Conceptualizing the Legitimacy of Using Force

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Abstract

The question of what constitutes the legitimacy of using force targeting an external adversary, has become especially relevant since the wars that followed the 9/11 events and the post-Cold War's interventions in human crises. However, international relations is the main field in which this issue is discussed while political scientists tend to mix legitimacy with supportive public opinion. This paper is conceptually motivated. It begins by defining the concept of the legitimacy of using force. It then analyzes the two components of this legitimacy: the first represents the constant, socially constructed component, and the second is a dynamic component, on which the paper focuses. It is constituted by several mutually related variables which are critical for increasing or decreasing the constant component of this legitimacy and can be circumstantially and contextually used by leaders to mobilize support.

Introduction

The question of what constitutes the legitimacy of using force targeting an external adversary, has become especially relevant since the wars that followed the 9/11 events (e.g., U.S.'s and its allies' interventions in Iraq and Afghanistan and Israel's operations against the Gaza Strip), and the post-Cold War's interventions in human crises (e.g., Kosovo). However, international relations is the main field in which this issue is discussed, with a focus on the conditions under which the international community grants legitimacy to the use of force (see Bjola, 2009). Less studied is how the use of force is legitimated by the political community whose leadership initiates the use of force or shares the burden of doing so with other nations. Here we can identify several gaps.

Scholars mix legitimacy with supportive public opinion (see, for example, Everts, 2001), and this perspective creates several problems. First, this perspective ignores the culturally ingrained support for or opposition to the use of force. Second, this perspective ignores other factors such as global constraints, dissent within the military, and the role of NGOs that affect the freedom of policymakers to use force by affecting the legitimacy. Third, this perspective focuses overly much on leaders' attempts to mobilize legitimacy for their policy (see, for example, Krebs, 2015), while overlooking the socially constructed political culture and the bottom-up mechanism of legitimation springing from society. Fourth, indicators of legitimacy other than public opinion are not evaluated, particularly those related to collective action (see Gilley, 2006, 505), supporting or opposing the use of force.

Alternatively, other scholars have focused on the extent to which the political culture is imbued with militaristic values (for example, Bacevich, 2005; Mann, 2005). However, this perspective leaves little opportunity for exploring how legitimation (or delegitimation) is dynamically built within the previously shaped political culture domestically to support or oppose the use of force.

Why does legitimacy for using force matter? To the extent that the modern state, as a compulsory jurisdiction, is characterized by its claim and effective capacity to monopolize the use of force (Weber, 1964, 156), state-controlled violence is a fundamental component of the state and as such is contingent on domestic legitimacy. Historically, legitimacy has even become more important inasmuch as the decision to go to war is conditional on the support of the local community, those directly shouldering the burden of war. Since the eighteenth century, wars could not be waged without popular consent (Handel, 2012, 81-83). The raising of the bar for obtaining this consent has grown, inasmuch as Western societies have become more averse to sacrifice and more sensitive to normative values, making the challenge of legitimation more complicated. Hence, the importance of conceptualizing the legitimacy of using forces.

This paper is conceptually motivated. It begins by defining the concept of the legitimacy of using force. It then analyzes the two components of this legitimacy with a special focus on the dynamic component, that is, the variables critical for increasing or decreasing the level of this legitimacy. The fourth section highlights the interaction between the dynamic and static components of legitimacy and that between the dynamic variables.

The Definition

Drawing on Burk's (2013, 2-3) "way of war," Johnston's (1996, 222-223) "strategic culture," and Mann's (1987) "militarism," the legitimacy of using force relates to the extent to which

the state's formal mode of using armed force against an external adversary is socially accepted as a normal, pervasive, and enduring strategic preference. Such legitimacy encompasses social beliefs about the role of war in human affairs, the nature of the adversary and the threat it poses, and the efficacy of the use of force (Levy, 2016, 79).

To clarify, the term "use of force" relates to any state-controlled use of violent force against an external, not domestic, adversary, even if within the margins of the statist control system (such as the West Bank vis-à-vis Israel). That term applies to any violent actions employed either by the military or by another state agency (e.g., the CIA-led drone warfare in Pakistan). Force can be used either for offensive or defensive goals, such as peace operations in which the adversary is the entity interfering with the policing mission of a peace force (e.g., the radical Serbs in northern Kosovo).

This definition encompasses several concepts. First, it is about a state's action. As Weber (1964) argued, "the use of force is regarded as legitimate only so far as it is either permitted by the state or prescribed by it" (p. 156). That the use of force is legally initiated by the rightful source of authority is generally a precondition for obtaining legitimacy (see Beetham, 2004, 110), although occasionally, military acts can be regarded as legitimate even if they are illegal (see Hurd, 2007).

Second, the definition is in line with Weber's (1964) classic perception that legitimacy is not a circumstantial view but reflects deeper values. It encompasses normative, legal, traditional and cultural values that determine society's acceptance of regimes and institutions. Social action may be oriented by the actors to a belief in the existence of a "legitimate order," and, as Weber (1964, 123) argued, the probability that that action will actually be oriented empirically in such a manner testifies to the "validity" of the order. For Weber, the

> orientation to the validity of an order (Ordnung) means more than the mere existence of a uniformity of social action determined by custom or self-interest…[but includes] the [actors'] recognition that they are binding on the actor or the corresponding action constitutes a desirable model for him to imitate (pp. 123-124).

An order is less stable, Weber held, if social action is motivated by motives of pure expediency or habits (ibid). Habermas (1992) elaborated on this concept by adding the normative grounds. He argued:

> If binding decisions are legitimate, that is, if they can be made independently of the concrete exercise of force and of the manifest threat of sanctions, and can be regularly implemented even against the interests of those affected, they must be considered as the fulfillment of recognized norms (p. 101).

Legitimacy, as accordingly defined by Suchman (1995), "is a generalized 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" (p. 574). My proposed definition of the legitimacy of using force is in alignment with this Weberian approach.

Therefore, the legitimacy of using force is anchored in the political culture. It is manifested (1) in the political discourse and public opinion that support (or oppose) the approach taken by policymakers, and (2) their reflection in the intensity of collective action, and (3) the way the troops themselves adhere to the mission. All are forms providing evidence of consent (see Beetham, 1991, 41). These forms are interrelated: The likelihood of collective antiwar actors' success in mobilizing is largely derived from their ability to gain legitimacy from other societal actors (see Marullo & Meyer, 2004, 660-661; Meyer & Minkoff, 2004, 1475). At the same time, collective actions may alter public opinion (Marullo & Meyer, 2004, 641), not only spring from it. Equally important, dissident activity within the military is not only

encouraged by what the soldiers read from the ambient society but also their intra-military activity may energize collective actors outside the military, as the cooperation between in-service resistance and the antiwar movement during the Vietnam War attested (Lembcke, 1998, 27-48). Such forms of support and objections (and the expectations of them) are what policy-makers read and assess before acting.

How legitimacy can be observed is a theoretical problem of identifying how legitimacy explains behavior, independently of how actors explain their attitudes and other motivations that drive them to adhere to the order. Identification of this kind is problematic in cases when free choice plays a major role in the government's efforts to regulate citizens' behavior (for example, resistance to desegregation in the U.S.), or when the government aggressively coerces behavior (Hyde, 1983, 391-397). Mobilization for using force is in between. However, what matters most for empirical and analytical purposes is the policymakers' *subjective* assessments about the extent to which their policies (or the intention to reshape them) are regarded (actually or potentially) as legitimate, as reflected in public opinion and political discourse, the profile of collective action, and the troops' conduct. Such real or false assessments affect the policymakers' freedom of action and motivation to mobilize support.

Leaders indeed mobilize legitimacy for their policy, but the approach taken here is that legitimacy is not necessarily built top-down (as presented, for example, in Krebs, 2015). Leaders' rhetoric and strategies alone do not account for the achievement or loss of legitimacy inasmuch as legitimacy is anchored in the political culture. It is the political culture that creates the climate that sets the boundaries of legitimate actions and debate (Williams, 2004).

It follows and third, that legitimacy is not synonymous with public opinion. Public support (or lack thereof) reflects socially accepted values. Reservations about polices, moreover, do not necessarily undermine legitimacy (see Suchman, 1995, 574). This is especially true, because legitimacy reflects embedded values to the degree that citizens behave in a manner that is not always consistent with their short-term self-interests (Tyler, 1990, 29).

Fourth, legitimacy is not synonymous with the justification of specific policies. Justification refers to the question of whether the policy is morally sound as distinct from the legitimate process that produced it (Miller, 2000, 387). Similarly, and in accordance with the general approach described above, "[L]egitimacy, when challenged, bases itself on an appeal to the past, while justification relates to an end that lies in the future" (Arendt, 1972, 151).

Fifth, legitimacy is also not synonymous with trust. Citizens trust their government "to the extent they believe that it will act in their interests, that its procedures are fair, and that their trust of the state and of others is reciprocated" (Levi, 1998, 88), in the sense that citizens "can articulate a return for their compliance and, second, they feel they are being treated with respect" (ibid, 93) and other citizens also do their part (pp. 88-89). It follows that trust can be regarded as a component of legitimacy, the absence of which may create a "legitimacy deficit" in situations where the government is chronically unable to meet what the citizens believe are its basic responsibilities (Beetham, 2004, 110). In the case of using force, the citizens first of all believe in the principle of using force and then trust the government to implement this principle in a trustworthy manner.

Sixth, legitimacy is not meant to be a normative judgment. It rests "on a belief in the 'legality' of patterns of normative rules and the right of those elevated to authority under such rules to issue commands (legal authority)" (Weber, 1964, 328). This empirical or descriptive approach asks how beliefs about legitimacy influence decision-making rather than examining legitimacy in normative terms, according to which

> [a]n entity has political legitimacy if and only if it is morally justified in exercising political power, where the exercise of political power may, in turn, be defined as the (credible) attempt to achieve supremacy in the making, application, and enforcement of laws within a jurisdiction. It is argued that an entity that exercises political power is morally justified in doing so only if it meets a minimal standard of justice, understood as the protection of basic human rights (Buchanan, 2004, 145).

In other words, it is the distinction between a subjective approach, which investigates whether the citizens believe that the authority is acting in a legitimate manner, and an objective approach, which examines the extent to which the authority has established the minimum moral requirements for its rule regardless of the citizens' beliefs (Hurd, 2007). I prefer the subjective, empirical approach to the normative one inasmuch as the main goal of conceptualizing the legitimacy of using force is to explain policies – how society is mobilized for war – rather than to assess them normatively.

Sixth, the focus is not on the rules, institutions, or leadership in general, but on specific policies. This approach is in line with other research such as the study of Sunshine and Tyler (2003) of how the police's decision-making gains legitimacy, allowing it to exercise its authority.

Moving from the general features of legitimacy to the process of legitimation, Suchman's types of legitimacy are helpful in bypassing one of the problems in Weber's theory about the factors beyond custom or self-interest that motivate social action (Hyde, 1983). Accordingly, the legitimacy of using force is both a type of *exchange legitimacy* and *cognitive legitimacy*. It is a type of exchange legitimacy (Suchman, 1995, 578), by resting on the self-interested calculations of the citizenry, from which leaders draw their legitimacy to use force and prepare for that eventuality. Citizens support military policies in exchange for security provided by the state, or at least the expectation of it. As part of this exchange, citizens scrutinize the policies enacted and their benefits (ibid), thereby creating a form of civilian control over the military. Interests, however, are not simply the agents' preferences but defined as those "norms, values, and purposes implicit in the practice of social life and associated with social roles as principles of action" (Isaac, 1987, 26). Citizens' interests in the promotion of security are socially constructed.

At the same time, and therefore, the legitimacy of using force may also be a type of *cognitive legitimacy* that regards the use of force as inevitable and is based on taken-for-granted cultural values, where cognition rather than interests or evaluations play the pivotal role (Suchman, 1995, 582). Such a situation signifies militarization, whereby the use of force is instilled in the citizens' mindset as the normal and even preferred mode of action (see Mann, 1987). It is decoupled, at least temporally, from the citizens' expectations about the utility of using force relative to less belligerent options.

In democracies, the elected civilians' use of force is subject (or should be subject) to a deliberative process that addresses the legitimacy of using force. During these deliberations, the camps favoring and opposing the use of force may debate values and norms as well as policies.

A deliberative democracy is rooted in the principle that citizens are committed to "the resolution of problems of collective choice through public reasoning, and regard their basic institutions as legitimate in so far as they establish the framework for free public deliberation" (Cohen, 2003, 345-346). The public sphere is the most important location for the contestation of discourses (Dryzek, 2001). In the military realm, deliberation is based on broad based debates about military policies (Dauber, 1998), the slow thoughtfulness with which the debates are conducted (Huysmans, 2004), openness in discussing the issues (Krebs & Lobasz,

2007), available information (Kaufmann, 2004), equality among the participants (Dryzek, 2001) and their interest in using argumentative reasoning for reaching an understanding on the issues (Bjola, 2008, 639), and the participants' ability to mobilize to overcome entrenched interests (Schmidt, 2010, 17-18).

When deliberation is limited, the popular will may stagnate, and the military's autonomy and that of its political supervisors to interpret this will may increase (see Kohn, 1997). Therefore, the legitimacy of using force can arise from *active* deliberation or the stagnation of deliberation through which the use of force is socially, but *passively*, accepted (Levy, 2016). It is the public sphere where the deliberations between policymakers, collective actors and NGOs, intellectuals and journalists take place.

A high level of legitimacy of using force leads to an offensive approach, meaning a strategy aimed at disarming an adversary (Posen, 1984, 14). In contrast, a low level of legitimacy of using force encourages a defensive approach, aimed at denying the adversary its goal (ibid), that is, doing just what is necessary to repel an external attack. Distinguishing between 'militant' and 'pacifist' democracies provides a similar categorization (Müller, 2004). Nevertheless, in recognition of the new type of wars that often fought in urban areas, including humanitarian interventions, the legitimacy of using force is also focused on using weapons that might harm enemy noncombatants; the use of force may be perfectly legitimate in a given case but not to attack noncombatants. Thus, in this context, a high level of legitimacy of using force leads to fire policies that expose enemy noncombatants to a high level of risk, either intentionally or with minimum restrictions on harming them.

The Components of Legitimacy

The legitimacy of using force has two components. The first represents the constant, socially constructed component of the legitimacy. Nevertheless, this component is not completely static but changes more slowly and therefore reflects variations over time. In addition, and more importantly for the focus of this paper, there is a dynamic component as well.

Beginning with the constant component, it is beyond the scope of this paper to provide explanations about how the legitimacy of using force is shaped. Students of militarism (e.g., Bacevich, 2005; Mann, 1987; 2005) have already provided well-established explanations for the shaping of this legitimacy.

The fundamentals of this legitimacy have been historically transformed through the rise and fall of the level of militarization and demilitarization. For example, while war was considered legitimate for protecting religious fate in the sixteenth and seventeenth centuries, since the Treaty of Westphalia in 1648, it has become a legitimate tool for promoting the state's power. Since World War II, normative beliefs about war have begun to play a more important role (Bjola, 2009, 451-459).

Important is the role of the development of a country's historical heritage in affecting the legitimacy of using force. In Britain, the imperial heritage played a pivotal role in shaping the state's commitment to playing an international role and engaging in smaller scale operations away from the home territory. In contrast, for Sweden, the imperial heritage promoted its neutrality and focused its resources on home defense against the Soviet/Russian threat. Following the attacks of 9/11, different heritages yielded different approaches to the use of force (Berndtsson et al., 2015).

In the Netherlands, Dutch memories of the sacrifices and violence involved in the Indonesian war in 1945-1949 (including atrocities committed by Dutch troops) informed the debate about the Netherlands' engagement in Afghanistan (Van der Meulen & Soeters, 2005). Likewise, in Israel, the memory of the Holocaust guides the nation's reactions to external threats. Such threats are sometimes regarded as a potential second Holocaust and hence justify military aggressiveness (Lustick, 2008). In the U.S., it is precisely the liberal tradition that legitimizes aggressiveness against those enemies identified as non-liberal (Desch, 2010).

Military failures can reshape the nation's heritage, leading to demilitarization. Military failures may prompt a regime transformation, sometimes encouraged by external coercion, given that the responsibility for defeat is almost always attributed to the political and military elites who presided over it (Dogan & Higley, 1998, 8-9). To the extent that regime transformations inevitably entail more civilian control aimed at limiting the misuse of the military to intervene in domestic politics (Peters & Wagner, 2011, 180), demilitarization is further enhanced. For example, the political culture in Italy is largely affected by the postwar period of the late 1940s, when the radical break with the Fascist past gave rise to strong societal beliefs rejecting war and militarism and marginalizing the military from civilian policy-making. In contrast, in France, similar sentiments have not emerged (Ruffa, 2016).

In sum, this more stable component represents what Bjola (2009, 604-610) termed "the constitutive effect" of legitimacy, defining the cultural and social conditions for the use of force.

The legitimacy of using force has been a challenge since Vietnam. Wars of choice, the kind of non-existential wars fought by the West since World War II (even if originally initiated as wars of necessity), in which direct threats to immediate national interests are not involved, leave sufficient scope for internal debates about their success, alternatives, risks and costs (Smith Hugh, 2005). Furthermore, with the empowerment of the market society, a post-heroic mentality emerged, resting upon a capitalist vision of the economy with the peaceful spirit of commerce at its center (Münkler, 2005, 71-72).

Nevertheless, as can be inferred from multiple studies, several mutually related variables are critical for increasing or decreasing the constant, socially constructed level of this legitimacy and can be circumstantially and contextually used by leaders to mobilize support. All of these variables constitute the dynamic component of the legitimacy of using force.

Variables Affecting the Legitimacy of Using Force

The variables involved in the legitimacy of using force can be grouped into three categories (with mixtures among them): 1) legal and policy variables, 2) cultural and discursive variables and 3) structural variables. Each of these variables functions in a different domain. The legal and policy variables create the infrastructure to which the cultural and discursive and structural layers are added.

Legal and Policy Variables

1. Legalizing the use of force. As noted previously, obtaining the legitimacy to use force is usually preconditioned on the rightful source of authority initiating that action legally (Beetham, 2004, 110). Therefore, exhausting the legal tools for building legitimacy may be the leaders' initial step, inasmuch as the issue is often who has the authority to use force. In many parliamentary democracies, constitutional provisions have introduced tight controls on

the government by giving the parliament veto power over military deployments (Peters & Wagner, 2011,180, 185-186).   The War Powers Act that restricted the U.S. President's freedom to commit troops to combat zones (Carter, 1984) is another example. Furthermore, legalization is instrumental not only in the initiation stage but also in the management phase. One example is when issues of legality and accountability were raised regarding the U.S.-led drone warfare in Pakistan during the presidency of Barack Obama (Crawford, 2013, xiii-xv). Nonetheless, given that military acts can be regarded as legitimate even if they are illegal (see Hurd, 2007), legality is usually necessary but certainly not sufficient for legitimizing the use of force. Other mechanisms may play a role as well.

2. Coping with domestic liberal constraints. Domestic constraints are derived from the democratic imperatives demanding respect for noncombatant immunity along with the commitment to tolerance and nonviolence (Valentino et al., 2004, 382-3). A sharp distinction is made between the ethics that governed warfare during World War II, when the norms allowed the bombing of civilians, and the new imperatives that make the intended killing of noncombatants forbidden (Zehfuss, 2011, 545-546). The Vietnam War marked the decline in the support of the American public for targeting enemy noncombatants (Valentino, 2016). Therefore citizens are expected to pressure their governments to uphold those values (Valentino et al., 2004, 383). Democracies then face protests by NGOs against the disproportional use of force that causes unnecessary suffering and violates the principles of international humanitarian law (IHL). Such pressures run counter to the military emphasis on fighting wars with controversial weapons such as flame or cluster munitions (Hills, 2004, 230-237). This situation creates "adverse global media coverage" of military deployments (Shaw, 2002, 355).

Democratic imperatives are backed by the impact of global restraints, including IHL, whose enhanced accountability mechanisms subject governmental bodies to public scrutiny (Watkin, 2004). Governments are also subject to global surveillance by global institutional networks that include not only international legal bodies but also the global media and NGOs to which local public is attuned (Shaw, 2005, 60-61, 75-76). "In the increasingly litigious societies of the West, no government can ignore the danger that international law could be applied against it," maintained Shaw (p. 75). However, from the perspective proposed in this paper, most relevant is how the public, NGOs, social movements and other actors internalize those global constraints and translate them into public opinion and collective action.

Consequently, the threshold for using force is increased, and self-defense becomes the critical criterion legitimating the initiation of the use of force (jus ad bellum). In tandem, human rights plays a growing role by providing the justification for using force to protect people from their own governments (Douzinas, 2003), and to promote democracy and civil rights (Hills, 2004). Nevertheless, the challenge of legitimacy is still there. It is centered around the tension between the principle of the sovereignty of the targeted state and the moral responsibility of the international community to protect the local population from suffering serious harm as a result of the state's action or inability to protect its people (see International Commission on Intervention and State Sovereignty, 2001). Another criticism revolves around the argument that what is called "the liberal way of war" has become "crusades with only one of two outcomes: endless war or the transformation of other societies and cultures into liberal societies and cultures" (Dillon & Reid, 2009, 5). At the same time, critics argue that by being committed to the formal rules of IHL, Western states fail to secure human rights in war, because the "international humanitarian law serves, at least in part, to protect and regulate the taking of life" (Barnidge, 2013, 7). Taking a more practical perspective, Jennifer Welsh

(2004, 76-84) summed up the controversial issues around the potentially negative consequences of humanitarian interventions. Among them are the creation of unrealistic expectations by the oppressed peoples, the potential for long-term occupation by the intervening nations, and the real capacity to address humanitarian crises relative to the potential to divide international institutions and affect their credibility.

To enhance legitimacy, the U.S., as the main initiator of military interventions, seeks to secure approval from the United Nations and NATO. At the same time, the debates that military human interventions sparked, especially in the Kosovo case of 1999, brought about an international effort to determine the criteria for military intervention under the title of "The Responsibility to Protect" (International Commission on Intervention and State Sovereignty, 2001). The United Nations World Summit of 2005 institutionalized the principles.

Once force is used (jus in bello), the just war theory, which is deeply anchored in the liberal tradition, requires that the immunity of noncombatants be extended from the prohibition to intentionally harm civilians to the requirement that "[c]ivilians have a right to something more. And if saving civilian lives means risking soldiers' lives, the risk must be accepted" (Walzer, 2015, 156).

With increasing tensions between military practices and these and other principles derived from IHL, "lawfare" became paramount. "Lawfare," as Dunlap (2008) defined it, is "the strategy of using – or misusing – law as a substitute for traditional military means to achieve an operational objective" (p. 146). It became a legal mechanism to morally legitimize the manner in which force is used and harms civilians. In the U.S., the growing presence of military judge advocates who have controversially become an integral part of a commander's warfighting team and provide advice on the tactical level supports this effort (Dunlap, 2008).

In the wake of these legal imperatives, another option for legitimizing the use of force that may harm civilians is using the argument that the just war theory and the requirements of IHL cannot considered valid because of the gray areas involved in the new type of war. For example, Dunlap (1999, 19) proposed modifying the current understanding of absolute noncombatant immunity in situations where democracies fighting adversaries engaging in unlawful acts (for example, the wrongful use of a weapon of mass destruction). In this case, civilians bear responsibility for failing to restrain their leadership. It has also been argued that international law does not require risking combatants to reduce the risk to enemy noncombatants. The security of the attacking forces is viewed as part of the military goals of the army, while imposing risks on its own soldiers to protect noncombatants means using them as a tool for the benefit of others (Benvenisti, 2006).

Cultural-Discursive Variables

3. Leveraging an external threat. To legitimize the mobilization for war, leaders leverage and sometimes even exaggerate the level of the external threat to demand public consent for mobilizing the monetary and human resources needed to thwart this threat (Lake, 1992). The discursive process constructs the threat as jeopardizing vital interests (Everts, 2002) vis-à-vis the perceived availability of nonlethal options to eliminate it. For Tilly (1985), the state functions as a "protection racket," meaning, it sells security in exchange for extracting resources through which statemaking takes place. Selling protection means that the state must "simulate, stimulate, or even fabricate threats of external war" (p. 171). Framing the threat in more apocalyptic and less instrumental terms has even become since World War II "the most effective at generating and legitimating massive society-wide sacrifice and are today the only

narrative form that can sustain war as culturally acceptable" (Smith Philip, 2005, 27). In short, militarization takes place.

Militarization involves socialization that extends to the educational system and other domains of civil culture and economy by the "merging of a warlike mentality and neoliberal modes of discipline and education… [and then] it becomes difficult to reclaim the language of conscience, social responsibility, and civic engagement", as Henry Giroux (2014, 495-497) diagnosed the post-9/11 period.

Proponents of securitization have clearly recognized an important dimension of this process with its extension to non-military domains (Buzan et al., 1995), identifying a problem as a security threat and matching the use of extraordinary measures to deal with it. Securitization can be a form of modern, civilian militarization. Securitization frames the threat as an urgent national security issue. Therefore, it cannot be subjected to the normal haggling of politics. In contrast, desecuritization entails a deliberative process in which the threat is contested. This process also involves a better understanding of the political dynamics of successful securitization in an attempt to influence its course (Salter, 2008), and challenges the institutional authority and power relations establishing securitization as a "true" discourse (Aradau, 2004).

If mobilization fails to counter skeptical sentiments in the era of wars of choice (skepticism that is largely affected by the aversion to sacrifice) the Weinberger and Powell doctrines that American policymakers drafted in the 1980s and 1990s respectively suggest that the assessment of the level of threat may lead to the selection of missions. Therefore, the use of force is restricted to situations in which an overwhelming reaction is legitimated as a last resort to remove a substantial threat. Democratic leaders require greater confidence than non-democratic leaders about their prospects of victory to go to war, making them very selective in their use of force (De Mesquita et al., 2004).

At the same time, the belief in using force to remove a threat should be associated with the belief that the goal is actually attainable. Policymakers can make efforts to convince the public that this belief is accurate (Dauber, 1998). In terms of legitimacy, moreover, a "legitimacy deficit" is created with a significant decline in the people's trust in the government's ability to use the armed forces for providing security. Thus, trust building measures such as improving the military's capabilities may also increase the legitimacy to use the troops.

4. Dehumanization of the enemy. Dehumanization adds a cultural and symbolic layer to the inflating of risks. Military killing necessitates overcoming ingrained, deeply held social values respecting human life. To this end, states have to portray their enemies as monsters and animals to whom human moral principles are inapplicable (Malesevic, 2010, 142). It is little wonder that this phenomenon arose in the twentieth century to justify using force (Van Belle 2000, 78–80). Dehumanization of the enemy increases when the combatant is distanced from the battlefield (Collins, 2008, 1702-1707; Malesevic, 2010, 47-48).

Together with the challenge to legitimize the use of force and overcome the reluctance to sacrifice, new patterns of dehumanization developed along with the development of weaponry that distanced the troops from the theater of war. Not only are enemy civilians placed on the lowest rung of the human hierarchy, but, as Judith Butler (2004) asserted, they are also denied the right to life by not being considered human. She introduced the hierarchy of grief, the distinction between those whose lives are considered valuable and mourned (Western lives),

and those who are considered ungrievable for the loss of their lives, such as enemy civilians in Iraq and Afghanistan, because they, apparently, have never lived (Butler, 2009).

Dehumanization plays a new role here. As Butler argued (2004):

> Dehumanization's relation to discourse is complex. It would be too simple to claim that violence simply implements what is already happening in discourse, such that a discourse on dehumanization produces treatment, including torture and murder, structured by the discourse. Here the dehumanization emerges at the limits of discursive life, limits established through prohibition and foreclosure. There is less a dehumanizing discourse at work here than a refusal of discourse that produces dehumanization as a result. Violence against those who are already not quite living, that is, living in a state of suspension between life and death (p. 36).

Achille (2003) takes a similar approach in his concept of *necropolitics*, according to which:

> [W]eapons are deployed in the interest of maximum destruction of persons and the creation of death-worlds, new and unique forms of social existence in which vast populations are subjected to conditions of life conferring upon them the status of living dead (p. 40).

To some extent, the emerging post-Cold War moral world order is justified by this hierarchy of distinctions between human groups. However, in turn, it also legitimates this order. The new legal norms ingrained in the new order legitimate the use of force as justified to protect human rights and take action against those resisting the new order (for example, the Serbs in the case of the Kosovo War of 1999). The use of force takes the form of a police operation that considers the resisters criminals rather than political opponents. As such, they are subject to suppression and punishment (Douzinas, 2003, see also Zehfuss, 2012).

Religion adds a complementary layer to dehumanization by portraying wars as religious wars. Indeed, the new global security discourse actually signifies a postmodern return to religious wars (Bigo, 2012, 209). Religion may help redefine what constitutes a threat (Hassner, 2014, 5), and thus paint the war as a more crucial endeavor. In doing so, it helps demonize the enemy, making them easier to kill (Johnson & Reeve, 2013, 75), and is thus instrumental to justifying the use of force. It even "smashes the cost-benefit logic that can lead to capitulation… In such cases, it is no longer about winning… [i]t is not about costs—being killed in battle is not death but martyrdom. Neither is it about benefits—rewards become supernatural rather than material" (ibid, 2013, 76).

5. Using mechanisms to relax the state's responsibility. This is a mixture of the legal and policy variables and the cultural and discursive ones.

With the restraining impacts of liberal values and global monitoring, states seek ways to use force but in a manner that also relaxes their responsibility for the consequences entailed. James Ron (2003) introduced the distinction between "ghetto" and "frontier" to explain variations in the methods states use to repress unwanted populations. Ghettos are "repositories of unwanted and marginalized populations, but are nonetheless included within the dominant state's legal sphere of influence, classifying them as quasi-members of the polity" (p. 43), while frontiers are "peripheral regions unincorporated into a powerful state's legal zone of influence" (pp. 41-42). According to this distinction, the Palestinian population in the West Bank and Gaza during the 1970s and 1980s is considered a ghetto vis-à-vis Israel, while Bosnia became a frontier vis-à-vis Serbia since 1992. As Ron suggests, different levels of control also yield different levels of the state's responsibility for the population, tempered by sensitivity to global monitoring. Thus, the ghetto population is policed, while the population in the frontier is more prone to acts of lawless nationalist violence.

It follows that states can increase the legitimacy of using force against a perceived hostile population by reducing its responsibility for that population. The re-architecturing of the state's borders, as the case of Israel vis-à-vis the Palestinians since the 1990s, is a case in point. With Israel's withdrawal from Gaza in 2005, Gaza effectively reverted from its status as a "ghetto" under Israeli control to that of a "frontier" on the edges of the state but not under its control. Therefore, Israel's responsibility for the civilian population diminished, at least according to its perception and that of its allies, and it could justify forceful responses whenever Hamas and other local militias shelled Israeli civilians (Levy, 2012, 162).

However, while this is a more policy-centered variable, states also have discursive mechanisms at their disposal for relaxing their responsibility. One of these mechanisms is the tactic of "accidents." For example, the unintentional, though predictable and preventable, killing of enemy noncombatants by American troops – such as the bombing of a convoy of Albanian refugees in southeast Kosovo (April 1999) and the carpet bombing of a village near Khanabad in Afghanistan (November 2001) – were labeled "accidents." This labeling normalized and hence also legitimized these killings as "unfortunate events for which liberal states cannot properly be held to account" (Owens, 2003a, 600), making the killing of civilians more permissible. This is especially true, because the West uses the death-free objective of "humanitarian" combat in which state-of-the-art weapons are deployed and portrayed as human (ibid, 600-606). Presenting events as accidents has even been extended to instances when allied groups committed massacres against the local population in areas under the control of the U.S. or Britain. The unintended, but again, predictable, killing of enemy civilians were presented as accidental (Shaw, 2005, 84-86). Depicting such killing as accidental relaxes the responsibility of the Western armies controlling the areas of conflict.

Another mechanism the state uses is to reduce the reported number of civilian casualties. The media play an important role here by highlighting incidents related to high-tech weaponry and underestimating other causes of civilian deaths and injuries such as landmines and unexploded ordnance strikes. Thus, the real costs of war in the form of the indirect effects of munitions are blurred (Benini & Moulton, 2004; Shaw, 2005, 88-89, 93-94). Smaller numbers also reduce the state's responsibility.

Against this background we can understand differences in the number of noncombatant fatalities reported by different agencies (governments and NGOs). Discrepancies in such reports are a typical issue when it comes to battles between Western and non-Western rivals that have political implications (see, for example, Crawford, 2013, 136-142). Such differences may mirror different perspectives about the applicability of international law and the distinction it makes between combatants and noncombatants, namely, who can be considered a noncombatant. However, their very existence reflects the proclivity of governments to reduce the numbers and, by implication, their responsibility as well. For example, to counter criticism against the collateral killing caused by drones, in 2012 the U.S. changed the method of counting civilian casualties by considering all military age males in a strike zone as combatants (Walzer, 2016, 16).

6. Legitimation by technology. Western states rely on the use of precision weapons to sustain their legitimacy, argued Shaw (2005, 84). Zehfuss (2011, 543-545) maintained that smart bombs and precision-guided munitions, especially with their visualization in the Gulf War (1991), enjoy a positive reputation as helping Western militaries significantly reduce the number of unintended noncombatant casualties. This depiction makes the war seem ethical, legitimate and even humanitarian (Owens, 2003a), inasmuch as the idea that legitimate warfare must avoid large numbers of civilian casualties has increasingly become the global

norm (see also Reisman, 1997). Furthermore, it is precisely this promise of precision that relaxes the accountability for accidents. Against this backdrop we can understand the confidence of the U.S. public that their armed forces make an effective effort to avoid casualties among enemy civilians (Larson & Savych, 2006, xx).

7. Casualty sensitivity. Casualty sensitivity can be leveraged to reduce domestic sensitivity to the immunity of enemy civilians, especially when the public's greatest concern is about military casualties, and civilian casualties are a secondary issue (see Larson & Savych, 2006, 169-170 on the case of the U.S. public in Iraq). Even ethical justifications for relaxing such constraints appeared, arguing that the duty to protect one's own soldiers may relax the duty to spare enemy noncombatants (Kasher & Yadlin, 2005, 17-18), and, by implication, to increase the legitimacy of using force. With increasing casualty sensitivity and a decline in the sensitivity to enemy civilians, militaries enjoy more freedom to transfer the risk from their own combatants to enemy noncombatants by increasing the use of excessive lethality (Shaw, 2005).

Structural Variables

In general, structural variables are more consequential than intentional in the sense that intentional policies may have unintended, although desirable, consequences that change power relations.

8. Structural weakening of deliberation. The domestic political structure affects public opinion and elite opinion, and hence shapes and constrains foreign policy-making. As Aldrich et al. (2006) note, from the perspective of international relations and political science, the public (in the U.S.) acts as a constraint on elites who would otherwise be more willing to use force. From a sociological perspective, by reforming politics, rulers can mobilize support for war. For example, mass mobilization for World War I rested largely on making war "citizen militarism" by increasing the political representation of the workers and peasants. The mobilization for war, the allocation of rights – in the sense that the citizenry controls its own destiny – and aggressive and militarist nationalism were all tied together in the latter part of the nineteenth century (Mann, 1987, 39-42).

Conversely, with growing challenges to legitimize the use of force, and with the transition to a volunteer, technology-intensive military during the post-Cold War era, which reduced the level of mobilization for war, governments could reduce the high political threshold for initiating wars (Starr, 2010, 65). They could simply bypass the popular will (Vennesson, 2011) and hence weaken deliberation. As Malešević (2008) explained, following Martin Shaw and others: "The militarism of new wars does not require direct popular mobilization, rather it aims to indirectly acquire passive support by relying on media as a neutralizer of electoral surveillance" (p. 102). "Technological mastery removed death from our experience of war. But war without death –to our side – is war that ceases to be fully real to us: virtual war," argued Ignatieff (2000, 5), concerning the declining interest of public opinion in the cost-free and bloodless use of force.

Consequently, the mode of citizenship has been gradually changed with the reduction of participation in war. As Mann (1987, 47-50) famously asserted, the new type of citizenship is that of "spectator," a citizen who is well-informed about how his or her country manages its military affairs but without direct participation in trying to affect policies. The citizens' interest in warfare is no different from the way they take part in the Olympic games: knowledge and emotional involvement but without the commitment of personal resources.

Following this metaphor, a few years before the new Western deployments in Iraq, Afghanistan and Gaza, Hooks (1999, 495) predicted that:

> It is far more likely that citizens will cheer on technological marvels as they kill thousands of people and destroy cities and less likely that the citizenry will empathize with the suffering caused by this highly scientific and distant form of slaughter (p. 495).

Instrumental to this end is not only the numbers that the military recruits and their distance from the theater of war, but also the impact of recruitment policies on power relations. Conscription touches more powerful actors more directly than voluntary service. Thus, citizens and groups with political power who could most effectively serve as a critical mass would be much more politically engaged under conscription because of the vulnerability of their members to compulsory service. This is especially so, because "conscription requires service from the willing and unwilling alike, while a volunteer force does not" (Vasquez, 2009, 87-88). Such a situation increases the potential for the presence of a large number of conscripts who might dissent when the legitimacy of using force is questionable and mobilize their social networks for this end, as the cases of Vietnam or Israel's first Lebanon War (1982-1985) attest.

Conversely, in a vocationalized, volunteer army, free choice plays a major role in the decision to join the ranks. Typically, the service is more likely to attract those who support the mission ideologically, an impact of the self-selection mechanism of a volunteer force (Bachman, Sigelman & Diamond, 1978). In addition, volunteer forces draw more on lower-class groups than conscript militaries do, as they offer those groups, whose options in the labor market are fewer than those of upper-class groups, social recognition along with expectations for upward mobility and monetary rewards (Levy, 2013). Hence, they and their social networks conform submissively to the military's imperatives. Opting out from the beginning is the preferred option of those resisting military service or the policies it serves, while for those who have enlisted, the fear of losing the jobs encourages conformity (Cortright, 2010, 506). In general, conformity is not only a matter of ideological and material preferences but also of the lack of resources to act collectively (see Morris & Staggenborg, 2004, 179).

Thus, when voluntarism governs and powerful groups have little motivation to seek information and openly challenge policies because they are less touched by the service, deliberation about war is limited. The use of force may encounter less resistance (Levy, 2016). Then, the legitimacy of using force arises not from active deliberation but from the stagnation of deliberation, a kind of passive legitimation. Given that a volunteer force increases the leaders' autonomy to deploy troops by increasing the legitimacy of using force, leaders can actively increase their autonomy by modifying the recruitment model (see more below).

Elite consensus poses another structural impediment to deliberation. International institutions such as NATO constrain elite consensus inasmuch as elites are sensitive to the costs of international defection and therefore unite around their nation's commitment to international cooperation (Kreps, 2010). As John Zaller (1994) argued, when elites are united in support of a particular policy in the sense that they do not stress alternative policies, politically aware Americans are more likely than other parts of society to support the policy because of their greater exposure to political information. According to this argument, leaders play a key role in interpreting wartime events for the public. Citizens determine their opinions by listening to trusted politicians who share their political predispositions (Berinsky, 2007). However, even if elite consensus does not have a top–down impact on public opinion, leaders can give less weight to public opinion because they can be less concerned about electoral costs (Kreps,

2010). Under similar conditions, moreover, even if elite consensus cannot always maintain strong and stable public support for war, elites can still retain more influence over some dimensions of wartime opinion. One example is the decoupling of deployment from support for the war, as the case of British elites and public opinion about the Afghan War suggests (Kriner & Wilson, 2016).

Furthermore, the media may reinforce, rather than balance out, this weakness of deliberation. With the flood of information since the 1970, a consequence of a multi-channel communications system and market-oriented competition between information brokers, deliberation was further reduced. As Christopher Lasch (1995) noted,

> What democracy requires is public debate, not information… Information, usually seen as the precondition of debate, is better understood as its by-product….Otherwise we take in information passively—if we take it in at all… From these considerations it follows that the job of the press is to encourage debate, not to supply the public with information. .. It is no secret that the public knows less about public affairs than it used to know (p. 81).

As Lasch implied, with the help of the media, the citizens of democracies know more than ever before about their armed forces but can do less with the information. Kohn (2002) noted this inverse relationship between increased access to information and less civilian control over the military, claiming:

> Issues of civilian control seem to escape the press; time after time, events or issues that in past years would have been framed or interpreted as touching upon civilian control now go unnoticed and unreported, at least in those terms (p. 12).

9. Changing the political orientation of the ranks. As noted earlier, conscription is more likely than a volunteer force to provoke challenges to the legitimacy of using force because of the power, resources and motivations of the social networks involved. As part of this, the ranks themselves play an important role.

Ruffa et al. (2013) argued that due to the increasing role of the tactical level in peacekeeping operations and the new interventionist wars, soldiers have more options to affect domestic politics, either intentionally or unintentionally. Misbehaving, or making tactical or operational decisions that have political consequences or may affect the functioning of the military are among the options soldiers can choose. Furthermore, soldiers, motivated by prior ideological agendas, can intentionally attempt to affect policies, creating mechanisms of "control from within." Such control is defined as the intentional actions taken by soldiers when tasked with implementing politically sensitive missions with which they disagree in an attempt to affect the political performance of the military, either directly or through civilian state agencies. Among the forms of control from within are restraining the aggressiveness of other soldiers, whistle blowing, selective and gray refusal to deploy, foot-dragging, collective bargaining about deployments, and documentation and testimonies. In a conscript military there are better conditions for the development of such forms of control, with effects in real time, than in a volunteer force (Levy, 2017),

Control from within matters, because it contributes to the deliberative process through which the legitimacy of using force is shaped. Given that new wars do not require direct popular mobilization, allowing leaders to bypass the citizenry, civilian control, in its wider sense, should counter public passivity in order to activate the popular will. As the Vietnam War demonstrated, dissidence emerging from the ranks may be instrumental in such activation.

As part of the transition from a conscripted to a volunteer army, moreover, the technologization of the militaries took place. The mode of armament determines the level of

detachment of the combatant from the victim, helping bypass the almost universal aversion to close-encounter killings (Malesevic, 2010, 227-229). By reducing the likelihood of resistance springing from the ranks, the legitimacy of using force is not only bolstered but also increases further. As Randall Collins argued (2008):

> The farther from the front, the more rhetorical ferociousness is expressed, and rhetorical enthusiasm for the whole fighting enterprise… The proportion of empty rhetoric expands with each step toward the rear; war is successively more idealized, the enemy successively more dehumanized, attitudes toward killing successively more callous, and the whole affair more like the cheering of sports fans (pp. 1702-1707).

It follows that the transition from conscript to volunteer forces increases the leaders' autonomy to deploy troops by increasing the legitimacy of using force. Acknowledging this logic, leaders actively increased their autonomy by reforming the model of recruitment (and surely, they were motivated by other factors as well). In the first stage, there was a transition from conscript to volunteer forces in most industrialized democracies, which helped demolish the historical citizen-soldier model and hence also defused conscientious objection (Ajangiz, 2002). Here we see how the political architecturing of the ranks as part of the transition to volunteer forces adds another layer to the positive impact of the abolition of the draft to reducing the high threshold for initiating war and mobilizing for it. In the second stage, militaries increased their use of contractors to reduce their accountability to the citizenry and increase their freedom to deploy the forces as they chose (Avant & Sigelman, 2010).

These are the variables critical for increasing or decreasing the level of legitimacy of using force. All work within the confines of the previously shaped political culture. Of course, they do not function simultaneously or at the same level of intensity.

Furthermore, these variables all work within the limits of the public sphere of the state. In this realm various actors negotiate over the legitimacy of using force in the face of policymakers' efforts to legitimize their actions. The polity is the crucial arena even if its domestic actors are influenced by external actors. For example, public opinion among European NATO members matters for decision-making in the U.S. However, decisions are initially made within the polity even if not autonomously. Only in extreme cases are policies externally coerced, as was the case with the NATO airstrikes that led to Yugoslavia's withdrawal from Kosovo in 1999. Based on those initial decisions, states can negotiate among themselves to reach agreed-upon policies. Such process occurred when NATO members tried to reach consensus about their shared missions. In turn, consensus or debate impacts the polity of every member. Sometimes these effects lead to legitimacy-based policy changes, such as NATO members' decisions to pull out troops from Afghanistan.

More importantly, the variables may move in opposite directions. For example, the CIA-led drone warfare in Pakistan, mainly under President Obama, was successfully legitimized as a tool for removing an external threat. According to surveys, in 2013, 50% of Americans said that drones had made the U.S. safer, while only 14% said the opposite (Pew, 2013). At the same time, concerns about the legality of this warfare and the high number of Pakistani noncombatants killed were raised by the public and the Congress and prompted the administration to change policies (Crawford, 2013, 77, 121-122, 403-404). To balance these countervailing trends, the administration continued the warfare but modified its conduct. Thus, policymakers try to maneuver between conflicting legitimacy concerns as they read and interpret them.

Interrelationships between variables and components

As noted previously, the dynamic variables work within the confines of the previously shaped political culture. However, there are interactions between the dynamic and static components of legitimacy. To offer a few illustrations:

1. Expectations about legalizing the use of force rely on the norms that culturally shape political institutions (Owens, 2003b).

2. States vary in their thresholds for tempering the requirement of noncombatant immunity. These levels depend on the extent to which this requirement is rooted in the political culture. For example, Britain's culture prompted it to respect such immunity more so than American culture did. Therefore, Britain's rules of engagement differed from those of the U.S. (Aylwin-Foster, 2005).

3. As mentioned earlier, the Holocaust and the liberal heritage have shaped the perceptions of threats in Israel and the U.S., respectively. The political culture, which largely inspires the strategic culture, provides a repertoire of symbols that establishes strategic preferences by formulating concepts about the nature of the adversary and the threat it poses (Johnston, 1996, 222-223). Surely, a repertoire of symbols used to dehumanize the enemy is inspired by that culture.

4. In general, the level of militarization of society will determine the barriers to protests that challenge: (a) military policies, and hence limit deliberation regardless of the model of recruitment; (b) the human costs of war and thus, the extent to which casualty sensitivity increases and may be balanced out by legitimizing the shifting of risk from one's own soldiers to enemy noncombatants; (c) military policies from within the ranks, again, regardless of the model of recruitment.

It follows that the infrastructure created by the constant component determines the extent to which policymakers can effectively use the dynamic component to increase the level of legitimacy. In turn, and this is only one example of such a combination, a high degree of legitimacy that leads to military failures or overly costly deployments slowly affects the constant component, which may lead to demilitarization.

The dynamic variables are mutually interrelated. For example:

1. While respecting the distinction between combatants and noncombatants is a general obligation (a domestic liberal constraint), its implementation may be affected by the image of enemy noncombatants more as "enemies" than "noncombatants" (the variables of the threat and dehumanization).

2. Legitimation by technology helps relax accountability in cases of accidents and also increases the trust in the ability of the troops to accomplish their mission (part of the variable of the threat and its removal).

3. The social, and hence also, the political makeup of the ranks impact the variable of deliberation by affecting the cycles and power of the citizens with an interest in the military deployment. At the same time, the greater the level of deliberation, the higher the threshold to legitimize the use of force in the face of internal opponents, thus affecting the variables of domestic constraints, the leveraging of technology and even the need to inflate the threat and promote dehumanization.

4. The dehumanization of the enemy may be twinned with the relaxation of responsibility inasmuch as the demand to relax noncombatant immunity is justified by the attempt to impose accountability on the civilians of the targeted entity for their leadership's policies.

To operationalize the legitimacy of using force, a high degree of the legitimacy occurs under the following conditions: 1) Policymakers believe that public opinion unequivocally supports the use of force to counter a significant threat. Such support reflects embedded beliefs and is therefore expected to endure typical challenges arising during military campaigns such as failed incidents. Often, support is reinforced or signaled by elections, especially those held during a war or the preparation for war. 2) There are no effective antiwar movements (or conversely, groups are even organized to voice support for the use of force). 3) Manageable global restraints and the state's limited obligations to enemy noncombatants allow freedom of action. 4) The troops unequivocally and faithfully adhere to the mission.

In contrast, the lowest level of this legitimacy is evident when the same conditions move in the opposite direction, especially when there are effective antiwar protests that translate the passive disapproval of public opinion into active collective action and such protests diffuse into the ranks. Indeed, even policymakers' expectations that such phenomena may occur will restrain their decisions about using force. A moderate level of legitimacy is expressed in mixed situations. A possible situation is when public opinion opposes military deployment but this objection is not translated into collective antiwar action and dissidence within the troops. In such a case, the policymakers have more freedom of action. This operationalization takes a substitutive (effect) rather than a constitutive (cause) approach (Gilley, 2006, 503-504).

Summary

My point of departure was the need to conceptualize the legitimacy of using force within the polity, which is the space where initial decisions are made, rather than within the broader international community. To fill some of the gaps in the scholarly literature, I proposed a definition of this legitimacy and analyzed its components. I then integrated the constant, embedded level of legitimacy and the dynamic component, composed of variables that leaders can use to increase the level of legitimacy.

Here we can see why legitimacy is not synonymous with public opinion. First, it is a multilayered concept, reflected in multiple arenas simultaneously. Second, it is one thing to convince the public rhetorically about the rightness of using force and another to do this by using methods that limit deliberation. Therefore, the multiple variables increasing legitimacy are worth studying.

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