Article

The Dualism of Contemporary Traditional Governance and the State: Institutional Setups and Political Consequences

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Abstract

In many parts of the world, people live in "dual polities": they are governed by the state *and* organize collective decision making within their ethnic community according to traditional rules. We examine the substantial body of works on the traditional–state dualism, focusing on the internal organization of traditional polities, their interaction with the state, and the political consequences of the dualism. We find the descriptions of the internal organization of traditional polities scattered and lacking comparative perspective. The literature on the interaction provides a good starting point for theorizing the strategic role of traditional leaders as intermediaries, but large potentials for inference remain underexploited. Studies on the consequences of "dual polities" for democracy, conflict, and development are promising in their explanatory endeavor, but they do not yet allow for robust conclusions. We therefore propose an institutionalist research agenda addressing the need for theory and for systematic data collection and explanatory approaches.

Introduction

In many states, ethnic groups organize collective decision making, service provision, and jurisdiction according to traditional rules of governance. Traditional governance entails, for example, the selection of chiefs and elders, or procedures for decision making, dispute settlement, land allocation, or inheritance. Contemporary traditional forms of governance coexist with the political institutions and laws of states. Traditional governance is a global phenomenon. Of the 193 member states of the United Nations, 103 recognize the existence of particular ethnic groups in their constitution. Seventy of them grant special cultural or political rights to these communities. Sixty-one countries (as diverse as Ghana, India, Indonesia, Mexico, Paraguay, and Tuvalu) explicitly recognize forms of traditional governance and customary law (authors' data collection). Only in Europe, traditional governance seems to be mostly absent.

The JuriGlobe World Legal Systems Research Group (2016) estimates that 57 percent of the world's population lives in states where customary law and other forms of law coincide. For the African continent, some scholars have identified a veritable "resurgence" of traditional governance from the 1990s onward (Englebert 2002a; Herbst 2000; Muriaas 2011; Ubink 2008). While in some states ethnic groups applying traditional governance constitute minorities (in North America or Australia), elsewhere, large shares of the population live under dual governance (in Sub-Saharan Africa, Latin America, or South Asia). The coexistence of traditional governance institutions ranges from federal arrangements with sizable autonomy of the traditional polity (in North America) to indigenous rights (in South America) and parliamentary Houses of Chiefs (in Ghana or Namibia).

As the traditional–state dualism is especially widespread in regions ridden by internal conflict, delayed democratization, and stalled development (Sub-Saharan Africa and some areas of South Asia), investigating these dynamics systematically seems imperative. Yet despite the considerable size of the phenomenon of "dual governance," its functions and its consequences are not yet sufficiently understood. How significant is traditional governance today, and how does it vary across countries? Under which conditions do traditional institutions

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survive or even resurge? Which forms of parallelism of state and traditional governance exist, and how are they regulated? Do state and traditional authorities cooperate, compete, or complement each other? Does traditional governance foster or undermine democracy? Does dual governance intensify or reduce domestic conflict? Are traditional institutions conducive to economic development, or are their economic traditions at odds with the principles of contemporary market economies?

To some degree, these questions have been tackled in a substantial, methodologically diverse, and cross-regional literature. Recent works (e.g., Acemoglu, Reed, and Robinson 2014; Baldwin 2013, 2014, 2015; Díaz-Cayeros, Magaloni, and Ruiz-Euler 2014; Koter 2013; Logan 2013; Murtazashvili and Murtazashvili 2015) demonstrate that the topic continues to puzzle political scientists because traditional governance today complements, substitutes, and challenges state authority in various contexts—be it with regard to public goods provision, conflict resolution, elections, land tenure, human rights, or the role of women in society. Political scientists seek to comprehend the institutional setup as well as the political and socioeconomic effects of such dualist systems. Yet beyond country-level studies, rigorous comparative regional or global perspectives on the interaction of traditional forms of governance and state institutions are still rare. Therefore, a stocktaking of this research area permits highlighting comparative research potentials to launch a broader debate on the phenomenon of traditional governance and its worldwide consequences.

More generally, research on dual governance may also contribute to the understanding of other parallel governance setups, that is, where the church and the state coexist as regulatory entities within states (Griffiths 1986; Sandberg 2015), where the European Union (EU) and state governments vie for authority harmonization in the same territory, or where a variety of international governmental organizations (IGOs) and international nongovernmental organizations (INGOs) provide international hard and soft law that may compete with national rules and with each other (Berman 2012). The EU actively developed legal strategies to integrate the parallel systems, via the Copenhagen criteria as prerequisite for membership, the doctrines of supremacy and direct effect, and various harmonization techniques reaching from minimum to total harmonization (Craig and de Búrca 2011). Overall, parallelism of political systems, legal rules, and public service provision is a phenomenon of wide-ranging relevance.

Our contribution in this article is twofold: First, we provide a structured, systematic overview of the existing knowledge, and outline fruitful angles of research that can inform a comparative analysis of traditional governance and its interaction with the state. Second, based on our mapping of existing work, we specify research potentials and sketch exemplary hypotheses to tackle lacunae in the literature as a reference for future comparative research.

We proceed as follows: first, we provide the conceptual background to study the dualism of traditional governance and the state, and present the analytical framework we use to capture the phenomenon. In the second section, we apply this framework to map the existing knowledge on dual governance, and discuss the academic literature speaking to our topic. This literature mirrors the varying significance of traditional governance across the continents. Much of the research has focused on Sub-Saharan Africa, and thus, the majority of the discussed studies concentrate on the continent. In the final section, we formulate future alleys for comparative research built on what has been contributed so far in terms of theory, data, and systematic empirical evidence.

Conceptual Background and Analytical Framework

Delineation of Traditional Governance and Dualism

By *traditional*, we refer to a form of governance understood and validated through narratives or procedures deemed "traditional" by constituents. It is usually not codified, has been applied for quite some time, and refers to the past of an ethnic community (cf. Zartman 2000, 7). The term *traditional* is not equivalent to ancient or primordial. We are agnostic as to how old the "tradition" is and whether it was invented or not (Ranger 1983). The term mainly refers to a mode of legitimization of political institutions.

We choose the term *governance* implying the political function of steering a community—the "ability to make and enforce rules, and to deliver services" in the words of Fukuyama (2013, 350). Governance refers to organizations and rules aiming at regulating behavior and taking decisions for a collective. The concept of traditional *authorities*, by contrast, denotes persons and organizations, whereas traditional *political institutions* encompass organizations and procedural rules but not the substantial rules or services the political system generates.

The term *traditional governance* thus captures a variety of traditional authorities such as chiefs, kings, headmen, queen mothers, councils of elders, and so on. It also captures traditional procedural rules such as mechanisms for conflict resolution or leadership selection. Finally, it includes the substantial rules with respect to internal security, land and resource allocation, public health, or matters of marriage and inheritance.

Polity *dualism* (Buur and Kyed 2007) describes the coexistence of two distinct political and legal systems in

the same territory, and applying to the same people: the state and traditional governance. Scholars have introduced various terms to designate this particular institutional setup: *mixed government* (Sklar 2005), *twilight institutions* (Lund 2007), or *hybrid political orders* (Boege, Brown, and Clements 2009), but *dualism* is the most precise notion to describe the coexistence of two polities.

The Dual Institutional Setup and Its Consequences

Below, we systematize the knowledge on the political institutions that traditional systems of governance entail today. This task requires accounting for the variance of such institutions across ethnic groups, countries, and regions. We therefore distinguish two broad domains of research: (1) the *institutional setups* involving traditional governance, that is, the internal organization of traditional communities, and the forms of coexistence of traditional governance and the state and (2) the *political consequences* of the dualism for democracy, peace and conflict, and development. Based on these domains, we identify, discuss, and structure the existing knowledge on dual governance in the following section.

These domains also roughly mirror the chronological order of research on traditional governance since the 1950s. We present them as a "best fit" to capture the literature most relevant to political science. We acknowledge, however, that further areas have been investigated in the past. In particular, there is a large body of research on customary land rights that is covered excellently elsewhere (Boone 2014, for Africa, and Stocks 2005, for Latin America). Similarly, we do not include the literature on the use of traditional approaches for transitional justice processes (e.g., Corey and Joireman 2004). Finally, as our interest is the *contemporary* dual setup, and as we cannot do justice to the diverse history of traditional polities within the scope of our discussion here, we point the reader to the excellent ethnographic and historical perspectives on the topic in Murdock (1967), Ross (1983), Ayittey (1993), Davidson (1992), and Osabu-Kle (2000).[1] Structuring existing works along our analytical framework allows us to pinpoint the most fruitful angles of research and potentials for future analysis.

Mapping the Dualism of Traditional Governance and the State

Institutional Setup: Internal Organization of Traditional Communities

Anthropologists have mostly focused on the internal organization of traditional polities, their social structure (such as lineage and heritage), and historical developments of African 'tribes' (e.g., Hammond-Tooke 1985). Frequently, traditional polities are categorized along a centralization–decentralization scale. Some studies focus on specific groups, while others compare tribes or language groups within one country. Further studies advance historical descriptions and examine cultural adaptation, the role of women, or specific rituals of selected groups (e.g., Evans-Pritchard 1965).

Fortes and Evans-Pritchard (1958) provide a comparative description of social organization in eight African societies. They discern two groups: those with "centralized authority, administrative machinery, and judicial institutions—in short, a government," and those with a lack thereof (p. 5). Eisenstadt (1959) similarly distinguishes African political systems with central authority and those without. A more recent useful typology of political organization among Sub-Saharan ethnic groups developed by the Economic Commission on Africa (ECA; 2007b) distinguishes according to centralization and the accountability of rulers between consensus-based systems and chieftaincy systems.

Studies in legal anthropology examine the mechanisms of authority and sanction, and the practices of customary law in specific indigenous communities. Among them are Schapera's (1938) studies of Tswana law and Gluckman's (1965) work on customary law. Although Gluckman (1965) and Nader and Todd (1978) offer comparisons of political and legal systems of some African ethnic groups, most studies remain single-group oriented.

These studies provide a fertile basis for the understanding of social and political hierarchies and legal attributes of indigenous societies. To map today's political organization of traditional polities, scholars could start from these studies and assess contemporary institutions for the same groups. However, most typological distinctions so far lack analytical clarity. Categories for (de)centralization, the political and administrative functions, or the selection of rulers are neither sufficiently explained nor analytically separated. To understand the principles of internal organization across traditional polities, scholars need to move beyond one-dimensional scaling.

Institutional Setup: Coexistence and Interaction of Traditional Governance and State

The coexistence of multiple legal structures in one state (i.e., legal pluralism) and the question of how to incorporate customary law into modern state law have been studied since the 1960s (Allott 1984; Read 1963; Benjamin 2008; Hinz 2010). Various typologies of state–traditional legal integration have been proposed. For cases across the world, Forsyth (2007, 69) develops a typology of relationships between

nonstate and state justice systems—with seven models distinguished by the degree to which the state agrees to nonstate adjudication. Beyond legal integration, Ubink (2008) and Muriaas (2011) offer typologies of how traditional and state authorities organize their political coexistence. Ubink (2008, 21–23) distinguishes seven state policies: exclusion, adaptation and reorientation, integration, subordination, association, harmonization, and laissez-faire. Although she only gives selective examples—integration in Cameroon, subordination in Namibia, and association in Ghana—her typology might serve as a basis for further categorization. Muriaas outlines four possible modes of incorporation according to two dimensions: the degree of autonomy of traditional authorities from the state and the degree of decentralization pursued by the state. Both authors' typologies help in describing the coexistence between traditional governance and the state. Yet both are state centric and do not include the motivations of the traditional leaders, which would be necessary to capture the actual interaction and to explain why we see this great variance.

Herbst (2000) understands traditional authorities as central political actors not only in precolonial times but also in present-day Africa. He analyses the considerable diversity of contemporary land tenure regimes involving traditional governance. He concludes that "the equilibrium in conventional politics between state and traditional leaders—where neither makes significant inroads on the other's turf—appears likely to be relatively stable for many countries for many years" (Herbst 2000, 197).

Interactive dynamics on the local level are studied in a number of volumes. Vaughan's (2005, 398) collection of country case studies explores how traditional institutions "foster or hamper local initiatives in governance," and individual chapters address questions of authority and legitimacy, legal pluralism, gender equality, and conflict resolution. Similarly, Ray and Reddy (2003) examine local governance interactions between traditional actors and the state in single countries of Africa and the Caribbean. Fokwang (2009) compares two chiefdoms in Cameroon and South Africa, and traces how chiefs become involved in party politics. van Rouveroy van Nieuwaal and van Dijk (1999) also use country studies to explore the interplay of chieftaincies and the neocolonial state. The chapters treat traditional political institutions as modern political actors, and assess the determinants of their political positions, their symbolic functions, and the resources they can mobilize within African societies.

Baldwin (2013) emphasizes the strategic element in the interactions. She studies chiefs as the central gatekeepers for local political decision making in Zambia. Using a quantitative and experimental research design, she shows that not only stronger relationships between state representatives and traditional chiefs lead to better public service provision in the respective communities, but voters are also more likely to vote for the candidate the chief communicates as his preference. Then again, Clayton, Noveck, and Levi (2015) find for Sierra Leone that where traditional chiefs and councilors compete for authority over public goods provision, service provision is improved. Baldwin (2014) also identifies explanations as to why politicians would transfer control over land allocation to chiefs in Africa. She demonstrates that political leaders strategically devolve power to chiefs for mobilization purposes during elections. Political leaders are likely to strategically reach out (1) to chiefs of hierarchically organized groups because of their greater mobilization potential and (2) to chiefs of an ethnic group that is "not allied with the government or the major opposition party" (Baldwin 2014, 257).

Similarly, Koter (2013) studies the conditions under which local chiefs act as "electoral intermediaries" to mobilize voters. For Benin and Senegal, Koter shows that where strong local leaders exist, cross-ethnic allegiances can emerge when political candidates, via these intermediaries, reach out to non-coethnic communities that are otherwise difficult to win over. If strong local leadership is absent, coethnic allegiances predominate. For Afghanistan, Murtazashvili (2014) demonstrates that village-level customary authorities, albeit lacking a state mandate, interact with state representatives, and take over functions in dispute resolution and small-scale public good provision. Moreover, customary institutions are more effective in maintaining property rights in the country (Murtazashvili and Murtazashvili 2015).

Koelble and LiPuma (2011) show more generally that government and chiefs engage in a mutually advantageous relationship. In South Africa, chiefs have used the weakness of the state in rural hinterlands to "position themselves as intermediaries, even decision makers, between state and society" (p. 6). Although chiefs had only minor influence following their collaborative role during apartheid, the authors describe traditional leaders' resurgence as a consequence of the rise of democracy, the dysfunctional provincial administration, and the support of the African National Congress (ANC). Traditional leaders engage in reforms to receive constitutional recognition and leverage over land, and the government uses the chiefs to "help mediate the relationship between the urban-based liberal state and an impoverished isolated hinterland" (p. 13; cf. Oomen and van Kessel 1997).

In sum, research on the coexistence of traditional governance and the state falls into two categories. Studies of legal pluralism deal with the *parallelism* of norm systems, their potential collision, and attempts at formal integration. Political scientists study the *interaction* of traditional and state actors, depicting both as strategic political actors, the chiefs acting as intermediaries and vote brokers. The insights gained from these studies serve

as a fruitful basis for the development of theory and general hypotheses.

Consequences: Democracy

Researchers have also studied the consequences of traditional governance for democracy. Two competing normative approaches in the literature have been referred to as the *neotraditional* and *neoliberal* paradigms (Davidson 1992; ECA 2007a; Keulder 1998). *Neotraditionalists* view traditional leadership as compatible with democratic governance due to elements such as consensual decision making and public participation (Adedeji 1994; Keulder 1998; Nabudere 2004; Oomen 2005; Osabu-Kle 2000). By contrast, the *neoliberal* approach argues that traditional institutions contradict the idea of liberal democracy because they disregard democratic procedural standards, gender equality, and human rights (Mamdani 1996; Ntsebeza 2005).

Systematic empirical proof for these claims is still lacking. On the more skeptical side, Hariri (2012) shows for a large-*N* sample that where protostate precolonial institutions existed, they actually inhibited the development of the democratic state, leading to more autocratic contemporary governance in these countries. Strong precolonial institutions meant a stronger autocratic legacy of traditional rule. Using surveys and a policy experiment for Lesotho, Clayton (2014) demonstrates how increased female representation can decrease the power of local traditional chiefs. Yashar (2005) offers a rare comparative perspective on the clash of neoliberal reforms and indigenous identity in her analysis of constituency mobilization in Bolivia, Ecuador, and Peru. According to her argument, neoliberal institutional changes have politicized ethnic and indigenous identification, as reforms "challenged enclaves of local autonomy that had gone largely unrecognized by the state" (Yashar 2005, 8).

Using the Afrobarometer, Logan (2009, 2013) demonstrates that the coexistence of traditional and modern forms of governance is a given reality in many African countries. The Afrobarometer Survey (Round 4, 2009; www.afrobarometer.org) shows the significance of traditional governance in contemporary Africa. In the nineteen countries in which the survey asks for evaluations of traditional institutions and authorities, a share of 44.7 percent of respondents trust their traditional leaders "a lot," and 22.9 percent confide at least "somewhat" in their traditional leaders (question Q49I). On average, two-thirds of the respondents hold that the influence of traditional leaders should "increase a lot" or at least "somewhat" (Q66). Logan finds that positive attitudes toward chiefs are not incompatible with democracy (2009). Her 2013 analysis suggests that traditional leaders play an essential role in local governance not only due

to their cultural role but also because they resolve conflicts and are accessible to community members. She concludes, "rather than finding themselves trapped between two competing spheres of political authority, Africans appear to have adapted to the hybridization of their political institutions" (Logan 2009, 101f.).

Baldwin's (2015) book tackles the question of the role of traditional leaders in democratic processes comprehensively by using a multimethod approach with cross- and subnational data, surveys, and experiments in Zambia. She finds that despite the assumed nondemocratic legitimacy of chiefs, their involvement often makes governments more responsive, as traditional leaders have potentials to mobilize local constituencies and to voice existing community problems to state authorities. She identifies the reasons for these positive potentials in the time horizon of chiefs, who can act as "development brokers" without fears of losing office and with a long-term interest in the well-being of the communities they live in.

Baldwin and Mvukiyehe (2015) examine the hypothesis that elections facilitate collective action by exploiting a natural experiment that saw some customary chiefs in Liberia elected by their constituency and others appointed following the civil wars in the country. Using surveys and interactive games played with chiefs, they find that introducing elections into traditional polities does "not significantly improve most types of collective action and . . . may harm public order and the provision of public goods" (Baldwin and Mvukiyehe 2015, 691). By contrast, customary methods of leadership selection are more prone to establish public order, pointing to the legitimacy of the political process maintained in the traditional polity.

Buur and Kyed (2007) empirically trace the democratic functions of traditional institutions and their role within the democratization process in African countries. Their edited volume (2007) presents eight case studies applying different foci and coming to skeptical conclusions. Chiweza (2007) finds in her analysis of Malawi that the increased role of traditional leaders as official representatives of their local communities reduces constituents to dependent subjects rather than creating politically capable citizens. Hagmann (2007) shows for the Somali region of Ethiopia that the legal incorporation of traditional authorities actually decreases their accountability and reduces their popular legitimacy.

Thus, empirical analyses provide evidence for negative and positive effects of traditional governance on democracy. However, the country studies are hardly comparable and do not allow for general conclusions. Although studies by Baldwin (2015), Hariri (2012), and Logan (2009, 2013) hint at a correlation between the extent of traditional governance in a country and its degree of democracy, we do not yet know whether traditional governance may strengthen or weaken democracy.

Consequences: Peace and Conflict

Traditional governance institutions might contribute to internal ethnic conflict, because a deep-seated organization on the level of ethnic groups may intensify feelings of identity, and facilitate ethnic mobilization and hostility toward other groups. On the contrary, the inclusion of traditional authorities in domestic politics might maintain security because dispute resolution is a classic function of traditional governance.

Again, existing scholarship comes to varying conclusions. For example, Walls and Kibble (2010, 39) claim that the incorporation of traditional governance in Somaliland has provided the conditions for "sustained peace and stability." In contrast, Lund (2003) points to the possibility of violent clashes caused by competition among traditional authorities and confusion surrounding their integration into local administration in Northern Ghana.

Ember, Ember, and Russett (1992) make use of the Standard Cross-Cultural Sample by Murdock and White (1969), and find support for the hypothesis that democracies (here, more participatory polities) do rarely fight each other. Tore Wig (2016) argues that strong traditional political institutions facilitate nonviolent bargaining between excluded ethnic groups and the state. He tests his argument with a large-N analysis of African civil wars between 1950 and 2010. Wig finds that groups excluded from political power but with strong traditional institutions are less likely to be involved in domestic conflict.

Concerning traditional dispute resolution mechanisms, the findings range from positive (Menkhaus 2000) to skeptical views on its performance (Osaghae 2000). Few studies deal directly with the integration of traditional conflict resolution models into the state system. Zartman's (2000) collection of "traditional cures for modern conflicts" among ethnic groups in Ethiopia, Nigeria, Ghana, and Sudan evaluates the potential of traditional dispute resolution to resolve current conflicts. The authors come to different conclusions concerning its effectiveness, however.

As with democracy, analyses of traditional institutions, peace, and dispute resolution differ in their conclusions as to the applicability and performance of such. Wig (2016) provides rare evidence for a positive relationship between traditional governance and domestic peace. Overall, the consequences of traditional–state dualism on peace and conflict seem underexplored.

Consequences: Socioeconomic Development

Studies of traditional governance and socioeconomic development primarily address the incorporation of traditional institutions into developmental policies. Various studies, for example, ECA (2007a), Cheka (2008) on

Cameroon, or Friedman (2009) on Namibia, favor the inclusion of traditional authorities in the development process. Empirical research on the compatibility of traditional norms, including patronage or kinship obligations, with market economies and development is rare, although some case evidence exists (e.g., Organisation for Economic Co-operation and Development 2007).

However, a number of studies emphasize effects of traditional political organization on economic development and state capacity. Englebert (2000, 2002a, 2002b) finds that greater heterogeneity among precolonial systems within a country decreases the developmental potential of present-day African economies. Furthermore, he suggests that the more state-like the precolonial political organization, "the greater the social challenge to contemporary statehood and the weaker the postcolonial state" (Englebert 2002b, 166).

In a quantitative empirical assessment of traditional governance in Sierra Leone, Acemoglu, Reed, and Robinson (2014) measure how chiefs' power influences economic outcomes. They find that more intense political competition in traditional polities (i.e., a larger number of potentially ruling families in a given location) has a positive effect on local levels of literacy, education, and child health. Their results indicate, "less constrained paramount chiefs retard the development of the modern economy within their chiefdoms, and harm the economic prosperity of individuals" (p. 28).

For the case of Oaxaca state in Mexico, Díaz-Cayeros, Magaloni, and Ruiz-Euler (2014) find that in municipalities in which *usos y costumbres*—an indigenous form of participation—is applied, the levels of electricity, sewerage, and education are increased compared with other localities. Dionne (2012) shows how international and national measures to tackle HIV/AIDS in Malawi depend on the actions of traditional community headmen: "no local development happens without the assent and participation of village headmen" (p. 2472). She finds that HIV/AIDS is only a secondary priority for headmen.

A wave of recent economic research uses the precolonial centralization of ethnic groups to explain contemporary regional development. Gennaioli and Rainer (2007) find a positive correlation between the extent of precolonial centralization in a country and an increased level of service provision, for example, in education, health, and infrastructure. Likewise, Osafo-Kwaako and Robinson (2013, 9) present evidence linking precolonial centralization with better public service provision in Africa. Michalopoulos and Papaioannou (2013, 2015) show a positive correlation between the hierarchical organization of an ethnic group and the level of regional development. Their findings suggest that the extent of precolonial centralization of African regions matters for today's patterns of economic development.

The latter studies all focus on *precolonial* political organization, that is, the statistical correlations do not capture the effects of *contemporary* traditional governance. The mechanisms of how precolonial structure should affect today's development after such a long time remain unclear. Although the explanatory approach of these studies provides valuable insights, relying on contemporary data seems desirable. At least, if precolonial data are used, we need causal theories to explain historical path dependence.

A Research Agenda

In the remainder, we discuss the research deficits and sketch how the lacunae can be filled. We start with the need for theory and continue with the need for comprehensive data and explanatory—qualitative or quantitative—empirical work.

Need for Theory

Conceptual work on traditional governance has largely focused on terminology and typologies. Typologies provide a first step to grasp variation of the phenomenon. Often, however, these classifications are neither distinct nor complete. Furthermore, categories have rarely been applied to a larger number of cases.

What is rare in the literature is causal theory. Although many case studies lend themselves to abstraction (e.g., Beck 2001; Fanthorpe 2005), a further step toward deducing theories is rarely carried out. Moreover, conjectures about the effects of traditional governance are often based on value judgments. This neglect of theoretical tools contributes to our lack of understanding of the dualism of traditional governance and the state.

Noteworthy exceptions exist. Bates (1983) applies a political economy lens to the subject of community and state formation in rural Africa. Van Rouveroy van Nieuwaal and van Dijk (1999, 24) examine the relationship of traditional and state authorities in political economy terms, as do Acemoglu, Reed, and Robinson (2014) in their study of chiefs' influence on development. Boone (1998) uses a theoretical framework of institutional choice to examine the diverse institutional topography of rural Africa. Most importantly, Baldwin (2013, 2014, 2015) and Koter (2013) analyze traditional leaders in view of chiefs' incentives and democratic theory.

As in these works, existing political science theories need to be applied to explain the contemporary significance of traditional governance and related political consequences. Traditional governance must be recognized for what it is: a variety of political systems governing communities, which requires analysis in the same ways political scientists have approached state institutions.

A theory of traditional governance will inevitably vary depending on what is to be explained and on context. The consequences of coexistence and interaction of state and traditional authorities and thus causal links play out differently in our three domains: democracy, conflict, and development. Furthermore, coexistence and interaction take place in different contexts on which causal paths are contingent. In particular, the significance of traditional communities, whether the state is a democracy or autocracy, more or less developed, or more or less ethnically diverse, will affect the causal processes.

Yet, in our view, rationalist institutional theories are a promising candidate for an overarching approach because they seem particularly relevant to the subject. The dual polity is problematic because of the *potential incompatibility* of two institutional systems in one territory. Institutional theories emphasize that explicit legal integration and institutional harmonization are needed to reduce coordination costs and manage the dual polity. Economic institutionalism, for example, focuses on the complementarity of institutions as an important factor for the functioning of markets and for development (Hall and Soskice 2001; North 1990). In this respect, the interaction and potential incompatibility of the state–traditional dualism is not different from, for example, state–church relations, global legal pluralism (Berman 2012), or federal and supranational arrangements such as the EU.

This reasoning leads to our first and basic hypothesis:

> **Hypothesis 1:** The less legal integration and harmonization of state and traditional institutions we observe in a country, the more negative consequences will appear.

Legal integration or harmonization may take many forms, as the EU examples above indicate. First, we expect a country regulating and integrating traditional and state institutions in detail (e.g., developing a common judicial system) to face less adverse effects than a country with unregulated parallelism of two systems. However, we also expect a country trying to separate the diverse polities as much as possible (e.g., by granting territorial political autonomy or delineating competences) to face less adverse consequences than a country not regulating the coexistence.

Second, we expect the effects of legal integration and harmonization to be contingent on the significance of traditional governance. Significance is a consequence of numbers, that is, the share of population subject to traditional leaders in the overall population. If the share is lower than 2 percent (as in the United States), then we would not expect to observe any effects beyond the local level. In addition, political significance is a consequence of the powers the traditional leaders exert over their constituencies and within

the state. If the traditional authorities are bereaved of most of their competences (as in Tanzania), we would not assume them to cause problems. We conceive of significance and legal integration as an interactive effect, although we phrase distinct hypotheses.

> **Hypothesis 2:** The higher the significance of traditional governance in a country, the more negative consequences might appear.

What are the negative consequences? We concretize the consequences in terms of democracy, internal conflict, and development. We demonstrate the relevance of incompatibility for each domain and propose exemplary hypotheses.

As presented above, the compatibility of traditional governance with democracy was the subject of normative discussions, but our empirical knowledge remains limited. We might expect that more democratic traditional polities have a better fit with democratic states and more autocratic traditional polities are more compatible with autocratic states, that is, we hypothesize the following:

> **Hypothesis 3:** The more similar state and traditional authorities are in respect to their level of democraticness, the more compatible they are, thus reinforcing the level of democracy or autocracy in a country.

We moreover hypothesize that traditional communities are more accepted, acknowledged, and integrated in democratic states because of the greater responsiveness of democracies to societal demands. That is, we hypothesize the following:

> **Hypothesis 4:** The more democratic a state, the higher the level of legal integration of traditional governance.

Regarding political conflict, the democratic fit of state and traditional authorities might also play a role. Incompatibility in terms of institutional features might be a source of political conflict. If a democratic state hosts sizable autocratic traditional kingdoms, tensions might occur, whereas consensus-based traditional communities could be more prone to oppose an autocratic regime. Formal institutional integration could avoid the adverse consequences of dissimilarity in this respect. This reasoning leads us to two further hypotheses:

> **Hypothesis 5:** The more similar state and traditional authorities are in respect to their level of democraticness, the lower is the level of political conflict.
> **Hypothesis 6:** The more legal integration and harmonization of state and traditional institutions we observe in a country, the lower the level of political conflict.

Turning to development, the provision of public goods in a dual polity requires some degree of cooperation. If two potential providers coexist, either one of them may provide public goods separately. However, they can also be provided in a collaborative or in a competitive manner (cf. Clayton, Noveck, and Levi 2015). Moreover, there is a risk that goods are not provided at all. We assume that the delineation of competences and the regulation of the modes of production serve to produce institutional fit and complementarity:

> **Hypothesis 7:** The more regulated and integrated state and traditional public goods provision, the more secure the public good supply.

Specifically, legal uncertainty may play a role in case of land allocation. If a state-organized land regime coexists with a traditional one, the compatibility of both is vital to avoid uncertainty. Unambiguous property rights are a prerequisite for land development, as uncertainty hampers investment. Thus, we hypothesize the following:

> **Hypothesis 8:** The less integrated state and traditional land rights, the more property right uncertainty occurs and the less development we can expect.

Figure 1 integrates these hypotheses in a causal model outlining the conditions for and the consequences of legal integration and institutional harmonization. We do not contend that this is a complete theory of the interaction of state and traditional polities. Further causal relationships can easily be envisaged, and we regard the model as extendable. Moreover, we are aware that there might also be negative effects of legal integration, for example, on democracy, as Chiweza (2007) and Hagmann (2007) have pointed out with respect to the accountability of traditional leaders.

Nevertheless, the diagram depicts how a rational institutionalist approach to state–traditional interaction, based on the potential incompatibilities within a dual polity and legal integration as a remedy, provides a baseline for theory. This does not imply that other theoretical approaches, such as historical or sociological institutionalism, democratic theory, or political economy cannot contribute to the understanding of the causes and consequences of state–traditional dualism. Theories of institutional fit, however, relate closely to the very problems posed by dual polities. The specific hypotheses we suggest as examples may interact with other factors or may need qualifications contingent on context. Most importantly, they are hypotheses, and as such, they can be disconfirmed by empirical analysis. To test such hypotheses, we are in need of data.
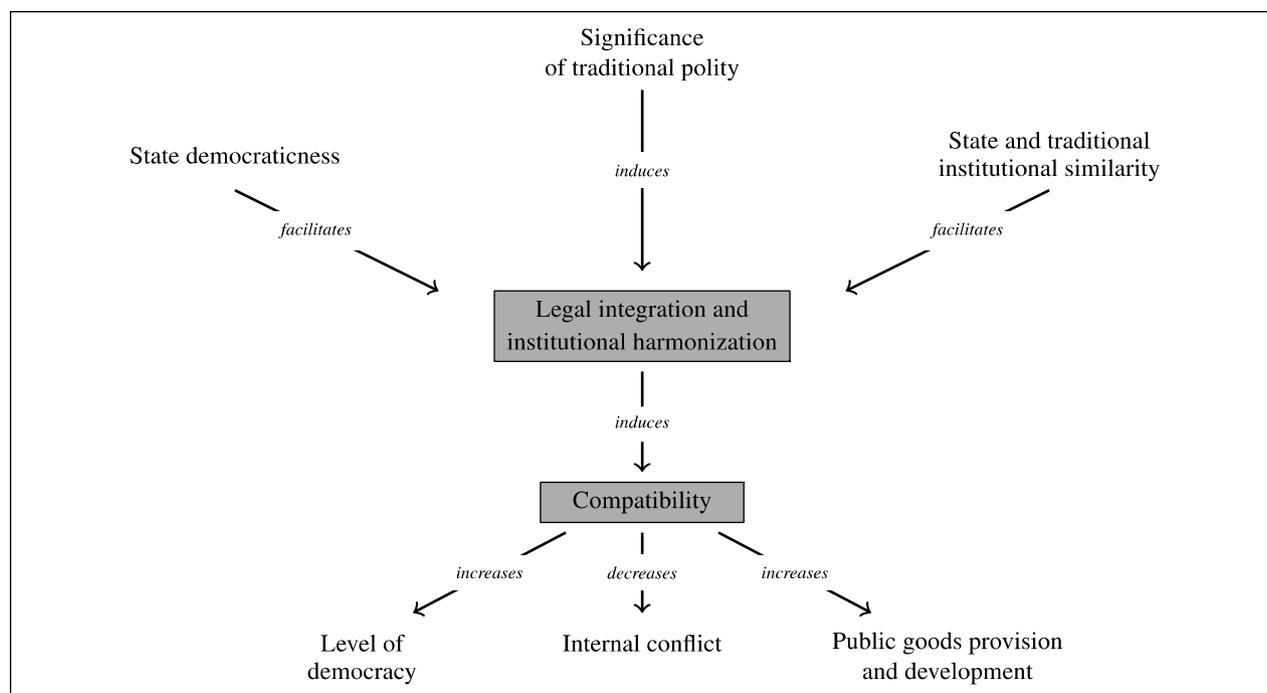
Figure 1. Causal graph of institutional setups and political consequences.

Need for Comprehensive Data and Explanatory Research

Despite the large number of empirical studies, there is a lack of comprehensive data. Country- and ethnicity-based studies provide a quarry of evidence, but the data are often incommensurable. Although scholars focus on common research themes, the contexts and methods differ. Furthermore, systematic data sets containing worldwide or longitudinal data on traditional governance simply do not exist.

To be sure, we recognize the manifold important studies on ethnic politics and the many data sets on these and related issues.[2] Yet studying ethnicity is not equivalent to studying contemporary traditional governance. It is precisely our point that the academic literature lacks data on the current organizational principles within ethnic groups and on traditional polities' interactions with states, and thereby neglects the political and social consequences of traditional governance today.

To our knowledge, there are three sources of quantitative data that have been used for research on traditional governance: Murdock's Ethnographic Atlas, the Ethnic Power Relations (EPR) data set, and the Afrobarometer Surveys. The Ethnographic Atlas covers 1,167 societies worldwide between 1962 and 1980 (Murdock 1967, 1981). The Atlas provides some information on traditional governance by, for example, classifying societies according to jurisdictional hierarchy (Murdock 1967,

52). The data set draws on early ethnographic sources and has not been updated since 1972. The EPR data set codes politically relevant ethnic groups worldwide for the period from 1950 to 2005 (Wucherpfennig et al. 2011). It contains data on the size of the groups and their political power status. Although the data set has no explicit information on traditional institutions, it can be useful in this context.

The Afrobarometer Survey collects data on contemporary traditional leaders. Although the first rounds of the survey questioned the respondents about their levels of trust in traditional leaders, the fourth (and the forthcoming sixth) round included a larger battery of questions on traditional leaders, for example, on contact frequency, desired and perceived influence, and government affiliations of traditional leaders. However, the survey does not account for the diversity of traditional communities and their internal organization.

The case study data focus on a limited number of topics and remain geographically concentrated. According to our review, this body of scholarship concentrates mostly on Africa and covers only about half of that continent. Whereas large parts of Africa are insufficiently studied, a few countries (in particular South Africa, Ghana, Namibia, Somaliland, or Uganda) attract most of the attention. Moreover, these studies focus merely on the governance structures within one country and, in most cases, on only one traditional polity. With few exceptions, such as studies of Sierra Leone (Acemoglu, Reed, and

Robinson 2014), Namibia (Hinz 2010), and Zambia (Baldwin 2014), no within-state comparisons of different traditional institutions exist.

To be able to study the broader phenomenon of dual polities and legal pluralism and to test hypotheses such as those outlined above, research on polity dualism and its consequences requires systematic, comparable, and reliable data on several dimensions:

- Data on the contemporary political significance of traditional governance for each ethnic group and country would be a basic prerequisite for an evaluation of its consequences on democracy, conflict, and development.
- Data on the legal integration of traditional governance in states' political systems, be it at the constitutional or ordinary law level, would allow to evaluate the effects of acknowledgment and harmonization on democracy, conflict, and development (institutional fit).
- Data on the various types of contemporary traditional governance structures would be helpful to understand to which degree traditional governance is compatible with democracy. To assess the democraticness of traditional polities, new measurements might be needed.
- Data on public service provision and the performance of traditional institutions alone and in interaction with governments would allow for the estimation of their potential to complement states.

Such data would be most useful if collected on a worldwide scale and if they were longitudinal. To be sure, such a large body of data cannot be collected quickly by small-scale research projects. Only after systematic collection of such material, however, can coherent explanation follow.

The lack of theory and systematic data result in a lack of explanatory empirical research. Hypothesis-testing quantitative or experimental research is still rare—although rapidly growing in recent years. Attempts at generalizable knowledge are mostly very recent; of these, many still base their analysis on Murdock's precolonial data. Most case studies—though valuable as exploratory hypothesis-generating endeavors—are not explanatory in the sense that they test hypotheses. Although theory-guided, comparative and single case studies can serve to determine causality, given the current state of knowledge, a comprehensive understanding of the political role of traditional governance necessitates greater scope. Only broadly based approaches will enable us to identify conditions and covariates of the various outcomes of polity dualism. Only comparative approaches will allow the concerned countries to learn from one another how to deal with the challenge of potential incompatibilities.

Conclusion

In this paper, we attempted to summarize and structure the existing knowledge on the dualism of traditional and state governance. We find that the description of the internal organization of traditional communities is scattered, somewhat dated, and lacks a comparative perspective. The literature on the coexistence and interaction of traditional governance with the state has produced a number of interesting approaches to describe and explain the strategic role of traditional leaders as intermediaries between politicians and population. The studies on the consequences of traditional governance and the contemporary dualism for democracy, peace and conflict, and socioeconomic development are promising but do not allow for robust conclusions. Only very recently have studies been undertaken dealing with the contemporary developmental potential of precolonial organization, popular attitudes toward traditional leaders, and the conflict propensity of ethnic groups. Effects on other dimensions of societies and states, such as cohesiveness, social trust, accountability, or state capacity are yet to be observed. Nevertheless, the existing body of work provides a solid foundation for further research.

In sum, valid inference about the dualism of traditional governance and the modern state is currently difficult to draw. Consequently, the academic knowledge of this significant phenomenon remains limited. We suggest a rational institutional framework to derive testable hypotheses. Only theory-guided explanatory research, based on systematically collected data, can provide us with reliable answers to questions as to the causes and effects of the dualism of traditional and state governance, which we encounter in a great number of the world's countries.

Notes

1. We are conscious of how this goal necessarily limits the detail we can devote to each discussed contribution. We include only those studies that closely correspond to our framework. Inescapably, many works had to be left out for reasons of space constraints, although they provide valuable contributions to the phenomenon. For further interest in traditional institutions, see Geschiere (1993), Boone (1998), Evans (2014), Naseemullah and Staniland (2016) and van Cott (2010).
2. To name but a few: the Human Relations Area Files (HRAF; 2014); Ethnologue, see Lewis, Simons, and Fennig (2014). Moreover, data sets on precolonial political organization exist (e.g., the state antiquity index, see Chanda and Putterman 2007).

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