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Informal Local Governance Institutions: What They Do and Why They Matter

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Informal Local Governance Institutions: What They Do and Why They Matter

Shandana Khan Mohmand

Summary

There is growing scholarly and policy awareness of the fact that public authority is rarely exercised only by the state. In fact, a host of actors and institutions – some visible and recognised, others invisible and less obvious – exercise authority over and regulate the everyday life of local populations across large parts of the world, with important implications for public policy. While we recognise more and more that such actors and institutions take on various governance-related functions within local communities, our understanding of the role that they play is fairly limited and, possibly because of this, our discomfort with them is often fairly high. This paper represents an effort to deal with this gap. It is led by a central puzzle – as the incidence of electoral democracy has increased across the world, we would expect to see an accompanying formalisation of governance through the consolidation of public authority within institutions of the state. This has not happened. Instead, we find that the role and importance of informal local institutions that take on governance functions has increased and that they are a central component of ‘multicentric’ governance in large parts of the world. Why is this so and how do these informal institutions sustain and perpetuate the local public authority that they exercise across multiple domains? I provide a number of explanations for the persistence of such institutions in large parts of South Asia, Africa and the Western Balkans. Our interest in these informal local institutions is practical and policy-oriented, and I use empirical evidence from a decade of primary research in South Asia and the Western Balkans to draw a boundary around a set of institutions that we call informal local governance institutions (ILGIs).

Keywords: informal institutions, local governance, public authority, service delivery, South Asia, Western Balkans

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1 Introduction

How to increase effective, accountable public authority in poor countries of the global South is a central research question within governance studies today (Centre for the Future State 2010). Some scholars have attempted to answer this question by pointing to the 'complex interdependence' of formal and informal governance institutions that leads to 'multi-centric governance' (Clunan and Trinkunas 2010; Hooghe and Marks 2003). They point out that patterns and sources of authority are complex and varied, and our understanding of public authority risks being incomplete if we hold on to narrow conceptualisations of politics and governance based only on formal state institutions.

Despite this, most governance and political science research appears to have real difficulty acknowledging the diverse kinds of authoritative local institutions, largely legitimised by some variant of traditionality, that exist across different parts of the world. Because such local informal institutions were largely wiped out by states in Europe and were largely absent in subsequent theories of the state and its engagement with its citizens, we now find it hard to both identify and accept them. Public policy literature in particular continues to have little real sense of exactly how local informal institutions work, and how they impact policy processes. This paper represents an effort to deal with this gap by bringing together literature on such institutions with about a decade of primary research on local informal institutions in South Asia and the Western Balkans.

Our ideas about states and governance are deeply influenced by the history of the creation of states in Europe. States became the dominant political institutions by destroying or severely restricting the authority of alternative, lower-level political institutions. As states evolved, the ideal of a direct relationship between states and individual citizens dominated over the fact that individuals very often engaged with the state indirectly.

Our general view of state–citizen relations continues to assume a direct relationship between state officials, offices or institutions on the one hand, and individual citizens – in the form of voters, petitioners, recipients of state services, applicants, complainants and defendants – on the other hand.

(Mohmand and Misic Mihajlovic 2014: 2)

This ideal of an individual relationship between the state and each citizen fits well with the concept of equal citizenship, but it sits very uneasily with the social and economic inequality that exists in most democracies around the world. This reflects in part the simple fact that citizens are not equal in practice – some have better access to the state than others, and some get more from the state than others. This differential status gives rise to alternate brokered, informal and fairly institutionalised strategies for accessing the state.

When these strategies are well anchored in communities, and create or reinforce institutions that exercise local public authority but also use this authority to engage actively with formal governance processes, and when they take on state-like roles and deliver services within the community, we can refer to them as *informal local governance institutions* (ILGIs). The term signifies that the particular informal institution we are dealing with here works in communities within a defined territorial area and takes on governance functions that we would otherwise expect the formal state to deal with. These ILGIs lack formal state sanction but they often have a fairly institutionalised way of doing business – in selecting their leaders, recruiting and representing members, mediating relationships between members and, most importantly, in working with the state.

1.1 A practical puzzle and some conclusions

My interest in ILGIs is practical and policy-oriented. It stems from observations about the extent to which they actually govern localities through the various functions discussed in this paper. The conceptual distinctions are driven by empiricism, and are intended to draw a boundary around a set of institutions that appear to perform a relatively common range of functions and relate to formal institutions in a similar range of ways. Our empirical evidence from South Asia and the Western Balkans indicates that ILGIs have three defining characteristics: (1) they are state-like to the extent that they enjoy general local territorial authority, but they lack the revenue-raising prerogatives of states; (2) intermediation between 'their' populations and the external world constitutes a significant part of their activities; and (3) they stand in ambiguous, variable and contested relationships to the formal state apparatus.

The paper is organised around a discussion of these three defining features, but it is also led by a central puzzle. As the incidence of electoral democracy has increased across the world, we would expect to see an accompanying formalisation of governance through the consolidation of public authority within institutions of the state (O'Donnell 1996; Przeworski 1991). This has not happened. Instead, we find that the role and importance of informal local institutions that take on governance functions, i.e. ILGIs, has increased and that they are a central component of 'multicentric' governance in large parts of South Asia, Africa and even the Western Balkans. Why is this so and how do ILGIs sustain and perpetuate the local public authority that they exercise across multiple domains? I provide a number of explanations for their persistence in the various sections of this paper.

My arguments in this paper provide three conclusions relevant to public policy that stand in some tension with one another. The first is that, given a concern to improve the quality of governance in less formalised democracies, the roles of ILGIs cannot be ignored or wished away. ILGIs have considerable influence over how large parts of the population participate in governance processes, interact with local governments and donor projects, how and what information they access, and how they vote in elections. The second is that these roles are highly variable. ILGIs do many different kinds of things and both (a) provide valued collective goods and services in ways that could reasonably be encouraged, and (b) constitute vehicles for the expression of the kinds of local socioeconomic and sociopolitical dominance that undermine the principles of democracy and secularism embedded in most constitutions.

The third point is that ILGIs are inherently problematic targets for public policy intervention. They are diverse, poorly understood, barely mapped and strongly rooted in local history and local socioeconomic structures. This makes our current task of conceptualising and defining ILGIs both more difficult and more important because policy interventions to either support or constrain such local institutions are necessarily linked to a better understanding of the conceptual distinctions that exist across them. Our research indicates that ILGIs cover a spectrum of organisational structures, ranging from the highly *personalistic*, where authority is vested in individuals, to more collective and *collegiate* institutions where authority is shared among more or less equal colleagues. Different types of ILGIs require different policy responses. Institutions that are personalistic may require reforms that weaken their powers and their ability to negatively impact the lives of the populations over whom they exercise authority. More collegiate institutions, on the other hand, may be more readily integrated into public policy processes without the risk of undermining local democracy.

1.2 Plan

The current paper advances the agenda of conceptualising and defining ILGIs by bringing together literature with empirical evidence from the field to draw a conceptual boundary around a set of institutions that we call ILGIs. The paper proceeds as follows. Section 2

provides conceptual definition to the term ILGIs. The next three sections – Sections 3, 4 and 5 – discuss the three main defining characteristics of ILGIs listed above by combining literature on informal local institutions in different parts of the world with primary evidence collected in India and Pakistan in South Asia, and in Macedonia and Bosnia and Herzegovina in the Western Balkans. In each of these sections, I consider the primary debates and perspectives that inform our current view of ILGIs and their persistence in current governance systems. Section 6 concludes by underscoring the need for further research in order to understand the variation across ILGIs so that we may eventually take on the larger task of drawing up a full typology of such institutions.

2 Conceptualising informal local governance institutions (ILGIs)

Deciding what to call a particular type of local institution is not just a matter of evocative nomenclature, but also one of defining an approach, and of facilitating meaningful analysis, disaggregation and categorisation. Two terms in particular – *informal* and *institutions* – define our approach to the study of ILGIs, and both can have different meanings and are subject to considerable debate in social science. At this point, I need to discuss only four issues before going on to deal with the literature and our empirical material.

- I adhere to the definition of informal institutions advanced by Helmke and Levitsky (2006: 5): ‘socially shared rules, usually unwritten, that are created, communicated, and enforced outside officially sanctioned channels’. They add a number of points of explanation that are helpful: (a) their definition implies shared expectations about behaviour, not necessarily shared values;¹ and (b) informal institutions should be confused neither with weak formal institutions nor with informal behavioural regularities.² O’Donnell (1996: 40) similarly argues that informal rules of the political game that become institutionalised when they are ‘widely shared and deeply rooted’ are not to be confused with symptoms of the state’s dysfunctionality.
- What is informality? There are in social science two different general understandings of the notion of a *formality–informality* continuum. The first is a distinction between spheres of activity that are *formal* to the extent that they are legal, official, transparent or openly sanctioned by legitimate authorities (e.g. a national constitution) and *informal* to the extent that they are extra-legal, illegal, unofficial, non-transparent or unsanctioned by those authorities (e.g. the ‘horse-trading’ about allocation of positions of power that typically precedes the formation of a coalition government). The second is a distinction between activities like (a) the proceedings of law courts, which are *formal* in that they are patterned, predictable and ritualised and (b) lynch-mobs and ‘kangaroo courts’ that deliver their versions of justice in relatively spontaneous, unpatterned and unpredictable ways. I am concerned here with informality of the first type: with the fact, summarised by Corbridge *et al.* (2005), that in rural South Asia a great deal of local governance is conducted through agents, social networks and procedures that do not feature in the formal texts and sometimes seem to violate wholesale the law, norms of good administrative practice, and the principles of representative democracy.

¹ This element in the definition helps to put clear blue water between our approach and the assumption or implication that rural institutions perceived as ‘traditional’ must be rooted in (traditional) values (Helmke and Levitsky 2006: 7–8).

² Informal behavioural regularities do not constitute institutions unless rule-bound or rooted in shared expectations about the behaviour of others, so that their violation will invite external sanction.

- These informal governance practices are sometimes highly formal in the second sense of the term. Ananth Pur (2004) points out that in some villages in the Indian state of Karnataka, informal local councils have quite precise timetables and rules for registering and then dealing with dispute cases. While they are in session, they command the kinds of respectful behaviour, demeanour and speech expected in formal courts. Ananth Pur and Moore (2010) provide an example from a village in Karnataka where the council meets every Monday morning to resolve disputes, and in each of the 30 villages where they conducted research, the informal local councils formally present their income and expenditure accounts to their constituents on the day after the Hindu New Year. A similar degree of institutionalisation of ILGIs is found in the northeast Indian state of Manipur. Every village populated by the dominant *Meitei* community contains an ILGI that belongs to a generic category of *Leikei clubs*. Most *Leikei* operate as 'sports' or 'youth' clubs – they possess permanent offices and sports grounds, and are run by a voluntary, elected committee with role titles (Chair, Secretary etc.) – but they also exercise recognised local general territorial jurisdiction, intermediate with formal public institutions over a wide range of issues, mediate local disputes, and sometimes exercise coercive force, to the extent for example of driving away wrongdoers and burning their houses.³
- Following North (1990) and many other institutional theorists, Helmke and Levitsky (2006) insist on a clear distinction between *institutions* (the rules of the game) and *organisations* (the players). While we do distinguish individual actors like brokers and mediators from ILGIs – an individual broker is not the same as the informal institution of brokerage – we face practical difficulties in fully adhering to this distinction between institutions and organisations. The informal local governance phenomena with which we deal sometimes manifest themselves as distinct *informal organisations*, like 'traditional village councils', and at other times more as informal, socially shared rules embedded in expectations (i.e. *informal institutions*) that greatly influence behaviour in and around formal governance organisations. An example of the latter would be the practices that enable a large landlord to leverage a minor official position in the formal administrative hierarchy into wide ranging informal authority within his locality. However, the local networks that this landlord employs to maintain and exploit his informal authority might also look rather like (informal) organisations. The attempt to rigorously distinguish *institutions* from *organisations* becomes, in this case at least, an obstacle to useful understanding of the world. I use the word *institutions* as our generic term, and speak of *organisations* only when the term seems appropriate, i.e. when dealing with routinised patterns of social interaction characterised by the pursuit of collective goals, internal performance controls, and relatively clear external boundaries. Our empirical material will hopefully validate this pragmatism.

3 The public authority of 'mini-states'

ILGIs function like mini-states in that they exercise a degree of general territorial authority, but they lack a key material attribute of stateness: *de facto* or *de jure* authority to draw significant regular revenues from the populations over which they exercise authority. Unlike, for example, local funeral societies, temple committees or savings and credit associations, they do not confine themselves to a specific or narrow set of functions. Many operate in multiple domains, take on a wide range of activities, and are understood locally to have a right or duty to act in ways analogous to national states. They are expected to be generally responsible for dealing with a wide range of problems or opportunities, and to exercise

³ We are grateful to Irina Ningthoujam, a doctoral student at the Jamia Islamia University, New Delhi, for information on contemporary *Leikei clubs*. They are often represented as 'traditional', but seem to have their origins mainly in the 1940s.

authority over entire locally resident populations – who, like the citizens of states, may have little choice about compliance while they remain within that jurisdiction. ILGIs might dispense justice, help with the connections needed to obtain urban employment, resolve disputes, organise religious and sporting events, raise matching revenues for external grants, punish violations of social norms, oversee local development projects or manage the ways in which villagers vote in formal elections. However, they have no significant claim on locally raised formal revenues, and no employed staff, at least not until these functions are formally granted to them by law, such as in the case of the Bosnian ILGIs, *mesni zajednicas*, that are considered a part of sub-municipal local government in one half of the country. To the extent that ILGIs have financial resources, these are normally raised locally in *ad hoc* fashions for specific purposes, or obtained by tapping into the expenditure streams of the formal state. They depend mainly on a diversity of less tangible organisational and ideological resources: voluntary participation; claims to compliance articulated in terms of traditionality and collective local interests; congruence with the interests of local elites; and, in the last resort, physical coercion. In some cases, though, such as in Niger, local chiefs may charge for certain services, such as the granting of property certificates to local farmers (Lund 2006b: 696). In fact, citizens in parts of Burkina Faso, Ghana, Lesotho, Malawi, Mali, Namibia, Uganda, Zambia, and Zimbabwe believe that it is traditional chiefs and not the government that can allocate land for use (Baldwin 2014: 254).

Lund (2006b) uses the term ‘twilight institutions’ to refer to local institutions that lie outside the state but are part of the ‘idea of stateness’ because they exercise public authority over a delimited geographic area. So local chiefs, lineage leaders, vigilantes, religious fraternities, political factions and activists, hometown associations, and neighbourhood groups occupy a twilight zone in which this exercise of ‘stateness’ by non-state actors and institutions blurs the boundary between the formal and informal (Lund 2006a: 673; Lund 2006b: 689–695). Such ILGIs often have territorial markers, like flags, signs, or even graffiti on walls to symbolically mark and demarcate the area over which they exercise authority. Raeymaekers, Menkhaus and Vlassenroot (2008) use the term ‘non-state governance’ to describe a similar configuration of local institutions in Africa that exercise public authority alongside the state to determine the ways in which societies organise power in order to manage public resources.

3.1 Sources of public authority

Why are ILGIs able to operate across multiple domains and exercise general territorial authority within communities? I offer two explanations for this. The first is based on their embeddedness within local traditions and cultural practice, while the second points to the legacy of colonial rule in Africa and South Asia. The two explanations stand in some tension to one another – the former deals with *inherent* authority while the latter claims *constructed* authority – but it is not hard to imagine that the two sources have reinforced one another over the decades.

There is widespread support in the literature for the fact that ILGIs draw on a strong sense of shared culture and history with their ‘constituents’ for legitimacy and authority, and on their understanding of the local context and its prevailing norms and shared expectations (Logan 2009, 2013; Okereafoezeke 2003). Such familiarity and closeness leads to greater trust in these local institutions. For example, Baldwin (2007: 7–8) finds that ‘52% of Zambians trust traditional leaders a lot or a great deal; in contrast, only 32% of Zambians have this degree of trust in the ruling party and only 18% have this amount of trust in opposition parties’. Furthermore, trust is ensured by the fact that local communities can impose social censure on ILGIs in case they deviate from shared norms and expectations. This is a more direct and often more effective form of accountability than that which exists between citizens and formal actors and institutions in countries like Nigeria, and can, as a result, make citizens feel more empowered (Okereafoezeke 2003). As Scheye (2009: 10) points out, ‘a trusted and

legitimate non-state/local justice and security network is, by definition, a locally owned justice and security provider as the repository of the users' beliefs, norms, and values'.

The second explanation looks at the legacies of various elements of indirect rule by external actors. In most of South Asia and Africa, colonial rule was lengthy and pervasive, and played a major role in shaping contemporary formal political institutions. It also shaped ILGIs. The impact was complex and variable across space, and therefore difficult to generalise to other contexts. A common feature, and one that may travel more easily, was that the bureaucratic institutions of the formal state reached down deeply into most of rural society, leaving relatively small and local domains for informal governance institutions. Two features of colonial administration were especially important, at least in South Asia.

First, the material basis of colonial rule was a surprisingly intrusive and efficient land revenue system, which managed to extract up to a third of the gross value of agricultural production for the state (Ananth Pur and Moore 2010; Mohmand 2011). Villages

typically possessed a 'headman' who was recognisably a state official; a set of land records, with sketch maps, that in principle documented the potential productivity and tax liabilities of each parcel of land and identified the person responsible for paying the tax; and an official responsible for maintaining those records. For a society so very poor and agrarian, the extent of the penetration of localities by the formal state apparatus was remarkable.

(Ananth Pur and Moore 2010: 606)

Second, this apparently highly intrusive and capable state nevertheless operated to a high degree through variants of the systems of *indirect rule* that characterised most empires and colonial polities. *Indirect rule* is summarised by Tilly (2007: 19) as, 'systems in which the central power received tribute, cooperation, and guarantees of compliance on behalf of the subject populations from regional power holders who enjoyed great autonomy within their own domains'.⁴ *Indirect rule* is a relative term. As we have seen, in relation to land revenue and land records in particular, colonial rule in South Asia was rather direct. The indirectness stems from two sources. First, from the fact that, outside its core concerns about basic public order, land revenue and the supply of loyal recruits to the armed forces, the British colonial state in South Asia was not strongly motivated to intervene in or regulate rural society, economy or culture.⁵ In rural areas in particular, issues of religion, education, customs, marriage, sanitation, road transport and employment were rarely taken up with any vigour or consistency by the formal state. Deep direct interventions, like extensive irrigation development and population resettlement in what is now the Pakistani Punjab, undertaken in the late nineteenth and early twentieth centuries, were exceptional.

Second and more important, colonial rule was based on an extensive system of delegation to a wide array of 'devolved authorities' of responsibility for land revenue, and sometimes also public administration generally. Devolved authority took many different forms and created powerful groups of intermediaries between village residents and the colonial state. Our evidence shows that local variations in the nature and type of these partly underlie contemporary variations among ILGIs in South Asia. The same pattern of rule was visible across Africa too where the colonial state gave local traditional authorities 'power to raise

⁴ The opposite, *direct rule*, implies 'structures extending governmental communication and control continuously from central institutions to individual localities or even households, and back again' (Tilly 2007: 19). Pure direct rule implies a totalistic relationship between individual households and bureaucratic agencies under the direct control of the central state.

⁵ Our argument here is about modes of intervention and rule, not about consequences. Even indirect and relatively non-interventionist rule could have great consequences. For example, it is now widely recognised that the colonial insistence on registering the population according to membership of a small number of clearly defined, hierarchically ordered caste categories eventually had a major impact on how caste was perceived and practised.

taxes, preside over courts, and allocate land' (Baldwin 2014: 254). In many parts, this power remained intact even after post-independence attempts by governments to reduce the influence of chiefs and traditional authorities, and made them important intermediaries between citizens and the post-colonial state.

We have then a first level of explanation of why ILGIs so often operate in multiple domains and exercise general territorial authority, especially in rural areas and within more marginalised and remote populations.

4 Intermediating between citizens and states

ILGIs play major intermediary roles between local populations and the wider world. They may resolve local disputes, monitor local schools or organise local festivals and cultural activities. But they also determine whether and how a village population can access a government programme for improving sanitation, which village streets then get drained and paved, whether and how a local case of assault is presented to the police, who actually stands for election to the formal local council, and how villagers' votes are cast in national elections. As the incidence of electoral democracy has increased across the world, accompanied by a growing variety of development programmes intended to channel public resources down to the local level (Krishna 2003), these intermediation functions have only become more, rather than less, important. Why is this so? I provide three explanations here: (a) they persist precisely because of electoral democracy as political intermediaries; (b) they substitute for weak central states by providing public services and locally rooted territorial governance; and (c) they extend the writ and authority of post-colonial states in much the same way as they did that of the colonial state.

4.1 Political intermediation

Political science literature has taken up the related question of the persistence of clientelism in many democracies, both young and old, and has argued that in some of these systems democratisation has simply led to the institutionalisation of the many informal ways in which citizens engage with the state (Kitschelt and Wilkinson 2007; O'Donnell 1996; Stokes *et al.* 2013). At the most fundamental level, this literature points to the fact that within today's democracies citizens often connect with the state through informal, mediating actors and institutions. Sometimes this is through intermediaries who have better access to the state because of their social status, such as traditional chiefs (Baldwin 2007), or who specialise in cultivating better access as a political strategy, such as brokers (Stokes *et al.* 2013) and political fixers (Krishna 2007; Manor 2000). In other cases, citizens access services through local informal institutions that either provide what the state does not – such as the local provision of justice and non-state policing (Baker 2005) – or that can increase the collective ability of groups to negotiate better access, such as kinship groups (Cheema, Mohmand and Naqvi 2007).

The extent and character of these intermediary roles interact with the broad political characteristics of ILGIs and their often Janus-faced nature. Like virtually all political organisations, ILGIs simultaneously perform two different types of roles: the exercise of domination, through which some people advantage themselves relative to others; and the provision of collective goods and services that benefit a broader constituency (Moe 2005). For example, Mandelbaum (1970) suggests that when 'traditional *panchayats*', or informal village councils, in India were dealing with intra-village issues, they were generally operating in regulatory mode, often enforcing the hierarchical norms about interactions among members of different castes that are especially characteristic of Indian society. In that mode,

informal village councils would tend to reveal their more repressive faces, and to focus more on enforcing unequal distributions of resources and status among caste groups in the village. However, when representing the village collectively in relation to the outside world, they tended to transcend these regulatory and distributional orientations to act in a more cohesive manner, and to provide local public goods. This distinction between the internal and external orientations of ILGIs is one basis on which one can formulate plausible hypotheses about their functioning and consequences.

Another distinction relates to the separation between the national and local roles that ILGIs take on. Chiefs and traditional authorities continue to appear as part of national governance processes across many parts of the African continent, but Logan (2009: 106) argues that they may play only a limited part, restricted to ceremonies and 'advisory roles' at that level, leading us to wonder why they persist in electoral democracies. It is their role at the local level that demonstrates the extent of their very real authority and the impact that they have on governance. Here 'they may compete with local government officials for real power – over land, tax revenues or other resources, responsibility for dispensing justice, and influence over community activities and decisions, and even votes'.

Baldwin (2007 and 2014) uses the reality of deep ethnic divisions across Africa to show why some ILGIs' functions have only been strengthened with electoral democracy. Politicians solicit the support of local intermediaries, such as hereditary chiefs in Zambia, to mobilise votes and they especially empower chiefs of 'unaligned ethnic groups' in order to build electoral support for their parties when appeals to ethnicity are feasible. A chief would need to be both politically unaligned and in command of a significant number of votes to receive such political patronage. This is somewhat similar to the earlier argument made by Posner (2004) to explain the nature of politics in Zambia and Malawi, and the ways in which local ethnic identities are manipulated for electoral gain by political parties. Baldwin (2014) explains that, in fact, the least devolution of power to chiefs has occurred either in countries where one ethnic group has been in power and coalition-building on ethnic lines is unnecessary, such as Namibia, or in countries that have few hierarchically structured but politically non-aligned ethnic groups, such as Kenya, Liberia, Tanzania. This logic is replicated in the organisation of politics in India and Pakistan, where political parties are constructed around aggregations of caste and kinship networks that are mobilised through a variety of local informal political intermediaries (Chandra 2007; Mohmand 2014).

4.2 Public service provision

Two other explanations for the persistence of ILGIs in democratising systems are rooted in a continuing debate – do ILGIs substitute for the state or do they help strengthen the state's authority by extending its writ? The literature related to the first of these two explanations talks about ILGIs as substitutes for the state in the provision of different kinds of public services, most importantly security and justice but also health and education, within a geographically delimited area within which they exercise authority. They may have no formal sanction for this role but they are 'accepted and authorized in practice' (Scheye 2009: 25).

Much of this explanation is based on the idea of the limitations of the formal state across large parts of Africa and Asia, and that ILGIs step in where formal institutions are incomplete. Formal institutions establish general parameters about behaviour, but cannot cover all contingencies (Helmke and Levitsky 2006). That is especially likely to be the case among small rural populations that obtain most of their livelihoods from local resources and are remote from the seats of formal government authority. Standardised bureaucratic responses are unlikely to work well when the needs of populations are locally specific and highly variable. 'Resources need to be mobilised, allocated or managed; disputes resolved; threatening intrusions repelled; external authorities dealt with; and ceremonies and collective celebrations organized' (Ananth Pur and Moore 2010: 605). Local needs and interests tend

to be especially context-specific 'where residence and livelihood overlap – in agrarian villages, in pastoral and mining settlements, in fishing communities, or in urban neighbourhoods specialising in particular lines of commerce or production' (Ananth Pur and Moore 2007: 8). Here fishing practices need to be agreed and maintained, irrigations systems regulated, common lands and forests to manage and police, property disputes to settle, and scarce resources like sand, gravel, clay, and water for drinking, washing and watering animals to be allocated (Ananth Pur and Moore 2010: 605). Informal local institutional responses to these needs are all the more likely where, as in South Asia, governments raise relatively little in taxation, and the official state agencies have limited capacity to work intensively at very local levels in rural areas.

ILGIs step into these spaces and provide local services. *Mesni zajednicas* in Bosnia and Herzegovina and Macedonia, and their close variants across the Western Balkans, work as the principal form of 'neighbourhood governance'. They gather citizens around spatial interests, involve them in local government decisions, and deal with a variety of services, including managing street lighting, local roads, and other communal infrastructure. In many cases they also set up, manage and coordinate local water services, and monitor health and education services (Mohmand and Misic Mihajlovic 2014). This is a recurring pattern across many other countries. In Burundi, traditional institutions called *bashingantahe* play 'multidimensional roles' spanning the judicial, social and political spheres, and play an important role in maintaining peace and cohesion within communities (Dexter and Ntahombye 2005). Similarly, local networks led by 'Big Men' in Sierra Leone, Guinea and Liberia serve important roles of conflict resolution with security and development implications (Jörgel and Utas 2007).

In fact, dispute resolution and the provision of local security and justice are the most common services provided by ILGIs in different parts of the world. Informal justice that is provided locally works because it is reflective of the cultural norms that exist within a community, is more readily understood by the parties involved as compared to formal justice, and is flexible enough to adapt to the changing local political and social context (Coburn 2013). It is true that such justice may often be imposed through violence, oppression and fear, such as by the 'Big Men' in Sierra Leone, Guinea and Liberia (Jörgel and Utas 2007) or by *khap panchayats* in India (Ahlawat 2012). However, we found that for many rural populations, such as those in South Asia, they are the default option for multiple reasons: village-level informal councils of dispute resolution predate the relatively recent introduction of formal law in post-colonial states; they are more accessible, familiar and relatively less complex when compared to formal laws and procedures; and rural citizens find the formal legal system to be intimidating and hard to understand, not least because they use official languages that are not always familiar to rural populations, such as English, Hindi or Urdu (Mohmand and Mejia Acosta 2012a).

Similar informal justice systems are popular across Africa because of delays in the formal system, physical distances to formal courts, and the formal system's incompatibility with how people actually understand justice as well as the unfamiliar complexity of the languages used and procedures followed in the courts (Penal Reform International 2001: 6–10). There are variations across these local justice systems – in the manner in which arbitrators are selected or elected and proceedings are carried out, their areas of jurisdiction, and the degree of independence from the state – but they share many commonalities, such as the power of tribal chiefs to compel disputing parties to attend hearings, consensual resolutions, oral record-keeping, the highly informal environment of proceedings and, perhaps most importantly, the fact that social pressure instead of physical coercion is used to enforce decisions (Chirayath, Sage and Woolcock 2005). Likewise, Baker (2005) and Isima (2007) argue that non-state policing in Sierra Leone is a result of the incapacity of the state police and that as the legitimacy of the state has come under question – a result of neoliberal policies in Africa – the legitimacy of parallel non-state security mechanisms has increased.

This school of thought, therefore, argues that the persistence of ILGIs is both a reflection of the weakness of formal state institutions and possibly also a lack of trust between states and more marginalised populations (Bratton 2007).

4.3 Extending the writ of the state

On the other side of the debate, and providing my third explanation, is literature arguing that ILGIs do not always substitute for a weak state. Very often they help expand the writ and authority of the state. Most of this literature talks of hybrid arrangements in which multiple state and non-state actors enter coalitions to produce everyday governance (Boege *et al.* 2008; Hagmann 2013; Logan 2009; Meagher, Herdt and Titeca 2014). In our work too we found that, despite some unattractive features, ILGIs can constitute valuable instruments for governments, public bureaucracies and political parties whose local reach is limited, contested or unstable. ILGIs can help provide local political stability, channels through which government agencies can exercise authority and execute their programmes, and means for local political brokers to aggregate votes (Cheema *et al.* 2007, Mohmand 2011). For example, the field staff of government agencies charged with building schools, roads, wells or other minor infrastructure may depend on ILGIs to establish local consensus, acquire land, raise additional funds, or manage construction. Government agencies are continually tempted to try to use and work through ILGIs.

This may apply in particular to conflict-affected contexts. In Timor-Leste, ILGIs ensure greater subscription to government programmes by providing information to the community on how to deal with unfamiliar procedures (Scheye 2009). In Colombia they provide ‘governance-related advantages’ by supplementing the formal system in raising living standards of the most marginalised groups, and by bridging ‘the gap between “law in the books” and “law in action”’ – the main reason why marginalised populations turn away from formal institutions and choose to work with ILGIs instead (Buscaglia and Stephan 2005: 90 and 105–6). Similarly, ‘customary organisations’ in rural Afghanistan – ‘*shuras* (village councils), *maliks* (village executives), and *mullahs* (village lawgivers)’ – not only maintain and manage communities’ access to water, land resources and credit by enforcing community rules and norms, but they also help maintain a degree of local order in a country that is otherwise characterised by national-level disorder, and can play a ‘potentially productive role... in the state-building process’ (Brick 2008).

We have now a more nuanced level of explanation for the continuing importance of ILGIs in modern electoral democracies, including their role as political intermediaries; their ability to provide services and general governance when the state does not; and their ability to extend and complete the writ of post-colonial states.

5 Variable and contested relationships between ILGIs and states

My explanations for the persistence of ILGIs provided in the previous sections indicate that they stand in ambiguous, variable and contested relationships to the formal state apparatus. Debates around whether or not they should be delegated some formal functions generate major normative controversies that pit, at the extreme, somewhat romantic devotees of both localism and traditionalism against people who emphasise the role of ILGIs in perpetuating socioeconomic and sociocultural hierarchy, parochialism and gender subordination, sometimes coercively.

Their ambiguous and contested relationship with formal institutions is most vividly illustrated in connection with the one function that they most consistently perform: adjudicating local disputes and, if necessary, then enforcing their own rulings. We have examples from South India of High Court judges reacting to attempts by ILGIs – *kattapanchayats* in this case – to redistribute relief packages after the 2004 tsunami by calling them ‘illegal institutions’ that needed to be ‘dealt with an iron hand’ [sic] (*The Hindu* 2005, in Ananth Pur and Moore 2010). Virtually all the press coverage of ILGIs in India and Pakistan is sparked by instances of repression, stereotypically including murder, rape or other violence directed against individuals or families who transgress local inter-caste or inter-community boundaries. Yet the police regularly accept that ILGIs will deal with the great majority of local disputes, and on occasion even refer cases to them. Our research found that on average almost 75 per cent of rural citizens in the three regions of South Asia that we studied – Punjab in Pakistan, and Karnataka and Rajasthan in India – choose to use ILGIs to resolve disputes rather than the formal judicial system (Mohmand and Mejia Acosta 2012a). Villagers also sometimes engage in judicial forum shopping, taking cases from the ILGI to the formal courts when not satisfied with the original ruling.

South Asian governments sporadically attempt either (a) to create quasi-formal local organisations that can provide the same cheap, quick and (generally) popular dispute resolution services as ILGIs;⁶ or (b) more radically, and generally in response to major crises of governability, actually to incorporate these into the formal governance apparatus. In 1993, the Government of India passed the PES Act, which formally recognises so-called ‘traditional tribal institutions’ as the lowest level of formal governance in areas populated largely by members of ‘Scheduled Tribes’. The implementation process has not been smooth, not least because the legislation discriminates against the significant proportion of people not registered as ‘tribal’ in these areas by excluding them from participation or representation in local government (Centre for the Future State 2010).

We recorded instances of both approaches in the Western Balkans as well, where the attitude of the state has been similarly ambivalent towards the ILGIs, *mesni zajednicas*, over the last two decades. In the years immediately after the break-up of Yugoslavia, these institutions were generally ignored within the transitional political setup. Over time, they have been given greater responsibility and recognition and, in some cases, such as in one part of Bosnia and Herzegovina,⁷ they now have a formal role in sub-municipal governance. But local governments share an uneasy relationship with these ILGIs, seeing them both as valuable partners in accessing communities and as political competitors that limit their scope. Meanwhile, donors have experimented with creating quasi-formal local organisations to improve citizen participation in local governance. Largely because these new structures worked in parallel to the already existing and deeply embedded *mesni zajednicas*, they were unable to play any significant additional role in involving citizens in local governance (Mohmand and Mejia Acosta 2012b).

Similarly, since the Western armed forces assumed a major role in the governance of Afghanistan, there has been continuing debate about incorporating ‘traditional’ local institutions into formal governance structures in Afghanistan (Albrecht *et al.* 2011). This debate and the lack of significant progress on the idea reflects in part a fairly common

⁶ After Independence, the government of the Indian state of Uttar Pradesh established in rural areas an alternative local justice system for minor issues and offences labelled the *Nyaya Panchayat* system. Cases were heard and adjudicated, in ‘traditional’ fashion, by a set of *panchas* (‘elders’), who in this case were indirectly elected from among themselves by members of elected local councils. When they studied this system in Bharatpur District of Uttar Pradesh in 1978, Meschivitz and Galanter found that it was generally popular. ‘The only opposition came from the local legal profession and the judicial officers in Bharatpur, all of whom (except the sub-district magistrate) wanted the NP abolished’ (Meschivitz and Galanter 1982: 57). However, these ‘alternative’ dispute resolution mechanisms have never thrived, and are sporadically re-established by governments responding to the perception that they are popular.

⁷ Bosnia and Herzegovina is divided into two political entities – the Federation of Bosnia and Herzegovina, and the Republic Sprska. *Mesni Zajednicas* have more formal recognition in the Federation but not in the Republic.

tension in the relationship between ILGIs and states more generally: the limited capacity of states to reshape ILGIs in a purposive fashion, either to abolish them, reform them, or incorporate them into the formal apparatus of rule. I have already mentioned the apparent failure of recent efforts to recruit 'traditional institutions' into formal governance structures in Afghanistan and the tribal areas of India. We find a mirror image in the persistence of the local political dominance of another type of ILGI: propertied families in villages in Punjab Province, Pakistan. This dominance is rooted historically in major land resettlement operations in the late nineteenth century and the assignment to these families of large landholdings, political privileges and quasi-formal administrative roles formally termed 'unofficial agency'. In return they were required to cooperate in representing colonial authority locally and in otherwise enforcing local political order. Although their political privileges and formal administrative roles have been removed, and their landholdings much fragmented, members of these same families continue to exercise local political and electoral dominance. In a polity characterised by instability, intermittent military rule, political parties that lack continuous organisation and presence below the district level, and recurring efforts by the military to undermine those governments that have been popularly elected, few power holders have wished or been in a position seriously to establish formal local governance institutions that would eradicate the influence of these established intermediaries. Instead, the fact that they exercise a dominant role in determining rural politics has kept successive regimes and governments from coming down too strongly against them (Cheema *et al.* 2007; Mohmand 2011).

Whether or not states can reshape ILGIs or, put differently, the extent to which ILGIs are altered by their interaction with the state, is an important debate in the literature. One perspective suggests that their incorporation into the formal system can create ambiguities about their roles and functions *vis-à-vis* local communities. Belgian colonial administration in Burundi reduced the local legitimacy of the informal institutions, the *bashingantahe*, by 'controlling their judgments, modifying their verdicts and withdrawing their right to impose certain sanctions' (Dexter and Ntahombye 2005: 14–20). Later political manipulations of their membership meant that communities became less and less trustful of their authority. Similar dynamics have been recorded in South Africa, Tanzania and Mozambique where several attempts have been made to incorporate customary institutions into the formal judiciary without much success (Chirayath *et al.* 2005 and Penal Reform International 2001: 45–47). For example, in South Africa the legitimacy of informal street committees was challenged in the 1980s when the government set up community councils above them in an attempt to integrate them into the formal sphere. Street committee chairmen who cooperated with councillors were 'given warnings' by their constituents and some were even threatened or physically attacked. By 1985, most councillors had resigned. Similarly, traditional authorities in Mozambique lost legitimacy when they cooperated with the colonial state in policies involving forced labour and cultivation (Penal Reform International 2001: 45–47).

The other perspective within the debate argues that the engagement between states and ILGIs can positively alter the more repressive side of these institutions by putting pressure on chiefs 'to "reinvent" themselves... as local-level "democrats" who are willing to adapt local institutions in the face of popular pressure for change' (Williams 2004 in Logan 2009: 123). Such adaptations can include greater participation by marginalised groups, such as women and younger men, as well as the introduction of elections for the *inzinduna*, or local chiefs (Logan 2009: 123).

6 Conclusion: Thinking about variation

I have drawn a boundary around the category of local institutions, ILGIs, that exercise general territorial authority within communities, and function across multiple domains. By looking at these in different contexts, I find that ILGIs shape citizen engagement with the state across a number of arenas and activities:

- They organise vote banks within communities for parties, candidates and municipal governments, thereby affecting participation in elections.
- They mediate disputes and dispense justice as substitutes to formal legal mechanisms.
- They regulate citizens' access to services (schools, health centres), and also regulate participation in community projects.
- They mediate interactions with local governments, thereby affecting access to information, and participation in deliberative forums.

They have three main defining characteristics: (a) they are state-like to the extent that they enjoy general local territorial authority, but without revenue prerogatives; (b) intermediation between local populations and the state constitutes a significant part of their activities; and (c) they stand in ambiguous, variable and contested relationships to the formal state apparatus. But how do we categorise and summarise variations within the ILGIs I have defined? Beneath the surface differences in forms, labels and local representations, what are the dominant criteria through which we should distinguish one type of ILGI from another?

There are two major reasons why we can at present offer no more than a small part of the answer. The first is that we have little information on contemporary ILGIs; both social scientists and policymakers lack a systematic and nuanced understanding of their nature and impact on governance. The other is that the task of usefully typologising and categorising these 'quasi-mini-states' is in some respects as challenging as another, bigger project on which political science has long been engaged with limited success: typologising and categorising states 'proper'. How far are they to be understood in terms of: (a) the internal configurations of socioeconomic interests that underpin them; (b) their external interactions with other, similar organisations; or (c) the interests and behaviour of those who control the core organisational structures? Fundamental questions of this nature about states are still unresolved. The prospects for resolution in relation to ILGIs are greater because they are much less complex organisations than states, but we are working with sparser information.

Virtually all political institutions simultaneously exhibit two different faces. On the one hand, they are instruments of domination, through which those people and agencies that enjoy power advantage themselves over others, and strive to maintain their dominance. On the other hand, they are frameworks within which some people use power to coordinate a range of other actors to achieve collective goals and provide public goods (Moe 2005). But the mixture varies widely from case to case. ILGIs are no exception. Often it is their exploitative face that attracts the attention of external observers. Yet, in many cases, their collective provisioning roles are also strikingly evident. The variety of cases discussed in this paper suggest that we should eschew simple assumptions about how 'traditional' institutions impact on local governance, and spend more time exploring variations and looking for recent modifications, especially modifications induced by changes in their immediate political and administrative environments. I hope this paper serves both to stimulate additional research and suggest how that research might usefully be framed.

Possibly the most important single conceptual distinction we have to make is between *personalistic* and *collegiate* institutions, that is, those where authority is vested in individuals and those where it is shared among more or less equal colleagues. This distinction is

relative. While most ILGIs in the Pakistani Punjab are clearly personalistic, others combine elements of both. For example, ILGIs in Karnataka are collegiate to the extent that they explicitly represent a range of individual caste groups and other local interests, and the norm of consensus strongly influences their proceedings. However, they remain personalistic to the extent that individual males from particular families have, in varying degrees, recognised claims to be representatives and to play leading roles in directing the council itself. *Mesni zajednicas* in Bosnia and Herzegovina, on the other hand, have elected presidents and council members who are voted in by the community for a fixed term and are relatively less able to draw on social and familial attributes for their power.

How might a better understanding of ILGIs matter for policy purposes? The answer will vary greatly according to context and the type of ILGI under question. In places like the Pakistani Punjab, the primary need is for reforms to weaken the powers of the more personalistic ILGIs and those that implement harsh versions of 'traditional' local social mores. Landlords should not be able to bargain away a thousand votes in a parliamentary election for the promise of resurfacing a kilometre of village road. Village elders should not be able to punish a man for a sexual transgression with a woman of a higher caste by ordering the rape of his sister. In other places, knotty public policy problems arise from recent efforts by governments to recognise 'traditional local institutions' and 'recruit' them, in unrealistic ways, into the formal state apparatus. In some of the Pushtun areas of Afghanistan, provincial governors have tried unsuccessfully to bring under their own authority the local 'militias' that serve as the implementing arms of representative autonomous local councils (Usman 2007). In yet others, such as those parts of India that are 'scheduled' as having majority tribal populations, the issue is one of including in formal governance local institutions that may be very ill suited to assume the responsibilities that they are being asked to bear because they have little general local territorial authority, and are accepted as legitimate only in respect of the regulation of marriage, disputes and interpersonal interaction among the members of specific tribes. The initiative to recruit them into the formal structures of local government in states like Jharkhand is generating a great deal of resistance and conflict (Majeed 2007).

The contrasts between the various cases I have examined or mentioned above – notably Karnataka on the one hand and the Pakistani Punjab, Pushtun Afghanistan and Jharkhand on the other – suggest a rather striking hypothesis about the acceptability of ILGIs as providers of local governance that might help stimulate and frame further research. The hypothesis is that, the more similar ILGIs are in form and function to their 'traditional' manifestations, the less likely it is that they will meet the standards of competence, legitimacy and representativeness that would make them acceptable as components of contemporary local governance systems. Conversely, the more they have interacted with formal political and administrative institutions in a pluralist, competitive environment, the more they are likely to merit acceptance and recognition. The extent to which this hypothesis can be generalised needs to be tested across different contexts, and suggests an interesting area for future research.

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