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How Much Statehood Does it Take – and What For?

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1. Introduction

The concept of governance had made quite a career, not least because it allows to think politics beyond the state. In the 1970s, the comparative policy and politics literature showed that corporate self-regulation and public-private co-regulation could help the state increase the effective and legitimate provision of governance services (e.g. in public health, environment or technical standard setting; cf. Mayntz and Scharpf 1995a; Kooiman 1993; Leibfried and Zürn 2005). 20 year later, students of international relations came to a similar conclusion discussing possibilities of "governance without government" (Rosenau and Czempiel 1992).

While there seems to be an increasing demand for governance with/out the state both within and beyond the state, its promise to compensate for state weakness or state failure appears to rest on two major premises. On the one hand, the state has to possess sufficient capacities in terms of both resources and autonomy in order to cast a credible shadow of hierarchy so that non-state actors have an incentive to cooperate, and state actors are not afraid of being captured. On the other hand, these state capacities must not be too strong in order to provide an incentive for state actors to seek cooperation with non-state actors. In other words, what is required to make governance with/out the state work is a medium shadow of hierarchy (cf. Börzel 2007; Börzel 2010).

Rather than decline or extinction we find a transformation of the state retaining a key role as a "governance broker" (Herrschaftsmanager,Genschel and Zangl 2008), "coordinator", (Mayntz 2004: 75) or "shadow of hierarchy" (Scharpf 1997; cf. Rhodes 1996; Jessop 1998). In order to fulfill these roles, a state requires *statehood*, i.e. the capacity to make and enforce collectively binding rules, with the monopoly of force as the *ulima ratio* of its coercive power. Statehood provides state actors with a unique resource or "institutional competence" (Schuppert, 2010: 17) to solve societal problems, such as the provision of security and order, the (re)allocation of values or the safeguarding of economic stability. "Governance needs government" (Schuppert 2010: 128). The (shadow of) statehood is not only important for the effective provision of common goods but also for its legitimacy (Sonderforschungsbereich 700 2009: 5).

If governance without the *state* still requires *statehood*, governance research hardly travels to areas of limited statehood, where the state by definition lacks the capacity to hierarchically impose collectively binding rules in certain parts of its territory, policy sectors or with regard to particular social groups. Moreover, countries in areas of limited statehood appear to be doomed: the more limited their statehood, the greater the need for governance with/out the state to compensate for state weakness or state failure becomes, but the less likely it is to emerge. This dilemma or paradox is reinforced if there is indeed a dialectical relationship between the evolution of a strong state and a strong society as it is implicitly assumed or explicitly claimed by the governance literature (cf. Tilly 1975; Mayntz 1993).

Research of the SFB 700 has demonstrated that non-state actors do engage in governance in areas of limited statehood. Transnational companies and non-governmental organizations are key providers of governance services when states are too weak to deliver and cast a shadow of hierarchy respectively (cf. Risse 2011). There are other ways to induce non-state actors into providing governance services that do not rely on the capacity of a state to cast a credible shadow of hierarchy (cf. Börzel 2010; Börzel and Risse 2010).

The risk of anarchy, the threat of external intervention, the pressures of the international or local community, or efficiency gains and competitive (dis)advantages have been key drivers for the governance contributions of non-state actors in areas of limited statehood. Yet, they all rely on some forms of consolidated statehood. Markets do not function without (some) state regulation. It is foreign states or international (aka interstate) organizations that commit transnational actors to participate in effective governance. And community pressure is most effective if they can voice and address their claims to state institutions or if international organizations and foreign states take up their claims and exert pressure from above (Brysk 1993; Keck and Sikkink 1998b).

This paper seeks explore how much statehood it takes to make governance with/out the state work. The first part discusses the relationship between governance, state and statehood. The distinction between governance as structure and governance as process allows to disentangle state and statehood. The second part of the paper explores the different functions statehood has for governance. While there may be functional equivalents to the shadow of hierarchy, there is more to statehood than threatening with the hierarchical imposition of regulation. Effective and legitimate governance may require at least some (external) form of consolidated statehood. The final part of the paper discusses varieties of statehood and argues that the challenge for areas of limited statehood is not the lack of exclusivity but the need for an order of shared and divided statehood. The paper concludes by considering the dark sides of statehood cautioning against building states without strengthening the rule of law and democracy.

2. Governance, State and Statehood

The paper adopts the governance definition of the SFB 700 as institutionalized modes of social coordination to produce and implement collectively binding rules, or to provide collective goods. Thus, governance consists of both structure and process (Scharpf 1997: 97; Mayntz/Scharpf 1995b: 19). Governance in terms of structure relates to the institutions and actor constellations. Here, the literature usually distinguishes between hierarchy, market (competition systems)[1] and networks (negotiation systems).[2] These are ideal types, which differ with regard to the type of actors involved and the degree of coupling between them. Governance as process points to the modes of social coordination by which actors seek to achieve changes in (mutual) behavior. Hierarchical coordination usually takes the form of authoritative decisions (e.g. administrative ordinances, court decisions). Actors must obey. Non-hierarchical coordination, by contrast, is based on voluntary commitment and compliance. Conflicts of interests are solved by negotiations. Voluntary agreement is either achieved by negotiating a compromise and granting mutual concessions (side-payments and issue-linkage) on the basis of fixed preferences (bargaining), or actors engage in processes of non-manipulative persuasion (arguing), through which they develop common interests and change their preferences accordingly (see the paper of Risse).

1 In the political science literature, markets are not regarded as governance since they are a "spontaneous order" (Hayek) that leaves "no place for 'conscious, deliberate and purposeful' efforts to craft formal structures" (Williamson 1996: 31). Yet, market mechanisms can be institutionalized to coordinate actors' behavior through competition (cf. Benz 2007). This paper uses the concept of competition systems to describe the institutionalization of market-based modes of political coordination.

2 The governance literature has identified other forms of social order, such as clans (cf. Ouchi 1980) and associations (cf. Schmitter and Streeck 1985). Like networks, this paper conceptualizes them as negotiation systems (see below).

Institutions are crucial in shaping both governance structures and governance processes. On the one hand, they determine the degree of coupling between actors by defining their relationships and allocating resources to them. On the other hand, institutions set the framework for the modes of coordination on which actors draw (cf.Scharpf 1997). In hierarchical structures, for instance, hierarchical and non-hierarchical modes of coordination can be used. Institutions bestow upon state actors the power to unilaterally impose decisions, but they can refrain from invoking their hierarchical authority when they bargain or argue with others. Negotiation and competition systems, by contrast, can only rely on bargaining and arguing. Which mode of coordination actors choose within their institutional limits is, again, influenced by institutions, which render certain modes more appropriate or socially acceptable than others.

State vs. Statehood

Distinguishing governance as structure and process helps us delineate *state* from *statehood*. The *state* is a hierarchical structure of political authority. Unlike other structures of political authority, such as empires or city leagues, the state has fixed borders and holds the claim to absolute authority based on the monopoly on force, institutionalizing a hierarchical relationship between state actors, which exercise authority (ruler, government) and all other actors within the state territory (cf. Spruyt 1994). *Statehood* is a property. Its essence is the ability of the state to enforce collectively binding decisions, ultimately through coercive means which are guaranteed by the legitimate monopoly over the means of violence. Thus, the Western governance literature draws an implicit link between hierarchy and the state. It follows closely Max Weber's conceptualization of the state as an institutionalized authority structure with the claim to steer hierarchically (*Herrschaftsverband*) and to legitimately control the means of violence (*Gewaltmonopol*, cf. Weber 1921/1980). While no state governs hierarchically all the time, states at least possess the ability to authoritatively make, implement, and enforce central decisions for a collectivity. They can also claim legitimacy for the use of coercion. In other words, states command what Stephen Krasner calls "domestic sovereignty," i.e., "the formal organization of political authority within the state and the ability of public authorities to exercise effective control within the borders of their own polity" (Krasner 1999, 4). States also enjoy international sovereignty, i.e. they are recognized as states by other states.[3]

States hold an institutionalized (claim to the) monopoly of force that their agents must put to use for nothing else than the provision of common goods. They have the *authority* to hierarchically impose common goods or command their provision by others. Thus, state actors do not only command privileged resources for hierarchical coordination ("*Herrschaftsressourcen*", Genschel/Zangl 2008: 4).[4] Their public mandate commits them to acting in the public interest and makes them politically accountable and legally liable in case of failure (Scharpf 1991: 630). This is where the state derives the legitimacy from to use force. In other words, what makes state actors special is that they can rely on statehood, i.e. the legitimate monopoly on force for the making of collectively binding rules to hierarchically coordinate the provision of common goods or to provide them directly. What's more,

3 Westphalian sovereignty is constitutive for the classical nation-state. The modern state, by contrast, has granted international and regional organizations the right to interfere with their domestic affairs without their consent.

4 This mandate does not necessarily have to be democratically legitimate. For instance, policy delegation can commit independent regulatory agencies or professional associations to the public interest. Moreover, public actors or governments do not always act in the public interest, nor do they have to be intrinsically motivated to do so. Yet, unlike private actors, they have to justify their actions in the public interest and face political and legal sanctions and/or a loss of legitimacy.

they have the legal obligation to use their authority of hierarchical coordination to ensure the provision of common goods.

Areas of limited statehood are found in states that are internationally recognized (international sovereignty), hold the claim to set and enforce collectively binding rules and provide common goods based on the control over the use of force (domestic sovereignty) but lack the capacity of doing so in parts of their territory, in certain policy sectors or over particular social groups.

Non-state actors (traditional chiefs, non-governmental organizations, trading companies) may acquire the capacity of hierarchical coordination based on the monopoly over the use of force for which they can claim legitimacy. Even if they succeed in establishing their hierarchical rule over a closed territory, however, the rule structure is still different from a state as long as it lacks international sovereignty. Moreover, there are other forms of hierarchical coordination based on the (monopoly over) the use of brute force which lacks legitimacy, as it is often used by warlords (see the paper by Jan Köhler) or by multinational companies (see the paper by Jana Hönke and Esther Thomas). Likewise, hierarchical coordination can exclusively work through legitimacy without being backed up by force as in case of the modern Catholic Church where the Pope has to invoke its divine authority to make rules or the feudal lords in the emerging German and Frankish empires, who often relied on oaths of allegiance (see the paper of Stefan Esters).

Statehood and Hierarchical Coordination

Legitimacy Monopoly over the use of force	present	absent
present	Statehood	Repression
absent	(N.N.)	(Non-hierarchical rule)

Defining statehood as the capacity of hierarchical coordination based on the legitimate monopoly of force follows the focus of the governance literature on statehood as a major prerequisite for non-state actors to engage in governance. At the same time, however, it points to the existence of alternative bases for effective and legitimate governance, both hierarchical and non-hierarchical.

Statehood and the Shadow of Hierarchy

The shadow of hierarchy is generated by the capacity of state actors to credibly threaten the unilateral adoption and enforcement of collectively binding rules on the provision of common goods and their unilateral provision, respectively if non-state actors are not willing to engage in governance.

This threat generates major incentives for non-state actors to engage in non-hierarchical coordination and the self-coordination (cf. Scharpf 1997; Mayntz and Scharpf 1995b). Non-hierarchical coordination entails high transaction costs for the non-state actors involved. Not being institutionally committed to the provision of common goods, they are not necessarily inclined to bear such costs. If the policy outcome does not fully correspond to their preferences, it may take the threat of a hierarchically imposed decision in order to change the cost-benefit calculations in favor of a voluntary agreement closer to the common good rather than particularistic self-interest. Moreover, the possibility of hierarchical intervention reduces the incentive of non-state actors for reneging on their voluntary commitment. This is particularly true for the self-coordination of non-state actors. Business associations or societal networks rarely have sufficient sanctioning capacities to deter opportunistic behavior of their members in the implementation of voluntary agreements (free-rider problem). Therefore, we hardly ever find societal self-coordination without the involvement of state actors that have the capacity for taking and enforcing unilateral decisions. Finally, opportunistic behavior of non-state actors is rendered less likely, if state actors review the negotiation outcomes in order to ensure that they correspond to the common good. This is most important if companies, professional associations, pressure groups or consultancies are involved. Unlike state actors and not-for-profit organizations (e.g. public interest groups), they are not obliged by formal institutions or social norms to pursue the common good.[5]

There is enough empirical evidence to show that the shadow of hierarchy cast by consolidated statehood is key in making non-state actors contribute to governance (Héritier and Rhodes 2010; Héritier and Lehmkuhl 2008; Börzel 2009; Mayntz and Scharpf 1995a). Yet, the focus on the shadow of hierarchy suffers from a serious theoretical abridging: it reduces the role of the state to the regulation and enforcement of collectively binding rules for the provision of common goods. While the traditional or 'heroic' state might have been a regulator and enforcer, the modern state has transformed itself into a governance manager (Kooiman 1993; Genschel and Zangl 2008) or governance arena (Kohler-Koch 1996). Rather than hierarchically coordinating or mandating the provision of common goods, state actors seek to involve non-state actors to achieve more effective and legitimate governance (cf. Mayntz 1993; Kooiman 1993; Jessop 1998). Non-state actors help identify relevant problems and contribute to the formulation of adequate policy solutions. Moreover, the more the actors affected by a policy have a say in decision-making, the more likely they are to accept the policy outcome to be implemented, even if their interests may not have been fully accommodated. The non-hierarchical coordination of non-state actors in the governance process increases the intervention capacity of the state and can be described as the "*state-organized unburdening of the state*" (Offe 2009: 555, emphasis in the original), which entails its transformation rather than its demise. The role of state actors as governance moderators and managers may rely on the possibility to resort to non-hierarchical coordination based on statehood to be effective. But even if it does not, non-hierarchical coordination by the state still requires some capacities, aka statehood. The lack of administrative, financial, cognitive and human resources does not only weaken the credibility of state actors to unilaterally adopt and impose costly policies (shadow of hierarchy). It also prevents them from acting as reliable partners of non-state actors in the provision of common goods and fosters fear of agency capture making state actors reluctant to engage with more resourceful actors in the first place (Börzel 2009). Moreover, the state often provides basic governance services, such as infrastructure or security, which are necessary for non-state actors to engage in governance in the first place. Finally, the state is still the major source of legitimacy for governance. In other words, there is more to statehood than casting a shadow of hierarchy.

5 This is not to say that state actors are motivated to pursue the common good and always do so. But unlike business or interest groups, governments (and non-governmental organizations) can be held accountable and face legal and/or social sanctions, if they abuse their legal or moral authority to pursue private self-interests.

3. Statehood What For?

Research in the SFB 700 has shown that non-state actors do engage in governance in areas of limited statehood, where the state is too weak to provide common goods. Even multinational companies, which are considered least likely cases, engage in the provision of common goods (Börzel and Héritier 2012; Deitelhoff and Wolf 2010; Flohr et al. 2010). They do not only adopt global standards to govern their worldwide business activities (Epstein and Roy 2007; Prakash and Potoski 2006b, Prakash and Potoski 2007). They also voluntarily implement environmental protection standards, provide HIV/AIDS-related services, or agree to use sustainable energy (Flohr et al. 2010). In some instances, they even regulate their supply chains (Héritier, Mueller-Debus and Thauer 2009) and seek to foster state regulation by pressuring for stricter legislation and helping to strengthen the enforcement capacity of state actors (Vogel and Kagan 2004; Flanagan 2006; Mol 2001; Börzel et al. 2011).

What is less clear, however, is whether governance without the state requires statehood. We have identified several functional equivalents to the shadow of hierarchy, which provide sufficient incentives for non-state actors to engage in governance (cf. Börzel 2010; Börzel and Risse 2010; Börzel and Héritier 2012).

The shadow of hierarchy and its functional equivalents

The shadow of anarchy

While the threat of unilaterally providing a common good provides a key incentive for non-state actors, the same may be true for the opposite. If state actors are not capable of adopting and enforcing collectively binding decisions, companies are not confronted with a situation in which they have to weigh the costs of cooperation and voluntary commitment against the possibility of a suboptimal hierarchically imposed policy. Rather, they face the danger of not having a common good at all. If the pursuit of their individual profit depends on the provision of certain common goods and collectively binding rules to produce them, respectively, and government is not capable or unwilling to provide them, companies do have a major incentive to step in. Thus, multinational companies in South Africa have heavily invested in the fight against HIV/AIDS, both at the individual and the associational level (cf. Börzel et al. 2007; Müller-Debus et al. 2010). In the absence of a functioning public health system including public education on the risks of the pandemic, companies have been stepping in to provide health and education services not only for their workers, but also for their families and the larger communities. The same holds true for transnational public private partnerships providing multiple governance services in areas of limited statehood (Beisheim et al. 2008).As its antipode, the "shadow of anarchy" may serve a functional equivalent to the shadow of hierarchy (Mayntz and Scharpf 1995b: 23, Fn. 5; cf. Müller-Debus 2010).

The external shadow of hierarchy

While the shadow of anarchy substitutes for the shadow of hierarchy, the latter can also be generated externally. International organizations and foreign governments can commit non-governmental actors to the common good.

First, external actors directly exercise domestic sovereignty including the monopoly over the means of violence as well as enforcing decisions authoritatively in the modern protectorates from Bosnia to Afghanistan. These are areas of limited statehood where states have lost their "Westphalian" sovereignty or where it is severely circumscribed. The jury is still out whether foreign actors can exercise sustainable and effective governance under these circumstances (for conflicting views see e.g. Paris 2004; Fearon and Laitin 2004; Zisk Marten 2004), Schneckener 2010). Moreover, the emerging international norm of the "responsibility to protect" can be invoked if a state is either not willing or not capable of providing even a minimum degree of governance. As a result, the international community has at least the legal right to intervene and to provide governance if everything else fails.

Second, under international law, NGOs, companies, and local actors can be obliged to comply with standards of good governance in areas of limited statehood (Ladwig and Rudolf 2010). The legal principle of agency of necessity (*negotiorum gestio*, see Bühring and Hüfken 2008) implies that one actor acts in the place of another who is unable to take the necessary action. Third actors who then provide governance, are obligated by the same rules as the state government which is no longer capable of living up to international standards. In other words, there are standards of international law that hold non-state actors accountable to provide governance under conditions of limited statehood. Whether this results in effective and sustainable governance, however, is an altogether different question.

Finally, national governments of (consolidated and democratic) states, where multinational companies and transnational NGOs have their headquarters, may also force non-state actors to contribute to governance in areas of limited statehood. In this particular case, home country laws are in place and enforceable which require non-state actors such as companies to comply with standards of good governance or other regulations (e.g. environmental laws) irrespective of where they invest or act.

The shadow of the (socially embedded) market

NGOs can not only mobilize IOs and foreign governments to make companies engage in the provision of common goods. They can also launch international campaigns directly naming and shaming them to make them comply with their commitments. This can be particularly harmful to the reputation of companies that have a brand name to protect and whose products target markets in (consolidated and democratic) states where consumers care about the provision of common goods (cf. Hönke et al. 2008; Müller-Debus et al. 2010). They enforce regulatory standards down their supply chain (Héritier et al. 2009) or lobby governments to adopt stricter standards to keep competitors out (Börzel et al. 2011). In a similar vein, the extractive industry has made joint ventures with Chinese mining companies conditioned upon the respect for certain social standards (cf. Hackenesch 2009). Environmental, social and human rights norms have started to creep into the core business of many companies (see e.g. Prakash 2000; Prakash and Potoski 2006a; Prakash and Potoski 2007). What is now being called "corporate social responsibility" means in fact that firms are increasingly obliged to integrate environmental and human rights norms into their production, management, and general business practices including their risk management, even though their compliance record still varies enormously. Reputational concerns about socially accepted behaviour induce firms to take norms more seriously. Norm compliance can then turn into a strategic advantage in competitive markets leading to a "race to the top" with regard to regulatory standards (Börzel and Héritier 2012).

The shadow of the (traditional) community

Social norms are not only institutionalized at the international level or in areas of consolidated statehood. Traditional communities do have standards of human rights, even if they do not always fully conform to the global regimes. While African governments often do not care whether Chinese companies comply with rights standards, local communities do (cf. Hackenesch 2009). Likewise, companies may be embedded in local communities defined by clan structures or business activities which share certain standards of appropriate behavior that may include the respect for (certain) human rights. South African mining companies, for instance, are subject to considerable peer pressure since one rotten apple can spoil the reputation of the entire sector decreasing the share value on the international stock markets (cf. Hönke 2008).

In these cases, local communities do not provide a shadow of hierarchy, but they expect from non-state actors – companies and NGOs alike – that they comply with local governance norms and that they contribute to the provision of collective goods, particularly when the central state institutions are too weak (or to corrupt) to govern. Non-compliance can then quickly become costly for the non-state actors, particularly when the multi-level nature of governance in areas of limited statehood comes into play. In many cases, local communities are well connected to transnational advocacy networks of NGOs and international organizations and, thus, can link up with the global civil society (for these mechanisms see Keck and Sikkink 1998a). The indigenous peoples in the Niger delta of Nigeria linked up with the transnational human rights and environmental communities to denounce the behaviour of the Shell company which had both ruined the environment and had violated the human rights of local communities. As a result of these campaigns, Shell today is a different company that has fully embraced the norms of "corporate social responsibility" even though compliance with these norms in the Niger delta is still disputed (Zimmer 2010). The example shows how the norms of local communities and the social embeddedness of markets can work together to force non-state actors to contribute to governance in areas of limited statehood.

The literature provides ample evidence for the existence of functional equivalents to the shadow of hierarchy cast by governments drawing on consolidated statehood. Yet, they still appear to rely on some forms of consolidated statehood.

While the shadow of anarchy is defined by the absence of a state, the external shadow of hierarchy still requires consolidated statehood, e.g. in the home country of a multinational corporation. Since the shadow of anarchy provides crucial incentives for companies to engage in governance while the external shadow of hierarchy makes them honor their commitment, the two functional equivalents may complement and actually reinforce each other. In this case then, the multi-level nature of governance in areas of limited statehood provides for a functional equivalent to consolidated statehood's ability to cast a shadow of hierarchy. This does not require a coercive intrusion in a state's "Westphalian" sovereignty (Krasner 2004) which usually meets stiff resistance especially by weak and fragile states. Rather, the international community and/or Western consolidated states use their shadow of hierarchy to make non-state actors such as firms and NGOs engage in governance and provide public services in areas of limited statehood. In some cases, these actors rather than external states or international organizations even exercise legitimate authority (*Herrschaft*) in the absence of a state able to exert effective control (Koehler and Zürcher 2007).

The shadow of the market can render the non-provision of common goods significant competitive (dis-)advantages; yet, such economic incentives depend on the social embeddedness of markets, in which the demand of consumers is also influenced by moral obligations. They work particularly well on multinational corporations with a "brand name" to defend and whose products target markets in (consolidated and democratic) states where consumers care about the provision of common goods (see e.g. Prakash 2000; Prakash and Potoski 2006a; Prakash and Potoski 2007).

The shadow of the community, finally, is most effective if the claims of local actors resonate with norms legalized by international institutions and are picked up by foreign states or international organizations throwing the boomerang back and exerting pressure on non-state actors from above (Brysk 1993; Keck and Sikkink 1998b).

Overall, the various shadows do not only mix – they all require some form of consolidated statehood to deploy their effects in areas of limited statehood. The good news is, however, that external statehood is sufficient. Thus, it is the multi-level nature of governance linking areas of consolidated and limited statehood that provides for the functional equivalent to the shadow of hierarchy, which areas of limited statehood are often unable to generate. While governance configurations may differ, they most likely involve actors that rely – directly or indirectly – on consolidated statehood (Beisheim et al. forthcoming-b; see the paper of Risse). External governments use their consolidated statehood to set and enforce (inter)national norms and rules for non-state actors operating in areas of limited statehood. Likewise, their regulations provide for domestic markets where the demand of consumers for CSR translates into competitive (dis)advantages for transnational companies.

The shadows discussed in this paper vary with regard to the actors but are all based on incentives that shall induce non-state actors to engage in the provision of common goods. They can complement and reinforce each other as in case of corporate social responsibility, where the external shadow of hierarchy frequently combines with the shadow of the market, particularly for transnational companies with a brand name to protect. While the threat of legally binding international norms and rules makes companies commit to voluntary standards, such as the global compact, (fear of) naming and shaming campaigns by NGOs help to ensure compliance. Likewise, the shadow of anarchy induces companies to engage in the fight against HIV/AIDS but only in form of a club good by limiting prevention and treatment to their employees and their families. Societal pressure can then demand an extension to the wider community. At the same time, the shadows can also cancel each other out or create negative externalities for each other. The external shadow of hierarchy cast by international organizations and third states can weaken the shadow of the community by turning civil society actors into implementation agents of international state-building and development programs. Moreover, grass roots organizations defying "projectification" may challenge the legitimacy of external actors in the provision of common goods. In a similar vein, the external shadow of hierarchy and the shadow of the market may induce weak governments to avoid their responsibilities for fighting crime or diseases, placing the blame on the international community or the evils of globalization. The "dark sides" of the shadows have hardly been explored (cf. Peters 2010).

Finally, the four shadows work according to the logic of instrumental rationality, albeit a socially embedded one. Yet, arguing and persuasion provide an alternative mode of non-hierarchical coordination, which seeks to change actors' preferences by referring to collectively shared norms and values instead of merely manipulating their cost-benefit calculations by providing positive and negative incentives (see the paper by Thomas Risse). Moreover, hierarchical coordination based on legitimacy which is not backed up by the (possibility to) use force has to rely on the logic of appropriateness which for one actor commanding over others (see the paper by Stefan Esters). Again, such "soft modes of steering" (Göhler/Höppner/De La Rosa 2009) may complement rather than compete with the instrumental logic of the shadows. The latter may be sufficient to make non-state actors commit to the provision of common goods. Sustainable compliance, however, requires norm internalization through processes of arguing and persuasion (see e.g. Risse/Ropp/Sikkink 1999, Checkel 2005).

It would go beyond the scope of this paper to explore these various governance mixes and their impact on the effective and legitimate provision of common goods. The focus is on statehood and possible alternatives. The next section will discuss whether governance without statehood can perform other functions than providing incentives for non-state actors to make governance work.

Statehood and Its Functions

Internalizing negative externalities vs. providing common goods

The shadow of hierarchy relates to the role of the state as regulator and enforcer. Facing the threat of the state hierarchically setting and enforcing collectively binding rules, non-state actors voluntarily commit themselves to self-regulation or engage in co-regulation with state actors. Such regulation, however, tends to target negative externalities in the production of private goods rather than the provision of common goods itself. True, states may delegate the provision of governance services to non-state actors. Yet, providing common goods (building and running an HIV/AIDS clinic) is usually far more costly than internalizing negative internalities (reducing environmental pollution. Moreover, while companies increasingly accept the necessity to reduce harmful effects of their economic activities, they are at best willing to help state actors build the capacity to provide common goods (Deitelhoff and Wolf 2010). Likewise, the privatization of public services (e.g. provision of drinking water) is often not considered legitimate by the public.). Next to high costs and low acceptance, the direct provision of common goods also requires significant capacities, particularly if they are complex. A vaccination campaign is less demanding than fighting HIV/AIDS (Schäferhoff forthcoming). There is a reason why – with the exception of hard-nosed neoliberals – the provision of public goods is still seen as core task of the state (Grimm 1996; Leibfried and Zürn 2005). Statehood entails both the normative obligation and the necessary capacities.

Our empirical evidence seems to suggest that only in the shadow of anarchy, non-state actors are willing to heavily invest in the provision of common goods. If the state is not capable of protecting the health of their workers or to ensure the security of their property, companies start building medical facilities and employing security forces (Börzel and Héritier 2012; Hönke 2009). The other shadows may simply not be strong enough to turn companies into providers of public health or security. Other non-state actors may have the motivation but often lack the capacity to do so in the first place. What the shadow of the market and the community may do, however, is to improve the quality of the good once non-state actors made the choice to provide them. Quality control is another important function attributed to the shadow of hierarchy – supervising the inclusiveness, sustainability and potential negative externalities of non-state governance contributions. Companies, warlords, or tribes tend to provide club rather than public goods. Moreover, their governance contributions may produce significant negative externalities, when the security of a company negatively affects the security and human rights of local communities ((see the paper by Hönke and Thomas). While this is less of an issue for non-governmental organizations and public-private-partnerships, they also face problems of sustainability, particularly with regard to complex tasks such as the fight against HIV/AIDS.

If states are so weak that they delegate or leave the provision of common goods to non-state actors, they can hardly be expected to resume or take on responsibility in the cases of non-state failures. Yet, naming and shaming by NGOs and local communities combined with pressure by international organizations and foreign states, however, can significantly increase the (reputational) costs of reneging on a commitment to engage in governance in areas of limited statehood.

Providing common goods

Non-state actors are not only more prone to internalize negative externalities in the production of private goods than provide common goods. Their governance contributions may require the provision of some (basic) common goods, such as political stability and security, in the first place (Beisheim et al. forthcoming-b). While companies are often unwilling to invest in conflict zones, non-governmental organizations require a minimum of security for their workers and basic infrastructure to move around (cf. Schäferhoff forthcoming). In principle, such governance services do not have to come from state actors in areas of limited statehood, which almost by definition lack the capacity to provide them since their statehood is limited. Yet, even if external actors are willing to fill in, they usually involve consolidated states either participating in UN missions or sending their own troops – we have yet to see the delegation of military interventions to private security companies, which would still operate under the shadow of hierarchy of the international community. The same is true for other common goods, such as the rule of law. Next to subscribing to international institutions, weak states have started to lock-in domestic reforms in regional institutions (Pevehouse 2005) and set up regional courts to ensure the legal certainty many companies require to do business in areas of limited statehood (Alter 2012). Yet, to be credible, regional organizations have to have at least some member states that have sufficient statehood to enforce regional norms and rules (Nigeria in ECOWAS, South Africa in SADC).

War lords are an interesting case of non-state actors who acquired statehood. In some areas of Afghanistan, for instance, they managed to establish a monopoly on the means of violence and possess significant capacities to set and enforce collectively binding rules. The same is true for the Taliban (see the paper of Köhler). What they often lack, however, is legitimacy, both external and internal.

Providing legitimacy

Non-state actors can certainly acquire the capacity to set and enforce collectively binding rules, and, establish a monopoly over the means of violence in a territory, policy sector or over a certain social group. Whether they use these properties to provide common goods, however, is a different question. More often than not, warlords, clan chiefs, and local strong men appear to abuse their statehood to consolidate their power and increase their private wealth. But even if they do provide effective governance, the question of legitimacy remains. It would go beyond the scope of this paper to discuss the normative criteria which these non-state actors have to meet in order to claim legitimacy (see the paper of Ladwig et al.). When it comes to empirical legitimacy, i.e. social acceptance, the beneficiaries of governance services provided by non-state actors still seem to expect the state to take over, at least in the long run (Sonderforschungsbereich 700 2009: 5; (Beisheim et al. forthcoming-b). This coincides with the mind-set of many non-state actors, who are happy to help build the governance capacities of states but have no intention to substitute them (Deitelhoff and Wolf 2010). Likewise, the international community is clearly engaged in state-building seeking to strengthen the capacity of state actors to provide common goods (Brozus 2007).

4. Governance without Statehood?

Varieties of Statehood

The paper has argued that governance without the state can work but may still require statehood. This is not necessarily a contradiction since statehood is a property which is not confined to states as the ancient Roman Empire as well as the medieval Frankish and German Empires clearly show. The difference between them and the Westphalian state lies in their environment, which is not made up by other discrete territorial authority structures. Moreover, the emperor's statehood was not exclusive but divided and shared with subordinate rulers, feudal tenants, and the church, which all engaged in governance. In this respect, they resemble the modern state, which shares its statehood with international (UN, WTO), regional (EU, ECOWAS) and subnational organizations (regions, provinces, federal states), on the one hand, and non-state actors (independent regulatory agencies, chambers, associations), on the other (Chayes and Chayes 1995; Leibfried and Zürn 2005; Beisheim et al. forthcoming-a). With the modern state voluntarily delegating parts of its Westphalian and domestic sovereignty to non-state actors, it only retains exclusive international sovereignty. So do areas of limited statehood, whose statehood, however, is contested by rather than shared with other actors. Thus, their problem is not that they lack exclusive statehood – here, the Westphalian state clearly is the odd one out. What is missing is an institutionalized, uncontested 'distribution of labour' between state and non-state actors in the provision of common goods. Since statehood is limited, state actors can neither hierarchically impose an order of dived and shared rule nor can they settle conflicts and contestation (Beisheim et al. forthcoming-a). Instead, they are circumvented (Schäferhoff forthcoming) or challenged (Köhler and Wilke forthcoming; see the paper of Köhler). To what extent external actors can provide such 'meta governance' (Peters 2010) – without resorting to consolidated statehood – is an open question.

The Dark Sides of Statehood

While some sort of (external) statehood might be required to make governance in areas of limited statehood work, statehood as the capacity for a particular form of non-hierarchical coordination is per se not superior to other modes of governance. Fritz Scharpf has convincingly argued that hierarchy is in principle superior to negotiation and competition systems due to its capacity to solve distributional conflicts (Scharpf 1997; cf. Schuppert 2010: 14-32). At the same time, he has also shown that the performance of different forms of governance, including hierarchy, depends on certain scope conditions, which are only seldom fully met. This may explain why we usually find configurations of different actors and modes rather than ideal types. It should also caution us against idealizing or prioritizing statehood over other forms of hierarchical and non-hierarchical governance. Afghanistan is a clear example of state and non-state actors abusing their statehood. Unrestrained statehood is prone to despotism. It is the rule of law and democracy which have tamed the Leviathan. The D2 project of the SFB 700 "Companies and Governance in Sub-Saharan Africa" therefore asks to what extent the participation of companies in governance and the quality of their governance contributions not only depend on the degree of limitation but also the restraint (through legal structures and checks on power) of statehood.[6] The failure of the EU to support democratic forces in the Arab world is a clear example of how building-up statehood without strengthening the rule of law and democracy is likely to result in bad rather than good governance (Börzel and van Hüllen 2011). Statehood is at best a necessary but certainly not a sufficient condition for effective and legitimate governance.

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