<sup>3</sup> Weber’s definition of the state as a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory defines the essence of stateness, which fundamentally rests in enforcement capacities, that is “the ultimate ability to send someone with a uniform and a gun to force people to comply with the state’s laws” (Fukuyama 2004, 6).

economic, and political terms. The state-centred and state-supporting literature of political science has been so heavily concerned with emphasizing the *benefits* of statehood that the other side of the account has gone almost unnoticed (...). The social costs of statehood, and particularly of modern statehood, include the sacrifice of identities and structures that are inimical to the hierarchies of control that states seek to impose” (Clapham 2004, 86).

The new states lacked roots in the recipient societies, particularly in cases where there was no unitary form of rule pre-existing colonial government. The global delivery of Weberian state institutions was not accompanied by the development of the economic, political, social and cultural structures and capacities that had provided the basis and framework for an efficiently functioning political order in the course of the evolution of the state in European history. This also holds true for the development of a competent and committed public service and a citizenry with a sense of citizenship, expectations towards the state, ownership of state affairs and national identity. An identity as “citizens” and the “idea of the state” does not meet with much cultural resonance within these societies, as people are relatively disconnected from the state, neither expecting much from state institutions nor willing to fulfil obligations towards the state (and often with little knowledge about what they can rightfully expect from state bodies, and what the state can rightfully expect from them).

In many cases states were not only loosely established in the first place, but there has also been a regression from certain levels of statehood that had been achieved. Such regression was primarily influenced by external factors. As Clapham notes, the “dynamics of the global system itself have undermined the mechanisms (...) through which states have to be maintained” (Clapham 2003, 44). The neoliberal economic policies along the lines of the ‘Washington Consensus’ have contributed considerably to the limitation of the capacities of states in the Global South and hence to the decline of their legitimacy and, as a consequence, their heightened fragility. The state’s core operational and regulatory functions were deliberately reduced due to the neoliberal agenda which indiscriminately targeted state institutions. Thus the economic interests and policies of the ‘strong’ states of the developed world have contributed to the increasing fragility of states in the Global South – which then in turn is registered as a threat to the security of the ‘strong’ developed states and their societies.

## 4. A Reality Check: Hybrid Political Orders

Instead of adopting the narrow state-centric view which is currently guiding the fragile states discourse, we suggest going beyond it and trying to comprehend the context of what truly constitutes political order in those regions of apparent fragility. In this section, we explore the forms of political order which a closer look at the conditions on the ground reveals.

As a first step, it must be acknowledged that speaking of ‘weak’ states implies that there are other actors on the stage that are strong in relation to the state. ‘The state’ is only one actor among others, and ‘state order’ is only one of a number of orders claiming to provide security, frameworks for conflict regulation and social services.

In such cases, although state institutions claim authority within the boundaries of a given ‘state territory’, in large parts of that territory only outposts of ‘the state’ can be found, in a societal environment that is to a large extent ‘stateless’. The state has not yet permeated society and extended its effective control to the whole of society. Statelessness, however, does not mean Hobbesian anarchy, nor does it imply the complete absence of institutions. In many places, customary non-state

institutions of governance that had existed prior to the era of colonial rule have survived the onslaught of colonialism and ‘national liberation’. They have, of course, been subject to considerable change and have had to adapt to new circumstances, yet they have shown remarkable resilience.<sup>4</sup> Customary law, traditional societal structures (extended families, clans, tribes, religious brotherhoods, village communities) and traditional authorities (such as village elders, headmen, clan chiefs, healers, *bigmen*, religious leaders, etc.) determine the everyday social reality of large parts of the population in developing countries even today, particularly in rural and remote peripheral areas. On many occasions, therefore, the only way to make state institutions work is through utilising kin-based and other traditional networks. Thus the state’s ‘outposts’ are mediated by ‘informal’ indigenous societal institutions which follow their own logic and rules within the (incomplete) state structures. This leads to the deviation of state institutions from the ideal type of ‘proper’ state institutions. They become the subject of power struggles between competing social groups and their leaders, and are utilised by those groups and leaders for their own benefit, regardless of the needs of the “nation” or the “citizenry”. In a way, the whole debate about neopatrimonialism, clientelistic networks and patronage, for example in postcolonial African states, revolves around this usurpation of imported formal governance structures by indigenous informal societal forces.

### Box 1 – *Bigmen* and Democratic Representation in Melanesia

The discord between the *bigman* approach of local political leadership in Melanesian societies and the requirements of representative democracy provides an example that demonstrates the dilemma of conflating or blending introduced formal, and indigenous informal, logics of authority. A *bigman* has to affirm his customary status by means of distributing gifts to his kin, while a politician is obliged to act in the interest of the common good, not pursuing the interest of kin group members, but of citizens. A *bigman* who is at the same time a politician will have problems reconciling these two roles. For example, situations can evolve in which *bigmen* must become politicians, as only then will they get access to state coffers which make it possible to distribute gifts to their kin, and politicians must first be *bigmen*, as only then can they rely on the support of a loyal and powerful kin-based constituency. A mutual give-and-take relationship between politicians and supporting communities tends to evolve whereby a politician gains power and status through his capacity to amass wealth and redistribute at least part of it to his supporters, and these will re-elect or otherwise support the politician if he has proven sufficiently generous. This provides a rationale for the re-election of ‘corrupt’ politicians. What might be perceived as corruption in the context of western ideals of representative and accountable governance can be an extension of reciprocity and exchange of gifts in the traditional context. The never-ending litany of complaints about nepotism, parochialism, corruption and inefficiency with regard to state governments and state bureaucracies tends to miss this point.

<sup>4</sup> A word of caution seems appropriate here: when we talk about ‘traditional’ or ‘customary’ institutions, etc. this has to be taken in an ideal type sense. Of course, traditional societies everywhere in the world have come under outside influences; they have not been left unchanged by the powers of – originally European – capitalist expansion, colonialism, imperialism and globalisation. In practice therefore, there are no clear-cut boundaries between the realm of the exogenous ‘modern’ and the endogenous ‘traditional’, rather there are processes of assimilation, articulation, transformation and/or adoption in the context of the global/exogenous – local/indigenous interface. We base the argument on an ideal type of ‘traditional’ or ‘customary’ institutions of governance, in order to elaborate as precisely as possible the specifics of certain phenomena that do not belong to the realm of conventional institutions originating in the West that were imposed in the South. It would be misleading, however, to think of this traditional realm as unchangeable and static. It is far from that. Custom is in a constant flux and adapts to new circumstances, exposed to external influences. This fluidity and adaptability of custom allows traditional and introduced western approaches to be combined so that something new – that is not strictly customary any longer, but rooted in custom – might emerge.



On the other hand, the intrusion of state agencies impacts on non-state local orders as well. Customary systems of order are subjected to deconstruction and re-formation as they are incorporated into central state structures and processes (Trotha 2000; Schlichte/Wilke 2000). They adopt an ambiguous position with regard to the state, appropriating state functions and ‘state talk’, but at the same time pursuing their own agenda under the guise of the state authority and power. Taking state functions and state talk on board, however, also means changing one’s original stance. Some governments also try to deliberately incorporate traditional authorities, in order to strengthen state capacities and legitimacy.

### **Box 2 – Re-emerging Traditions and the Change of the Customary in Africa**

The ‘re-traditionalisation’ in some sub-Saharan African states demonstrates this tendency. Here traditional leaders were largely discredited in the post-independence era because they had often been incorporated into (indirect) colonial rule as instruments of the colonial powers, and the new political elites of the independent states attempted to do away with them as anachronistic and reactionary forces of the past. But customary forms of governance persisted, and finally the authorities of the independent states – like their former colonial rulers – realised that it might be more promising to incorporate them rather than try to suppress and displace them. Over the last several years in a number of African states, legislation has “(re)incorporated traditional leaders officially into state hierarchies in recognition of their ongoing influence as local players” (Kyed/Buur 2006, 2). This took place for example in Namibia, South Africa, Ghana, Mozambique, Uganda, Zambia and Cameroon. In recognition of the relative weakness of state institutions and the relative strength of traditional communities and authorities, governments have come to rely on the latter for performing certain state functions, thus contributing to a resurgence of customary rule, albeit in (partly) new forms and with new functions.

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These approaches, however, aim at instrumentalising chiefs and other traditional authorities for state purposes (e.g. tax collection) and thus as a means for reinforcing the authority of the state – they do not constitute a genuine partnership. Recognition of traditional leaders is conceptualised as a practice that confirms the state’s authority. Traditional leaders on the other hand might nevertheless utilise their new position to reinforce their authority; but they are in danger of losing authority in the customary context, precisely because they are now perceived as agents of the state. In Mozambique for instance “the obligations placed on chiefs to collect taxes and to police rural communities are greeted with discontent by many rural citizens, with the effect of potentially pitting chiefs against the communities from which, *de facto* and *de jure*, they derive their legitimacy” (Kyed/Buur 2006, 14). In the best case, their dual role as representatives of the communities and agents of the state puts them in a position to merge the customary and the state domains (Buur/Kyed 2006, 868), but they also risk losing their authority and legitimacy. (There are also examples of more constructive forms of partnership between governments and customary authorities, for example in Pacific Island countries, see *Section 5* below).

The complex nature of governance is further complicated due to the emergence and growing importance of institutions, movements and formations that have their origins in the effects of and reactions to globalisation. The emergence of these new forces is a consequence of poor state performance, and their activities can contribute to the further weakening of state structures. Where



state agencies are incapable of delivering (or unwilling to deliver) security and other basic services, and where traditional societal structures have been substantially undermined, people will turn to other social entities for support. In this situation, the actors perceived as powerful and effective include warlords and their militias in outlying regions, gang leaders in townships and squatter settlements, vigilante-type organisations, ethnically-based protection rackets, millenarian religious movements, transnational networks of extended family relations, organised crime or new forms of tribalism. Occasionally, these new formations have seized power in certain regions of a given state's territory (be it a remote mountainous peripheral location or a squatter settlement in the capital city). They have the capacity to exert violence on a large scale against outsiders and the capacity to control violence within their respective strongholds. Their presence and competition has substituted the state's monopoly over the legitimate use of violence. In some countries "oligopolies of power" emerge (Mehler 2003) or the "rule of the intermediaries" substitutes for the rule of the central state (Trotha 2000, 277-278).

Under such conditions, there are often combinations of forces from the customary sphere – like chiefs, traditional kings, religious authorities and their constituencies – and from the sphere of the above-mentioned new formations – like warlords and their militias, ethnic or millenarian movements or rackets of organised crime. The new formations are often linked to traditional societal entities and attempt to instrumentalise these for their own new goals, such as power and profit. The protagonists of the traditional societal entities such as lineages, clans, 'tribes' or religious brotherhoods, on the other hand, also introduce their own agendas into the overall picture. These agendas cannot be reduced to political aims, such as political power, or to economic considerations, such as private gain and profit, but include concepts such as "honour", "revenge" or the "right to (violent) self-help". Thus non-state traditional actors and institutions, their motives and concerns, and also their ways of doing things, blend with private actors and their motives. Clan leaders might become warlords (or warlords might strive for an authoritative position in the customary context) or groups of tribal warriors might become private militias. For example, warlord systems are embedded in the local societal structure of clans and tribes (as witnessed in Afghanistan or Somalia), and criminal gangs that control squatter settlements are tied back to kinship-based entities and common localities of origin. In addition, these locally embedded orders increasingly link into the globalised market and global society, for example via drug trafficking, migration, remittances, trade networks or religious affiliations. Traditional entities in many places can become integrated into transnational, regional and even global networks. Conrad Schetter's observations on "the globalised tribe" (Schetter 2007, 246-249) in the context of 'Talibanistan' as a non-state and anti-state order – rooted in local tribal structures, but increasingly embedded in regional and even global networks – not only apply to Afghanistan, but also to other regions of the Global South.

In situations like this, the subjective factor of statehood – a committed citizenry with a sense of citizenship – is almost entirely lacking; self-perceptions as citizens are almost non-existent or meaningless. This applies to political leaders, public servants and the wider community equally. People do not perceive themselves as citizens or nationals (at least not in the first place). They define themselves instead as members of particular sub- or trans-national social entities (kin group, tribe, village). This is particularly true where state agencies are not present on the ground and the state does not deliver any services with regard to education, health, infrastructure or security. Rather, it is the community that provides the nexus of order, security and basic social services. People have confidence in their community and its leaders, but they have no trust in the government and state performance. 'The state' is perceived as an alien external force, far away not only physically (in the capital city), but also psychologically. Individuals are loyal to "their" group (whatever that

may be), not the state. As members of traditional communities, people are tied into a network of social relations and a web of mutual obligations, and these obligations are much more powerful than obligations as a ‘citizen’. People do not obey the rules of the state, but the rules of their group. Legitimacy rests with the leaders of that group, not with the state authorities – or only with state authorities insofar as they are at the same time leaders in a traditional societal context, e.g. a minister who is also a tribal chief (and warlord), and who became a minister in the first place because of being a tribal chief (and warlord). We can identify this as hybrid legitimacy: traditional legitimacy and/or charismatic legitimacy plus legal-rational legitimacy.<sup>5</sup>

To summarise our argument in this section: regions of so-called fragile statehood are generally places in which diverse and competing claims to power and logics of order co-exist, overlap and intertwine, namely the logic of the ‘formal’ state, of traditional ‘informal’ societal order, and of globalisation and associated social fragmentation (which is present in various forms: ethnic, tribal, religious...). In such an environment, the ‘state’ does not have a privileged position as the political framework that provides security, welfare and representation; it has to share authority, legitimacy and capacity with other structures. In short, we are confronted with hybrid political orders, and these orders differ considerably from the western model state.

We use the term “hybrid” to characterize these political orders because:

- it is broad enough to encompass a variety of non-state forms of order and governance on the customary side (from (neo-) patrimonial to acephalous<sup>6</sup>);
- it focuses on the combination of elements that stem from genuinely different societal sources which follow different logics;
- it affirms that these spheres do not exist in isolation from each other, but permeate each other and, consequently, give rise to a different and genuine political order.<sup>7</sup>

At the same time we seek a broader understanding and want to advocate a greater appreciation of hybridity, beyond the limits of its negative connotations.

Hybrid political orders *can* be perceived as – or can become – emerging states. Prudent policies could assist the emergence of new types of states – drawing on the western model, but acknowledging and working with the hybridity of particular political orders.

<sup>5</sup> Max Weber distinguishes three types of legitimate authority, namely legitimacy based on (1) Rational grounds – “resting on a belief in the ‘legality’ of patterns of normative rules and the right of those elevated to authority under such rules to issue commands (legal authority). (2) Traditional grounds – resting on an established belief in the sanctity of immemorial traditions and the legitimacy of the status of those exercising authority under them (traditional authority); or finally (3) Charismatic grounds – resting on devotion to the specific and exceptional sanctity, heroism or exemplary character of an individual person, and of the normative patterns or order revealed or ordained by him (charismatic authority)” (Weber 1968, 46).

<sup>6</sup> Acephalous – headless – societies are societies without formal political leaders and without an institutionalised system of power and authority.

<sup>7</sup> Our conceptualisation of hybrid political order is close to certain concepts of neopatrimonialism, in particular that of Erdmann and Engel (2007). They see neopatrimonialism as “a mixture of two co-existing, partly interwoven, types of domination: namely, patrimonial and legal-rational bureaucratic domination” and argue that the “two role systems or logics (...), the patrimonial of the personal relations, and the legal-rational of the bureaucracy (...) are not isolated from each other. Quite to the contrary, they permeate each other: the patrimonial penetrates the legal-rational system and twists its logic, functions, and output, but does not take exclusive control over the legal-rational logic” (Engel/Erdmann 2007, 105). However, for our purposes we need a more all-encompassing concept than neopatrimonialism, as there are regions in the Global South that are not governed by neopatrimonial domination, but nevertheless are areas of hybrid political order; in the Pacific, for instance, the concepts of neopatrimonialism, clientelism and patronage cannot be applied. We acknowledge neopatrimonialism as a specific type of hybrid political order.

## 5. State-building: Positive and Not So Positive Cases

From the perspective of the current mainstream western policy and academic discourse on ‘fragile’ states, hybridity of political order is usually perceived as a negative factor (if it is perceived at all). Experience shows, however, that attempts at state-building which ignore or oppose hybridity will encounter considerable difficulty in generating effective and legitimate outcomes. Strengthening central state institutions is unquestionably important, but if this becomes the main or only focus it threatens to further alienate local societies by rendering them passive, thereby weakening both a sense of local responsibility for overcoming problems and local ownership of solutions.

Examples of state-building gone wrong on these grounds abound – from Afghanistan to the Solomon Islands.<sup>8</sup> A particularly striking story in this regard is the case of East Timor. East Timor is generally presented as a success story, and the United Nations and other international organisations, along with a host of donor countries have put great effort into making state-building along the lines of the liberal democratic model a success. Conversely, East Timor demonstrates that state-building interventions can also do harm.<sup>9</sup>

### 5.1 Misguided ‘State-building from Scratch’: East Timor

In East Timor, significant international assistance directed towards state-building appears to have been highly centralised in Dili, where it has focused on building national government institutions. The rural majority of the population has received relatively little attention. This has been consistent with the government’s own emphasis on centralisation. However, government institutions continue to have little capacity for outreach beyond Dili, and furthermore they also have little connection with the customary governance practices that still provide much of the social order in the local context, particularly in rural areas. This disconnection between the government, highly centralized in Dili, and the largely rural population has led to the marginalisation of both local culture and rural communities more generally. As a consequence, many people do not find themselves at home in the form and language of the state that they now supposedly inhabit as ‘citizens’. There is a widespread feeling that the new state has marginalised East Timorese culture and customary life as sources of governance.

The crucial misperception, made both by the external actors and by many in the Timorese political elite (who had often spent a long time in exile), was seeing East Timor after the liberation from Indonesian occupation as a *tabula rasa* – a place void of governance institutions where state-building could and would have to start ‘from scratch’. Contrary to this assumption, customary values and governance institutions continue to play a significant role in people’s everyday life. Indeed, since independence there has been an extraordinary resurgence of customary practices, many of which were repressed under Indonesian occupation. They contribute to conflict management, social order and social welfare in the local context, but are widely ignored by the East Timorese political elites and the international donors – with considerable negative consequences. The wide-spread violence

<sup>8</sup> On Afghanistan, Astri Suhrke gives an excellent critique of an externally driven state-building process. She reveals the shortcomings of this “project of social engineering” and of the overwhelmingly prominent foreign role in the whole undertaking (Suhrke 2007, 1291). The process in Afghanistan “remains externally driven. Two key elements of state-building – capital and armed force – are provided by foreign powers. This created a series of problems, above all in a third area required for statebuilding, namely legitimacy” (Suhrke 2006, 18). On the pitfalls and shortcomings of state-building in the Solomon Islands and the problematic role of the Australian-led Regional Assistance Mission to Solomon Islands (RAMSI) see Dinnen 2007; Moore 2007; and Clements/Foley 2008 (forthcoming).

<sup>9</sup> On East Timor see Brown 2008 (forthcoming); Laakso 2007; Trindade/Castro 2007.

in 2006 (four years after formal independence), violence during and following national elections in 2007 and, most recently, the near-fatal shooting of the President and the attack on the Prime Minister in February 2008 indicate East Timor's instability. Tens of thousands of people continue to live as displaced persons in refugee camps in and around the capital, urban street gangs are a source of ongoing insecurity, the national security forces remain deeply divided, and the government depends on the protection and support of international police and military forces. Local explanations for the unrest are registering that fundamental values and institutions of indigenous East Timorese culture and custom, which were an essential part of the struggle for independence and remain fundamental to people's sense of collective meaning and management of community life, are being 'overlooked' by the new state (Trindade/Castro 2007).

Efforts to rapidly introduce liberal governance norms and structures without paying attention to how they interact with local customary values have contributed to the erosion of institutions and cultural values underpinning order, and have led to the adoption of often very poorly understood liberal norms (particularly in urban areas). As a consequence, the notion of 'democracy' has become widely identified with 'conflict between competing factions of the political elite' and with 'top-down imposition of values'; 'democracy' and 'Timorese culture' are perceived as being antagonistic. For example, introducing party political elections at the local level, in an attempt to better connect local communities with government, may instead reproduce the divisiveness of the national political scene at the local level and thus undermine social cohesion and exacerbate insecurity. The competitive dimension of liberal democratic elections (based on party affiliation) is alien to Timorese custom.<sup>10</sup>

Many Timorese norms of behaviour – of speech, dress and social behaviour, but also of accountability in decision making and in positions of responsibility, of appropriate authorisation and correct procedures for undertaking collective activities – have been systematically overlooked and put aside over the past eight years by those representing the international community and by some of the Timorese elite. If this pattern continues, the failure to bridge the gap between national government structures and customary institutions is likely to cause further serious problems.

This example shows how the gulf between communities and government, rooted in the divorce of state institutions from traditional values and practices, can undermine the potential for democracy. State-building in East Timor is in danger of trying to produce a state that people do not recognize as their own, or from which they feel alienated in important ways. This is not a promising path to either effective government or to democracy. Moreover, the situation is a direct result of internal and external state-builders neglecting and (unintentionally) undermining community and customary sources of order and resilience, contributing to the ongoing instability.

East Timor and similar cases underline the critical importance of recognizing the hybridity of political order as the starting point for peacebuilding and state-building. The challenge for both is to search for ways and means of generating positive mutual accommodation of state and customary non-state or civil society mechanisms and institutions – which in practice are not isolated domains anyway, but elements of a particular 'messy' local socio-political context – so that new forms of statehood might emerge which are more capable, effective and legitimate than those generated by narrowly conceived western models of the state.<sup>11</sup>

<sup>10</sup> Other electoral models that are more sensitive to customary values are possible. The former non party-based system itself is one possible model: candidates were previously not affiliated with parties and seem to have generally been drawn from lineages designated by custom. Consensus discussion amongst village elders, as well as voting, contributed to the selection of candidates and the final choice was then publicly endorsed by elders or by those in positions of ritual authority. The whole community then accepted the authority of the community leader.

<sup>11</sup> We have no intention of romanticising or idealising customary actors and institutions. They are not 'better' *per se* than state institutions (they can be highly problematic). We simply want to make the point that their existence is a given that has

## 5.2 Successful ‘Hybrid State-building’: Somaliland and Bougainville

Positive examples are rare so far, but they do exist. Somaliland and Bougainville are two cases in point.

### (1) Somaliland

The state of Somalia collapsed after the downfall of the regime of Siad Barre in 1991, “making it the longest-running instance of complete state collapse in postcolonial history” and, moreover, “the world’s foremost graveyard of externally sponsored state-building initiatives” (Menkhaus 2006, 74). In its north-western part (the former British protectorate of Somaliland), however, a functioning, effective and legitimate political order has emerged over the past fifteen years. This order combines customary institutions – in particular councils of elders (*guurti*) – and modern state institutions based on free and fair elections, such as a parliament and a president. The success of peacebuilding and ‘state-building’ in Somaliland was to a large extent due to the involvement of traditional actors and customary institutions that are rooted in the traditional clan-based Somali society.<sup>12</sup> Clan elders and their councils were the decisive actors in the peacebuilding process, utilising customary forms and mechanisms of conflict resolution. Given the positive role which the councils of elders played in peacebuilding, they were also entrusted with important roles in the successive process of building political order, and today they are constitutionally embedded in the political system of Somaliland. They are crucial elements of governance, in particular with regard to conflict resolution, but also with functions in the broader sphere of government and administration. At the same time, they are embedded in a political system that is modelled along the lines of western statehood. Somaliland is an example of an emerging state grounded in a hybrid political order.

Although Somaliland has proven to be a functioning, effective and legitimate political entity, it has nevertheless not yet been recognised as a ‘state’ by the international community of states. It is a state *de facto*, but not *de jure*. Peacebuilding and ‘state-building’ in Somaliland have been pursued almost completely without external assistance, based on the strength and resilience of the local communities. Nevertheless (or perhaps because of that), Somaliland provides a success story. Peace and state-building have invariably emerged from below – rather than being imposed through a top-down process – and, unusually, have taken place in the absence of a central monopoly of violence. The government “does not hold the monopoly of violence and (...) security in Somaliland is dealt with in a decentralized manner and is largely guaranteed by local politicians and elders” (Hagmann/Hoehne 2007, 24). The result is an indigenous type of statehood that “amalgamates customary, Islamic and statutory norms and practices” (ibid., 25) and enjoys high levels of legitimacy in the eyes of the people.

### (2) Bougainville

A similar success story has emerged over the last decade on the South Pacific island of Bougainville. After almost ten years of a fierce war of secession between the security forces of the central state of Papua New Guinea and the secessionist Bougainville Revolutionary Army, Bougainville has been the theatre of comprehensive peacebuilding and state-building processes that commenced after the signing of a peace agreement in 2001. That agreement grants Bougainville

to be reckoned with. Instead of neglecting, ignoring, undermining or fighting them, their positive potential for governance, development and peacebuilding, which can be substantial, should be respected and explored in supportive partnerships. For a critique of customary institutions see Boege 2006b, in particular 15-17.

<sup>12</sup> For accounts of the achievements in Somaliland see Boege 2004, 103-128; Seifert 2007; Trotha 2005, 35-37; Hoehne 2006a, 2006b; Menkhaus 2006, 91-93; Hagmann and Hoehne 2007.

an autonomous status, short of independence, and a referendum on its future political status (independence or autonomy within Papua New Guinea) further down the road. After the devastation of the war and the almost complete breakdown of state order during the war years, Bougainville was confronted with the challenge of building a new political order. As in the case of Somaliland, the people relied heavily on traditional institutions and customary mechanisms of conflict resolution, reconciliation and peacebuilding in the post-conflict phase, and again, these institutions and mechanisms proved to be so effective that there was a strong desire to also build the new political order in Bougainville on them. Again, it was very much a bottom-up process, and the councils of elders and councils of chiefs held decisive roles in peacebuilding and ‘state-building’. As a consequence, customary institutions figure prominently in the new constitution of the Autonomous Region of Bougainville. As in the case of Somaliland, the political order in Bougainville combines elements of the western model of statehood (a president and parliament, a constitution, free and fair elections, a public service) and elements of customary governance (councils of elders and councils of chiefs, customary law and conflict resolution). This hybrid model is functioning well and enjoys a high degree of legitimacy – again, without a state monopoly on violence being in place. The political order in Bougainville is genuinely home-grown; external assistance has been moderate (Boege 2006a).

The Somaliland and Bougainville cases demonstrate that new forms of ‘state-building’, that do not simply copy the western model of the state but draw on customary institutions which are rooted in the local communities can have positive results. They support Rod Nixon’s proposition that “‘traditional structures’ are the cultural bedrock on which future attempts at state-building must be constructed” (Nixon 2006, 84).

Somaliland and Bougainville might be exceptional cases, but they are not the only ones. Even under the most desperate conditions of state failure and violent conflict, islands of (more or less) functional, effective and legitimate hybrid order can often be found in local contexts. In Northern Kivu in the Democratic Republic of the Congo (DRC), for example, non-state institutions like churches and customary societal entities have filled the political void left by the withdrawal of the state. They have taken over state functions and thus become para-statal institutions; in particular, councils of elders have been established, comprising representatives of the various ethno-linguistic groups, who are responsible for conflict resolution and governance issues (Tull 2005a, 215-216; Tull 2005b, 15, 25). In border areas of rural Kenya and Tanzania, a form of maintenance of order and conflict resolution has evolved that is called *sungusungu*, originally in opposition to state institutions (notably the police and the judiciary) and based on local customary law instead of state law. *Sungusungu* led to the development of “hybrid forms of organisation (...), which are, strictly speaking, illegal but are officially authorised, neither part of the state nor totally rejected by it” (Heald 2007, 2). *Sungusungu* provides an example for how local people “mobilised indigenous modes of governance and turned these to new ends, thereby creating new forms of political unity and consciousness” (ibid.). Similar stories can be told from other fragile, collapsed and violence-ridden countries in the Global South (e.g. Sierra Leone, see Boege 2004, 75-84). Even in Somalia – the ‘collapsed state’ par excellence – “informal systems of adaptation, security, and governance in response to the prolonged absence of a central government” (Menkhaus 2006, 74) can be found, based on the resilience of informal and local systems of governance which provide for “governance without government”.

We agree with Ken Menkhaus’ suggestion that in situations of fragile or collapsed states – as in Somalia – the



“best hope for state revival may lie in the explicit pursuit of a mediated state – in which a central government with limited power and capacity relies on a diverse range of local authorities to execute core functions of government and mediate relations between local communities and the state. In this approach, the top-down project of building a central government and the organic emergence of informal polities are not viewed as antithetical (though they are invariably political rivals, coexisting in uneasy partnership), but are instead harmonized or nested together in a negotiated division of labor” (ibid., 103).

Such positive mutual accommodation may result in ‘states’ that “might look very different from, or not conform to, Western ideals of what governance structures are ‘supposed to look like’” (Barcham 2005, 9) and might still appear weak with regard to institutions and enforcement capacities. But this very weakness may become a strength as the state gains legitimacy in the eyes of the people, because it acknowledges the strengths of local institutions and does not attempt to impose its supremacy, and because state authorities do not try to displace local orders of governance, but work with them, providing a co-ordinating or harmonising framework. Constructive interaction between state and customary governance is vital, as state fragility is not only a problem of political will, capacities, functions, institutions and powers of enforcement and implementation, but also a problem of expectations, perceptions and legitimacy. State weakness has two sides to it: weakness with regard to capacities of effective implementation and enforcement, and weakness of legitimacy.

## 6. Conclusions

Keith Krause and Oliver Jueteronke posit that state-building policies of the international community “only make sense if one accepts that an externally-driven ‘social (re)engineering’ project can accelerate or substitute for a more ‘organic’ historical process of state-building that would otherwise be driven by local actors” (Krause/Jueteronke 2007, 11). Perhaps the alternatives are misconceived here: ‘social engineering’ of state-building is not possible, but on the other hand it would be fatalistic – and cynical – to leave it all to an ‘organic’ historical process, likely to mean bloodshed, injustice and misery – as the history of European state formation amply demonstrates. One has to search for middle ground. The concepts of hybrid political orders and positive mutual accommodation might pave the way for attaining such middle ground.

By re-conceptualising fragile states as hybrid political orders, new options for governance can be envisaged. This approach can also contribute to a reorientation of external assistance. The possibilities of externally influencing governance structures can be re-examined, shifting the focus from narrow models of state-building to understanding and engaging with hybrid institutions.

At present, however, donors tend to assume the role of teaching “them” (politicians and people of so-called fragile states) how to do “our” (the western developed donor states’) institutions better. “We” tend to impose “our” idea of what a “good state” is on “them” (Woodward 2006, 4; Brown 2002). There is much talk of ownership, but often this is not much more than lip service; in effect, locals are supposed to ‘own’ what outsiders tell them to – “local ownership clearly means ‘their’ ownership of ‘our’ ideas” (Suhrke 2007, 1292). Closely related to this attitude is a functionalist understanding of ‘the state’ as a set of institutions that can be delivered like a product, using certain principles of institutional design and techniques of social engineering. Accordingly, external actors focus on issues that seem to lend themselves to relatively easy implementation,

by applying supposedly technocratic practices geared at building state capacities, particularly pertaining to law, justice and security, with the aim of delivering western-style courts, police, penal systems, etc. This approach ignores (or conceals) the fact that state-building is not merely a technical exercise, limited to enhancing the capacities and effectiveness of state institutions. Rather, it is a highly controversial political endeavour which is likely to involve serious political conflicts as existing distributions of power are threatened. Hence a technical approach to state-building, guided by an administrative view of the state, glosses over its political and its social character. Finally, the “booming international state-building industry” rarely considers the possibility that under certain conditions it may not be possible to build a “sustainable state through external intervention or that intervention might end up doing more harm than good” (Dinnen 2007, 260).

This ‘industry’ is guided by western political thinking that takes the existence of states and an international system of states for granted and, accordingly, entertains a deep-rooted ‘*horror vacui*’: the assumption that where there are no states, there is chaos and there are terrorists. The very idea “that the ubiquity of states might no longer be so normal, must be frightening from the perspective of a world system that for its own existence has come to depend on the premise of normalcy of states” (Doornbos 2003, 56). In particular, scholars “from traditionally state-centered disciplines such as political science or international relations have a hard time imagining that life can continue in the absence of the state. In reality, however, alternative actors perform the core state functions that the state no longer fulfils when it abandons a certain space” (Hagmann/Hoehne 2007, 21).

Accordingly, it is important to stress the positive potential rather than the negative features of so-called fragile states – de-emphasising weakness, fragility, failure and collapse, and focusing on hybridity, generative processes, innovative adaptation and ingenuity. This also entails perceiving community resilience and customary institutions not so much as ‘spoilers’ and problems, but as assets and sources of solutions that can be drawn upon in order to forge constructive relationships between communities and governments, and between customary and introduced political and social institutions. For example, instead of denouncing kinship-based societal formations as sources of corruption and nepotism, and hindrances to accountability and transparency, one can also look at them as valuable social support networks which have their own checks and balances. Through engagement and mobilization, these networks can positively contribute to political order.

Engaging with communities and non-state customary institutions is just as important as working with central state institutions and governments. For at the end of the day, the extent to which state institutions are rooted in society is decisive for the state’s stability, effectiveness and legitimacy. Mainstream western concepts of state-building today tend to overburden the actual state institutions on the ground – “the set of expectations is simply too great” (Woodward 2006, 5) – and at the same time to underestimate the potential of non-state local customary institutions. Of course, encouraging local customary governance on the one hand can be at odds with building central institutions of the state on the other; strong communities might lack the incentive to support central state institutions. The challenge is to find appropriate forms of complementarity and interaction.

These kinds of problems have attracted relatively little scholarly attention, particularly in relation to local traditional forms of governance and their interaction with national state-based and international endeavours.<sup>13</sup> More research is needed on the potential capacities (and limits or deficiencies) of hybrid political orders, to determine in more detail how hybridity can be utilised for peacebuilding, good (enough) governance and development.<sup>14</sup>

<sup>13</sup> As an important contribution in this direction see Wulf 2007. He makes the case for a multi-level public monopoly of force that combines the local, national, regional and global levels.

<sup>14</sup> The Australian Centre for Peace and Conflict Studies (ACPACS) has conducted the first stage of a respective research programme (Title: “Towards Effective and Legitimate Governance: States Emerging from Hybrid Political Orders”), funded by the Australian Agency for International Development (AusAID). The reports and papers elaborated in this project will be published in the ACPACS Occasional Papers series shortly.

Dominant approaches to state-building today rest on a narrow understanding of the sources of our own political and social order. The reality is that state institutions co-exist with and depend on the family, religious, economic and cultural institutions. While the state, in the final analysis, has a coercive capacity to determine outcomes which other institutions lack, this does not mean that state institutions are the primary determinant of integration, security, welfare or legitimacy. These factors are much more critically determined by other institutions within the society. State institutions work because they are embedded in social and cultural norms and practices.

The best outcome of the novel approach to state-building outlined in this article would be that new forms of governance emerge: combining state institutions, customary institutions and new elements of citizenship and civil society in networks of governance which are not introduced from the outside, but embedded in the societal structures on the ground.

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