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Civil society legitimacy as a balancing act: competing priorities for land rights advocacy organisations working with local communities in Kenya

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ABSTRACT
While INGOs are known for having to balance competing demands in their quest for legitimacy, this article discusses a similar balancing act for local organisations working directly with communities in the field. Building on the social constructivist view that legitimacy is actor and context dependent, we examine how various parties perceive the legitimacy of three land rights advocacy organisations in Kenya. While regulatory and cognitive legitimacy have societal relevance, we found them to be of secondary importance to local communities, who primarily value pragmatic and political legitimacy sources such as adequate representation, demonstrable output, responsiveness, and visibility in the field.

RÉSUMÉ
Les organisations non-gouvernementales internationales sont connues pour leur capacité à jongler entre des exigences contradictoires dans leur quête de légitimité. Cet article aborde un phénomène similaire au niveau des organisations locales travaillant auprès des communautés sur le terrain. Partant de l’argument socio-constructiviste selon lequel la légitimité dépend sur l’acteur et le contexte, nous considérons comment les différents partis perçoivent la légitimité de trois organisations de défense des droits fonciers au Kenya. Si la légitimité juridique et la légitimité cognitive jouent un rôle important dans la société, nous arguons que leur importance est moindre au niveau des communautés locales, qui privilégient des sources de légitimité pratiques et politiques telles qu’une représentation adéquate, une productivité concrète, de la réactivité, et de la visibilité sur le terrain.

Introduction
This article discusses civil society legitimacy in the context of land rights advocacy in Kenya. Previous scholarship has identified that securing legitimacy is a formidable challenge for non-governmental organisations that operate internationally and straddle both Northern and Southern contexts. Deloﬀre and Schmitz (2019, 616) observe that these
INGOs face a “fundamental puzzle” to keep up their legitimacy and highlight different trade-offs, e.g. when tapping legitimising power from international normative frameworks goes at the expense of engagement with local communities. This aligns with earlier work stating that INGO legitimacy is rife with “internal contradictions” (Ossewaarde, Nijhof, and Heyse 2008, 51), due to conflicting demands that emanate from the different roles INGOs play at various levels, including the representation of communities at the local level. Moving beyond INGO legitimacy, Pallas, Gethings, and Harris (2015, 1282) foreshadow that local Southern NGOs will face a similar challenge. Especially when local CSOs partner with INGOs, different legitimacy demands come in, potentially compromising grassroots connections.

This article documents how such trade-offs in legitimacy construction are experienced by local CSOs in the Global South, and presents a case study to this purpose. Informed by the (I)NGO literature on legitimacy, we first unpack the concept into dimensions that are tailored to the case setting and, subsequently, report on our ethnographic fieldwork to show how CSOs are faced with diverging valuations of these legitimacy dimensions by different stakeholders. Relevant stakeholders for local CSOs include donors, members and other private supporters, partner organisations, governments, international institutions, private sector actors, CSO employees, and beneficiaries (Heideman 2019; Lister 2003). Our main interest lies with the (perceived) demands from community level actors on CSO legitimacy, as the INGO literature suggests that squaring demands from local constituencies with those from higher-level actors presents the most daunting challenge (Balboa 2015).

Advocacy organisations working with disadvantaged groups are particularly dependent on the trust and support of local constituencies in order to credibly advocate on their behalf. Yet professional CSO staff members often differ significantly from their target populations, and their long-term advocacy objectives may not be immediately visible to those populations they seek to represent. Our Kenyan cases confirm the challenge of balancing legitimacy towards various stakeholders. Moreover, a pushback against NGOs has been notable in many countries, including Kenya. CSOs require legitimacy in order to secure political, moral and financial support for their work, and to guard themselves against challenges from state and non-state actors.

This research was conducted in the context of a broader study on the advocacy strategies of land rights organisations in Kenya. Land is a particularly emotive and politicised issue in Kenya, as it relates directly to livelihood questions and is subject to cultural, spiritual and historical contestations (Klopp and Lumumba 2017). Our research focused specifically on the role of local advocacy organisations in the context of large scale land investments. Community members may experience acute threats to their livelihoods as a consequence of such investments, and often turn to CSOs to address their concerns. As a consequence of the significant economic and political interests involved, both community members and CSOs typically face a range of retaliation strategies, occasionally even violent ones, from private or public actors. Consequently, CSOs must often work in various arenas simultaneously, from the high-level courtroom and closed-door political negotiations to grassroots village meetings. This article discusses how these organisations with an established presence in the field construct and negotiate their legitimacy while seeking to serve the communities they aim to represent.

This article comprises two interrelated sections. Based on literature review, the first section presents a model to categorise different sources of CSO legitimacy. In the
second section we draw on empirical examples from ethnographic fieldwork with three land rights advocacy organisations, all local partners of ActionAid, an international campaign and advocacy organisation. We highlight the most relevant sources of CSO legitimacy as observed in the different case study locations, with particular attention to those aspects influencing CSO legitimacy towards local communities.

**Conceptualising civil society legitimacy**

Despite the worrisome trend of “shrinking space”, CSOs remain relevant societal forces that in some cases rival state powers and budgets. While not accountable to a clearly defined group of stakeholders, CSOs draw their authority from their perceived ability to represent broader societal needs (Brown 2008). They claim to benefit at least a certain sub-section of society, and to act on behalf of a larger constituency that is not strictly defined; although some CSOs are membership-based, many of the larger ones are not. Moreover, their public demands often relate to issues such as transparency, democracy, and other goals deemed desirable for society, which creates expectations that they themselves set the right example (Jordan and van Tuijl 2006). Consequently, CSOs must balance the often competing demands of governments, donors, clients, members, allies within their networks, their staff, and their organisational mission or values (ibid.).

Literature in the field of development tends to emphasise technical sources of legitimacy such as organisational structures, procedures and other performance measures, but ignores more fundamental questions about why NGO legitimacy actually matters, and to whom (Lister 2003, 178). A smaller number of authors have referred to CSO legitimation as a process and as positional (e.g. Heideman 2019). In the same vein, we argue that civil society legitimacy should be viewed as relational rather than as an “objective” characteristic of a specific organisation. This is in line with Suchman (1995, 574), who defined organisational legitimacy as “a generalised perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions”. For civil society organisations, having the continued support of a specific group of constituents is considered vital for maintaining legitimacy. Being viewed as legitimate, in turn, may offer opportunities for taking certain political or social action, making credible statements, or influencing public policy (Atack 1999; Lister 2003).

Table 1 comprises the main sources of CSO legitimacy that we encountered in existing literature. While several of these authors address actor-specificity, they offer few concrete examples of legitimacy sources that are valued differently depending on the stakeholder. We will revert to this table after presenting the empirical findings and use it as a template for analysing the priorities we identified in our case studies on land rights advocacy in Kenya. This section first discusses the model that informs the table, which is derived from Suchman’s (1995) sources of organisational legitimacy, with two additional dimensions taken from literature specifically on civil society legitimacy.

**Normative, cognitive and pragmatic legitimacy**

Literature on organisational legitimacy highlights its multidimensionality. Suchman identifies moral, cognitive and pragmatic legitimacy, based on an audience’s normative
approval, organizational taken-for-grantedness and self-interest, respectively. While moral and cognitive legitimacy are closely related to the image of the organisation towards the outside world, pragmatic legitimacy, defined by Suchman (1995, 578) as “the self-interested calculations of an organisation’s most immediate audiences”, may be of much greater importance for CSOs working directly with marginalised constituencies. Research by Molden et al. (2017) in the United States, for example, shows that securing practical benefits for community members can later evolve into moral legitimacy on the local level. While Suchman (1995, 579) refers to moral legitimacy as “a positive normative evaluation of the organisation and its activities”, we employ the broader definition

<table>
<thead>
<tr>
<th>Source of legitimacy</th>
<th>Type of legitimacy</th>
<th>Criteria</th>
<th>Operationalisation/examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulatory</td>
<td>Legal</td>
<td>Compliance with (inter)national laws, codes, and other regulatory requirements</td>
<td>Registration with the government as a civil society organisation or charity, audits, demonstrated compliance with international agreements and formal reporting requirements.</td>
</tr>
<tr>
<td>Procedural</td>
<td>Adherence to standardised procedures</td>
<td>Adherence to and compliance with accountability and transparency mechanisms, internal democracy.</td>
<td></td>
</tr>
<tr>
<td>Normative</td>
<td>Moral</td>
<td>Righteousness, justification for action, mission grounded in shared societal norms and values</td>
<td>Advancing a cause that is seen as shared by (significant groups in) society, e.g. human rights, peacebuilding, religious values.</td>
</tr>
<tr>
<td>Cognitive</td>
<td>Discursive</td>
<td>Taken for granted and accepted in society, represented in popular discourse</td>
<td>Playing accepted role in media, (international) forums and public events, or in local societies. Being acknowledged as having expertise.</td>
</tr>
<tr>
<td>Pragmatic Output</td>
<td>Meeting the needs of specific stakeholders</td>
<td>Delivering services or other demonstrable output for intended beneficiaries. Issuing reports, policy advice, starting or winning legal battles.</td>
<td></td>
</tr>
<tr>
<td>Impact</td>
<td>Replicability, sustainability, empowerment of constituencies</td>
<td>Being able to demonstrate that activities contribute to stated goals, i.e. that they have a durable, positive effect on a defined group of constituents, e.g. they are better informed, financially supported, or otherwise politically or economically empowered.</td>
<td></td>
</tr>
<tr>
<td>Responsiveness</td>
<td>Accessibility, solidarity, visibility</td>
<td>Being visibly present in the field, capability to listen, expressing solidarity, thinking up actionable solutions.</td>
<td></td>
</tr>
<tr>
<td>Political Symbolic &amp; substantive representation</td>
<td>Acknowledgement as spokespersons for constituencies</td>
<td>Having implicit or explicit mandate to represent the interests of constituencies, seeking alignment with their goals.</td>
<td></td>
</tr>
<tr>
<td>Representativeness</td>
<td>Membership’s resemblance to constituencies</td>
<td>Size, composition, comprehensiveness and level of commitment of membership, location of office(s).</td>
<td></td>
</tr>
<tr>
<td>Leadership</td>
<td>Charisma, status and characteristics of leader(s)</td>
<td>Individual expertise, education level, professional experience, reputation and network of leader(s), plus personal characteristics e.g. place of origin, ethnic and religious background.</td>
<td></td>
</tr>
</tbody>
</table>

Source: Authors’ selection from literature review, including minor adaptations in labelling and categorisation.
of normative legitimacy, described by Lister (2003, 179) as “congruence between the values pursued by organisations and wider ‘societal’ values”.

Within the category of pragmatic legitimacy, the literature further distinguishes between output and impact (Atack 1999; Brown and Jagadananda 2007). While output in the case of CSOs engaged in service delivery equates to the visible and timely provision of these services, it may take a more indirect form for organisations engaged in advocacy, such as research reports that articulate constituencies’ goals and needs. Impact refers to an organisation’s longer term influence, e.g. whether service delivery or advocacy contributes to the stated goal of poverty alleviation or empowerment. This component may be harder for community members to assess, as visible changes on the ground take longer to materialise, or may even remain absent, e.g. when new legislation does not trickle down to the local level. A more immediate source of pragmatic legitimacy concerns the responsiveness of CSOs. This source features prominently in studies on the legitimacy of public sector organisations that involve “street-level bureaucrats” (e.g. Jansson and Erlingsson 2014) and refers to an organisation’s readiness to act upon arising needs. At the most basic level this requires accessibility, “listening” capabilities, and a commitment to think up actionable solutions to the problems that are being voiced. This may eventually lead to output and impact by the organisation, but not necessarily, for instance if constituencies primarily seek recognition, accompaniment, and expressions of solidarity regarding their struggles.

Regulatory and political legitimacy

In addition to Suchman’s seminal work on organisational legitimacy, Table 1 lists two more sources that surfaced particularly in literature on civil society legitimacy (Brown 2008; Logister 2007; Ossewaarde, Nijhof, and Heyse 2008) First, regulatory legitimacy is rather self-explanatory, referring to the more formal dimensions of legitimacy, such as related to state laws and registration procedures (Scott 1995, cited in Lister 2003). Brown and Jagadananda (2007, 7) refer to the related notion of “legal legitimacy”, which implies a “license to operate” granted by state powers.

Second, we add a category of political legitimacy, consisting of representation, representativeness, and leadership legitimacy. Representation of constituencies is often considered one of the most important criteria for CSO legitimacy (Lister 2003; Van Rooy 2004), yet is not explicitly included in Suchman’s model on broader organisational legitimacy. In other models, representation is identified as “standing for” or “acting for” constituents (Guo and Musso 2007). The latter may be considered most relevant on the ground, as it relates to concrete actions and public support for constituencies’ needs and struggles. A related notion is the concept of representativeness, or the question whether the composition of an organisation resembles the constituency it claims to represent.

Similarity to community members is arguably more important for community-based organisations (CBOs) than for advocacy organisations that operate on the (trans)national level, which have to rely on professional expertise in order to successfully bring across an agenda on behalf of their constituencies. For larger advocacy organisations, representation hinges on the principle of solidarity rather than broad membership representation; Batliwala (2002, 395) distinguishes between “direct stakeholders” who “are negotiating
the adverse impacts of economic challenges in their own homes, communities, and lives”, and less directly affected CSO representatives who make strategic decisions to take up and drop issues depending on their campaign goals. The physical location of CSO offices and staff operating in the Global South also influences their representational role (Lister 2003, 177).

We further argue that personal or leadership legitimacy, which Suchman categorises under moral legitimacy, warrants separate attention for advocacy organisations working locally. The reputation of an organisation’s leadership may reflect on the organisation as a whole, especially if leadership is highly personalised. In a case study on an Italian NGO, Leardini, Moggi, and Rossi (2019, 527) describe how legitimacy is partially determined by its board members’ local roots. In other cases, a leader’s values and actions proved more important. Molden et al. (2017) provide the example of an American community forestry CBO that derived legitimacy from its leader’s charisma, relevant educational background and trustworthy commitment, despite being a newcomer in the area. Within the category of leadership legitimacy, however, some aspects such as professionalisation increase legitimacy towards international actors, but may have a reverse effect on the grassroots level (Heideman 2019).

In short, legitimacy has been defined and operationalised in a multitude of ways. It revolves around a widely held perception of an entity or action as beneficial, but only in the eyes of particular stakeholders within a specific context and timeframe. The social constructivist approach implies that CSO legitimacy remains subject to continuous contestation and re-definition. For this research, we particularly looked into the way legitimacy of CSOs is experienced by the communities they aim to represent. This perspective requires a flexible understanding of legitimacy-related concerns voiced in the field, which may not always be phrased in the same terminology used in theoretical literature.

**Methodology**

Data presented here are drawn from ethnographic research conducted with three local advocacy organisations, two of which are located in Kenya’s Coastal region (Kilifi county and Taita Taveta county – hereafter: Taita) and one in Eastern Kenya (Kitui county). The research team studied these local partners of ActionAid within a broader policy-oriented research programme commissioned and funded by the Dutch Ministry of Foreign Affairs. The choice for ActionAid partners was based on previously established contacts in the context of the aforementioned research project, as this ensured the best available access to local communities. Also, ActionAid is frequently cited as an organisation that has sought to reinvent its relationship with beneficiaries (see e.g. Walsh 2016 on ActionAid’s experience in Uganda). Case studies were jointly selected with ActionAid staff based on variation in the type and stage of private sector involvement in land conflicts. However, ActionAid was neither involved in the design nor implementation of the fieldwork.

Research was conducted in Kenya between May and November 2018. Ethical clearance was obtained from Kenya’s National Commission for Science, Technology and Innovation (NACOSTI), and we obtained oral consent from all respondents who participated in the research. Data were collected through interviews, focus group discussions,
and participant observation with the selected land rights advocacy organisations, but also through participation in public events dealing with land and extractives.

Participant observation in particular allowed us to observe the CSO staff’s daily interaction with various stakeholders involved in land rights disputes, and to build the necessary trust with respondents in the field. In addition to many informal conversations, we held interviews with individual staff members, and organised focus group discussions in their offices to validate our observations. We further conducted interviews with governmental, donor and private sector actors involved in the land rights conflicts. All interviews and focus group discussions revolved around the question how these organisations had established their reputation in the field, and how they sought to maintain contact with local communities, while also satisfying other stakeholders.

A total of nine focus group discussions were conducted with various groups of CSO constituencies (four in Kilifi and five in Kitui), followed by five individual interviews with community members in these two locations. These were held in local languages or in Swahili with the help of informal community translators. Given the low education levels observed among local communities (the majority had completed primary education at most), we avoided the use of abstract concepts. To facilitate communication, we did not ask community members explicitly about different sources of legitimacy, but framed our questions in terms of whether they knew and valued the organisations’ activities in their area. For example, rather than asking directly whether respondents took CSO presence for granted (cognitive legitimacy), we asked for their first point of recourse in case of a land rights issue, and then checked whether CSOs came up spontaneously. In some cases, the CSOs under study were explicitly compared to other CSOs active in the region. We further observed requests made by community members towards the CSO representatives we joined in the field, during meetings and through phone calls.

These findings were first compared to the priorities that emerged from interviews with governmental, donor and private sector representatives, who often referred to the same interactions from different perspectives. After this basic triangulation of the data, we analysed our findings in light of the sources of legitimacy we had identified earlier in the literature on civil society. In an iterative coding process the data were matched to the legitimacy dimensions in Table 1, which proved sufficiently encompassing to capture the range of legitimacy sources brought forward by the research participants. Interim findings and analysis were frequently checked with representatives of both the local organisations and ActionAid Kenya. In May 2019, a validation meeting was held in Nairobi. During this two-day meeting, representatives of ActionAid and its local partners provided active input and suggestions.

Before reporting on the findings in the next section, let us briefly introduce the three CSOs under study (see also Table 2 for background details). The Kitui-based organisation was founded in 1996 and obtained NGO registration in 2005, after having worked under the umbrella of Nairobi-based NGOs for several years. The organisation has ten paid staff members, who regularly conduct field visits, but also serve as paralegals when residents from surrounding villages visit their office to seek advice on disputes around land. At the time of our research, the organisation was mobilising local communities targeted by a prospective coal mining project. Since the start of this campaign, staff has partnered with a (trans)national anti-coal environmental movement. The organisation has long-
established roots both in local communities and in broader civil society. Some of the older staff members were political activists under previous governments, and nearly all are of Kamba ethnicity, the main ethnic group in their area. The staff identifies about 40 CBOs as “affiliated members”.

The Taita-based organisation was founded in 2008 as a land rights organisation and later broadened its activities to work on women’s rights, environmental matters, and governance. The organisation has 32 CBO member organisations. Its budget is much smaller than that of the other two organisations and the five board members work unpaid. The board members commit to working three days per week for the organisation, and have their own income generating projects on the side. All are professionals with long-term expertise; the land rights coordinator, for example, has been prominently involved in Kenya’s coastal land rights struggle since the 1990s. Reflecting the diversity of the county’s population, board members hail from various ethnic and religious backgrounds.

The Kilifi-based organisation was founded in 2006 as an umbrella for local self-help groups involved in land struggles since the 1980s with salt mining companies in the region. It aims to help communities claim back land questionably allocated to salt companies and stop new evictions. It claims a membership base of around 3,000 individuals, and has received ActionAid funding since 2011, which led to a stronger focus on women’s land rights. Their office is located near the affected communities, who frequently visit to ask for advice. The organisation comprises five executive staff members, an eight-person board, and a supervisory committee. The majority are of Giriama ethnicity, like most community members in the area.

### Sources of legitimacy for land rights advocacy organisations in Kenya

Our fieldwork revealed the most relevant sources of legitimacy for field-based advocacy in the context under study, as well as some of the associated dilemmas for CSOs seeking to represent marginalised populations. These will be discussed following the order of the literature-based model presented in Table 1.

#### Regulatory legitimacy

Although regulatory legitimacy can provide an important basis for CSOs to work legally, it does not assume primary relevance for communities in the field. All three organisations operated in their respective areas for several years before obtaining official registration, meanwhile building up relationships with community members. Some CSO representatives even mentioned that the requirements for formal registration, related to

<table>
<thead>
<tr>
<th>Location</th>
<th>Established</th>
<th>Staff</th>
<th>Budget</th>
<th>Affiliated members</th>
<th>Main advocacy target</th>
</tr>
</thead>
<tbody>
<tr>
<td>#1 Kitui</td>
<td>1996</td>
<td>10</td>
<td>Medium</td>
<td>40 CBOs</td>
<td>International coal mining company</td>
</tr>
<tr>
<td>#2 Taita</td>
<td>2008</td>
<td>5</td>
<td>Small</td>
<td>32 CBOs</td>
<td>International iron ore mining company &amp; local sisal plantation owners</td>
</tr>
<tr>
<td>#3 Kilifi</td>
<td>2006</td>
<td>5</td>
<td>Medium</td>
<td>9 SHGs (3,000 members)</td>
<td>Local salt mining companies</td>
</tr>
</tbody>
</table>
documentation and procedural discourse, can cause alienation from local communities that are often illiterate, undocumented or “disorganised”. Yet many CSO representatives stressed that they were forced to pay close attention to their registration status, because any procedural mistake could be used against them by government officials seeking to discredit their work. Registration and certification, moreover, were mentioned as a requirement for partnership with donors and other external actors, rather than being directly beneficial to constituencies.

All three organisations have designated board members who meet on a regular basis and are either drawn from member organisations, or attracted externally because of their specific expertise, e.g. in relation to law or finances. Board membership is renewed by vote every few years, and active board members tend to get re-appointed unless they have other commitments. In some cases, accountability was formally professed by means of “transparency boards” being put up outside the offices for community members to gain insight into funds received, but these were often not up to date, which gave the impression of a token measure. We noticed that community members valued more informal ways to report back, e.g. in the form of phone calls and field visits, as detailed below.

**Normative legitimacy**

Normative legitimacy forms a primary underpinning for CSOs to work with local communities. CSO staff justified their activities by emphasising that they were working towards socially accepted, basic human rights norms, such as access to land for small scale farmers. As the Taita-based CSO representative phrased it: “our strategy is justice, what we stand for is people’s rights”. While most of the stakeholders they campaigned against did not challenge these norms in themselves, they sometimes disputed the organisation’s interpretation of local land conflicts and community interests, e.g. private sector representatives referring to the organisations as “human wrongs” if they had “rights” in their name. This shows that normative frameworks as a basis for CSO legitimacy are dependent on the actors’ view: what is perceived as legitimate in the eyes of community members may be delegitimising in the eyes of their adversaries.

Local government staff referred to CSOs as having a significant role to play, particularly in providing human rights training to local communities. A county land registrar commented that “civil society in Taita has been of much assistance in terms of civic education, awareness of land rights”. Nearly all government representatives stressed that it was civil society’s role to stand with communities, and that it was not a problem when they disagreed “as long as they aim to help the citizens of the country”, as the former county governor of Taita Taveta phrased it. However, in practice this appreciation was not always translated into responsiveness to civil society’s demands by those in positions of power.

**Cognitive legitimacy**

Cognitive legitimacy requires that an organisation is taken for granted in society, and represented in public discourse. In the context of land rights advocacy, this includes the recognition of CSOs as genuine stakeholders in interactions with government and
companies. A CSO representative from Kitui, who also emphasised their evolving relationship with county officials, explained how involvement in selected (court) cases brought the organisation increased attention: “When we show interest in a case, even the government becomes scared”. A particular example was given where the organisation had actively requested background documentation for a human rights case that had been brought before court, resulting in a postponement of the case so the organisation could study the documents first. A similar example was cited in relation to the media relations built up by the CSO: “As a brand, we have created that if something happens the media will be calling us. They feel like we are supposed to be part of it”. All of the organisations we studied were frequently invited to multi-stakeholder dialogues. These examples show that authorities on various levels, including the police and the court, viewed the CSOs as genuine stakeholders in the process, as did the local media.

However, being accepted as genuine stakeholders does not imply broad agreement regarding the roles CSOs are supposed to play. Most government representatives, for example, expressed their disapproval of CSOs “inciting” people, and emphasised that CSOs should exercise restraint, and secure control over the consequences of their actions. One government representative in Kitui expressed disapproval of the slogan “better teargas than coal gas” that had been used in an anti-coal demonstration, and wanted to know which donors fund such activities. In some cases, government or private sector representatives complained about CSOs being too “aggressive” or biased in public platforms.

Case study reports elsewhere confirm that activists who are “balanced” in their recommendations are considered more credible and legitimate in the eyes of their advocacy targets (Batliwala 2002, 398; Van Rooy 2004, 90). In our fieldwork, however, the interpretation of “balanced” was contested between stakeholders. A Kitui-based community member stressed that “NGOs’ work is just to let us know, enlighten the community and then we decide for ourselves. They are not there to incite the community, but to give information”. Community members valued CSOs’ independent role from the government and expected them to pursue a public cause, in line with the normative dimension of legitimacy described above. Private sector and government representatives, on the other hand, emphasised that CSO activities had to be guided by facts.

Expertise was one of the few sources of legitimacy that seemed to be valued by all stakeholders. In the context of coal mining, for example, the Kitui-based communities threatened with eviction were most concerned about their lack of knowledge on the technicalities of mining. As a result, they had trouble assessing the potential risks and benefits involved in the proposed mining plans. A donor representative explained that the environmental movement active in Kitui had highlighted many previously unknown facts in Kenya, such as the capacity required to produce electricity, and the procurement processes from which politicians might benefit. Some NGOs facilitated the involvement of independent land surveyors and other experts such as geologists. In Kilifi, where locals had resorted to violent resistance tactics prior to the founding of the CBO, community members appreciated the tools provided for non-violent dialogue and rights-based approaches. CSO expertise was also acknowledged in a legal setting, as all three CSOs played an intermediary role between lawyers and communities in various court cases.

Our data thus show that sources of cognitive legitimacy are primarily found in public spaces such as the media and the courtroom. Nevertheless, acknowledged CSO expertise
enhances legitimacy in the eyes of all stakeholders, including community members. How
that expertise is subsequently made use of, however, depends on whose interests are
given priority. In this process, CSOs have to demonstrate their instrumentality to the
community in order to maintain legitimacy on the local level.

**Pragmatic legitimacy**

When asked what community members appreciated about CSOs, pragmatic sources of
legitimacy were most frequently mentioned. Visible output was highly valued, in the
form of provision of vital community services (e.g. those neglected by the state) or, in
some cases, more personal benefits. As Wood (2016, 540) observed in her research on
Kenya, NGOs need to highlight their daily contributions to development and democracy,
so that they are not just seen as “making noise in Nairobi”. This need to demonstrate a
visible effect is even more vital for organisations that operate closer to the field. When
asked what communities expect of them, the Taita-based land rights officer explained
that “the expectations from the community are mostly on outcome. They want their
[land] titles to be authenticated”. Community members in Kitui said they expected
NGOs to assist with “food, water and education”, indicating that they expect CSOs to
offer concrete assistance for their most immediate needs. The CSOs responded by
using their connections to link community members to donor agencies and individuals
who could attend to their material needs. Community members often followed up on
efforts that had been promised by the CSO staff, primarily by phone.

As a consequence of their visibility on the ground, community members frequently
requested CSO representatives to assist with urgent individual or family problems,
which often took priority over long-term transformative change. As part of their
human rights work, staff members were readily available during weekends, evenings
and holidays, if community needs so required. After a representative of the Taita CSO
was confronted with the fact that they did not keep to the required three days of activities
per week, he commented: “These activities are a passion … We don’t look at how many
days, we look at how much we can achieve for the community”. This shows the impor-
tance of responsiveness to immediate community needs.

The frequent requests to contribute to ad hoc needs were partly attributed to, in the
words of one respondent, an “entrenched culture” amounting to patronage. Those
involved in civic education in particular mentioned the influence of politicians and
NGOs handing out small allowances for community members to attend their gatherings.
As a result, community members frequently refused to show up without being promised
an allowance, compromising the long-term output CSOs were hoping to achieve. An
NGO staff member from Nairobi seriously objected to this practice, first of all because
“it makes no sense, me paying them to solve their own problems”. Secondly, this practice
had budgetary consequences, resulting in a situation where high attendance could cause
financial strain. By sustaining this practice, the NGO representative commented, “the
struggle ends when the money ends”. However, most local organisations felt forced to
continue this practice, which effectively impeded interaction with the largest possible
number of community members. Yet the focus on allowances also indicated that
many of the poorer community members were preoccupied with daily survival, rather
than participation in long-term transformations.
Our observations lend support to studies in other countries which found that organisations that are (also) able to deliver tangible services to their constituencies, and thus manage to combine immediate service delivery with long-term institutional change, are most successful in establishing community-based legitimacy (Molden et al. 2017; Puljak-Shank and Verkoren 2017). In the mining area in Kitui, for example, community members were better able to recall the names of organisations that had provided boreholes or farming assistance than those that imparted knowledge on land rights. When discussed with the Kitui-based CSO, staff agreed that building civic awareness and “community structures” was more difficult to brand than providing tangible services, which were frequently accompanied by visible NGO signs. As the land rights officer explained: “We are involved in human rights work, not development. But the community looks at material gain. Bringing information is not given the same weight”. A representative of the Kilifi-based CSO recounted how they had held an advocacy forum for community members during election time, when a politician entered the area with a vehicle full of maize, luring away their participants; as a result, he said, “we were deserted”. A community leader from Kitui whispered to us after a community meeting: “People should learn to value education without payment. The moment I come without an allowance, I find myself in chaos”.

The challenge of demonstrating effects in transformative development has been frequently noted in the literature (see Van Rooy [2004, 108] for a summary), but remains an important factor influencing the work of advocacy CSOs and creates a trade-off between (short-term) output and (long-term) impact. Moreover, as a representative of the Kitui-based CSO indicated, human rights education may often be geared towards the absence of negative results, rather than tangible improvements in community well-being: “without our empowerment, I think the community would have been displaced already”.

The more immediate the threat of losing land, the more communities seemed to value the longer term impact of CSO activities in their area. Community members in Kilifi acknowledged that the CSO had helped to prevent certain land from being confiscated. Yet, these gains were minor, as the fight against salt mining companies has been prolonged and not always successful. Consequently, a certain level of community fatigue was noticeable. This made individual community members more susceptible to partnering with the companies, which were able to deliver tangible services such as scholarships or modest compensation for their land. As a consequence, CSO legitimacy among community members got fragmented. Some community members, namely, still strongly supported the CSOs’ long-term goals and resisted offers of jobs or donations in exchange for staying silent. This suggests that communities are not homogeneous entities and that personal circumstances and convictions influence the importance that individual community members attach to CSO output and impact.

A final aspect of pragmatic sources of legitimacy therefore relates to CSOs’ direct responsiveness to the needs of their constituencies. In areas where CSOs had an established presence, their representatives often took on tasks that were supposed to be carried out by chiefs, county or national government officials, such as civic education and sorting land documentation issues. Community members expressed more trust in the CSOs given their long-term presence in the field, and the perception that unlike politicians, they did not have a personal stake in the (proposed) land investments that
threatened community livelihoods. In Taita, a widow involved in a land dispute complained about corruption among government officials. After a copy of her land ownership documents had disappeared in the hands of a local administrator, she handed her only remaining copy ceremoniously to visiting CSO representatives, trusting them to take up her case. Local government officials were often viewed as siding with business interests, although individual benevolent officials could also serve as catalysts for securing community rights.

The organisations seemed to draw particular legitimacy from their extensive engagement in the field. Programme staff were known to be long-term activists, which reassured most community members that they were not after personal financial gain, and hence, less susceptible to bribes. This trust had been carefully built up over time through both organisational and individual staff members’ track records, and did not easily extend to other CSOs. If CSOs were new to an area or did not visit frequently, their motives were more likely to be questioned.

In Kitui, we encountered suspicion of NGOs that came in from Nairobi because the conflict around mining and land rights seemed to fit their campaigning priorities. These organisations were criticised for their lack of understanding of the local context and for seeking to piggyback on the communities’ problems. Through their sudden entry and departure, some were also said to disrupt social relations within the community, ignoring existing leadership structures. These Nairobi-based organisations, including those leading the anti-coal mining campaign, focused on activities which they perceived to have a large impact on the national level, such as demonstrations in front of parliament, transnational lobbying, and social media campaigns.

Community members in Kitui appreciated the Nairobi-based efforts to seek solidarity for their cause, but complained about the campaigners’ limited feedback. Social media activities were considered publicly accessible, while most community members did not have regular internet access. Demonstrations in Nairobi were conducted largely with Nairobi-based participants, since there was insufficient budget to bring in more Kitui-based community members. Community members commented that “They should come here to the ground, teach the different groups to understand fully what they want us to do; when they do their jobs from Nairobi, we cannot understand their services well.” They also expressed concern that organisations with insufficient presence on the ground could choose the “wrong” community representatives, those that may have been bribed by the government.

In this case there was a noticeable discrepancy in legitimacy between the locally based CSO and the NGOs operating on the national level. Community members expressed a sense of exclusion by the NGOs, which reinforces the importance of “familiarity” for CSO legitimacy. We therefore conclude that responsiveness and trust, built up through repeated field visits and public adherence to community interests, is of primary importance for local communities.

Political legitimacy

In all three cases, we found that the characteristics and behaviour of individual CSO staff largely determined the organisations’ legitimacy in the field. Several community members did not know the formal name of the organisation, but only the name of the
representative who had been visiting them, especially if this person had an established reputation as land rights activist. The Kitui-based organisation required its long-time land rights officer to accompany the field visits of other staff members, so that the community would associate them with the organisation, indicating weak transferability of leadership legitimacy.

Although political sources of legitimacy did not feature primarily in community responses, CSO representatives did take them into account. In Kilifi, the CSO went on a quest to reactivate ties with its members in response to concerns by community members about a perceived gap between the organisation and its membership over the past years. In line with its community-centred identity, all local ActionAid partners emphasised that community members had to take the lead in local decision making, although in practice such discussions were often dominated by a small group of community leaders in interaction with CSO representatives.

We also found support for the assertion that CSOs gain political legitimacy if their representatives reside in the same community as their constituents (Leardini, Moggi, and Rossi 2019). This was confirmed when we attended a public event on land and extractives in which another INGO introduced a community representative from Kitui. This representative was well-spoken but resided outside the coal mining area, and was therefore perceived by other community members as an untrustworthy spokesperson: “how did he manoeuvre to go to Nairobi when he is not part of the community?”

Given the ethnic dimensions of the various communal conflicts that periodically flare up in Kenya, the ethnic background of the fieldwork staff also played a role, although this was not usually stated openly. For the Kitui- and Kilifi-based organisations, which operated in a largely mono-ethnic environment, we found that nearly all field-based staff was of the same ethnicity and spoke the same language as the communities they engaged with. In Kitui we heard several stories of NGOs that had come in to offer civic education or assistance with land mapping, but were rejected by local community members. Although this was never explicitly attributed to ethnicity, we were told in general terms that persons from other ethnic groups were accused of entering the area in order to somehow disown people from their land (e.g. by forcing them to sell below market value). This was described as a repeated pattern, particularly around election time. Similarly, in Kilifi a history of marginalisation among the coastal populations has led to deep-seated distrust of “upcountry” ethnic groups, and the CSO staff’s ethnic proximity to community members in the area provided a strong source of legitimacy. These CSOs could therefore play the role of insiders in terms of their knowledge of the local environment, culture and language, but serve as outsiders to inter- and intra-communal contestations, by presenting themselves as rights defenders without favouring one particular group.

The Taita-based organisation similarly founded its local legitimacy on established relationships and leadership characteristics. However, since the county is ethnically and religiously diverse, its team benefited from a similarly diverse composition, which community members from different backgrounds could identify with. Moreover, as previously stated, the land rights coordinator had been a known activist in the region since the 1990s. These examples demonstrate the importance of longevity, trust building, local knowledge and visibility, and ethnic and religious alignment for legitimacy on the ground.
Community priorities for legitimacy of land rights advocacy CSOs

While our empirical data resonate with the sources of CSO legitimacy identified in the literature, the cases highlight the actor-dependency of the way certain sources are assessed and evaluated by different stakeholders. Moreover, our data indicate that CSO legitimacy depends on the behaviour of other actors within the same context, since disappointment in the roles of government or corporate actors raises community expectations towards CSOs. We will now revisit the model of different legitimacy sources that we presented earlier, and explain their relevance for community-based advocacy on land rights.

Regulatory sources of legitimacy have only indirect relevance to legitimacy in the field. Formal registration allows CSOs to operate without government interference (at least in theory) and facilitates partnership with donors, but communities do not seem to condition acceptance of a CSO on such formal status.

Normative sources of legitimacy form the moral basis for advocacy CSOs to operate; without a sense that they are fighting for a just cause, stakeholders are unlikely to take CSOs seriously. However, the exact content of the cause and the way it is being pursued can give rise to profound disagreement between stakeholders. Government and corporate actors profess their support for CSOs that side with community struggles, yet easily dismiss them as misguided when their actions go against their own interests or damage their reputation; in such cases, they may even actively seek to discredit them. Community members, however, may take such discrediting attempts as a sign of CSOs’ partiality in their favour, which strengthens legitimacy in the field.

Cognitive sources of legitimacy are primarily built through CSO participation in public spaces, such as the media, the courtroom, or the political arena. Such participation can have significant relevance for community needs to be addressed on the (trans)national level, yet is not a direct source of legitimacy for CSOs on the ground, as community members are often physically far removed from these spaces. Civic education about land laws and training in advocacy tools were more appreciated by community members, indicating the relevance of CSO expertise in the field.

Pragmatic sources of legitimacy are the most readily mentioned by community members. Direct output may range from various forms of service delivery, to networking efforts that provide access to donors, lawyers, experts, and exposure to other communities dealing with similar issues. In terms of tangible service delivery, CSOs often lose out to local politicians and companies who lure community members with concrete benefits. Yet some community members take a more principled stance, and realise that training and advocacy efforts can lead to a more empowered position in the long run. Demonstrating output therefore has a direct effect on CSO legitimacy towards communities, while impact is often attributed to CSOs in a less direct manner, and requires community members to take the long-term effects of CSO involvement into account. Responsiveness forms another source of pragmatic legitimacy towards constituencies, since CSOs need to demonstrate their accessibility, solidarity, and instrumental value to address community needs.

Political sources of CSO legitimacy are primarily determined by the identity of field-based staff. These local representatives do not only need to possess leadership qualities, but must also be acknowledged as community spokespersons. Such representative
legitimacy may be established by their place of origin and cultural affinity, but a credible demonstration of loyalty towards the communities is crucial in building a trust relation.

**Conclusion**

This article has presented a multi-dimensional model of CSO legitimacy, starting from the social constructivist position that legitimacy is context, time, and stakeholder dependent. It has laid out how various sources of legitimacy play out for CSOs with a strong presence in the field, taking the case of land rights advocacy in Kenya as an example. Advocacy organisations working with local communities perform a balancing act: they need to deliver visible benefits on the ground, while also contributing to long-term systemic change. They are expected to make the most out of limited budgets, but also require considerable technical expertise in order to be taken seriously by all parties. While a few sources of legitimacy are universally valued and aspired, we have highlighted how some sources are given priority by certain actors, and are dependent on the performance of other stakeholders in the area.

Our findings underline the importance of political and pragmatic sources of legitimacy for CSOs involved in field-based advocacy. An organisation’s ability to demonstrate tangible output, be visibly present in the field, and put forward leaders who are seen as worthy representatives are all significant factors for its continued presence in the field, particularly in the case of protracted struggles such as land disputes. We therefore suggest that INGOs and other international donors that partner with field-based advocacy organisations retain some flexibility in their funding instruments to facilitate local partners to rise to the occasion when constituencies expect a response to immediate needs, in order not to undermine the CSOs’ field-based legitimacy in the longer run. CSOs’ reliance on output legitimacy, however, also puts them in a vulnerable position, as powerful adversaries such as government or business representatives are often in the position to provide community members with more immediate gain.

Advocacy CSOs, moreover, do not need to appear impartial in order to have a legitimate presence in the field. For local communities, publicly siding with their struggle may be an important precondition for legitimacy on the ground. Consequently, the neutral role that CSOs are often expected to play in multi-stakeholder platforms may damage their legitimacy towards constituencies. Advocacy CSOs do need to demonstrate factual knowledge and technical expertise in order to effectively assist community members, who are often kept uninformed about their rights and potential infringements.

Our research builds on literature conceptualising civil society legitimacy, but takes an ethnographic, bottom-up approach to civil society legitimacy by exploring what happens when CSOs engage with community members in the field. This provides an important contribution to existing literature about the aid chain, which tends to assess the community perspective via indirect sources. As such studies often result in the observation that more detailed field-based studies are necessary, this article has provided a first step towards assessing civil society legitimacy from various perspectives simultaneously, with particular attention to the needs of communities at the receiving end of advocacy efforts.
Notes

1. Although contemporary definitions of civil society comprise a wide variety of actors, including individuals and loosely organised social movements, this article focuses on civil society in its more traditional organisational form. Reference is made to the terms CSOs, NGOs (non-governmental organisations), SHGs (Self-Help Groups) and CBOs (community-based organisations) as identified in each context. While we prefer to use the term CSO for the relatively small Kenyan organisations in question, we use the term NGO to refer to larger, more formal organisations often based in Nairobi. When referencing literature or quoting respondents, we copy the terminology used by those sources.

2. See the literature on this so-called “shrinking space” for the reach and impact of this trend (Wood 2016).


4. CSOs often combine these two roles to varying degrees.

5. ActionAid was one of the first international NGOs that decided to move its headquarters closer to the field (Forsch 2018).

6. See https://includeplatform.net/theme/new-roles-for-csos-for-inclusive-development for details on this research programme.

7. Fieldwork was conducted by the first and second author, while the third author co-designed the research project.

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