

# **Constructing legitimacy without legality in long term exile: comparing Western Sahara and Tibet**

## **ABSTRACT**

While scholars agree that political legitimacy, or the legitimacy to rule, is sought by governing authorities, the concept itself is often considered to be problematically vague. This article explores how the very ambiguity of the concept of legitimacy may make it 'good to think with'. Calling into question two problematic assumptions in discussions of legitimacy: whether legitimacy is the prerogative of state authorities, and whether legality is a necessary basis from which to make claims for legitimacy this article uses the cases of two exiled governing authorities, for Western Sahara and Tibet, to examine how legitimate government can be produced in the absence of full legality as a recognised sovereign state. Attending to similarities and differences between these governments-in-exile we trace the sources of political legitimacy in each case and the techniques through which legitimacy is constructed in exile. Key to this has been the enactment of forms of rational-legal authority, including the establishment of state-like bureaucracies, the provision of services to their diasporic populations and aspirations to develop democratic structures. With the latter presented as a strategy both of securing internal legitimacy and of being seen to adhere to international norms of 'good governance', legitimacy in these cases emerges not so much as an achieved status, but as a set of techniques of government. We conclude by reflecting on how liminality – both territorially in terms of displacement and legally in terms of lack of full recognition – can counter-intuitively provide creative grounds for producing legitimacy.

**Keywords:** legitimacy; legality; exile; governance; Western Sahara; Tibet

### **Highlights**

► Posits that legitimacy is not an achieved status, but produced through contested practices and techniques of governance. ► Suggests how, thanks to the flexible ambiguity of legitimacy, the absence of full legal recognition does not preclude the production of political legitimacy. ► Conceptualises liminality, both territorial and political-legal, as a creative space for producing legitimacy. ► Explores ‘geographies of legitimacy’, which may challenge geographies of legality. ► Highlights the parallels in extra-territorial and trans-national governance between Western Sahara and Tibet.

## 1. Introduction

Bashir drives about 8km from his home to work in a car provided for him by the government, for whom he works. He is the secretary general of the Ministry of Trade. Recently, his work has involved mediating disputes among ministry employees about pay, managing a new profit-sharing scheme for ministry employees who use public resources for private commercial initiatives, and meeting foreign delegates who are visiting the ministry.

Phuntsok has been a civil servant for 25 years and, sitting in his office with files and folders filling each wall, he is keen to stress the importance of giving service to his community. Having started as a junior clerk in the Department of Home, he has worked his way up the ranks and now holds a senior position at the Department of Finance where he monitors expenditure flows across government institutions.

Bashir's and Phuntsok's working portfolios might sound familiar to many bureaucrats. But Bashir and Phuntsok do not work for ordinary governments. They work for the Sahrawi Arab Democratic Republic (SADR) and the Tibetan Government-in-Exile (TGiE) respectively. These governments provide services and administer resources to a Sahrawi and Tibetan population – but neither the governments nor the populations to whom they provide (most) services are in Western Sahara or Tibet. Operating from exile in Algeria and India, SADR and TGiE make strong claims to political legitimacy, by which in this article we mean legitimacy to rule. This is despite both polities being denied full legality in the international system in

the sense that neither has membership of the United Nations General Assembly as a state recognised by (most) other members. For scholars of the state and governance, their situation thus presents something of an apparent paradox. It has often been assumed that claims to legality are one of the means through which the political legitimacy of a government is secured (cf Franck, 1990; Weber, 1968). The cases of SADR and TGiE, however, suggest how an absence of full legality may not preclude the production of political legitimacy. In this article, we undertake an innovative comparative study of SADR and TGiE, probing their claims to and production of political legitimacy, in order to suggest fresh angles on the nature of legitimacy and its relationship to legality and to the state. Where legitimacy has been seen as an ambiguous concept (e.g. Shain, 1989: 166), we explore how this very ambiguity may make it particularly susceptible to being taken up in creative ways by polities that work from contexts of liminality – both territorially in terms of displacement and legally in terms of lacking recognition. We ask: might legitimacy thrive in the absence of full legality?

SADR and TGiE are the products of longstanding disputes over territory that hail from different geopolitical contexts. The ongoing conflict over Western Sahara between the liberation movement for Western Sahara and the Kingdom of Morocco (see Roussellier and Boukhars, 2014; Zunes and Mundy, 2010) took shape in 1975. In the context of UN pressure for decolonisation across Africa, Spain opted to relinquish its former colony of the Spanish Sahara.<sup>1</sup> Morocco partially annexed the territory, leading many Sahrawis to flee, going into exile in Algeria. Following Spain's departure, the liberation movement for Western Sahara,

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<sup>1</sup> Spain signed the Madrid Accords, agreeing to hand over the colony to Morocco and Mauritania, on 14<sup>th</sup> November 1975. Morocco had organised a symbolic civilian 'reclaiming' of the Sahara, the Green March, between November 6<sup>th</sup> and 9<sup>th</sup> 1975. Following the Madrid Accords Morocco began to annex the territory. Spain formally ended its administration of the territory on 26<sup>th</sup> February 1976.

Polisario Front (henceforth Polisario), founded SADR in 1976. Polisario and SADR work in close administrative fusion to govern both the exiled Sahrawi population in refugee camps in Algeria, as well as parts of Western Sahara under Polisario control. In exile, SADR operates ministries, a Parliament and provides welfare services. Abroad, it operates embassies in some of the states which have recognised SADR, as well as offices in various countries which do not recognise SADR.

In the case of Tibet controversy has long surrounded the legal and political status of this territory. Chinese authorities maintain that Tibet has been and remains an 'inseparable part of China' (Wei, 1989: 27) whereas Tibetans assert that Tibet was an independent state between 1913 and 1950. This independence ended when troops from China's People's Liberation Army entered Eastern Tibet in 1950 and, a year later, China declared Tibet's 'peaceful liberation'. Following a failed national uprising in the capital Lhasa in 1959, the Dalai Lama, his government officials and tens of thousands of Tibetans fled across the Himalayas to seek refuge in India. The Tibetan Government was re-established as the TGfE in north-west India in 1960 and, although not recognised by any state, this exiled administration has instituted formal state-citizen relations with its diaspora, established a functioning bureaucracy in India and a series of foreign missions abroad, and has instituted a representative democracy for the first time in Tibet's history.

Given the distinct geopolitical contexts and histories of these cases it is unsurprising that there are important differences between them.<sup>2</sup> Tibet has, in the Dalai Lama, a charismatic

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<sup>2</sup> Geopolitical differences also encompass Tibet and Western Sahara's respective opponents, China and Morocco. China combines formidable economic power and permanent membership of the UN Security Council. Morocco is nevertheless a strategic ally for the US

leader who has significantly raised the international profile of the ‘Tibetan cause’. Western Sahara is mostly unknown outside immediately concerned parties (neighbouring states, the former colonial power Spain, and the UN). Tibet’s exiles in India do not have official status as refugees (Garratt, 1997; McConnell, 2013a) whereas Sahrawi refugees in Algeria do, albeit the UNHCR is kept somewhat at arm’s length by Polisario. The fact that Polisario is an armed movement and combines (the potential for) armed resistance with non-violent demonstrations in the Moroccan-controlled areas (Mundy, 2006) also contrasts with the exiled Tibetan leadership’s promotion of and adherence to a strict policy of non-violence (Ardley, 2002; McConnell, forthcoming 2014). Significantly, Polisario controls some 20% of its claimed territory and performs some governance activities there (it deploys its army, administers SADR law from a court in Mijek, provides schooling and health care, and hosts political events and national commemorations). In contrast the TGiE does not control any of its claimed homeland and, although Tibetans in Tibet continue to demonstrate allegiance to the Dalai Lama, the exile government has no formal contact with this population. Finally, Polisario’s SADR claims to be a state and remains in a limbo of partial recognition and non-recognition,<sup>3</sup> whereas the TGiE has not claimed to be a state, has not been recognised as a government by any other state and is no longer seeking such recognition. Whilst questions of (non)recognition — and the denial of the ‘gold standard’ of full international legality that goes with this — form an important backdrop to the discussions that follow, they are not the focus of our attention here (cf Talmon, 1998).<sup>4</sup> Instead, in attending to constructions of

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and France, and in practice has received such strong support from these permanent members of the UNSC (see Zunes and Mundy 2010) that the possibility of greater pressure from the UNSC in the case of Western Sahara remains remote.

<sup>3</sup> As at 2006, SADR had received 80 recognitions by other states, including 22 cancellations or suspensions (Pazzanita, 2006: 376-378). SADR is also a full member of the African Union (from which Morocco has withdrawn), but it is not a member of the League of Arab States (where Palestine is a member). On recognitions for SADR, see Tisseron, 2014.

<sup>4</sup> Complexities around the vexed issue of non/de-/re-recognition are vast, especially in the case of disputed territories, and warrant a far more thorough investigation than we have space to provide here.

legitimacy rather than the denial of legal recognition, we approach these polities not in terms of what they lack, but in terms of what their unusual circumstances may allow them to achieve.

It is through a focus on the situations of exile and the everyday functioning of SADR and TGiE that striking similarities between these two governing authorities come to the fore. Both cases share the challenge of governance without being located in a territorial base that is recognised as ‘their own territory’. This location outside the home territory is key to the fact that neither case fits conventional understandings of a de facto or unrecognised state — a polity that has de facto sovereignty within its claimed territory, but is denied international recognition (Bahcheli et al., 2004; Caspersen, 2012; Pegg, 1998) — or a ‘failed state’ — a recognised state that has ceased to operate a functional government within its own territory (e.g. Reno, 1995). In addition, despite being labelled as ‘governments-in-exile’ and often self-identifying as such,<sup>5</sup> neither polity fits the conventional image of a government-in-exile as cabinet ministers seeking refuge in an allied host state during wartime occupation but without a direct relationship with their national population (Conway and Gotovitch, 2001).

SADR and TGiE have both proved remarkably durable, dating back at the time of writing 38 and 54 years respectively, which is considerably longer than many cases of de facto/unrecognised states (Caspersen, 2012; Pegg, 1998). Another similarity, further addressed in this article, is that both have formed or re-established governments that have state-like

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<sup>5</sup> Whilst the title Tibetan Government-in-Exile is widely used to describe this polity, ‘Central Tibetan Administration’ has been used as the official name in English since the mid-1990s and the Tibetan name was somewhat controversially changed to *Tsenjol Bod Mei Zhung Gi Drik Tsuk* (‘Institution of Tibetan People’) in 2011 (see Tibet Justice Center, 2011).

qualities, with ministries, directly elected parliaments and mechanisms for the appropriation of resources. Both authorities have also demonstrated an ability to foster nationalism, and, through welfare services and structures for political participation, a broader sense of political unity within their diasporic populations.

Given the parallels between the cases, it is somewhat surprising that, with the exception of isolated calls for the strategic solidarity of peoples displaced due to occupation of their homeland (e.g. de Weichs de Wenne, 1996; Ker Krog, 2012), there have been very few comparative studies of TGiE and SADR. This lack of explicit comparison can be traced both to the very fact that anomalous governments are often seen as exceptional and thus treated in isolation, and to the predominance of area studies which does not favour trans-regional comparisons. Nor does it seem that members of the TGiE and SADR make comparisons between the two cases, as for instance SADR officials encourage comparison with East Timor. For its part, TGiE has avoided any close association with armed movements.

Anecdotal evidence from discussions with representatives from these governments suggests that representatives may meet in settings such as Geneva and New York, and are aware of each other's work. But the realities of geopolitical strategising—e.g. the costs to Polisario of displeasing China, a permanent member of the UN Security Council—may take priority over striking up working relationships based on common experiences of displacement and exile.

Drawing on long-term qualitative fieldwork that each author conducted with SADR and TGiE, we suggest that bringing these two cases together for comparison nonetheless promises to



be intellectually enriching.<sup>6</sup> Not only is comparison a means of highlighting insights through connections and parallels but it also diverts attention from narratives about what these polities lack and the restrictions they face due to operating in exile. Through this comparison we also bring into dialogue insights from our backgrounds in political anthropology and political geography. These subfields have, in recent years, embraced aspects of each other's approaches, with a turn towards ethnographic methods in political geography (e.g. Megoran, 2006), and increasing engagement with themes such as spatialisation in political anthropology (e.g. Ferguson and Gupta, 2002). Seeing potential for further direct collaborations between the disciplines such as we undertake here, we situate this essay within a growing body of exchanges between these disciplines (e.g. Elyachar, 2005; Jeffrey, 2013; Navaro-Yashin, 2012; Rankin, 2003; Reeves, 2011), geography contributing insights into spatial questions and anthropology to the study of social relations.

The article proceeds as follows. We first critically examine two recurring themes in different disciplines' discussions of legitimacy, namely its relationship to the state and to legality. We highlight both how legitimacy can be conceived of as a contested process and the ambiguity of legitimacy as concept which has a straightforward relationship neither to the state nor to legality. This is an ambiguity which, we suggest, makes legitimacy accessible to SADR and TGiE as entities denied full legality as a state. Sources of legitimacy at stake for the exiled governments of both Western Sahara and Tibet are then considered, followed by an analysis of the quotidian practices through which each authority (re)constructs legitimacy. Drawing

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<sup>6</sup> Author A conducted fieldwork with Sahrawi refugees, with a focus on the Sahrawi refugee camps in Algeria, between 2006 and 2012, including 24 months of fieldwork 2007-2009. Author B conducted fieldwork in Dharamsala and a number of Tibetan settlements across India in a series of research trips between 2006 and 2012.

on these findings, we finally reflect on legitimacy as not so much an achieved status, but as a set of techniques of government. Rather than legitimacy being out of reach for polities that operate in a context of territorial and legal liminality, engagement with techniques of legitimacy may be all the more important in such cases.

## **2. Rethinking legitimacy**

‘Legitimacy’ runs as a leitmotif through discussions of political life on multiple levels: in the relationship between governing authorities and governed constituencies (e.g. Hafez, 2012); as regards a regime’s standing amongst its peers, e.g. as became a key question in the Arab Spring uprisings (Lynch, 2012); with regard to international interventions e.g. in Bosnia, Afghanistan and Libya (Jeffrey, 2013; Pack, 2013); and as concerns the rule of supranational political formations and institutions of global governance (e.g. Erman and Uhlin, 2010). A contested concept, legitimacy has attracted the attention of scholars from a variety of fields, including political science, international law, political philosophy, sociology and social anthropology—although it is a topic which has somewhat surprisingly been overlooked by political geographers (for exceptions see Bakke et al., forthcoming 2014; Hudson, 2001a; O’Lear, 2007). A full discussion of debates about legitimacy across these disciplines would certainly be timely, given not only the accumulation of scholarly interest but also the pressing questions about legitimacy raised by the vicissitudes of recent and ongoing attempts at regime change. Nevertheless, such a task remains beyond the scope of this article. Here, our aim is rather to highlight within broad debates about legitimacy two recurrent themes shared within different disciplinary approaches to legitimacy: assumed

connections between legitimacy and the state, and the notion that legality is an important foundation for and means of claiming legitimacy. The cases of SADR and the TGiE, where full international recognition as a state has been denied and thus conventional criteria for political legitimacy are wanting, become a springboard to re-think those themes. We also suggest that whilst SADR's and the TGiE's *claims* to and constructions of political legitimacy can start to be taken seriously by engaging with normative arguments around legitimacy in principle and empirical questions of legitimacy in practice, further insights can be gained from a turn to the quotidian, the relational and the spatial. As such, our approach to legitimacy both draws on our backgrounds in anthropology and geography, and embraces interdisciplinarity.

Turning first to questions of the state and legitimacy, political scientists and political philosophers (inter alia) have focused on the privileged role of the state as a repository for legitimacy, how institutions of government come to be perceived as legitimate, and the centrality of legitimacy to the appraisal of the modern state (Barker, 1990; Jessop, 1997; MacLeod, 1999; Migdal, 1988). Where legitimacy is understood in a normative sense as the right to govern, this status has been seen to be conferred by the people on the government (Sternberger, 1968). Scholars inspired by Locke have emphasised the importance of the consent of the governed for a state's legitimacy (Gardner, 1990). From a Gramscian perspective, where force and consent come together in 'the "normal" exercise of hegemony... making it appear that the force is based on the consent of the majority' (Gramsci 1970: xx), then consent and coercion may overlap in grounds for claims to legitimacy. Shifting focus from consent and coercion to belief, scholars such as Lipset (1984)

and Easton (1975) have argued that legitimacy involves the capacity of the political system to engender the *belief* that the existing institutions are the most appropriate ones for the society (Ansell, 2001). These subjective approaches to legitimacy – that it exists only through belief in the rightfulness of rule – are distinct from objective approaches which understand legitimacy as the adherence to external moral standards (Buchanan, 2004). Across these perspectives, legitimacy is crucial for the state and vice versa.

Nevertheless, critical accounts of the nature of the state itself problematise the idea that the state is a privileged repository of legitimacy. In warning against reifying the state as an ontological and material object Philip Abrams (1988) instead proposes that we examine the *idea* of the state. He argues that the state is ‘first and foremost an exercise in legitimation – and what is being legitimated is... something which if seen directly and as itself would be illegitimate, an unacceptable domination.... The study of the state, seen thus, would begin with the cardinal activity involved in the serious presentation of the state: the legitimating of the illegitimate’ (1988: 76). Extending this notion of the state as an exercise in legitimation rather than an institution, political geographers and social anthropologists (inter alia) have explored the everyday cultural practices through which the state’s legitimation proceeds and is consolidated (Clark and Dear, 1984; Gupta and Ferguson, 2002; Painter, 2006; Trouillot, 2001). This attention to the quotidian and to practice is a welcome and useful approach, but in focusing on dominant forms of government, much – although not all – of this scholarship retains the state as a privileged locus of legitimacy.

However if we release ourselves from the circular argument premised on legal definitions that the state is that which is legitimate, but what is legitimate is decided by the state, and consider instead Painter's assertion that 'there are forms of validation and justification other than purely juridical ones' (2006: 756), then we can shift attention from the state to the process of legitimation itself. This opens up two productive lines of enquiry. First, it means that we can take a 'broader look at the applicability of [legitimacy] to other groups besides formal governing institutions' (Horowitz, 2009: 249) – to, for example, the degree of legitimacy of non-ruling aspirants (Shain, 1989). A key component of the exceptionalising of 'anomalous' polities is the assumption that there exists either 'absolute' sovereignty or no sovereignty at all. As the 'other' to internationally recognised sovereign states, geopolitical anomalies such as the governments-in-exile being examined here are thus conventionally framed as lacking international status and external legitimacy. Paying attention precisely to the narratives and practices of legitimacy enacted by SADR and TGIE therefore contributes to the challenging of enduring binary logic of distinctions such as weak/strong sovereignty or positive/negative sovereignty (Jackson, 1990; Sidaway, 2003).

Second, and linked to this, the shift from seeing legitimacy as something which a state 'secures' to seeing legitimation as a process that is always under contestation brings to the fore the importance of everyday practices of governance. The quotidian is of particular importance when attending to SADR and TGIE as it is precisely their everyday functioning as governments within seemingly exceptional spaces and situations which bolsters their claims to legitimacy. Attending to legitimacy as a process also foregrounds the relational qualities

of legitimacy: it is about both subjects' belief in the 'rightness' of a political authority and that authority's claims about their rightness (Ansell, 2001: 8706; Barker, 1990).

Closely related to the idea of the state as a privileged locus of legitimacy is the notion that legality is a foundation for claims towards legitimacy. As Max Weber set out in his tripartite formula of charismatic, traditional and rational-legal authority, legitimacy can be understood to derive from divergent sources, varying from the personality of a leader, to popular customs and constitutional principles respectively. This schema continues to dominate discussions of legitimacy – yet the ascendancy of the nation-state with its claims to define the very category of the legal, and assertions that charismatic and traditional sources of authority are increasingly overshadowed, mean that great emphasis has been placed on legality (and the state) as an underpinning for legitimacy. Thus, in his discussion of how international law comes to be perceived as legitimate, Franck (1990) asserts that rules are perceived to be legitimate, and therefore worthy of being followed even in the absence of coercion, to the extent that they are seen to derive from due process. In other words, rules are perceived to be legitimate to the extent that they repose on a foundation of legality as understood in a given historical context.

With their attention to micro-politics, ethnographic studies have nevertheless explored the relationship between legality and legitimacy in more nuanced terms. At the level of policies and practices within a governed community (as opposed to at the level of a governing authority itself, to which we turn shortly), technically legal practices, such as new categories of citizenship, can locally be seen as illegitimate (e.g. Pardo and Prato, 2011).

Conversely, technically illegal practices, such as banditry or smuggling, may be seen as legitimate by those who practice them (Roitman, 2005; Scheele, 2012). Where a lack of official legality is not an obstacle to a practice's perceived legitimacy, there may nonetheless be other criteria for maintaining legitimacy. These criteria — what Roitman (2006) has called the 'ethics of illegality' — may be defined in dialogue with official notions of legality. Raiding may be legitimised to the extent that it mimics state-sanctioned taxation (Roitman 2005), but in a context of popular rejection of the state, large-scale smuggling operations may be delegitimised to the extent that they mimic the state (Scheele 2012).

The potential misfit between legality and legitimacy at the level of policy and practice can affect the very legitimacy of the government in question — even contributing to an overall 'crisis of legitimacy' for a governing authority (e.g. Pardo and Prato 2011; Connolly 1984). But the intricacies of the awkward relationship between legality and legitimacy at the level of the practices permitted (or not) by a particular governing authority have been less extensively explored at the level of a governing authority itself. Certainly, governments which might be expected to enjoy both legality and legitimacy have been shown to fail to do so. For instance, Englund (2002) has analysed how following the letter of the law, in this case in a by-election in Malawi, could nevertheless be combined with behind-the-scenes manipulation that made safeguards for pluralism meaningless, with the result that the government won an election, but lost legitimacy. Similarly, Wedeen (2008) explores how during presidential elections in Yemen the ruling party set up a stooge opposition candidate, and lost national and international legitimacy. Such studies notwithstanding, though, broader assumptions (cf. Weber, Franck) that legality is one of the key means through which

legitimacy is produced remain influential. Empirical interrogations of the vocabulary, techniques and historical contingency of the production of political legitimacy (Babül, 2012; Ferguson and Gupta, 2002; Lan, 1985; Sanders, 1998) have not necessarily questioned the underlying role of legality for producing legitimacy. With few exceptions — such as the work of Navaro-Yashin (2002) which examines how popular fetishistic fantasies of state power in Turkey withstand the exposure of the state's corruption — the notion that legality underpins governmental legitimacy remains influential.

Consequently, in cases where a government has lacked full legality from the beginning, there has been a tendency to assume that this necessarily presents an authority with a challenge to its legitimacy. In a comparative study of governance by insurgent movements fighting against a recognised state, political scientist Zachariah Mampilly (2011: 34-5) argues that the absence of juridical sovereignty (in the form of inter-state recognition) is an obstacle to rebel rulers achieving legitimacy. For Mampilly, rebel rulers, such as the Liberation Tigers of Tamil Eelam and the Sudan People's Liberation Movement, compensate for this obstacle by focusing on providing public goods to civilians under their rule, such as security, a legal system for resolving disputes, and welfare services. In a similar vein, anthropologist Ilana Feldman (2008) has argued that the British mandate and Egyptian caretaker governments in Gaza in the early and mid-20<sup>th</sup> century pursued short-term, tactical governance, rather than long-term governing strategies, as a set of 'abeyance' techniques for deflecting attention from how these governments lacked the full legality of other governing authorities. Looking at the intersection of the political and affect, in her ethnographic study of the unrecognised governing authority of Turkish Cyprus Navaro-



Yashin (2012) explores how overarching lack of legality can engender malaise among those ruled by this authority, especially with regard to what are regarded as invalid 'legal' documents.

We agree with Feldman and Mampilly that governments which lack legal recognition seek to compensate for this by pursuing other means of claiming the legitimacy to govern; we also recognise that the unresolved question of their legal status can provoke anxieties for Sahrawis and Tibetans in exile, as Navaro-Yashin suggests for Northern Cypriots. Yet rather than seeing legitimacy as something that is 'out of reach' once legality is called into question, we see legitimacy – for instance, as detailed above in its relationship to the state and in its relationship to legality – as ambiguous. Previously, the ambiguity of legitimacy has been taken as grounds for its inadequacy. Yossi Shain writes:

'From the celebrated typologies of Max Weber to contemporary scholarship, students of legitimacy have failed to establish a clear-cut distinction between a "legitimate" and an "illegitimate" regime... Because the concept of legitimacy suffers from a lack of empirical validity, it has failed to give an account of the actual processes by which power is gained, maintained or lost' (1989: 166).

However, rather than following Shain in rejecting the concept of legitimacy in favour of "'loyalty" and "recognition" as empirical measures for analysing the power struggle in the nation state' (1989: 166), here we take the ambiguity of legitimacy – its polysemous relationship to legality and to the state — as a starting point. Given such ambiguity, factors that apparently make legitimacy elusive for the governing authorities of Gazans, Northern

Cypriots, Tamils and South Sudanese – such as ongoing unresolved status or the legacies of foundational violence — should not be assumed to play out in the same way for Sahrawis and Tibetans. Rather, in examining the legitimacy practices and techniques of the TGiE and SADR we ask how the inherent ambiguity of legitimacy might be a contributing factor to creative experimentation in the means of producing governmental legitimacy, such that a governing authority that lacks full legality might nevertheless be able to claim and construct legitimacy.

### **3. Sources of legitimacy**

Articulating and promoting the historical and political sources of legitimacy is an important activity of unrecognised and aspirant polities (Isachenko, 2008; Shain, 1991), and the cases of SADR and TGiE are no exception. The three sources of authority that Weber identified as important for sources of legitimacy – charismatic, traditional and rational-legal – have been crucial for SADR and TGiE, but in contrasting ways. In broad terms the TGiE has laid significant emphasis on continuities with the past, especially with regard to charismatic and traditional authority. In contrast, Polisario embarked on a socialist-inspired path which entailed seeking deliberate breaks with past forms of governance, especially the importance of tribal leaders and tribes (albeit with varying success).<sup>7</sup> Within these two contrasting approaches of continuity and rupture with the past, there are still commonalities in the sources of legitimacy that the two polities claim.

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<sup>7</sup> For San Martín (2010), tribal affiliations were already losing importance for Sahrawis during the colonial period, even as Spain sought to grant greater powers to tribal leaders. Tribal affiliations are perceived to have undergone a resurgence in exile from the 1990s (e.g. San Martín, 2010: 155). For a discussion of Polisario's aspirations to ban tribes, and the compromises and dilemmas that, over time, it has faced in different political, economic and social domains, see Wilson, in preparation.

Looking first at SADR, three dominant claimed sources of legitimacy can be identified. The first two, autochthony and resistance, could be understood as forms of traditional authority, while a third, the right to self-determination, could be understood as legal-rational. The historically fragile nature of political leadership in Bedouin tribes (e.g. Bonte, 2008), including in the area that came to known as Western Sahara (cf Caro Baroja, 1955), means that there have been few historical examples of the emergence of a charismatic leader, and no equivalent genealogy of charismatic leaders such as is provided in the case of Tibet by the Dalai Lamas.<sup>8</sup> Whilst 20<sup>th</sup> century leaders of Sahrawi nationalism such as Mohamad Bassiri and ElWali Mostapha Sayed have to an extent been adopted by Polisario as inspirational martyr figures for the nationalist cause (San Martín, 2010: 137-138, 141-142), traditional and legal-rational sources of legitimacy have arguably been more important for SADR.

Autochthony has often been put to the service of political claims about identity and territory (Elden, 2013; Geschiere, 2009); a major basis for SADR's claim to be the legitimate political authority for Western Sahara is the claimed autochthony of Sahrawis to the territory of Western Sahara. Interestingly, these claims are made with regard to a (perceived) mobile pastoralist past, in which many of those who came to see themselves (or were seen by their descendants) as Sahrawis moved around, and often beyond, the territory which came to be known as Western Sahara. Sahrawis' claims to indigeneity today thus relate not only to claims of having been in the territory, but also to claims of having lived an 'indigenous' lifestyle, even if this at times took people beyond the homeland territory. Identification with

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<sup>8</sup> An exception is the late 19<sup>th</sup> century figure of Shaikh Malainin, who led resistance against European colonialism and eventually made a claim on the Moroccan Sultanate itself (see Norris, 2001).

this lifestyle in turn justifies further claims for indigeneity on the grounds of distinction from neighbouring peoples, especially subjects of the Moroccan Sultanate to the north.

Secondly, and relatedly, SADR's claims to be the legitimate political authority for Western Sahara rely on historical assertions that the inhabitants of present day Western Sahara 'never' submitted to the rule of the Moroccan Sultanate. These claims lie at the heart of the case for self-determination (International Court of Justice, 1975). The importance of both indigeneity and a history of resistance for pro-independence Sahrawis is summed up in a poem, composed by one of the poets resident in the refugee camps:

'We are separated from Morocco by creation, behaviour and religion/We are already separated in origin and they betrayed the religion/their lord is little Hassan and our lord is Allah/We are separated in customs, traditions and perseverance, in acceptance and characteristics/In land, in climate and flora and many things, we are separated since our first creation' (Deubel, 2012: 309).

A third source of legitimacy for SADR is legal-rational. SADR, and indeed Sahrawi refugees (as well as many annexed Sahrawis), view their cause as justified in international law by the UN having designated Western Sahara as a Non-Self-Governing Territory, and the International Court of Justice having found in favour of the right to self-determination of the people of the territory in 1975. UN Security Council resolutions since then have continued to stress the right to self-determination of the people of the territory— although, with all attempts to implement the UN-organised referendum on self-determination having failed to date, this right has, as yet, not been fulfilled. This international legal framework offers

external corroboration of SADR's founding narrative that they merely seek for Sahrawis' rights to be respected.

The 'Question of Tibet' has also made it onto the UN agenda, albeit briefly and without the same designation of its status under international law. Although two of the three UN General Assembly Resolutions on Tibet (1961 and 1965) referred to the principle of self-determination, their focus was primarily on human rights violations, and the Tibetan case remains in a state of limbo at the UN (Shakya, 1999; Walt van Praag, 1987). However despite this lack of international *legal* support, TGiE has been remarkably successful in garnering international popular support, based around what is now an extensive Tibet freedom movement (Davies, 2012).<sup>9</sup> A key element to exiled Tibetans' claims to legitimacy on the international stage has been the leadership's avowal of non-violence as a political strategy. For its part, whilst Polisario's insistence on remaining an armed movement has exposed it to potentially delegitimising allegations from its opponents that it is a terrorist organisation, the movement also encourages non-violent resistance in the Moroccan-controlled areas (Mundy, 2006). Yet it is striking that in both cases narratives and practices of violence/non-violence are riddled with contradictions. Depending on its audience, whether internal or external, both the possibility of violence and the practice of non-violence are legitimising techniques for Polisario. In the Tibetan case, the exiled leadership's ardent promotion of non-violence has had the effect of 'arresting' histories of Tibetan guerrilla warfare against Chinese occupiers in the mid-twentieth century (McGranahan,

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<sup>9</sup> The Tibetan solidarity movement was particularly effective in raising the profile of the Tibetan case in the 1990s through support from Western music and film stars and, whilst it has failed to influence negotiations on the status of Tibet, it did boost the TGiE's international legitimacy. As noted previously, though there is a significant Sahrawi solidarity movement in Spain, Western Sahara has struggled to raise the profile of their cause internationally.

2010) and silencing resistance to pacifism within the exile community. A further dimension of the ambiguity of legitimacy, it seems, would be the potential for both violence and non-violence to be adopted as legitimising strategies.

Instrumental to the instigation and development of TGiE's international support, and a key source of legitimacy for the TGiE, has been the current, 14<sup>th</sup> Dalai Lama. Between the seventeenth century and 1959, the Dalai Lamas – a lineage of leaders of the Gelug school of Tibetan Buddhism – were both the religious and political leaders of Tibet and headed the Lhasa-based Tibetan Government. As the personification of *Chenrezig*, the bodhisattva of wisdom and compassion and the protector deity of Tibet, the current Dalai Lama is seen to provide continuity to the history of Tibet (Kolås, 1996) and function 'as the central locus of power and identity within the Tibetan diaspora' (Houston and Wright, 2003: 218). Inspiring immense loyalty and compliance from Tibetans His Holiness is thus arguably an archetype of charismatic authority. Crucially the legitimacy of the institution of the Dalai Lama is not, and arguably has never been, defined in territorial terms or as a Machiavellian power of command through the direct use of force. Rather this is power enacted discursively as influence over a (defined) people.

Important for our focus here is that the legitimacy of the exile government – its ability to represent the Tibetan people – has, until very recently, been perceived to be embodied in the person and the institution of the Dalai Lama. Yet, at the same time, the legitimacy claims of the TGiE have also rested on its assertions of historical continuity with governance back in Tibet. Resonating with Weber's notion of traditional authority is the claim that the exile

government was not a new institution established in exile, but rather the continuation and transplantation of the *Ganden Phodrang*, the Government of Tibet founded by the 5<sup>th</sup> Dalai Lama in 1642.<sup>10</sup>

However, cognizant of vulnerabilities at the heart of Tibetan leadership – that it is reliant on a single individual– and particularly at a time of strained Sino-Tibetan relations and his own progressing years, the 14<sup>th</sup> Dalai Lama has been implementing a series of changes designed to transfer his political authority to the elected TGiE leadership. This shift from numinous to civil legitimacy has included the Dalai Lama’s instigation of that quintessential foundation of rational-legal authority – democracy (discussed below) – and His Holiness landmark decision in 2011 to stand down as head of state and head of government, though retaining his role as spiritual leader. In doing so the Dalai Lama dissolved the historical form of Tibetan Government (*Ganden Phodrang*) and thus relinquished an almost 400 year old tradition of power. This prompted discussions within the exile community of a ‘legitimacy crisis’ (McConnell, 2012; Tibet Justice Center, 2011), but reassurances from the leadership that the TGiE remains ‘the legitimate governing body and representative of the whole Tibetan people, in whom sovereignty resides’ (Central Tibetan Administration, 23 May 2011), now led by elected individuals, appears to have appeased most of these concerns.

In summary, despite historical and contextual differences between SADR and TGiE, the two cases rely on key founding narratives with some overlapping claimed sources of legitimacy. These include claiming to be on the right side of international law in exile, and stressing links

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<sup>10</sup> Whilst the *Ganden Phodrang*’s tax-raising and military powers were largely restricted to Central Tibetan (it struggled and often failed to control the eastern and southern regions of Amdo and Kham), these limitations have been papered over by the TGiE in its efforts to subsume regional and sectarian heterogeneity under a pan-Tibetan nationalism (Mills, 2014; Shakya, 1999)..

with a home territory, even when this is not (wholly) readily accessible. Such founding narratives are by no means distinctive, but rather are shared with established governments and states. What is arresting here is the extent to which the apparent setbacks of displacement and lack of recognition do not impede the development of such narratives, but may even contribute to their creativity and urgency. It is also significant that whilst both TGiE and SADR have had their fair share of internal critics,<sup>11</sup> unlike many exile movements (Goodeeris, 2007; Shain, 1989) neither has significant opponents or contenders for authority. This suggests the effectiveness of their construction of legitimacy in exile, to which we now turn.

#### **4. Constructing legitimacy whilst in exile**

Over the course of long years in exile, both the TGiE and Polisario/SADR have laid great emphasis on constructing governmental structures that provide exiled Tibetans and Sahrawis with welfare services and opportunities for participation in government. Through such means, these governing authorities have sought to construct their internal legitimacy to rule in the eyes of Tibetans and Sahrawis, as well their external legitimacy in the eyes of the international community. In this section we trace a number of common governmental strategies, practices and discourses which SADR and TGiE have enacted in exile and which, we suggest, add up to not insignificant claims to political legitimacy.

Reflecting the truism that ‘exile organisations ascribe vital importance to foreign support for their struggle’ (Shain, 1989: 110), both SADR and TGiE place considerable weight on proving

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<sup>11</sup> On Sahrawi demands for reform of Polisario in the 2000s, see Gómez and Omet, 2009, Campbell, 2010. For discussion of estrangement from TGiE see Norbu, 1990 and Ström, 1995.



themselves to be worthy and legitimate political alternatives to the rule of the regime which they contest. As Shain notes, most exile organisations seek to obtain international support 'by latching onto issues that the global international community finds symbolically resonant... [which are] usually part of a storehouse of political mythologies widely accepted... as archetypes of legitimacy' (1989: 127). Since the second half of the twentieth century these have largely been premised on the twin issues of human rights and democracy and, in recent years, have coalesced around an increasingly agreed set of internationally principles of 'good governance'. With the criteria of democratic accountability having become an increasingly established political and legal measure of a polity's legitimacy (Pegg, 1998: 40) this resonates with Buchanan's (2004) objective approach to legitimacy as adhering to moral standards of international justice. Following such expectations, democratic institutions and practices in both cases have been initiated in relation and in response to key external audiences.

Hailed as the most important achievement of the exiled Tibetan community, the democratisation of Tibetan politics is central to how TGiE functions and how it presents itself to the international community. Political power in pre-1959 Tibet was vested in the Dalai Lamas on whose behalf government ministers ruled. Although the 14<sup>th</sup> Dalai Lama introduced a number of progressive changes in Tibet through his Reform Committee, his initiatives were impeded by the Chinese occupying forces. The relative political freedoms that His Holiness enjoyed in exile, and his exchanges with Indian and Western policymakers, helped shape and implement his vision of democracy based on the union of political and Buddhist value systems. The establishment of democracy within the exile community has

been a long and at times protracted process (Ardley, 2002; McConnell, 2013b) involving the abolition of hereditary titles and the traditional bi-polar system of appointing monk and lay officials to each position, the separation of powers of among the three branches of government (legislature, executive, and judiciary) and the direct election of members of the Tibetan Parliament-in-Exile and Prime Minister (*Sikyong*).

Democracy has a number of functions vis-à-vis the construction of TGiE's political legitimacy. It is central to consolidating the conferral of legitimacy from the diaspora, it is promoted as key to the future of the Tibetan polity in enabling a continuity of legitimate political leadership, it is a means of legitimising TGiE in the eyes of Western democracies and it is a symbolic rebuke to Chinese propaganda. In terms of the latter, as a 'potent weapon for the cause and... an absolute necessity for the credibility of the freedom struggle', Tibetan democracy is framed as repudiating 'Chinese propaganda claims that Tibetan independence would mean a reversion to theocratic feudalism' (Norbu, 2007: 35) and delegitimising Chinese rule by ensuring that the 'exiled administration is seen as occupying the moral high ground in comparison with China' (Ardley, 2002: 358).

SADR has also attempted to portray itself to external audiences as democratic – with the added dimension that it battles with its rival, Morocco (which has also implemented reforms), to be recognised as 'more democratic'.<sup>12</sup> Taking inspiration from the popular committees of Qaddafi's popular revolution in Libya (Vandewalle, 1995), SADR initially pursued 'direct democracy'. It placed public services, run by popular committees, directly 'in

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<sup>12</sup> Nevertheless, for criticism of restrictions of political freedoms on the part of Polisario and Morocco respectively, see Human Rights Watch (2008, 2012).

the hands of the people', and held public discussion meetings which were supposed to accommodate popular decision-making. Interestingly, these popular committees (later succeeded by popular councils) have come to be construed in Polisario discourse as an exception to the wider rejection of tribes on the grounds that popular committees were prefigured by tribal councils, and thus the latter allegedly qualified Sahrawis as 'democratic before democracy' — although the empirical grounds for these, and other claims of 'indigenous democracy' in North Africa, must be questioned (see Wilson, in preparation). Despite Polisario's practical and discursive emphasis on democracy, SADR's early years were marked by authoritarian tendencies. From the 1990s, reforms were introduced which were intended to enhance democratic processes, including structures that would be more easily recognisable to a Euro-American audience (Wilson, 2010). For instance, the Sahrawi National Council (SNC) increasingly functions as a western-inspired Parliamentary body. Currently, most of its members are directly elected and the SNC has the power to hold ministers, and indeed the whole government, to account. In 1999, it exercised this power when it voted to dismiss the government — a recommendation that was implemented by the SADR president.

In 1999 Polisario also introduced a Consultative Council, composed of tribal leaders. The latter had become increasingly prominent during attempts earlier in the decade to identify voters for an eventual referendum on self-determination. Currently the Consultative Council has no legislative powers. Its yearly meeting, publicised in SADR media, is viewed in the refugee camps as symbolic. It is undoubtedly important for Polisario and the refugee community to formalise for themselves, and for others, that some tribal leaders support

Polisario, especially as Morocco has long worked with pro-Moroccan tribal leaders, currently through the Royal Consultative Council for Saharan Affairs, formalised in 2005. Working with tribal leaders may be more important for Moroccan as a means of claiming legitimacy, as Polisario and refugees lay greater emphasis on the political structures that they perceive to be formally democratic. Indeed, Polisario shaped the formal incorporation of tribal leaders to resemble a second legislative chamber (even though no formal powers were assigned to that body), thereby reinforcing Polisario's emulation of democratic structures that would be recognisable to a Euro-American audience.

SADR has also been keen to follow peers in North Africa and further afield in adopting quotas aimed at encouraging the election of women to the SNC. If these quotas have been seen as successful (Rossetti, 2008), their reach has also been constrained by the particularities of the SADR electoral structure (Wilson, 2010). Through such measures, as well as employing female diplomats abroad (Rossetti, 2012), SADR seeks to present itself as following international trends for the promotion of women's political participation.<sup>13</sup>

In the cases of both TGiE and SADR, therefore, it is the seeking of legitimacy – of these exiled administrations wanting to prove themselves trustworthy, familiar and deserving of support in the eyes of other states – that has been the rationale for much of their investment in state-like institutions and practices. Albeit careful, at least in TGiE's case, not to appear *too* state-like to the Indian administration, TGiE and SADR are the opposite of cases where the question of legitimacy is held in abeyance (Feldman, 2008). Alongside the

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<sup>13</sup> For a critical discussion of how Polisario uses gendered discourses to present themselves to external audiences as 'ideal refugees', see Fiddian-Qasbiyeh 2014.

promotion of democracy and the promulgation of state-like Constitutions and Charters, the establishment and everyday functioning of government bureaucracies is also key to underpinning the constructions of legitimacy in these cases. As a central mechanism through which formal rationality in governance is delivered, bureaucracy is a system at the core of Weber's idea of rational-legal authority (Weber, 1947).

A series of features which Weber asserts defines a public bureaucracy can be traced in the cases of TGiE and SADR. These include the conducting of administration through defined hierarchies and according to fixed procedures, the vocational aspect of public service, everyday habits of civil servants which constitute 'reiterative authority' (Feldman 2008), the organisational culture of these exiled governments, and the development of bureaucratic expertise (Kuus, forthcoming). For example, the current exile Tibetan civil service has defined roles, hierarchies, training schemes and pay-scales standardised across the diaspora. Exile Tibetan bureaucrats come under the jurisdiction and management of TGiE's Public Service Commission, working hours of government offices are consistent – at least on paper – across the Tibetan communities scattered across India and Nepal, and the administration itself is audited by the 'Office of the Auditor General'. There are parallels in the Sahrawi case. As we have seen, the SNC has powers to hold ministers to account and is charged with periodically evaluating the work of each ministry. In the run-up to the 2012 SNC elections, some refugees voiced an appetite for monitoring SNC members' evaluation activities, for instance through the broadcasting of SNC debates 'as for other countries'. The SADR Ministry of the Interior undertakes to keep records of people's service in bureaucratic functions, including in popular committees, to which reference is intended to be made in a

post-independence future in order to offer pensions. In the meantime, pensions and support are offered to the widows and children of those who have died fighting for the liberation struggle, and their rights are a frequent topic of discussion in public meetings. These classic features of bureaucracy – of ‘fixed rules and procedures, within a clearly-established hierarchy and in line with clearly demarcated official responsibilities’ (Pierson, 1996: 20) – are a key mechanism through which the TGiE and SADR attempt both to centralise and to extend authority over a displaced (and in TGiE’s case, a dispersed) population.

TGiE jobs also have a vocational quality which resonates with Weber’s analysis of bureaucracy and bureaucrats. These posts are highly sought after, and respondents emphasised that this was not for monetary returns (though posts do come with accommodation, pensions and access to scholarships for the children of staff), but as a form of service both to the community and to the wider Tibetan cause. For Sahrawi refugee members of formal bureaucracies and popular committees, there is also a strong notion of a vocation of service to the community and to ‘the cause’. In a context of material shortages for the remuneration of many frontline ministry employees, health workers and teachers, refugees’ commitment to that vocation was all too often put to the test. However, the role of an increasingly sophisticated bureaucracy in a national freedom struggle is in many ways a double edged sword. On the one hand, quotidian bureaucratic practices can have a significant stabilising effect in what are often turbulent times in exile. According to Ilana Feldman, this was certainly the case in Gaza during the British Mandate (1917-1948) and Egyptian Administration (1948-1967) when, she argues, ‘this persistence of government

attests to the fundamental correctness of Max Weber's insights into the role of bureaucracy in producing stability when state regimes change' (2008: 1). Likewise in their survey of Abkhazians' attitudes to and belief in their de facto state Kristin Bakke and colleagues (forthcoming) found that the efficient provision of public goods such as democracy, economic development and health services was key to Abkhazia's internal legitimacy. On the other hand, some within the exile Tibetan community argue that the increasingly 'bureaucratic nature' – meant in a pejorative sense – of the TGiE means that time, energy and resources that could have been invested in the freedom movement were being spent (or 'wasted') keeping the TGiE itself running. In the case of SADR, in the 2000s there was popular concern that some bureaucrats had become too comfortable with the privileges offered to them (such as access to a government car for high-ranking officials in the refugee camps, and access to a stipend and accommodation for diplomats serving abroad) and might therefore neglect their work for the liberation movement. Nevertheless, overwhelmingly SADR runs short of resources to support its bureaucracy and services. Wages for public servants in the camps are notoriously irregular, and many refugees seek paid work elsewhere in order to help make ends meet.

An important aspect of bureaucratic life in these polities is that both the TGiE and SADR provide 'official' documentation to the populations whom they govern. In the Tibetan case the TGiE issues a *rangzen lagteb* or 'Green Book' to each Tibetan born in exile and 'newcomer' Tibetan refugees on their arrival in Dharamsala, the headquarters of the TGiE. The *rangzen lagteb* is the material manifestation of Tibetan citizenship, a status which was established in exile and enshrined in the 1963 Draft Constitution. This identity document is

thus a key signifier of authenticity and legitimacy through which the exiled administration and Tibetans in exile reaffirm each other's status as the Tibetan government and as bona fide Tibetan citizens respectively (Department of Finance CTA, 2005: 5). Whilst this citizenship is not legally recognised by other states, there is evidence of individuals holding a 'Green Book' being deemed precisely as a 'bona fide Tibetan in exile' and the TGiE being deemed to have the authority to verify the authenticity of the document (Immigration and Refugee Board of Canada 1998; McConnell 2013a).

SADR has increasingly formalised the paperwork with which it provides refugees. All denizens of the refugee camps are entitled to a plastic-coated SADR national identity card (*biṭāqa waṭaniyya*) — interesting both in itself and in its omission of tribal membership, previously recorded on Spanish colonial identity papers. These cards have to be presented for certain formalities, such as at polling booths, and at check points between refugee camps for those travelling between, out of, or into the camps. The SADR also issues passports (valid in countries which recognise SADR), of the same size and shape as other passports. As of 2012, a biometric SADR passport was available.<sup>14</sup> SADR also administers its own driving tests and licences. As the refugee community becomes increasingly mobile (see Wilson, 2014), the SADR ministry of justice provides documentation such as marriage certificates that can be used to prove marriage even in interaction with states that do not recognise SADR. Where formal paperwork produced by the Turkish Republic of Northern Cyprus can be a source of unease for those asked to use these papers (Navaro-Yashin, 2012), Tibetans and Sahrawis in exile tend to view the paperwork of their respective governing authorities as helpful to establishing their claims on TGiE/SADR, and, in certain

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<sup>14</sup> See <http://www.saharalibre.es/modules.php?name=News&file=article&sid=6209>, last checked 13<sup>th</sup> August 2014.



cases, on other state authorities. This distinction is perhaps a sign of the broader effects of the successful production of legitimacy — citizens may experience greater degrees of confidence in services and documents produced by a governing authority perceived to be legitimate.

Another dimension of relations between these administrations and their exile populations is that both TGiE and SADR provide extensive welfare services, a practice which has been seen as crucial to how governments which lack legality seek to legitimise their rule (Bakke et al., forthcoming 2014; Feldman, 2008; Mampilly, 2011). In providing such services, the TGiE and SADR lay the foundations for a social contract between themselves as governing authorities and their governed populations. Securing basic services for its exiled population has been a key role of the TGiE since its establishment in the early 1960s (Office of HH The Dalai Lama, 1969) and Klieger goes as far as to argue that Tibetans in India today benefit ‘from an almost cradle to grave welfare system’ (1992: 102). This includes over 70 schools in India, Nepal and Bhutan, serving around 28,000 Tibetan children and hospitals, public health centres and clinics offering traditional Tibetan medicine. The TGiE’s Department of Home manages old people’s homes and handicraft centres in the settlements in India and receives and distributes donations from foreign aid agencies in the form of welfare stipends and scholarships. Reinforcing the idea of legitimacy as a two-way relational process (Barker, 1990) it is striking that Tibetans in India generally expect their government to provide basic welfare services and, in turn, the TGiE perceives welfare provision as a key duty and responsibility it has to ‘its people’. Indeed following Cynthia Weber’s observation that, in order to retain control, an authority simulates ‘a boundary which mark[s] the range of its

legitimate powers and competencies' (1995: 129), the construction of just such a delineated exile 'population' to which TGiE has obligations has been a key legitimising strategy (McConnell, 2012). The majority of Tibetans in exile do comply with TGiE policies. Early refugees moved thousands of miles to the unfamiliar environment of South India because their government told them to, Tibetans in exile continue to pay voluntary 'taxes' to the exile government and, though unable to act in formal legal spheres, the administration acts as a legitimate arbiter of conflicts *within* the community. Therefore, as regards the distinction between legitimacy and legality, whilst TGiE's authority cannot be based on legal powers, this exile administration achieves compliance through its management of societal pressure and cultivation of moral authority.

For its part, SADR focused from the earliest days of exile on both the local provision of services, in which health care and schooling featured prominently. As Farah (2008: 83) notes, dedication to the provision of services allowed the movement to '[generate] a discourse of "progress" that discouraged tribal affiliations and reinforced a sense of national belonging through shared practices'. Where unable to provide welfare services itself, Polisario has focused on facilitating access to services beyond the refugee camps. Thus, Polisario has established working relationships with 'friendly countries' such as Algeria and Cuba (and Libya, until the fall of Qaddafi). Sahrawi refugee students can study for free in these countries, and refugees can receive specialist health care for free in Algeria and Spain. The provision of access to education, both in the refugee camps and abroad, has been crucial for Polisario's nationalist agenda. Through text books in the camps, children are

taught specific narratives of Sahrawi identity and history (San Martín, 2010: 141-142). In addition, though, welfare services are a means through which Polisario stages its legitimacy, as a provider, to govern and represent Sahrawi refugees. Welfare services are also important for Polisario's claims to external legitimacy: SADR officials often make claims that SADR boasts higher literacy rates than neighbouring states, including Morocco.

Nevertheless, in line with Mampilly's (2011) warning that the failure to provide welfare services may prevent an insurgent government from achieving legitimacy in the eyes of those whom it claims to govern, SADR risks losing legitimacy in the eyes of refugees if its welfare services falter – as seems to be increasingly the case as exile drags on, and refugees migrate in search of work abroad. In the late 2000s, it could be common for refugee children to stay home from school because their teacher, paid only irregularly, was absent. Because of poor standards in schools in the refugee camps, some high-ranking Polisario officers even chose to send their children to fee-paying schools in the nearby Algerian town of Tindouf. Unsurprisingly, refugees were highly critical of Polisario when they perceived it failed to provide adequate services.

In addition to appealing to external audiences by following 'good governance', and to internal audiences by staking out a social contract which commits governing authorities to providing services, both TGiE and SADR appeal to Tibetan and Sahrawi audiences beyond exile – both those in the diaspora and those living in the homeland. Tibetans living in the West certainly have fewer ties to the TGiE, but they are encouraged to keep a *rangzen lagteb* and pay *chatrel*, and are represented in the Tibetan parliament by their own MPs (McConnell, 2013b). Forging links with the Tibetan population inside Tibet has been

extremely challenging due to strict Chinese border controls, the monitoring of communications and the labelling of TGiE as a 'splittist organisation'. Yet despite these barriers of movement and communication there is evidence of Tibetans inside Tibet continuing to look to the exile government as their legitimate representatives and expressing loyalty to and support for both the Dalai Lama and the exiled Tibetan Prime Minister.<sup>15</sup>

As for SADR, taking full advantage of radio and television media to broadcast to Sahrawis under Moroccan control, it includes footage of annexed Sahrawis taking part in pro-independence activities, such as demonstrations and covert writing of slogans on walls. SADR thereby reinforces the notion that it is supported by Sahrawis on both geographical sides of the conflict zone. Whilst there are no formal taxes or contributions paid by Sahrawis outside the refugee camps, Polisario has mobilised members of the diaspora in a call to arms (Bhatia, 2001: 293) and the movement extends political representation far beyond exile. Polisario includes the Moroccan-controlled population as a constituency which can send delegates (when it is safe to travel) to the Polisario General Congress (PGC). Likewise, the migrant communities of Sahrawis in Mauritania, Algeria, Europe and further afield are also included as constituencies able to elect and send delegates to the PGC. Through such bureaucratic flexibility and experimentation across spaces and populations, the TGiE and SADR present themselves as the governing authorities of a territorially complex and divided population.

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<sup>15</sup> For loyalty to the Dalai Lama see <http://www.phayul.com/news/article.aspx?id=29809&article=Thousands+enthroned+the+Dalai+Lama%E2%80%99s+portrait+in+Tibet> for support of Lobsang Sangay's election see [http://www.nytimes.com/2011/04/28/world/asia/28tibet.html?\\_r=0](http://www.nytimes.com/2011/04/28/world/asia/28tibet.html?_r=0). Recognition of Sangay as the 'leader of Tibet' is also expressed in song lyrics from Tibet e.g. <http://highpeakspureearth.com/2012/a-song-by-phuljung-kind-lama/> and respondents from the TGiE Department of Finance reported *chatrel* payments being sent from Tibet.

Divergences between TGiE and SADR's techniques for constructing legitimacy are, however, important to note. In the Tibetan case the payment of *chatrel* is a prerequisite to functioning within the exile community as only those Tibetans holding a *rangzen lagteb* and having paid their *chatrel* can access Tibetan welfare services, send their children to Tibetan schools and vote in TGiE elections. Under SADR, although Sahrawi traders pay customs duties before entering the camps, direct 'taxes' within the camps have not yet been introduced, and are resisted by the refugees on the grounds that any such taxes would be inappropriate to the temporary circumstances of exile. Yet, at the same time, SADR has great formality in its judicial structures, operating its own law courts (which follow SADR law) and its own prisons (see Wilson, Forthcoming 2015) – a level of legal control not exerted by the TGiE. Beyond such differences, though, there are many striking parallels between how SADR and TGiE have pursued strategies in exile for providing opportunities for political (and, in theory, democratic) participation, establishing a bureaucracy, and providing services. Through their sharing of such techniques for the production of legitimacy with recognised governments and states, the cases of SADR and TGiE highlight the ambiguity of legitimacy, which is amenable to being claimed and (re)established, even in the absence of international recognition.

## **5. Conclusion: Legitimacy in contexts of liminality**

In this article, we have analysed the sources and the dynamic techniques through which SADR and the TGiE have constructed and sustained claims to political legitimacy, even in the absence of enjoying full international legality as a state. As might be expected these cases

raise more avenues than could be accommodated here. These include the importance of the relation of each with amenable host states, Algeria and India, for the negotiation of the boundaries of authority, legality and legitimacy, and the ongoing construction of the 'adversary regime', Morocco and China, for SADR's and TGiE's representations and claims about themselves. What we have sought to do in the above discussion is underscore striking similarities between two polities that, although rarely compared, operate as sophisticated governing authorities in contexts of geographical and political-legal liminality (in exile, and without full recognition). The remarkable longevity of SADR and TGiE, and the enduring support they have received from internal audiences (as well as international supporters), suggests that they have practised such techniques of legitimacy successfully. As such, our analysis suggests that legitimacy is perhaps less helpfully understood as a status that is achieved (or lost). We have sought not so much to apply directly Weber's typology – although it usefully flags how sources of authority are discursively framed – but rather to examine how claims to legitimacy are negotiated on a daily basis through a series of quotidian practices, materialities and sites. In doing so, we have conceptualised legitimacy in terms of a set of contested, dynamic practices. In turn, the lens of legitimacy frees us from trying to define what kind of polities TGiE or Polisario are and the extent to which they fit or fail to fit the nation-state model. Rather, it facilitates the focusing of attention on processes, practices and discourses through which the authority of these polities is constructed, negotiated and presented to the outside world.

Following Strang's argument that '[o]pportunities for analysis expand in messier contexts, where understandings of appropriate form (what should a state look like?) and relations

(how should states behave toward each other?) are contested' (Strang, 1996: 23), we also suggest that our analysis is of broader significance than the cases at hand. By examining the legitimacy practices of two governing authorities which lack full international legal recognition as 'states', we have engaged critically with the notion that for a governing authority that lacks legality in the eyes of those whom it governs, or in the eyes of (presumed) peers, legitimacy may be an elusive aspiration (Feldman, 2008; Mampilly, 2011; Navaro-Yashin, 2012). Taking inspiration from the idea that, as regards particular policies and practices, legality does not guarantee legitimacy, nor vice versa, we have used the cases of SADR and TGiE to suggest that uncertainty as to the legality of a governing authority does not necessarily preclude the practice of techniques of legitimacy. The achievement of legality in the form of full international recognition as a state is unlikely to happen soon, if at all, for either SADR or TGiE. But remaining (partially) outside the formal inter-state system impedes neither these polities' claims to legitimacy, nor many Sahrawis' and Tibetans' endorsement of these administrations as their legitimate representatives. Distinguishing between legality and legitimacy in this way is not to invoke discussions around the recourse to legitimacy as a supplement to legality in the context of humanitarian intervention and pre-emptive war (Ayoob, 2002; Wheeler, 2000) but rather it is to take seriously decidedly undramatic, quotidian politics.

If, against the grain of assumptions that legality is a key means through which governing authorities produce legitimacy, SADR and TGiE may nevertheless establish persuasive claims to legitimacy, this begs the larger question of *why* might this be the case? In part, we have suggested that this may be because of inherent problems with the very category of the

state, which has been overused to generate the category of that which is legitimate.

Likewise, and as previously discussed, there is an inherently awkward fit between legality and legitimacy. When both these strands are brought together, what emerges is the ambiguity of legitimacy as a concept. Legitimacy has a straightforward relationship neither to the state nor to legality. It is historically situated, constructed and politically contingent. This ambiguity, we suggest, makes it potentially amenable and 'within reach' in certain cases (if not others) to governing authorities that lack full legality. Going further, we suggest that this lack of full legality, part of an overriding condition of liminality, gives rise to greater opportunities for creativity in producing legitimacy, such as bureaucratic experimentation with a diasporic population. Analyses of liminality have stressed the intense creativity that can arise when ordinary structures and hierarchies are suspended (Thomassen, 2012; Turner, 1987). From contexts of territorial and politica-legal liminality, SADR and TGiE have constructed creative techniques of political legitimacy regarding forums for political participation and the recruitment of people and material resources. Liminality emerges here as a context potentially especially suited to, rather than precluded from, the production of political legitimacy.

Recognition of how the practice of techniques of legitimacy might flourish in a context of liminality calls for a new consideration of 'geographies of legitimacy', where the spaces in which political legitimacy can be claimed and produced may question, cut through and override, rather than necessarily coincide with, the geographies of legally recognised polities. If there can be degrees of statehood (Clapham, 1998), then there might also be 'degrees of legitimacy'. The latter might not necessarily be a product of the former, but



perhaps degrees of legitimacy might even project and underpin degrees of statehood.

Geographies of legitimacy would have a complex relation to temporality – as we have seen from the cases of SADR and TGiE, where not only was the past reworked either through alleged continuity or rupture, but also claims to legitimacy were staked on a notion of the desired future. By highlighting here the ambiguity and dynamism of political legitimacy, its complex geographies and temporality, we hope to have underscored how the study of the micropolitics and geopolitics of how legitimacy is constituted and constructed opens up a potentially productive avenue of investigation for political geography and anthropology and beyond.

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