LEGITIMACY

Legitimacy is the popular acceptance of a governing regime or system of governance. The word legitimacy can be interpreted in either a normative or a positive way. The first meaning refers to political philosophy and deals with questions such as, What are the right sources of legitimacy? Is a specific political order or regime worthy of recognition? Empirical approaches try to measure the degree of popular acceptance of existing regimes or try to test causal explanations for low or high degrees of legitimacy.

Legitimacy is a classic topic of political philosophy. In the current context of transformations from government to governance, the issue of democratic legitimacy has once again come to the forefront of political discussions because classic modes of gaining legitimacy that have been established during the last few hundred years are eroding. Vigorous debate is taking place about how to restore democratic legitimacy for sociopolitical systems that are characterized by processes of horizontal and vertical differentiation.

Classic Definitions and Discussions

Gaining legitimacy is a need not restricted to liberal democratic regimes, but considered a basic condition of rule because without at least a minimal amount of legitimacy, governing regimes would face deadlock or collapse. Therefore, every regime seeks to justify its reign, and this justification can be based on various concepts. In history, we have seen competition and changes between different concepts of legitimacy. Traditionally, the reign of monarchs was justified on the grounds of their divine origin. The Enlightenment and democratic revolutions challenged this religious source of legitimate rule and declared the will of the people to be the basic source of legitimacy. In this context of modernization, Max Weber developed a typology of forms of legitimacy that is still one of the most important points of reference. He differentiated a traditional, a charismatic, and a legal-rational type

of legitimacy. He basically diagnosed a historical transformation from traditional to legal-rational types of legitimacy, in which legitimacy based on the charisma of a (revolutionary) leader formed a transitory phenomenon.

Weber's description of the modern type of legitimacy as legal-rational points to an orientation among modern conceptions of legitimacy that is strongest in the German-speaking world. A constitutionalist conception of legitimacy puts most emphasis on regular procedures employed to formulate the will of the people and also on normative limitations and judiciary controls of governing majorities to secure equal treatment and individual liberty. In contrast, conceptions of democratic legitimacy in the Anglo-Saxon world focus more on the aspects of popular participation and regime accountability secured by free and fair elections combined with a system of political checks and balances (in contrast to the legalistic approach of inter-institutional control in the constitutionalist perspective). Another line of thinking about democratic legitimacy, which has mainly French origins, has a different, more collectivist understanding of "the will of the people." Not so much the rules and the opportunities to participate but the affective commitment to the community and to its administrative representations lays the basis for democratic legitimacy. In consequence, patriotism and civic nationalism secure loyalty to the system of governance.

Collectivist approaches to democratic legitimacy based on a materialist worldview see the legitimacy of the governing regime primarily based on securing economic prosperity and equality. In communist states, this line of thinking led to the subordination of all social subsystems under the political system because only full control especially over the economic system enables the political system to implement the will of the people. After World War II, thinking about democratic legitimacy concentrated in the Western countries more on the output or performance of democratic regimes. The relationship between legitimacy and effectiveness of a political system was cast mainly in such a form that legitimacy was seen as a substitute for effectiveness. In such a perspective, legitimacy creates

a reservoir of goodwill (diffuse support) and increases the willingness of the people to tolerate shortcomings of effectiveness (which reduces specific support).

Whereas in the Anglo-Saxon world the relationship between legitimacy and effectiveness has been at the center of debates, the discourse on legitimacy in Germany traditionally has had another focal point— the relationship between form (legality) and substance (morality) of legitimate rule. The differentiation of form/procedures and norm/substance of legitimate rule has been the basis for the establishment of a secular and liberal state and the distinction of "positive" law from theology and philosophy. Nevertheless, the German experiences with an inhumane Nazi regime, which based its rule officially on popular consent and on bureaucratic mechanisms for policy implementation, reinvigorated the constitutionalist tradition of complementing and restricting formally legitimate rule by substantive values.

Empirical Approaches to Measuring Democratic Legitimacy

Empirical approaches emphasize the subjective aspect of democratic legitimacy. If people believe that existing political orders or laws are appropriate and worthy of obedience, then those orders and laws are legitimate. By using polls and other empirical methods, researchers try to reveal these subjectively held beliefs on democratic legitimacy. Nevertheless, it is not easy to measure this phenomenon accurately because legitimacy is an abstract concept. Therefore, it is mostly measured indirectly by asking about political trust or confidence. Empirical studies in Western countries reveal that there is a loss of confidence in almost all advanced democracies. But there are significant differences with respect to what this gap of confidence refers to. Ruling parties and leaders face a high degree of mistrust, and many institutions that have central functions for classic liberal democracies such as parliament, parties, and public bureaucracies have to deal with low confidence. Nevertheless, only small minorities are dissatisfied or not at all satisfied with the way

democracy functions in their country, and even fewer people declare themselves in favor of radical change. Vast majorities still adhere to their democratic systems.

Current Challenges for Democratic Legitimacy

Current socioeconomic and political transformations pose serious challenges to the legitimacy of Western democracies. Supranational integration and decentralization characterize fundamental processes of rescaling governance. Both tendencies create vertically differentiated polities that are reintegrated mainly through intergovernmental negotiations. The proliferation of autonomous regulatory agencies, contracting out, public-private partnerships, and policy networks has led to a horizontally differentiated polity and blurred the line between the public and the private sector. All these processes create a situation where there is no clear and single locus of decision making and responsibility. Furthermore, the classic and clear line of representation and accountability, which connected the people first to the parliament, then to the government, and finally to the public administration, does not capture the real processes of interest aggregation, delegation, decision making, and control. In consequence, the democratic legitimacy of rule making in such a system seems to be in question.

Innovative thinking about democratic legitimacy started from criticism against the dominant form of democracy in Western countries: representative democracy. Since the 1960s, there has been a growing demand for complementing regular voting and party politics in parliaments by other means of public participation. Various strands and mechanisms of participatory democracy have been proposed and in many places implemented. There is a spread of elements of direct democracy such as referendums and recalls, and we find even more elements of associational and deliberative democracy. Concepts of associational democracy stress the contributions by organized groups to effective and adequate policy making. These concepts go beyond the pluralist conception of associations as pressure groups in state-centered processes of interest

aggregation. Associations contribute to the democratic legitimacy of a political system because they open up new venues of civic participation but also possibilities for autonomy and self-governance. Furthermore, they provide meaningful voices in the public discourse and mechanisms for a smooth and effective implementation of those decisions in which they participated. The overlapping concept of deliberative democracy entails a recognition of an expanded social pluralism and cultural diversity, and even more, an awareness of that information and communication is fundamentally shaping the current world. The deliberative model of democracy is—in accordance with earlier republican lines of democratic theory—based on the conviction that "aggregate" conceptions of democracy with their central reliance on the mechanism of voting are inadequate because they neglect the fundamental processes that shape individual preferences and the will of the people. In consequence, this model stresses discussions on an equal and inclusive basis, which deepen participants' knowledge of issues and the awareness of the interests and identities of others. Discourse forms the core of legitimate political decision making and provides the basis for tolerating group autonomy and self-government. A quite different alternative to classic representative democracy is proposed by scholars of the public choice school. For them, fragmentation of the political system and privatization of public services open more opportunities for institutional competition and individual choice. Such a market approach to democracy envisions citizens as sovereign consumers who can choose between jurisdictions that offer divergent tax-service bundles. Freedom of exit and entry ensures the efficiency of such political orders and their legitimacy.

Critics of these new forms of democracy point out that not all social interests are equally represented in civic associations and highlight the dangers of populism that go along with direct forms of democracy. Furthermore, political communication takes place in a public sphere that is shaped by mass media and is less characterized by the exchange of arguments and mutual learning than by dramaturgical actions that feature rhetoric, strategic framing, infotainment, and the imperatives of gaining awareness. Finally, founding a governance system primarily on the mechanisms of exit and entry leads to massive forms of segregation and undermines a sense of interdependency that is still necessary even for pluralist and diversified societies.

Because all forms of democracy have their specific advantages and risks, it seems reasonable to combine their diverse mechanisms in a "complex democracy" with checks and balances to enhance the overall legitimacy of the political order. Nevertheless, two problems remain: First, it is not yet clear whether such a combination is a positive-sum-game and which combination of these democratic mechanisms is productive. Second, a combination clearly leads to more complexity and maybe the biggest challenge will be how to satisfy the popular wish (maybe even the anthropological need) for transparency and orientation within a political system that cannot go back to simplicity.

The currently most vigorous debate about new ways for gaining democratic legitimacy has emerged where territorial boundaries between societies and polities have been blurred by processes of continental and global integration. The rapid growth of institutions of governance on supranational levels makes it evident that Weber's classic demarcation between the domestic (where legitimate authority resides) and the international (which lacks it) does not hold anymore.

Especially regarding the European Union (EU), which has acquired many rule-making competencies from its member states, it has been claimed that a "democratic deficit" or a lack of democratic legitimacy exists because the role of the European Parliament is much more limited in comparison with national parliaments. In this context, Fritz Scharpf has reintroduced the differentiation between input-oriented and output-oriented strategies for gaining legitimacy, hereby referring to Abraham Lincoln's famous definition of democracy as governing "of, by, and for the people." Input-oriented legitimization equals "government by the people." Political decisions are legitimate if and because they reflect the will of the people. Because there exists no European demos with a "thick" collective identity, decision making beyond intergovernmental negations will not enhance the legitimacy of the European Union. In consequence, Scharpf argues for output-focused strategies

for gaining legitimacy (Lincoln's "government for the people"). In this perspective, political decisions are legitimate if and because they effectively promote the common welfare of the constituency in question. Such a strategy only requires a "thin" identity because all that is required is the perception of a range of common interests. According to Scharpf, the European Union must foster its output-legitimacy by complementing market-making policies with strengthening market-regulating policies, especially by accepting and fostering national social welfare policies, by agreeing on minimal standards for national welfare spending, and by permitting differentiated assimilation. Critics have pointed to his "social democratic" definition of a "common interest," but in general, the direction he scrutinizes for institutional reform has been accepted. There is widespread agreement that the efficiency and legitimacy of supranational governance can only be secured if it is complemented by elements of decentralization that take governance back closer to the people. In consequence, legitimate governance beyond the nation-state must be designed as a multilevel system based on the principle of subsidiarity. Another element of output-oriented legitimization, the positive valuation of independent expertise, has also found wider acceptance. The most important example for this is the trend toward central banks that are independent from central government.

Much more controversial is the "no demos thesis," and there has been a wave of research on identity formation that reveals both hurdles and existent and potential mechanisms for forming a European demos without neglecting the persistence of national demoi. One specific mechanism for identity-formation has again recently come to the forefront. This is the dialectic between external threat and internal cohesion. But it seems that Islamic terror does not serve as a catalyst for a European identity because Europe does not perceive itself as the main target. Furthermore, as long as some EU members perceive American imperialism and others Russian imperialism as the more pressing threat, no common political identity can emerge.

Given the much narrower scope and the lesser authority of international rule making in other regions of the world and on the global level, the discourse on legitimate governance there has had other focal points. The debate circles not so much around legitimate decision-making mechanisms as around legitimate actors. Traditionally, sovereign states have been the only legitimate actors in the modern international system. Therefore, other actors such as international organizations (IOs) and nongovernmental organizations (NGOs) are in a constant struggle to gain and maintain acceptance. Whereas IOs formally receive their legitimacy by state delegation, NGOs rely purely on their public reputation. The focus on actors shifted the debate toward the problem of accountability of these actors. Two forms of accountability can be distinguished: Internal accountability refers to authorization and control of agents by principals who are institutionally linked to one another as democratic governments are linked to their citizens by regular elections. External accountability refers to actors outside the acting entity who are nevertheless affected by it. It has become especially obvious that U.S. foreign policy affects people across the globe who have no institutionalized means to control the U.S. government. Not only the most powerful actor but almost all actors in international governance lack external accountability. Maybe neither input nor output but the boundary problem of "in" and "out" (inclusion or exclusion) that refers to the third element of Lincoln's definition of democracy—government of the people—will become the central issue of democratic legitimacy in a world where boundaries have lost their naturalness and therefore need justification.

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See also Authoritarianism; Authority; Consensus Democracy; Crisis Management; Deliberative Democracy; Democratic Deficit; Democratic Theory; Embeddedness; Equity; Legitimacy Crisis; Participation; Political Exchange; Public Opinion; Satisfaction

Further Readings and References

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