

# RECON Online Working Paper 2011/15

## The Dynamics of Legitimation Why the Study of Political Legitimacy Needs More Realism

Daniel Gaus



Daniel Gaus

**The dynamics of legitimation**

**Why the study of political legitimacy needs more realism**

RECON Online Working Paper 2011/15

May 2011

URL: [www.reconproject.eu/projectweb/portalproject/RECONWorkingPapers.html](http://www.reconproject.eu/projectweb/portalproject/RECONWorkingPapers.html)

© 2011 Daniel Gaus

RECON Online Working Paper Series | ISSN 1504-6907

*Daniel Gaus* is Senior Researcher at ARENA – Centre for European Studies, University of Oslo.

E-mail: [daniel.gaus@arena.uio.no](mailto:daniel.gaus@arena.uio.no).

The RECON Online Working Paper Series publishes pre-print manuscripts on democracy and the democratisation of the political order Europe. The series is interdisciplinary in character, but is especially aimed at political science, political theory, sociology, and law. It publishes work of theoretical, conceptual as well as of empirical character, and it also encourages submissions of policy-relevant analyses, including specific policy recommendations. The series' focus is on the study of democracy within the multilevel configuration that makes up the European Union.

Papers are available in electronic format only and can be downloaded in pdf-format at [www.reconproject.eu](http://www.reconproject.eu). Go to Publications | RECON Working Papers.

Issued by ARENA

Centre for European Studies

University of Oslo

P.O.Box 1143 Blindern | 0318 Oslo | Norway

Tel: +47 22 85 87 00 | Fax +47 22 85 87 10

[www.arena.uio.no](http://www.arena.uio.no)

## **Abstract**

The paper suggests a practice turn in the analysis of political legitimacy. Current social science research on political legitimacy suffers twofold. First, it shows an undue (silent) impact of an ethics-first perspective. Second, empirical approaches to political legitimacy mostly focus on societal constellations of citizens' beliefs. The dynamic character of political legitimacy as a concept referring to an ongoing societal practice of legitimation is missed. Understanding legitimacy in terms of legitimation practice suggests a broadened research agenda that a) reserves a greater role to hermeneutical approaches and that b) acknowledges the systematic relation of political theory, the sociology of knowledge and the history of ideas in that matter.

## **Keywords**

Democracy – Democratic Theory – Legitimacy – Methodological Issues – Political Science – Political Theory



## Introduction

Recently, Raymond Geuss (2008) has argued for more realism in political theory. He is concerned about the analysis of politics from what he calls an “ethics-first” perspective or “ideal theory”. According to the ethics-first perspective ‘one can complete the work of ethics first, attaining an ideal theory of how we should act, and then in a second step, one can apply that ideal theory to the action of political agents’ (Geuss 2008: 8). Contrary to that, Geuss supports a view which might be called ‘realist political theory’.<sup>1</sup> The main difference to the ethics-first perspective concerns where to start in the study of politics. Political theory<sup>2</sup> should not start from and be concerned with how political agents ought ideally act or value, ‘but, rather, with the way the social, economic, political, etc. institutions actually operate in some society at some given time, and what really does move human beings to act in certain circumstances’ (Geuss 2008: 9). In this paper I want to suggest a more realist view in the study of political legitimacy. However, my argument does not address some ethics-first perspective in political theory. It rather concerns the interface between political theory and empirical political science. In my view, the study of political legitimacy should be more prudent in the adoption of two views of political theory. First, it is sometimes (unwittingly) driven by an ethics-first perspective. Second, it frequently refers legitimacy to individuals’ beliefs about the rightness of political order. Both views have shortcomings regarding a proper account of political legitimacy which should analyse societal practice of legitimation as a dynamic process, or so I will argue.

To illustrate that, I draw on the role of the distinction between input- and output-oriented legitimacy in studies of the EU’s legitimacy. However, the scope of my argument is not restricted to the use of the input-output distinction, but refers to a more general tendency in legitimacy research. The reason I choose this example anyway is that the input-output distinction is seen as a promising way to ‘operationalize’ political legitimacy and thus serves well to illustrate my point. This paper mainly presents a conceptual analysis of legitimacy. Firstly, I argue that an empirical turn in the study of political legitimacy is needed. I review the difference between normative-practical and empirical-analytical legitimacy statements and the different function they fulfil. This allows for a better understanding, so I hope, in what sense EU’s legitimacy studies frequently apply the input-output distinction in an ethics-first perspective. They resemble normative-practical evaluations more than empirical analyses of legitimacy. Secondly, I argue that an empirical account should understand the ‘object’ legitimacy in terms of a socio-historical practice of legitimation. Accordingly, an account of legitimacy depends on the study of dynamic societal processes from different, but systematically related, perspectives. A ‘static’ view of legitimacy as a constellation of citizens’ (input- or output-oriented) beliefs about political order is only of limited help. The purpose of making these two arguments is to indicate the sort of difficulties and considerations that must be addressed in developing a full and realistic account of political legitimacy. I conclude

---

\* I am very grateful to Harald Grimen, Cathrine Holst, Kjartan Koch-Mikalsen, Anders Molander, Christopher Lord, Johan P. Olsen, Marianne Riddervold, Fritz W. Scharpf, Rainer Schmalz-Bruns and Oliver Schmidtke for helpful comments.

<sup>1</sup> Geuss is not the only advocate of more realism in political theory. Bernard Williams has argued in the same direction (Sleat 2010). See Galston (2010) for an overview of realism in political theory. This view is not related to realism in international relations theory.

<sup>2</sup> I use the terms ‘political theory’ and ‘political philosophy’ synonymously.

that the study of political legitimacy requires a 'practice turn' based on a systematic cooperation of political theory, sociology and the history of ideas.

## **Empirical analysis or evaluative description – two different subjects, two different functions to the use of 'legitimacy'**

It is a trivial fact that the validity conditions of a statement about legitimacy<sup>3</sup> depend on the context in which the statement is made: in a normative-practical critique or in an empirical analysis. At the same time, however, this differentiation is not acknowledged appropriately in the research on political legitimacy. It is thus necessary to review the distinction between two kinds of subject legitimacy-statements can principally refer to and between two functions they can yield. In that regard a closer look at the differences between the terms 'legitimacy' and 'legitimation' and between an empirical-analytical and a normative-practical usage of 'legitimacy' is helpful. Let me begin with the distinction between legitimacy and legitimation. This distinction harks back to Max Weber's account of a legitimate order. According to Weber, social order (and thus also political order) is basically a relationship of actions oriented by certain maxims. In calling something a social order, Weber argues, it does not matter why the actors orient their behaviour toward the maxims in question – be it fear of sanctions in case of non-compliance or because they consider according behaviour to be normatively ideal. Weber argues, however, that only in case of an order that 'enjoys the prestige of being considered binding' do we speak of a 'legitimate order' (Weber 1978: 31). Based on this reading, any kind of order is legitimate when it is valid, that is, when the behaviour in question is generally ('on average') believed to be normatively right:

Only then will the content of a social relationship be called an order if the conduct is, approximately or on the average, oriented toward determinable "maxims". Only then will an order be called "valid" if the orientation toward these maxims occurs, among other reasons, also because it is in some appreciable way regarded by the actor as in some way obligatory or exemplary for him.

(Weber 1978: 31)

Following Weber one could generally say that questions of legitimacy concern a particular validity claim: namely, the claim that a social relation counts as acceptable in the light of certain principles (maxims). Let us now assume a political order to be the specific type of social order that organises 'the authoritative allocation of values in a society' (Easton 1965: 30). Then the legitimacy of a political order might basically be described as its 'worthiness' to be an acceptable organisation of value-allocation:

Legitimacy means that there are good arguments for a political order's claim to be recognized as right and just; a legitimate order deserves recognition. Legitimacy means a political order's worthiness to be recognized. This definition highlights the fact that legitimacy is a contestable validity claim; the stability of the order of domination (also) depends on its (at least) de facto recognition.

(Habermas 1976: 178)

---

<sup>3</sup> With Weber (1978) and Berger and Luckmann (1966) I understand legitimacy in a broad sociological sense as a feature of every kind of social order. However, when I sometimes speak of 'legitimacy' or 'legitimate order' I have a political order of rule in mind.

Based on this view, the difference between legitimacy and legitimation can be defined as follows. From a sociological perspective, both represent different views on the same social relationship. Legitimacy refers to the following fact: the claim of a society's order of value-allocation as to being right is generally (not) acceptable to the society's members. In this sense, one might say that legitimacy means a societal state of 'the general willingness to accept substantially still undetermined decisions within certain limits of tolerance' (Luhmann 1969: 28; my translation)<sup>4</sup>. Whereas legitimacy implies a statist view, legitimation, on the other hand, concerns the dynamics of this relation. It refers to all kinds of acts and processes that (aim to) establish the general view that a political order is (not) acceptable.

Thus, analytically speaking, the concepts of legitimacy and legitimation put the focus onto two different subjects. On the one hand, to speak of a certain type of legitimacy (f.e. democratic legitimacy) refers to a particular type of *reason or explanation* on the basis of which members of a political order generally view the order of rule as acceptable. On the other hand, to speak of legitimation is to speak of *acts or processes* through which views about the worthiness of an order are established. Obviously, both are connected. I will come back to this in the next chapter. At this point it is only important to note that the empirical manifestation of legitimacy is successfully operating legitimations in a given society.

A second distinction concerns two different functions of legitimacy statements. Depending on the context, a legitimacy statement either is directed to the *establishment* of a certain view about the worthiness of a political order or it aims at the *description* of such practices and processes and the social relations they establish. In other words, there is a difference between an actor's and an observer's use of the term legitimacy (Barker 2007: 20-21) – or, in other words, between a normative-practical and an empirical-analytical use (see also Peters 2005: 97-103). What is described in an empirical use of legitimacy 'will most immediately be the making of claims, or the attribution of meaning, however expressed, by political actors' (Barker 2007: 20). However, a philosophically inspired reader might question whether there exists a purely empirical-analytical use of legitimacy in the first place. Legitimacy, it is often assumed, is an 'essentially contested concept',<sup>5</sup> meaning that it is '*appraisive* in the sense that it signifies or accredits some kind of valued achievement' (Gallie 1956: 171). According to this view, a speaker using the word legitimacy always also performs a judgment and thus engages in a normative use of legitimacy. To a certain extent that is true. In the study of legitimacy the empirical subject under consideration is a normatively structured social relationship. As a consequence, its description cannot rely on observation in the strict sense, but is finally based on a judgment on behalf of the researcher. The researcher has to do what Weber describes as interpretation ('rationale Deutung') and understanding ('Sinnverstehen'). According to Weber, to describe a social action is to hypothetically explain in what sense it is meaningfully related to (other actions in) its social context (Weber 1978: 4-22). And such explanations are based on judgments, for example, about what action would have been rational (in whatever sense) given the specific situation. Normative judgments of this kind, which serve a hermeneutical purpose in the reconstruction of meaning, are

---

<sup>4</sup> German original: 'Man kann Legitimität auffassen als eine generalisierte Bereitschaft, inhaltlich noch unbestimmte Entscheidungen innerhalb gewisser Toleranzgrenzen hinzunehmen.'

<sup>5</sup> See Hurrelmann, Schneider and Steffek (2007a). For an overview of the literature on the idea of an essentially contested concept see Collier, Hidalgo and Maciuceanu (2006).

unavoidable in the analysis of legitimacy (as in that of any social reality). That, however, does not affect the difference between an empirical-analytical and a normative-practical use of the term 'legitimacy'. Not every statement about legitimacy is a normative statement that commends to accept or reject a certain political order as justifiable.

One might better appreciate that based on Searle's (1962) argument about the distinction between the meaning of a word and the function of the speech act in which it is used.<sup>6</sup> Searle doubts that words can have a 'commending meaning' – i. e., a meaning that makes their use appraisive per se. Although some words – like 'good' or, as I think, 'legitimate' – can be understood as terms of praise, not every speech act in which those words are used in their literal meaning performs an act of praise or of appraisal. It is only in the context of *calling* something good (or legitimate) that an act of praise is performed. On the other hand, 'good' (and 'legitimate') can be seen as terms of praise, because if these words are used in the context of calling something good (or legitimate), those speech acts *always* entail a favorable assessment. Thus, it is due to the meaning of the word good (or legitimate) that saying 'X is good (legitimate)' is an act of commending and not an act of dissuading. Nevertheless, it does not follow that saying 'group Y views X as good (legitimate)' is an act of commending. Searle contends that the meaning of a word must be determined by the way it is used, but to extrapolate something like a 'commending meaning' from the ways in which the word good (or legitimate) is used is to confuse its meaning with its function in simple indicative sentences:

[T]he mistake is to suppose that an analysis of calling something good gives us an analysis of "good". This is a mistake because any analysis of "good" must allow for the fact that the word makes the same contribution to different speech acts, not all of which will be instances of calling something good. "Good" means the same whether I ask if something is good, hypothesize that it is good, or just assert that it is good. But only in the last does it (can it) have what has been called its commendatory function.

(Searle 1962: 429)

To get a clearer picture of what is involved in the empirical analysis of political legitimacy, it is important to keep the distinction between legitimacy and legitimation and the distinction between normative-practical and empirical-analytical statements about legitimacy in mind. Based on that, I will now demonstrate in what sense studies that use the input-output distinction as operationalization to measure EU's legitimacy are in fact of little help to an empirical account of legitimacy.

### **The input-output distinction in EU legitimacy studies: an ethics first perspective**

Studies of EU's legitimacy that apply the input-output distinction often contribute to normative-practical reasoning about the EU instead of its empirical analysis. In my view, they make normative-practical statements by giving 'evaluative descriptions' and, as such, come closer to ethics-first than empirical-analytical approaches to legitimacy. Following an argument of Quentin Skinner (1973), 'evaluative

---

<sup>6</sup> Searle uses the term 'good' as an example, but I find that the part of his argument that is of interest here covers the term 'legitimate' as well.



descriptions' have a commendatory function to ultimately establish the political system in question as (il-)legitimate. In a discussion of empirical theories of democracy, Skinner argues that a theory of democracy that first defines a certain ideal of democracy and then matches a historical political order against it, is making a normative evaluation rather than providing a description:

This follows from the (empirical) claim that the ideal embodies the conditions necessary and sufficient for being able to say of a political system that it is genuinely a democracy, and from the (linguistic) fact that to make this assertion about a political system is standardly to commend it.

(Skinner 1973: 299)

There are of course many good reasons to conduct evaluative descriptions. It is, however, important not to confuse them as empirical analyses of political legitimacy. Rather, they resemble what is called 'non-ideal theory' in political theory. Whereas ideal theory seeks to develop a realistic utopia in a more or less purely thought-experimental manner, non-ideal theory reflects on the moral value of empirical, real-world situations.<sup>7</sup> It is in the latter sense that evaluative descriptions of political order refer to empirics. They represent well-elaborated practical judgments about real-world political orders. Their function is not to describe, but to justify an empirical order as (not) acceptable in the light of certain (however defined) criteria. Admittedly, the difference between an evaluative description and empirical analysis of political legitimacy is ambiguous. One might say that there are two types of evaluative descriptions, depending on the origin of the normative standards applied. It makes a difference if those standards are generated in ideal theory or if they are the outcome of foregoing empirical analysis and can be assumed as norms operating in contemporary societies. It is fair to say that in the latter case a distinction between evaluative description and empirical analysis is difficult to maintain.

With regard to our concern, however, it is important to note that the distinction between input- and output-oriented legitimacy has not been established by empirical analysis. Rather, it has been established in a reflection of the historical discourse of ideal political theory. Fritz W. Scharpf introduced it in the 1970s as a typology of different standards by which contemporary normative democratic theories evaluate the worthiness of a political system (Scharpf 1971: 21). In other words, the distinction between input- and output-oriented legitimacy is an application of a systems-analytical view to the discourse of ideal theory meant to categorize different ideal arguments about democratic legitimacy (see also Scharpf 1999: 6). By today this context seems almost forgotten. In political science studies about the EU's legitimacy, the distinction frequently appears in a somewhat reified manner. In fact, it is commonly accepted to use input- and output-oriented legitimacy as normative standards for assessing (parts of) the EU's legitimacy without further ado.<sup>8</sup>

However, even if it has faded into the background, the original meaning of the distinction still reflects in persistent problems to its use in legitimacy analysis. Up until today the characteristics of input- and output-oriented legitimacy are quite indeterminate (Lindgren and Persson 2011). Accordingly, there is a variety of criteria

---

<sup>7</sup> For the difference between ideal and non-ideal theory in political philosophy see Simmons (2010) and Schaub (2010).

<sup>8</sup> For example Chrysochou (2002), De Ruiter (2010), Kohler-Koch (2000), Radaelli and O'Connor (2009).

to choose from if one wants to assess the input- or output-legitimacy of a political order.<sup>9</sup> One might respond that this can simply be corrected by specifying the concepts. However, their specification is problematic in principle given their original meaning as abstract categories subsuming different legitimacy arguments. Even more so, since the characterization of two independent types of democratic legitimacy arguments as 'input-oriented' and 'output-oriented' respectively is questionable in the first place. In this regard many have objected that a democracy cannot achieve output-oriented legitimacy without input-oriented legitimacy (f.e. Abromeit 2002; Höreth 1999; Schäfer 2006; Wessels and Katz 1999). One might answer this objection by arguing that:

in democratic nation-states, however, input- and output-oriented legitimacy coexist side by side, reinforcing, complementing, and supplementing each other – which is why the theoretical distinction introduced here can be extracted from a close reading of normative treatises but is not usually explicated in the praxis of political discourse.

(Scharpf 1999: 12)

However, this is beside the point, because the objection says that from the point of view of *normative democratic theory* there is a logical relation between what the input-output distinction marks as two independent pillars of democratic legitimacy. And this critique, in turn, might indicate that the original basis for the distinction of input- and output-oriented legitimacy arguments has changed – namely, the discourse of normative democratic theory. Admittedly, the input-output distinction has some plausibility in characterizing two views 'in the history of normative political theory' (Scharpf 1999: 6). But note the historical dimension here. Is it not plausible to assume that the historical back and forth in the overall shift from monarchy to democracy is paralleled by a back and forth in the intellectual struggle to make sense of that? And if so, could not two independent approaches explaining the normative value of democracy represent a corresponding transitory phase in intellectual history? What speaks in favor of the latter, is that a somewhat integrative position has gained considerable weight in recent democratic theory. Namely, the view that epistemic and procedural justifications of democracy are interdependent. According to that, a full understanding of the idea of democracy has to acknowledge that the worthiness of procedure and outcome are dialectically related in a democratic order (Estlund 2008; Habermas 2001; Peter 2008; Schmalz-Bruns 2005).

Which of the above descriptions of the idea of democratic legitimacy is adequate, then? Maybe all three are – if the hypothesis about the development in intellectual history is correct. And that brings us back to my main concern in this chapter. To find an answer to this question the view from normative political theory alone – an ethics-first perspective – is insufficient. Instead, the study of legitimacy needs an empirical turn that gives more attention to how ideas work in societal practice. Note, however, that such an empirical turn is fundamentally different from the one recently proposed by Susana Borrás and Thomas Conzelmann (2007). They suggest to 'make a step towards an operationalization of the normative standards employed by different

---

<sup>9</sup> To give only a few examples, input-oriented legitimacy is referred to procedural legitimacy (Enderlein (2006)), transparency and access to information (Héritier (2003)), democratic voice (Hodson and Maher (2002)), citizen involvement (Höreth (1999)) or authorization, responsiveness and accountability of power holders (Meyer (1999)).

conceptions of democracy and to apply those to the empirical analysis of the democratic credentials of specific SMG [soft modes of governance] in the EU' (Borrás and Conzelmann 2007: 540). From a variety of normative democratic theories they deduct an encompassing list of 'empirically accessible' (ibid.: 540) normative criteria against which the SMG of the EU shall be matched. I do by no means doubt that a better operationalization of normative theories is needed to match empirical reality more precisely. I do, however, doubt that the normative criteria Borrás and Conzelmann apply are 'empirical yardsticks for assessing democratic legitimacy' (ibid.: 540). On the contrary, they are deducted from ideal theory. By the same token, their approach is no part of 'a research agenda that is ultimately an empirical one' (ibid.: 531). To draw attention to the problem of operationalization of normative democratic theories does not change the fact that, finally, the aim remains to match the EU against pre-given normative ideas established in ideal theory. This research agenda doubtlessly includes an empirical analysis of the EU, but its overall character is not that of an empirical analysis of political legitimacy. Based on the above reflections, an empirical account would focus on which and how explanations or ideas work in the context of the EU's justificatory practice. For that, it is necessary to leave behind an ethics-first perspective. A more realistic account of EU's legitimacy has to start not from legitimacy arguments in normative political theory, but from the description of the character of arguments, explanations and ideas working in the empirical justificatory practice of the EU itself. There is a need for a turn to the description of legitimacy as a *practice* of legitimation in historical societies.

### **Legitimacy as 'object' of analysis: the need for a practice turn**

The previous section conveyed the impression that the input-output distinction is mainly used in the context of a normative-practical evaluation of EU's legitimacy. Admittedly, that is a somewhat one-sided description. My aim was to illustrate in what sense legitimacy research is driven by an ethics-first perspective and how that can be detrimental to an account of political legitimacy. In fact, the input-output distinction is also applied in empirical-analytical studies of legitimacy. It is used to categorise individuals' beliefs (and recently also claims in political communication) about the legitimacy of politics. However, this use is illustrative of another aspect in which legitimacy analysis needs more realism. It is characteristic of a view that traces legitimacy statically by applying quantitative analysis of entities like beliefs or compliance behaviour (Scharpf 2007: 7) or by 'mapping' claims and statements (Hurrelmann et al. 2005). Doubtlessly beliefs, protest and statements can be categorized as input- or output-oriented. The question, however, is to what degree that contributes to an understanding of political legitimacy in a given society.

### **The static view of legitimacy: beliefs, behavior, claims**

Empirical approaches usually conceptualize legitimacy based on an assumption developed in normative political theory, namely that political legitimacy refers to 'some benchmark of acceptability or justification of political power or authority and – possibly – obligation' (Peter 2010). Broadly speaking, then, legitimacy analysis is about how that benchmark operates in given societies. It is, however, striking that dominant strands in empirical legitimacy research understand that in a somewhat static manner. Albeit differences in method and focus, they all finally account for

legitimacy in terms of the degree to which citizens believe their order of political rule as justified. Three strands are dominant: an attitudinal (a), a behavioural (b) and a discourse-analytical approach (c).

a) Survey-based public opinion research gives an account of political support by analyzing citizens' beliefs and attitudes (f.e. Hooghe 2003, Kaase/Newton 1995). Here, legitimacy is traced as individuals' beliefs in legitimacy, which is seen as one among several forms of political support. The basic problem to this approach is the difficulty to define which of the attitudes displayed refer to citizens' beliefs in legitimacy or to other forms of support (Westle 2007). Critics ascribe that to the limited and theoretically pre-selected range of evaluations offered to respondents (Dryzek 2005) and conclude that opinion surveys are principally ill-suited to study individuals' (legitimacy) beliefs.

b) The problem of creating empirical artifacts is evaded by a behavioral approach (f.e. Gilley 2006; Rucht et al. 1999). In this perspective, it is assumed that (non-)compliant or (un-)conventional political behavior (for example, voting or protest behaviour) informs about the degree to which the citizens' view their political order as justified. Here, critics object that behavioral approaches suffer from a basic ambivalence. Because it is 'impossible to infer the motivations that underlie political action' (Hurrelmann et al. 2007b: 8), the relation between individual beliefs and the observed behavior remains ambivalent.

c) Finally, a recent strand extends the scope of analysis to (de-)legitimation processes in the public sphere, which are assumed as decisive for the generation and transformation of individual legitimacy beliefs. This approach aims to describe (changes in) legitimation discourses, mainly in quality newspapers (Biegoń et al. 2010; Hurrelmann et al. 2009). Based on coding schemes different types of legitimation statements are categorized regarding which claims are made by which actors about what political object (Schneider et al. 2007: 133-145).

All these approaches offer valuable insights from different and complementary perspectives. When I argue that they are in need of more realism, my suggestion is not to neglect them. Rather, I would like to draw attention to the fact that they all share a characteristic assumption which implies a too narrow view of the range of objects of legitimacy analysis. Albeit the turn from attitudinal to behavioral to discourse-analytical approaches extends the scope and draws some attention to the dynamics of legitimation, all these views suffer from a static understanding of the concept legitimacy. They assume legitimacy has the following structure: political legitimacy refers to a constellation of individual beliefs in a group of people with regard to their system of political rule. The rationale of each approach is to find the best (direct or indirect) way to map the constellation of individual beliefs in a given society. It is in this light that the input-output distinction seems attractive as a way to categorize different beliefs (Radaelli and O'Connor 2009) or legitimacy statements (Hurrelmann et al. 2005).

Assuming legitimacy as a constellation of individual beliefs somewhat parallels the view of normative political theory. However, it is an understanding too static, even if it is acknowledged that this constellation might change over time (as the discourse-analytical approach does). Although it has some plausibility to refer political legitimacy to individuals' beliefs, it is crucial to note that the latter represent only one

of several aspects relevant to an account of political legitimacy. In the following I want to suggest that a more sociological view of legitimacy paves the way to a richer account of political legitimacy. It helps to acknowledge the dynamic structure of legitimation as a societal practice and, accordingly, draws attention to additional aspects of political legitimacy that have not been adequately recognized so far.

### **The reflexive view of legitimacy: legitimation as societal practice**

Criticizing the influence of Max Weber's account, David Beetham (1991b: 6-9) notes that social scientific research on political legitimacy is mistakenly driven by an almost exclusive focus on individuals' beliefs concerning political power. Contrary to that, he argues, 'the normative structure of legitimacy' suggests a need for a multi-dimensional analysis (Beetham 1991b: 64-99). Although I generally agree to Beetham's critique, I do not think that Weber's account is responsible for the suggested shortcomings, but its frequent misperception. Weber's relevance for an account of political legitimacy is not his typology of legitimation principles on which political systems are based. That typology is owed to his historical context and, as Beetham (1991a) shows, inadequate for the description of current regime types. It is, however, often overlooked that Weber ascribes to the notion of legitimacy a much broader meaning in his basic sociological terms. He argues that – among usage, custom and self-interest – in stabilizing social relations, the most effective mechanism is the fact that actors often are 'guided by the belief in the existence of a legitimate order' (Weber 1978: 31). Here, the meaning of 'belief in legitimacy' ('Legitimitätsglauben') indeed refers to a social action or relation being viewed as justified in the light of normative ideals. However, it is crucial to note that Weber is not primarily interested in these beliefs as such. For him, it is 'the belief in the *existence* of a legitimate order' that is crucial to the explanation of structures in social relations. That is a fine, but essential difference. One might say that it adds two layers of reflexivity which are not adequately acknowledged (a-b) and, in turn, imply a considerably extended research agenda in the study of political legitimacy.

a) In Weber's view the 'belief in the existence of a legitimate order' explains social structures in two different ways. In a somewhat 'direct' sense, actors regularly comply with an order *they* view as ideal because they feel an obligation to do so. Based on this assumption individual legitimacy beliefs have become the main object of empirical legitimacy studies. However, as Weber argues, there is a second, 'indirect' way in which the belief in the existence of a legitimate order orients social action. And that is when actors assume *others* to be oriented by a normative order and to act accordingly. Weber's example is a thief who hides his action: 'The fact that the order is recognized as valid in his society is made evident by the fact that he cannot violate it openly without punishment.' (Weber 1978: 32) In other words, actors take a reflexive attitude to the normative orders valid in their society – independent of whether they personally accept them as legitimate or not. This suggests that legitimate orders have a societal existence which is somewhat independent of individuals' beliefs.<sup>10</sup> The important consequence is that – beyond individual beliefs – valid normative orders appear as an independent object of analysis.

---

<sup>10</sup> That does not contradict the fact that finally their ontological basis is in the minds of individuals (see Searle 1995: 8-12; 2002).

b) A second dimension of reflexivity is implied in Weber's view. The relevance he ascribes to 'the belief in the existence of a legitimate order' points to the fact that (conscious) social action is a process of everyday interpretation and judgment. People (more or less tacitly) interpret situations in light of what they assume to be the valid normative order in their society and based on that they decide to follow their obligations and/or interests.<sup>11</sup> This suggests an understanding of the very concept of social order as dynamic. Peter L. Berger and Thomas Luckmann (1966) have made this point most explicitly. They explain the process of generation, reproduction and transformation of social order as dependent on an ongoing societal practice of legitimation.<sup>12</sup> Legitimation here means a process of "second-order" objectivation of meaning' (Berger and Luckmann 1966: 110). Its societal function is to maintain or restore the belief in the existence of legitimate order when it becomes problematic. That, Berger and Luckmann (1996: 111) argue, is a continuous problem to every society because 'the objectivations of the (now historic) institutional order are to be transmitted to a new generation'. In this view, legitimation is a ubiquitous societal practice of making sense of the existing institutional order – and this practice entails not only public justification but explanation as well:

Legitimation "explains" the institutional order by ascribing cognitive validity to its objectivated meanings. Legitimation justifies the institutional order by giving a normative dignity to its practical imperatives. [...] Legitimation not only tells the individual why he *should* perform one action and not another; it also tells him why things *are* what they are. In other words, "knowledge" precedes "values" in the legitimation of institutions.

(Berger and Luckmann 1966: 111; italics original)

This social constructivist view suggests extending the scope of political legitimacy analysis in two dimensions. First, legitimacy refers to an ongoing societal practice of legitimation, an 'observed activity' (Barker 2001: 2). The object under consideration 'is not legitimacy as a state of the social system' (Bourricaud 1987: 63), but 'the way in which, within any settled or established power relations, self-confirming processes are at work to reproduce and consolidate their legitimacy' (Beetham, 1991b: 99). Second, the concept of legitimation as it is applied, for example, in discourse-analytical approaches has to be broadened. Here, legitimation is operationalized as an evaluative statement that can 'be captured in three parameters: its object – that is, the element of the political order to which it refers – whether the assessment is positive or negative, and the pattern of legitimation (supporting argument or benchmark) used' (Schneider et al. 2007: 135). A coding scheme based on this understanding of legitimation cuts out too much data. It is insensitive for any kind of explanatory or assertive statement by which, for example, rulers aim to establish facts about their own performance – and thereby indirectly justify themselves. When German chancellor Angela Merkel publicly addressed the German citizens during the financial crisis 2009 and said 'We say to the savers that their savings are safe'<sup>13</sup>, she performs an act of legitimation by stating a (supposed) fact. Seen in this light, we should expect a political order to legitimize itself not only when they are explicitly challenged, but on a routine basis. This is also suggested by David Easton when he notes that even

---

<sup>11</sup> Weber adds that this is a view too rationalistic. However, although all action is irrational to a certain extent, he assumes that a sociological account has to focus on the rational structures of social action.

<sup>12</sup> A corresponding view of the ontological structure of social reality is described by John Searle (2010).

<sup>13</sup> 'Wir sagen den Sparerinnen und Sparern, dass ihre Einlagen sicher sind.'

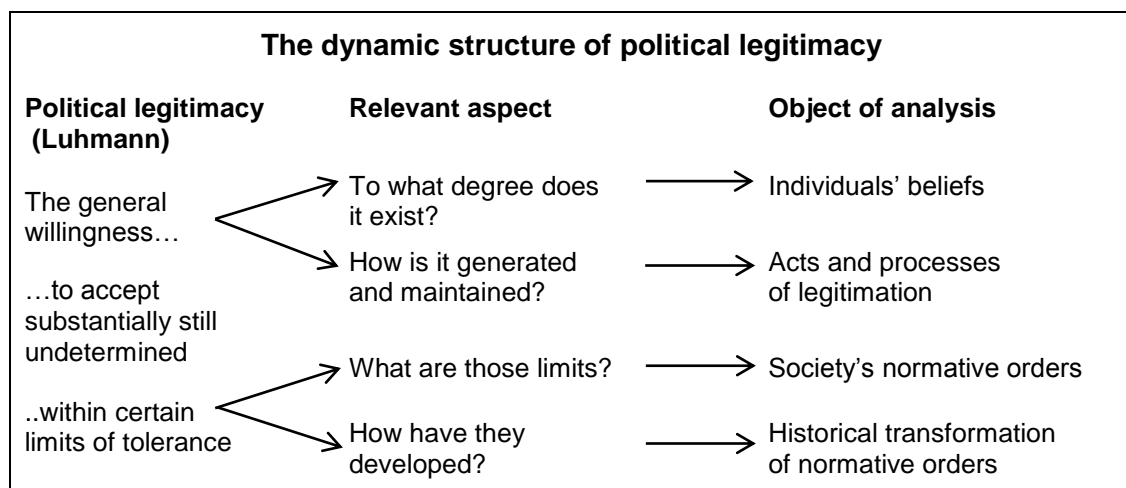
systems free from any visible threat of stress should find it continuously necessary to attend to the renewal of sentiments of legitimacy. [...] At the least, the behaviour of all systems suggests that there is the fear that without constant efforts to inspire a conviction about the rightness of the regime and its authorities, members might quickly lose the feeling that there is a special “oughtness” about the outputs.

(Easton 1965: 308)

Based on a sociological understanding, then, political legitimacy shows empirically in (‘on average’) successfully operating acts and processes of legitimation of the political order in a given society. One implication is that the constellation of individuals’ beliefs in the worthiness of their political order (‘Legitimitätsglauben’) is indeed an important aspect in the study of political legitimacy, but only one among several.

### The study of political legitimacy – toward a broadened research agenda

The different dimensions in the study of political legitimacy and how they are related can be illustrated based on a definition of Niklas Luhmann. He describes political legitimacy as ‘the general willingness to accept substantially still undetermined decisions within certain limits of tolerance’ (Luhmann 1969: 28; my translation). This definition suggests four aspects and four corresponding objects of analysis (a-d).



a) The first aspect, which refers to individuals’ beliefs, is the degree to which such a general willingness exists in a society. The approaches to empirical legitimacy discussed above focus on this aspect. One might doubt that the discourse-analytical approach belongs here, as it claims to map changes in legitimation discourses.<sup>14</sup> These changes, however, are traced by the (change in) number of legitimacy statements subsumed to pre-codified types of statements and actor-groups. Thus, albeit its elaborated method, it finally maps the constellation of individual legitimacy beliefs expressed through (de-)legitimizing statements.

b) The second aspect concerns a description of legitimation mechanisms. This comprises all acts and processes contributing to the establishment and maintenance of the general willingness of a society’s members. The range of relevant acts and processes transcends evaluative statements in public political discourse. Let me mention three examples. First, communicative acts of legitimation usually combine

<sup>14</sup> I refer to the approach of Schneider, Nullmeier and Hurrelmann (2007) which is the most elaborated in that field.

explanation and justification. Because the aim is to trace how rulers publicly 'make sense' of events and actions, standardized text analysis is problematic. Instead, interpretive methods are needed which regard the concrete situational and communicative context of speech-acts.

Second, beyond explicit (explanatory or justificatory) communication, David Beetham points to the role of 'actions which provide evidence of consent' (1991b: 18) – like citizens taking part in elections or subordinates swearing public oaths. Such actions bear a 'publicly symbolic or declaratory force, in that they constitute an express acknowledgment on the part of the subordinate of the position of the powerful' (Beetham 1991b: 18). Here, the 'belief in the existence of a legitimate order' is not instilled through justification, but by display to all society-members that the order of rule actually is valid – and to be counted on.

Third, Luhmann (1969) stresses the effect of legal procedures on the sense of a general willingness to accept decisions. He argues that, for example, legislation and due process fulfill a latent function of legitimation beside their 'visible' purpose. Through channeling communication they convey themselves as oriented toward the common good and diffuse conflicts by mitigating protest respectively. This latent legitimizing function of legal procedures, Luhmann argues, can account for the astonishing phenomenon of an 'almost motiveless' general acceptance of decisions in modern democracies (Luhmann 1969: 27-28).

c) The third aspect concerns the context of legitimation practice. On what condition are legitimations successful? What are the 'limits of tolerance' that separate the acceptable from the unacceptable in a society? Sociology of knowledge has drawn attention to the dialectics of the socio-cognitive formation structuring individuals' expectations and views and, at the same time, being reproduced and transformed by autonomous individual thought. This relation of a 'situational determination' of all thinking (*Seinsgebundenheit des Denkens*) (Mannheim 1936: 69) implies societal normative orders or the 'modern complexes of knowledge' (Habermas 1987: 398) as further object of analysis.

d) The last dialectics finally implies a fourth aspect to the study of legitimacy. The normative order that marks the boundaries for what is (on average) viewed as acceptable in a society is itself socially constructed. The 'limits of tolerance' for what is acceptable with regard to the political order are subject of steady socio-historical transformation. Accordingly, the historical development of the respective societal 'orders of thought' has to be traced.<sup>15</sup> This is a central line of argument in Jürgen Habermas' account of political legitimacy. He explains the democratic political order in western societies with a historical shift in their moral-practical normative order. According to that, a turn from a pre-modern to a modern structure of societal knowledge has changed those 'limits of tolerance' within which a political order is generally seen as normatively acceptable.<sup>16</sup>

These remarks have illustrated in what sense a more reflexive view of legitimacy implies a multi-perspectival analysis. However, I do not say that methods necessary

---

<sup>15</sup> Quentin Skinner's approach to the history of ideas is exemplary in that regard (see Skinner 1989; 2002).

<sup>16</sup> I adopt this perspective on Habermas' theory of law and democracy as part of a general social theory in Gaus (2009).



to conduct such an analysis are already at hand. It is for example still uncertain how to conduct a systematic empirical analysis of something like a society's normative order. However, my only aim has been to illustrate how the study of societies' constellations of individual beliefs has to be complemented. If legitimacy is understood as 'the general willingness to accept substantially still undetermined decisions within certain limits of tolerance' (Luhmann 1969: 28; my translation), then a full account of political legitimacy includes three dimensions that go beyond the mapping of individuals' beliefs: the analysis of social mechanisms of legitimation, a society's normative order and how that order has developed.

## Conclusion

In this paper I have suggested to strive for a more realist view in the study of political legitimacy that describes the 'way the social, economic, political, etc. institutions actually operate in some society at some given time' (Geuss 2008: 9). I have argued that two tendencies stand in the way of such a realist account of legitimacy. Firstly, there is a need for an empirical turn in the analysis of legitimacy to overcome a widespread ethics-first perspective. Instead of empirical analysis, studies frequently give evaluative descriptions and, as such, operate in the mode of normative-practical evaluation. Secondly, I have argued that the analysis of individuals' legitimacy beliefs is based on a view too narrow of legitimacy. In a more sociological, reflexive perspective I have described the dynamic normative structure of legitimacy in terms of an ongoing societal practice of legitimation. In this view different kinds of objects are related in the study of legitimacy: individuals' belief, acts and processes of legitimation as well as a society's normative order and its historical development.

To conclude, more realism in the study of legitimacy means – somewhat counter-intuitively – to overcome the empirical focus on beliefs, attitudes and compliant behaviour. It means to understand political legitimacy as a dynamic concept referring to a normatively structured societal practice of legitimation, the analysis of which requires the systematic combination of the perspectives of political theory, sociology and the history of ideas.

## References

- Abromeit, H. (2002) *Wozu braucht man Demokratie? Die postnationale Herausforderung der Demokratietheorie*. Opladen: Leske & Budrich.
- Barker, R. (2001) *Legitimizing Identities. The Self-Presentations of Rulers and Subjects*, Cambridge.
- (2007) 'Democratic Legitimation: What Is It, Who Wants It, and Why?', in A. Hurrelmann, S. Schneider and J. Steffek (eds) *Legitimacy in an Age of Global Politics*, Houndmills: Palgrave.
- Beetham, D. (1991a) 'Max Weber and the Legitimacy of the Modern State', *Analyse & Kritik*, 13(1): 34-45.
- (1991b) *The Legitimation of Power*, Houndmills: Palgrave.
- Berger, P. L. and Luckmann, T. (1966) *The Social Construction of Reality. A Treatise in the Sociology of Knowledge*, Garden City, NY.
- Biegoń, D., Gronau, J., Nonhoff, M., Nullmeier, F., Schmidtke, H. and Schneider, S. (2010) 'Diskurskulturen und die Legitimation (inter-)nationaler politischer Ordnungen. Mediale Legitimationsdiskurse in vier westlichen Demokratien', in A. Hepp, M. Höhn and J. Wimmer (eds) *Medienkultur im Wandel*, Konstanz.
- Borrás, S. and Conzelmann, T. (2007) 'Democracy, Legitimacy and Soft Modes of Governance in the EU. The Empirical Turn', *Journal of European Integration*, 29(5): 531-48.
- Bourricaud, F. (1987) 'Legitimacy and Legitimization', *Current Sociology*, 35(2): 57-67.
- Chrysochou, D.N. (2002) 'Civic Competence and the Challenge to EU Polity-Building', *Journal of European Public Policy*, 9(5): 756-73.
- Collier, D.F., Hidalgo, D. and Maciuceanu, A.O. (2006) 'Essentially contested concepts: Debates and applications', *Journal of Political Ideologies*, 11(3): 211-46.
- De Ruiter, R. (2010) 'EU Soft Law and the Functioning of Representative Democracy: the Use of Methods of Open Co-ordination by Dutch and British Parliamentarians', *Journal of European Public Policy*, 17(6): 874-90.
- Dryzek, J. (2005) 'Handle with Care: The Deadly hermeneutics of deliberative Instrumentation', *Acta Political*, 40(2): 197-211.
- Easton, D. (1965) *A Systems Analysis of Political Life*, New York: John Wiley & Sons.
- Enderlein, H. (2006) 'The Euro and Political Union: Do Economic Spillovers from Monetary Integration Affect the Legitimacy of the EMU?', *Journal of European Public Policy*, 13(7): 1133-1146.
- Estlund, D. (2008) *Democratic Authority. A Philosophical Framework*, Princeton.
- Gallie, W.B. (1956) 'Essentially Contested Concepts', *Proceedings of the Aristotelian Society*, 56: 167-98.
- Galston, W. (2010) 'Realism in political theory', *European Journal of Political Theory*, 9(4): 385-411.
- Gilley, B. (2006) 'The Meaning and Measure of State Legitimacy: Results for 72 Countries', *European Journal of Political Research*, 27(1): 47-71.
- Gaus, D. (2009) *Der Sinn von Demokratie. Die Diskurstheorie der Demokratie und die Debatte über die Legitimität der EU*, Frankfurt am Main .
- Geuss, R. (2008) *Philosophy and Real Politics*, Princeton: Princeton University Press.
- Habermas, J. (1976) 'Legitimation Problems in the Modern State', in J. Habermas (1984) *Communication and the Evolution of Society* [Translated by T. McCarthy], Cambridge: Polity Press.
- (1987) *The Theory of Communicative Action. Volume 2: The Critique of Functionalist Reason*, Cambridge.

- (2001) 'The Postnational Constellation and the Future of Democracy', in J. Habermas *The Postnational Constellation. Political Essays*, Cambridge.
- Héritier, A. (2003) 'Composite Democracy in Europe: the Role of Transparency and Access to Information', *Journal of European Public Policy*, 10(5): 814-833.
- Hodson, D. and Maher, I. (2002) 'Economic and Monetary Union: Balancing Credibility and Legitimacy in an Asymmetric Policy-mix', *Journal of European Public Policy*, 9(3), 391-407.
- Hooghe, L. (2003) 'Europe Divided?: Elites vs. Public Opinion on European Integration', *European Union Politics*, 4(3): 281-304.
- Höreth, M. (1999) 'No way out for the beast? The unsolved legitimacy problem of European governance', *Journal of European Public Policy*, 6(2): 249-268.
- Hurrelmann, A., Krell-Laluhová, Z., Schneider, S. and Wiesner, A. (2009) 'Why the democratic nation-state is still legitimate: A study of media discourses', *European Journal of Political Research*, 48(4): 483-515.
- Hurrelmann, A., Krell-Laluhová, Z. and Schneider S. (2005) 'Mapping Legitimacy Discourses in Democratic Nation-States: Great Britain, Switzerland, and the United States Compared', TranState Working Paper No. 24, Bremen.
- Hurrelmann, A., Schneider, S. and Steffek, J. (2007a) 'Conclusion: Legitimacy - Making Sense of an Essentially Contested Concept', in A. Hurrelmann, S. Schneider and J. Steffek (eds) *Legitimacy in an Age of Global Politics*, Houndmills: Palgrave.
- (2007b) 'Introduction: Legitimacy in an Age of Global Politics', in A. Hurrelmann, S. Schneider and J. Steffek (eds) *Legitimacy in an Age of Global Politics*, Houndmills: Palgrave.
- Kaase, M. and Newton, K. (1995) *Beliefs in Government*, Oxford.
- Kohler-Koch, B. (2000) 'Framing: the Bottleneck of Constructing Legitimate Institutions', *Journal of European Public Policy*, 7(4): 513-31.
- Lindgren, K.-O. and Persson, T. (2011) 'Input and Output Legitimacy: Synergy or Trade-off? Empirical Evidence from an EU Survey', *Journal of European Public Policy*, 17(4): 449-467.
- Luhmann, N. (1969) *Legitimation durch Verfahren*, Frankfurt am Main.
- Mannheim, K. (1936) *Ideology and Utopia*, London and Henley.
- Meyer, C. (1999) 'Political Legitimacy and the Invisibility of Politics: Exploring the European Union's Communication Deficit', *Journal of Common Market Studies*, 37(4): 617-39.
- Peter, F. (2008) *Democratic Legitimacy*, New York/London.
- (2010) 'Political Legitimacy', in E. N. Zalta (ed.) *The Stanford Encyclopedia of Philosophy* (Summer 2010 Edition), Available at: <<http://plato.stanford.edu/archives/sum2010/entries/legitimacy/>>.
- Peters, B. (2005) 'Public discourse, identity and the problem of democratic legitimacy', in E.O. Eriksen (ed.) *Making the European Polity. Reflexive Integration in the EU*, London: Routledge.
- Radaelli, C. M. and O'Connor, K. (2009) 'How bureaucratic élites imagine Europe: towards convergence of governance beliefs?', *Journal of European Public Policy*, 16(7): 971-989.
- Rucht, D., Koopmans, R. and Neidhardt, F. (eds)(1999) *Acts of Dissent. New Developments in the Study of Protest*, Lanham.
- Schäfer, A. (2006) 'Die demokratische Grenze output-orientierter Legitimation', *Integration*, 29(3): 187-200.
- Scharpf, F.W. (1971) *Demokratietheorie zwischen Utopie und Anpassung*, Konstanz: Universitätsverlag.

- (1999) *Governing in Europe: Effective and Democratic?*, New York: Oxford University Press.
- (2007) 'Reflections on Multilevel Legitimacy', MPIfG Working Paper 07/3, Köln.
- Schaub, J. (2010) 'Ideale und/oder nicht-ideale Theorie – oder weder noch? Ein Literaturbericht zum neuesten Methodenstreit in der politischen Philosophie', *Zeitschrift für philosophische Forschung*, 64(3): 393-409.
- Schmalz-Bruns, R. (2005) 'On the Political Theory of the Euro-Polity', in E. O. Eriksen, (ed) *Making the European Polity: Reflexive Integration in the EU*, Oxford.
- Schneider, S., Nullmeier, F. and Hurrelmann, A. (2007) 'Exploring the Communicative Dimension of Legitimacy: Text Analytical Approaches', in A. Hurrelmann, S. Schneider and J. Steffek, (eds) *Legitimacy in an Age of Global Politics*, Houndmills: Palgrave.
- Searle, J. R. (1962) 'Meaning and Speech Acts', *The Philosophical Review*, 71(4): 423-32.
- (1995) *The Construction of Social Reality*, London.
- (2002) 'Collective Intentions and Actions', in J. R. Searle *Consciousness and Language*, Cambridge.
- (2010) *Making the Social World. The Structure of Human Civilization*, Oxford.
- Simmons, A. J. (2010) 'Ideal and Nonideal Theory', *Philosophy and Public Affairs*, 38(5): 36.
- Skinner, Q. (1973) 'The Empirical Theorists of Democracy and Their Critics: A Plague on Both Their Houses', *Political Theory*, 1(3): 287-306.
- (1989) 'The state', in T. Ball, J. Farr and R.L. Hanson (eds), *Political Innovation and Conceptual Change*, Cambridge.
- (2002) *Vision of Politics. Vol. 1: Regarding Method*, Cambridge.
- Sleat, M. (2010) 'Bernard Williams and the possibility of a realist political theory', *European Journal of Political Theory*, 9(4): 485-503.
- Weber, M. (1978) *Economy and Society: An Outline of an Interpretive Sociology*. [Translated by G. Roth and C. Wittich], Berkeley: University of California Press.
- Wessels, B. and Katz, R. S. (1999) 'Introduction', in R. Katz and B. Wessels (eds) *The European Parliament, National Parliaments, and European Integration*, Oxford: Oxford University Press.
- Westle, B. (2007) 'Political Beliefs and Attitudes: Legitimacy in Public Opinion Research', in A. Hurrelmann, S. Schneider and J. Steffek (eds) *Legitimacy in an Age of Global Politics*, Houndmills: Palgrave.

## RECON Online Working Papers

2011/15

Daniel Gaus

### **The Dynamics of Legitimation**

Why the Study of Political Legitimacy Needs More Realism

2011/14

Erik Oddvar Eriksen and John Erik Fossum

### **Representation through Deliberation**

The European Case

2011/13

Nora Fisher-Onar

### **'Europe', 'Womanhood' and 'Islam'**

Re-aligning Contested Concepts via the Headscarf Debate

2011/12

Rainer Forst

### **Transnational Justice and Democracy**

2011/11

Petra Guasti

### **The Europeanisation of Parliaments in Central and Eastern Europe**

2011/10

Espen D. H. Olsen

### **European Citizenship**

With a Nation-State, Federal, or Cosmopolitan Twist?

2011/09

Hauke Brunkhorst

### **Cosmopolitanism and Democratic Freedom**

2011/08

Eric Miklin and Ben Crum

### **Inter-Parliamentary Contacts of Members of the European Parliament**

Report of a Survey

2011/07

John Erik Fossum

### **Nationalism, Patriotism and Diversity**

Conceptualising the National Dimension in Neil McCormick's Post-Sovereign Constellation

2011/06

Agustín José Menéndez

### **United they Diverge?**

From Conflict of Laws to Constitutional Theory? On Christian Joerges' Theory

2011/05

Olga Brzezińska, Beata Czajkowska and David Skully

### **Re-constructing Polish Identity**

Searching for a New Language

2011/04

Mihály Csákó

### **Education for Democracy in Hungarian Schools**

2011/03

Christopher Lord and Dionysia Tamvaki

### **The Politics of Justification?**

Applying the 'Discourse Quality Index' to the Study of the European Union

2011/02

Agustín José Menéndez

### **From Constitutional Pluralism to a Pluralistic Constitution?**

Constitutional Synthesis as a MacCormickian Constitutional Theory of European Integration

2011/01

Radostina Primova

### **Enhancing the Democratic Legitimacy of EU Governance?**

The Impact of Online Public Consultations in Energy Policy-making

2010/29

Maria Weimer

### **Policy Choice versus Science in Regulating Animal Cloning Under the WTO Law**

2010/28

Stefan Collignon

### **Fiscal Policy Rules and the Sustainability of Public Debt in Europe**

2010/27

Cathrine Holst

### **Martha Nussbaum's Outcome-oriented Theory of Justice**

Philosophical Comments

2010/26

Waltraud Schelkle, Joan Costa-i-Font and Christa van Wijnbergen

### **Consumer Choice, Welfare Reform and Participation in Europe**

A Framework for Analysis

2010/25

John Erik Fossum and  
Agustín José Menéndez  
**The Theory of Constitutional Synthesis**  
A Constitutional Theory for a  
Democratic European Union

2010/24

Raúl Letelier  
**Non-Contractual Liability for  
Breaches of EU Law**  
The Tension Between Corrective  
and Distributive Justice?

2010/23

Sara Clavero and Yvonne Galligan  
**Gender Equality in the European Union**  
Lessons for Democracy?

2010/22

Pieter de Wilde, Hans-Jörg Trenz  
and Asimina Michailidou  
**Contesting EU Legitimacy**  
The Prominence, Content and Justification  
of Euroscepticism During 2009 EP Election  
Campaigns

2010/21

Rainer Nickel  
**Data Mining and 'Renegade' Aircrafts**  
The States as Agents of a Global Militant  
Security Governance Network – The  
German Example

2010/20

David G. Mayes and Zaidah Mustaffa  
**Social Models in the Enlarged EU**

2010/19

Tess Altman and Chris Shore  
**Social Welfare and Democracy in Europe**  
What Role for the Private and Voluntary  
Sectors?

2010/18

Aleksandra Maatsch  
**Between an Intergovernmental and a  
Polycentric European Union**  
National Parliamentary Discourses on  
Democracy in the EU Ratification Process

2010/17

Erik O. Eriksen and John Erik Fossum  
**Bringing European Democracy back in**  
Or how to Read the  
German Constitutional Court's  
Lisbon Treaty Ruling?

2010/16

Jean L. Cohen  
**Constitutionalism Beyond the State**  
Myth or Necessity?

2010/15

Rainer Forst  
**Two Stories about Toleration**

2010/14

Zdenka Mansfeldová and Petra  
Rakušanová Guasti  
**The Quality of Democracy  
in the Czech Republic**

2010/13

Emmanuel Sigalas, Monika Mokre,  
Johannes Pollak, Peter Slominski  
and Jozef Bátora  
**Democracy Models and Parties  
at the EU Level**  
Empirical Evidence from the Adoption of  
the 2009 European Election Manifestoes

2010/12

Antje Wiener and Uwe Puetter  
**Informal Elite Dialogue and  
Democratic Control in EU Foreign and  
Security Policy**

2010/11

Erik Oddvar Eriksen  
**European Transformation**  
A Pragmatist Approach

2010/10

Justus Schönlaue  
**The Committee of the Regions**  
The RECON Models from a Subnational  
Perspective

2010/09

Asimina Michailidou and Hans-Jörg Trenz  
**2009 European Parliamentary Elections on  
the Web**  
A Mediatization Perspective

2010/08  
Kolja Möller  
**European Governmentality or  
Decentralised Network Governance?**  
The Case of the European Employment  
Strategy

2010/07  
Kjartan Koch Mikalsen  
**In Defence of Kant's League of States**

2010/06  
Nora Schleicher  
**Gender Identity in a Democratic Europe**

2010/05  
Christian Joerges  
**The Idea of a Three-Dimensional  
Conflicts Law as Constitutional Form**

2010/04  
Meltem Müftüler-Baç and  
Nora Fisher Onar  
**Women's Rights in Turkey as Gauge  
of its European Vocation**  
The Impact of 'EU-niversal Values'

2010/03  
Neil Walker  
**Constitutionalism and Pluralism in  
Global Context**

2010/02  
Dominika Biegon  
**European Identity Constructions in  
Public Debates on Wars and Military  
Interventions**

2010/01  
Federica Bicchì and Caterina Carta  
**The COREU/CORTESY Network and  
the Circulation of Information within  
EU Foreign Policy**

2009/19  
Rachel Herp Tausendfreund  
**The Commission and its Principals**  
Delegation Theory on a Common  
European External Trade Policy  
in the WTO

2009/18  
Marianne Riddervold  
**Making a Common Foreign Policy**  
EU Coordination in the ILO

2009/17  
Uwe Puetter and Antje Wiener  
**EU Foreign Policy Elites and  
Fundamental Norms**  
Implications for Governance

2009/16  
Emmanuel Sigalas, Monika Mokre,  
Johannes Pollak, Jozef Bátora and  
Peter Slominski  
**Reconstituting Political Representation  
in the EU**  
The Analytical Framework and  
the Operationalisation of the  
RECON Models

2009/15  
Meltem Müftüler-Baç and Yaprak Gürsoy  
**Is There an Europeanisation of  
Turkish Foreign Policy?**  
An Addendum to the Literature  
on EU Candidates

2009/14  
Maria Weimer  
**Applying Precaution in Community  
Authorisation of Genetically  
Modified Products**  
Challenges and Suggestions for Reform

2009/13  
Dionysia Tamvaki  
**Using Eurobarometer Data on Voter  
Participation in the 2004 European  
Elections to Test the RECON Models**

2009/12  
Arndt Wonka and Berthold Rittberger  
**How Independent are EU Agencies?**

2009/11  
Tanja Hitzel-Cassagnes and Rainer  
Schmalz-Bruns  
**Recognition and Political Theory:**  
Paradoxes and Conceptual Challenges of  
the Politics of Recognition

2009/10  
Hans-Jörg Trenz and Pieter de Wilde  
**Denouncing European Integration**  
Euroscepticism as Reactive Identity  
Formation

- 2009/09  
Pieter de Wilde  
**Designing Politicization**  
How Control Mechanisms in National  
Parliaments Affect Parliamentary Debates  
in EU Policy-Formulation
- 2009/08  
Erik Oddvar Eriksen  
**Explicating Social Action**  
Arguing or Bargaining?
- 2009/07  
Hans-Jörg Trenz, Nadine Bernhard  
and Erik Jentges  
**Civil Society and EU  
Constitution-Making**  
Towards a European Social Constituency?
- 2009/06  
Kjartan Koch Mikalsen  
**Regional Federalisation with a  
Cosmopolitan Intent**
- 2009/05  
Agustín José Menéndez  
**European Citizenship after  
Martínez Sala and Bambaust**  
Has European Law Become  
More Human but Less Social?
- 2009/04  
Giandomenico Majone  
**The 'Referendum Threat', the  
Rationally Ignorant Voter, and the  
Political Culture of the EU**
- 2009/03  
Johannes Pollak, Jozef Bátora, Monika  
Mokre, Emmanuel Sigalas and  
Peter Slominski  
**On Political Representation**  
Myths and Challenges
- 2009/02  
Hans-Jörg Trenz  
**In Search of Popular Subjectness**  
Identity Formation, Constitution-Making  
and the Democratic Consolidation of the  
EU
- 2009/01  
Pieter de Wilde  
**Reasserting the Nation State**  
The Trajectory of Euroscepticism in the  
Netherlands 1992-2005
- 2008/20  
Anne Elizabeth Stie  
**Decision-Making Void of Democratic  
Qualities?**  
An Evaluation of the EU's Foreign and  
Security Policy
- 2008/19  
Cathleen Kantner, Amelie Kutter and  
Swantje Renfordt  
**The Perception of the EU as an Emerging  
Security Actor in Media Debates on  
Humanitarian and Military Interventions  
(1990-2006)**
- 2008/18  
Cathrine Holst  
**Gender Justice in the European Union**  
The Normative Subtext of Methodological  
choices
- 2008/17  
Yaprak Gürsoy and Meltem Müftüler-Baç  
**The European Union's Enlargement  
Process and the Collective Identity  
Formation in Turkey**  
The Interplay of Multiple Identities
- 2008/16  
Yvonne Galligan and Sara Clavero  
**Assessing Gender Democracy in the  
European Union**  
A Methodological Framework
- 2008/15  
Agustín José Menéndez  
**Reconstituting Democratic  
Taxation in Europe**  
The Conceptual Framework
- 2008/14  
Zdzisław Mach and Grzegorz Pożarlik  
**Collective Identity Formation in the  
Process of EU Enlargement**  
Defeating the Inclusive Paradigm of a  
European Democracy?
- 2008/13  
Pieter de Wilde  
**Media Coverage and National  
Parliaments in EU Policy-Formulation**  
Debates on the EU Budget in the  
Netherlands 1992-2005



- 2008/12  
Daniel Gaus  
**Legitimate Political Rule Without a State?**  
An Analysis of Joseph H. H. Weiler's  
Justification of the Legitimacy of the  
European Union Qua Non-Statehood
- 2008/11  
Christopher Lord  
**Some Indicators of the Democratic  
Performance of the European Union  
and How They Might Relate to the  
RECON Models**
- 2008/10  
Nicole Deitelhof  
**Deliberating ESDP**  
European Foreign Policy and  
the International Criminal Court
- 2008/09  
Marianne Riddervold  
**Interests or Principles?**  
EU Foreign Policy in the ILO
- 2008/08  
Ben Crum  
**The EU Constitutional Process**  
A Failure of Political Representation?
- 2008/07  
Hans-Jörg Trenz  
**In Search of the European Public Sphere**  
Between Normative Overstretch and  
Empirical Disenchantment
- 2008/06  
Christian Joerges and Florian Rödl  
**On the "Social Deficit" of the European  
Integration Project and its Perpetuation  
Through the ECJ Judgements in  
*Viking* and *Laval***
- 2008/05  
Yvonne Galligan and Sara Clavero  
**Reserching Gender Democracy in  
the European Union**  
Challenges and Prospects
- 2008/04  
Thomas Risse and Jana  
Katharina Grabowsky  
**European Identity Formation in the  
Public Sphere and in Foreign Policy**
- 2008/03  
Jens Steffek  
**Public Accountability and the Public  
Sphere of International Governance**
- 2008/02  
Christoph Haug  
**Public Spheres within Movements**  
Challenging the (Re)search for a European  
Public Sphere
- 2008/01  
James Caporaso and Sidney Tarrow  
**Polanyi in Brussels**  
European Institutions and the  
Embedding of Markets in Society
- 2007/19  
Helene Sjursen  
**Integration Without Democracy?**  
Three Conceptions of European  
Security Policy in Transformation
- 2007/18  
Anne Elizabeth Stie  
**Assessing Democratic Legitimacy  
From a Deliberative Perspective**  
An Analytical Framework for Evaluating the  
EU's Second Pillar Decision-Making System
- 2007/17  
Swantje Renfordt  
**Do Europeans Speak With  
One Another in Time of War?**  
Results of a Media Analysis  
on the 2003 Iraq War
- 2007/16  
Erik Oddvar Eriksen and  
John Erik Fossum  
**A Done Deal? The EU's Legitimacy  
Conundrum Revisited**
- 2007/15  
Helene Sjursen  
**Enlargement in Perspective**  
The EU's Quest for Identity
- 2007/14  
Stefan Collignon  
**Theoretical Models of Fiscal  
Policies in the Euroland**  
The Lisbon Strategy, Macroeconomic  
Stability and the Dilemma of  
Governance with Governments

2007/13

Agustín José Menéndez

**The European Democratic Challenge**

2007/12

Hans-Jörg Trenz

**Measuring Europeanisation of Public Communication**

The Question of Standards

2007/11

Hans-Jörg Trenz, Maximilian

Conrad and Guri Rosén

**The Interpretative Moment of European Journalism**

The Impact of Newspaper Opinion Making in the Ratification Process

2007/10

Wolfgang Wagner

**The Democratic Deficit in the EU's Security and Defense Policy - Why Bother?**

2007/09

Helene Sjursen

**'Doing Good' in the World?**

Reconsidering the Basis of the Research Agenda on the EU's Foreign and Security Policy

2007/08

Dawid Friedrich

**Old Wine in New Bottles?**

The Actual and Potential Contribution of Civil Society Organisations to Democratic Governance in Europe

2007/07

Thorsten Hüller

**Adversary or 'Depoliticized' Institution?**

Democratizing the Constitutional Convention

2007/06

Christoph Meyer

**The Constitutional Treaty Debates as Revelatory Mechanisms**

Insights for Public Sphere Research and Re-Launch Attempts

2007/05

Neil Walker

**Taking Constitutionalism Beyond the State**

2007/04

John Erik Fossum

**Constitutional Patriotism**

Canada and the European Union

2007/03

Christian Joerges

**Conflict of Laws as Constitutional Form**

Reflections on International Trade Law and the *Biotech* Panel Report

2007/02

James Bohman

**Democratizing the Transnational Polity**

The European Union and the Presuppositions of Democracy

2007/01

Erik O. Eriksen and John Erik Fossum

**Europe in Transformation**

How to Reconstitute Democracy

## **Reconstituting Democracy in Europe (RECON)**

RECON seeks to clarify whether democracy is possible under conditions of complexity, pluralism and multilevel governance. Three models for reconstituting democracy in Europe are delineated and assessed: (i) reframing the EU as a functional regime and reconstituting democracy at the national level; (ii) establishing the EU as a multi-national federal state; or (iii) developing a post-national Union with an explicit cosmopolitan imprint.

RECON is an Integrated Project financed by the European Commission's Sixth Framework Programme for Research, Priority 7 – Citizens and Governance in a Knowledge-based Society. Project No.: CIT4-CT-2006-028698.

Coordinator: ARENA – Centre for European Studies, University of Oslo.

Project website: [www.reconproject.eu](http://www.reconproject.eu)

### **RECON Online Working Paper Series**

The Working Paper Series publishes work from all the researchers involved in the RECON project, but it is also open to submissions from other researchers working within the fields covered by RECON. The topics of the series correspond to the research focus of RECON's work packages. RECON Online Working Papers are widely circulated and included in online social science databases. Contact: [admin@reconproject.eu](mailto:admin@reconproject.eu).

### **Editors**

Erik O. Eriksen, *ARENA – University of Oslo*

John Erik Fossum, *ARENA – University of Oslo*

### **Editorial Board**

Ben Crum, *Vrije Universiteit Amsterdam*

Zdzislaw Mach, *Jagiellonian University Krakow*

Yvonne Galligan, *Queen's University Belfast*

Agustín José Menéndez, *University of León*

Christian Joerges, *University of Bremen*

Helene Sjursen, *ARENA – University of Oslo*

Ulrike Liebert, *University of Bremen*

Hans-Jörg Trenz, *ARENA – University of Oslo*

Christopher Lord, *ARENA – University of Oslo*

Wolfgang Wagner, *Vrije Universiteit Amsterdam*