DEMOCRACY PARADOX:

TRENDS OF LEGITIMACY AND NEW SOURCES OF AUTHORITY

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Abstract

Political powers of our age justify their rule on the basis of the general sources of legitimacy: meritocracy and legality. Besides these their legitimacy can be built on other, specific sources, like participation in decision-making, deliberation, or on non-democratic sources like expertise, the fostering of collective well-being, the protection of individual rights and accountability.

Concerning these six specific sources of legitimacy, a clear shift can be observed from the democratic sources towards the other sources of legitimacy. This process can be followed through the analysis of western democracies, rising authoritarian regimes (like China) or international institutions as well.

Democracy paradox means that while democracy is generally accepted and still serves as the basic principle of polities, powerful political authorities justify their rule not in terms of democratic legitimacy, but on the basis of other sources of legitimacy. *Michael Zürn* predicts that as a consequence of the democracy paradox the issue of legitimation of authority will come back into the foreground of political debates.

Keywords: legitimacy, democracy paradox, specific sources of legitimacy, rise of authoritarian regimes, international institutions, majoritarian institutions, trust in political systems

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Professor Michael Zürn, Director of the Research Unit "Transnational Conflicts and International Institutions" at the Social Science Research Center Berlin (WZB) gave a lecture entitled „*The Democracy Paradox: The Erosion of Democracy as we Knew It and Rebirth of the Quest for Good Political Order*" on February 20, 2012 at Central European University (CEU) in Budapest. According to *Prof. Zürn*'s main argument, looking at different sources of legitimacy that justify political rule, we see a permanent shift from traditional democratic sources of legitimacy to other sources of legitimacy.

In the lecture the term *legitimacy* is used in a narrow sense, as political legitimacy. *Prof. Zürn* distinguishes it from the expression 'legitimate', as legitimacy is pointing to processes: to justifications or to the questioning of justifications. He also calls attention to the 'double coding' (normative and descriptive) of legitimacy (Zürn 2004:260–287): it can refer to the normative worthiness of a political order, but at the same time (in *Weber*'s terms) to the *belief in legitimacy* (Ansell 2001:8705). Thus in a normative sense a system's legitimacy is not defined by the extent people like it or believe in its legitimacy, rather by how much it acts in a way that it is compatible with the basic beliefs of the society.

According to *Prof. Zürn* there is no possibility to justify a political rule without saying that it serves the common good of the society to some extent. Therefore political actors who have the right to make decisions for a collectivity, justify their acquisitions in something like the common good: for example, the government has to make it plausible that its decision serves the common good.

In modernity the distinction between decision makers and decision takers cannot be based any more on tradition. There are general sources of legitimacy that are almost necessarily present before a political authority can be labelled as legitimate; *prof. Zürn* mentions *meritocracy* and *legality* among them. In meritocracy the above mentioned distinction is based on some form of competence, while legality means that the majority rule has to be carried out via transparent law. Meritocracy is the counterpoint of traditions; legality is directed against arbitrariness. These sources of legitimacy cannot be substituted by other alternatives.

Contrarily the specific sources of legitimacy can be replaced by each other, and are not necessary conditions as the former two. Prof. Zürn mentions six of them (Zürn 2010:267):

a) *Expertise.* Political powers that are impartial towards given interests of a society gain their legitimacy from effective problem-solving that is based on scientific knowledge.

b) *Fostering of collective well-being.* If the rulers can justify their decisions by helping a collective to move up (relatively to others), that increases the legitimacy of the ruling group. Normatively this is the most problematic resource of legitimacy, since it involves elements of exclusion, but it clearly helps leaders to increase the legitimacy of their authority.

c) *Protection of individual rights.* This is a very liberal form of legitimacy and has a strong connection with individualism.

d) *Accountability of power-holders.* Accountability can be legal or electoral. Accountability in itself does not mean democracy: according to the lecturer's example, Josef Ackermann, the Chief Executive Officer of Deutsche Bank is accountable to the shareholders, yet the Deutsche Bank is not a democratic institution.

e) *Participation in decision-making.* This is the first really democratic source of legitimation, and it is based on the idea that those who are affected by the decision should have a chance to participate in the decision-making. Participation can take place in the form of direct participation or in the form of representation.

f) *Deliberation.* Democracy is more than participation in decision-making: is also a public reflection on what the common good is and how we achieve it.

Fritz Scharpf calls the first three *output legitimacy,* that refers to the problem-solving quality of laws and rules. The other three belong to the category of *input legitimacy* (Risse 2010:8-9).

Having said all that, *prof. Zürn* argues that while the general sources of legitimacy are still seen as absolutely necessary sources for the legitimacy of any political authority, we see a shift in the use of the specific sources of legitimacy; a shift away from the two originally democratic sources of legitimacy towards the other four. This shift is present in the OECD parliamentary systems, in world politics in the sense that authoritarian states that are also not based on democratic legitimacy become more important, and in international institutions that also become more important and are also not primarily based on democratic legitimacy but rather on expertise or the protection of individual rights.

In the OECD member states, in *western democracies* this tendency is expressed by the crisis of majoritarian institutions. There is a general agreement among political scientists that there has been a radical decline in the last three decades in terms of memberships in parties, voter turnout, trust in parties and also trust in parliaments; so the declining elements of political systems are the ones which decide on the basis of majorities. Surveys[1] concerning trust in certain political institutions in OECD countries show that parliaments and parties are the least trusted institutions, while supreme courts, central banks and presidents are more popular. However, it is important to note that in all of these western democracies the trust in the political systems as a whole has not decreased. Therefore it seems that the high trust in the political sphere is deriving from non-majoritarian institutions like supreme courts or central banks. So we see shift in what people believe the legitimate institutions are, and the shift points to non-majoritarian sources of legitimacy. This process takes place with a historical background. Between 1990 and 2008, 84 countries in the world have passed legislation to support the independence of the central bank. Another broadly occurring reform is the strengthening of the constitutional status of supreme courts. It seems that these changes are welcomed by the people since they like these institutions more than the democratic ones. So according to *prof. Zürn's* argument there is a shift towards the non-majoritarian institutions that is accompanied by a high level of trust in these institutions.

The second example is the *rise of authoritarian regimes.* Not all of the rising states of our age are authoritarian, but (despite of Fukuyama's prediction) history did not come to an end[2], and mainly China is responsible for this. A state appeared on the international stage that manages to be different from the western political systems and is successful at the same time. This distinguishes China, at least in the last twenty or thirty years, from the soviet type of socialism. Meanwhile to some extent it challenges the western belief in the close relationship between the market and democracy: it became clear that it is possible to create a successfully functioning, prospering market without democracy. In China we saw a 150% growth in the last

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[1] For example World Values Study 1999-2000, OECD Countries.
[2] Like Francis Fukuyama predicted in *The End of History and the Last Man* in 1992.

decade, which means that between 1996 and 2004, in eight years 200 million people's standard of living exceeded the poverty line. More people were lifted out of poverty than in all of the 20th century. China's success points to the fact that a country's political system can legitimize itself by serving the common good. We are not talking about Gaddafi sort of despots in China, but about a political system that is not democratic, that ignores and violates human rights, but is still able to justify itself on the basis of the common good. This is also reflected in the fact that there is a relatively high trust in the political system. It is no coincidence that to some extent China starts to be a role model to other developing countries, and it gives China a more confident stance on the international stage. This can be observed in the leader's rhetoric's: while five or six years ago they visited the west in order to „learn something for their country", now they say they come „so we can learn from each other". But *prof. Zürn* calls attention to the limits of this confidence and the legitimacy of the Chinese system; according to his example the Arab spring made Chinese leaders nervous and at that time they increased repression at home.

A political leadership that contributes to such an extent to the elimination of poverty cannot be put in the same category as the despots of other authoritarian regimes, because by the fostering of the common good, by expertise and by the assignment of the necessary policies they legitimize their power and serve as an example to other rising states. As a matter of fact in the last decades there is a general trend in Asia: enlightened leaders govern their country in an authoritarian way, not caring about individual rights, being successful to some extent and having the support of the people. A typical example is Singapore. So the main point is that these political actors of the world have an increased importance while their power is not primarily based on democratic legitimacy.

The *rise of political authority beyond the nation state* can be mentioned as a third example. Like in the previous examples, the rising powers here are the international institutions, which are considered as legitimate actors of the world politics, but they do not justify themselves on the basis of democratic legitimacy. Of course the EU is the major example of a strong international institution which possesses authority of its own, but essentially the question is much more extensive. In 1970, 8 000 multilateral treaties were notified at the United Nations; today this number is 64 000. This significant rise is not only quantitative, but also qualitative, as we can see several examples of the delegation of powers. Some international institutions possess authority to make compulsory decisions without the consent of all participating states. This fundamentally undermines the consensus-based traditions of international politics and the basic principle of sovereignty. Also a typical tendency is the extension of majority voting in international institutions, which means that in most cases there is someone in the minority who has to do something which they have not agreed to. 60% of all international institutions posses mechanisms that require vote via majority, although they do not use it all the time: there is always an attempt to try to find consensus, and they majority voting is used in only about 20% of the cases. Another trend is that the monitoring of certain policies is being transferred to transnational institutions. A classic example is the *Intergovernmental Panel on Climate Change* that is responsible for authoritatively interpreting the state of knowledge and for translating it into policies. There are many more institutions playing an important role in monitoring, like *WWF*, the *Greenpeace* or the *Human Rights Watch* etc.

Consequently we see that in the last decades international institutions became more and more important, and like in the previous two cases, this process is also welcomed by the people. *Prof. Zürn* says that in Germany people believe international institutions have a decision-making capacity, are important and necessary, and although people view their decisions critically, there is relatively high basic trust in these institutions. Germany is not an exception in that sense. For example usually people trust the United Nations to a high degree: on a worldwide scale 55-56% of the respondents say they trust the UN[3]. Of course the support for the international institutions is also limited, for example by various counter movements, but still these institutions possess a certain level of legitimacy.

Altogether we see that in the last decades there are new institutions and political entities which became more powerful, and undoubtedly they need some sort of legitimation, but they either do not or cannot legitimize their power on the basis of the democratic sources of legitimacy, so they turn to other sources of legitimacy like expertise, the protection of individual rights, accountability or the serving of the common good. That leads to something that *prof. Zürn* calls the *democracy paradox*: while democracy is generally accepted and still serves as the basic principle of polities, powerful political authorities justify their rule not in terms of democratic legitimacy, but on the basis of other sources of legitimacy.

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[3] For example "Voice of the People" Survey, 2002, Gallup

The lecturer's prediction is that as a consequence of the democracy paradox the issue of legitimation of authority will come back into the foreground of political debates. Since the legitimacy of democracy-based, globally accepted political organizations and the legitimacy of rising, important, non-democratic political actors are fundamentally conflicting, the question of how to legitimize political authority will become more important again. In our age of course there are policy issues that seem to be more important, for example energy crisis or climate change, but ultimately these problems also point to the question of the appropriate legitimacy of political authority. The time perspective that is needed to resolve these problems exceeds the logic of electoral competition. Another factor that also should be considered is that main social issues of the 20th century were congruent with the common good, but today's situation is different. The short-term interests of the majority are working against the solution of policy problems like energy crisis or climate change. In that sense the common good and people's (selfish) interests are contrary to one another, leading to a situation in which people feel the need to have non-majoritarian institutions in order to avoid certain crises. This is one possible explanation of the shift concerning the sources of legitimacy.

According to prof. Zürn there are two mechanisms in favor of democratic legitimation that are working against the decline of majoritarian institutions, thus they set limits to the previous argument. It has to be taken into account that the popular non-majoritarian institutions of our age (like supreme courts or central banks) are embedded into a majoritarian democratic political order. For example a world supreme court that is not embedded into a political system probably would not be trusted to a high degree. It is also important to note that when in authoritarian states or in international institutions the sources of legitimacy are in conflict with the majority thinking, it always creates resistance and increases the demand for participation in decision-making. And if we are really moving into an era in which the issue of legitimation of authority will come back into the foreground, the only sphere in which a long-term, sustainable consensus can be formed is the public sphere, and that leads us back to the democratic sources of legitimacy.

Afterword

The greatness of *prof. Zürn's* lecture lies in the fact that he points to the limits and the central role of democracy at the same time. We know since the famous saying[4] of Winston Churchill that democracy is by no means an ideal form of governing, and even if challengers appear from time to time, since the antiquity the mankind have not yet found a better substitute. Although today trends of legitimacy do not lean towards it, without a realistic alternative it would be to early to speak about the final decline of democracy.

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[4] „Democracy is the worst form of government, except for all those other forms that have been tried from time to time." (House of Commons, November 11, 1947)