International Relations are no longer a matter primarily for nation-states. International organizations and supranational institutions have taken root as well. Nongovernmental actors participate in political processes, and national publics closely follow developments outside their own countries. The interplay of national and supranational policies, issues surrounding the juridification of international relations, and questions of global governance, are examined at the WZB predominantly in the Research Area on International Politics and Law.

The Disappearing Power of Majorities
Why Conflicts over Legitimation Will Increase in Democracies

Michael Zürn

In fall 2012, Germany's Federal Constitutional Court ruled that the European Stability Mechanism (ESM) is compatible with the German Basic Law. The Court's decision was only superficially about whether Germany is permitted to contribute money to save the euro. In fact, it was really about the distribution of authority: Would the transfer of certain competencies to a European institution violate the Basic Law by restricting the German Parliament's authority over budgetary law? This issue is part of a broader challenge for modern democracies about the extent to which the competencies of an elected parliament can be transferred to a panel of experts that gains its legitimacy because of its economic or legal expertise instead of through popular participation.

In recent decades, research on comparative democracies has diagnosed a slackening of political participation. Since the late 1960s, in all countries belonging to the Organization for Economic Cooperation and Development (OECD), electoral participation and numbers of political party members have dropped noticeably; party politicians, governments and parliaments are all less trusted. A 2009 survey conducted in Germany by *Infratest dimap* about trust in institutions found that only 23 percent of Germans have "very great" or "great" trust in their political parties—putting parties at the tail end of institutions included in the survey.

Germany is not a special case. In the USA and the European Union (EU), political parties were the least trusted of public institutions—even less than large companies and the media. Parliaments are also far down the list, averaging fourth from last in a list of 12 public institutions. At the same time, institutions such as central banks and constitutional courts that are authorized to make decisions affecting all of society but which do not take part in any political competition clearly have better reputations than core democratic institutions. This was true for all 22 countries in the 2008 European Social Survey, which found that legal systems were much more trusted than parliaments and political parties.

Summary: Inherently democratic sources of political legitimacy are declining in significance; unelected bodies and decision-makers are becoming increasingly important. The authority of courts and central banks, as well as international organizations and regimes, is largely accepted while trust is sinking in political parties and parliaments. This shift appears to be weakening the foundation of democracy's legitimacy and will increase reflexive conflicts about fundamental issues regarding democracy: What are the sources of political authority? Who has the right to exercise political authority?

This data about attitudes is strikingly reflected in institutional reality. The significance of institutions that do not follow majority rule but rather make collectively binding decisions based on expertise has clearly increased. Worldwide, independent central banks have gained in significance in recent decades: after gradually being introduced in many countries—and, with the European Central Bank, throughout the EU as well—their independence was reinforced. Between 1990 and 2008, 84 countries passed laws strengthening the formal autonomy of central banks. As monetarism gained acceptance, monetary policy also assumed greater importance in the toolkit of economic management.

At least as significant is the increased importance of constitutional courts that in recent decades have been strengthened in over 80 countries—along with central banks. Both cases concern non-majoritarian institutions that can be termed 'expertocratic' since their right to exercise authority is not based on citizen participation, but rather on the specialized knowledge of their expert panels (epistemic authority).

The shift of relevance and trust from democratic majoritarian institutions to institutions that have mostly been legitimized by technocrats has also been pushed by developments beyond the nation state. In reaction to the societal process of denationalization, a dense web of international regulations and organizations has grown that, in quality and quantity, stand out from long-established international institutions. The EU, for example, is a political institution that exercises autonomous authority and is respected as legitimate and important, yet justifies itself only secondarily with reference to the basic sources of democratic legitimacy.

Many other international institutions are also becoming deeply engaged in domestic affairs, thereby subverting democratic sovereignty. International institutions can evade interstate consensus by making decisions through a form of majority voting or the informal dominance of hegemonic powers. Furthermore, countries are increasingly delegating their competencies to international organizations. In this way, the World Bank and other international organizations are able to implement policies independently. But transnational and international institutions also play significant roles in other stages of the policy process. *Monitoring* the implementation of international norms is often assumed by transnational non-governmental organizations (NGOs) like Human Rights Watch, and is no longer left to reporting by the country in question. Should disputes about compliance arise in the course of controls, it is now usual to delegate resolution of the conflict to an international tribunal for arbitration.

In order to exercise authority, international institutions must be legitimated. Generally, these international institutions enjoy a remarkable degree of recognition: in western consolidated democracies, the United Nations (UN) enjoys more political trust than national political parties and parliaments. Worldwide, 49.2 percent of respondents positively assess the UN (trusting it "a great deal" or "quite a lot"); when EU members are excluded, this figure drops slightly to 48.1 per cent.

Data about how international institutions are assessed in Germany clearly show that citizens consider it desirable for international institutions to solve problems caused by globalization, and ascribe these institutions considerable influence in terms of real politics. It is not surprising that Germans judge the legitimacy of big international organizations like the EU and the UN by the same criteria used for national political systems, and rate them much like their national political system.

However, the legitimacy of international institutions that is expressed by this data is not based on the direct political participation of those affected by the regulations or on public deliberations. International institutions do not provide opportunities for direct political participation—aside from the consultation mechanisms of transnational NGOs. With the exception of the European Parliament, international institutions do not hold direct elections, and international public deliberation is not very developed. Essentially, international institutions

Michael Zürn is the director of the Global Governance research unit and Professor of Transnational Conflicts and International Institutions at the Free University of Berlin. He is also the co-director of the WZB Rule of Law Center. He mostly researches about the theory and political sociology of international relations. *[Photo: David Ausserhofer]*
michael.zuern@wzb.eu

base their claims of legitimacy largely on their expertise and impartiality, and partly on the protection of individual rights. This development substantiates the shift in meaning to the detriment of the primary sources of democratic legitimation.

Political institutions that once justified themselves through participation, majority decisions and publicness (through parliaments, political parties and governments) are losing ground to institutions such as those mentioned above that either justify themselves technocratically (based on expertise, problem-solving and accountability) or liberally (based on the defense of individual rights and legality). Worldwide, technocratic and liberal institutions have gained in significance and enjoy much more trust and support than those that primarily justify themselves as being democratic majoritarian institutions.

This has resulted in a paradox of democracy. At the level of the general political regime or the whole political system, the principle of democracy is upheld worldwide, although political systems authorize political institutions that do not appear to be inherently democratic.

As a result, we increasingly see conflicts about reflexive legitimation, that is, conflicts over which justification is appropriate for which form of political authority. In such reflexive legitimation conflicts not just the "What" (What counts as the more effective basis for legitimation?) must be disputed, but also the "Who" (Who decides?) and the "How" (How and under which conditions can we answer these questions and institutionalize the answers?).

My explanation for this development is that the current structural deficits of majority decisions in democratic institutions challenge a society's normative core beliefs. This thesis opposes two variations of the crisis thesis that is discussed in comparative political science, and considers that the crisis of trust is caused by a growing gap between democratic claims. One school of thought is represented by, for example, Pippa Norris's thesis of "critical citizens," whose claims of democracy are excessive; another is offered by Colin Crouch's writings on "post-democracy," in which he refers to the elites' (un-)democratic practices as the reason for the gap between claim and reality.

The thesis about the aforementioned conflicts regarding reflexive legitimation states that, notwithstanding the principled approval for this method of decision-making, the inherently democratic decisions in democracies are increasingly producing results that contradict society's normative fundamental convictions.

Two structural deficits of majority decisions result from the current blurring of the boundaries of time and space. First, we know more today about the long-term effects of decisions and experience the blurring of time. This greatly shortens the timeframe of a politics that is dependent on voting. Whether it is about the public debt, the neglect of education or climate change, most beneficiaries of the status quo appear very willing to block necessary changes at the expense of minorities and future generations.

These cases point to a new relationship between majority decision-making and problem-solving. The major social issues of the 20th century could be solved through majority decisions; in a welfare state, the majority's short-term interests corresponded with the vision of long-term social welfare. It is precisely this relationship that seems to have become at least partly perverted: majority interests are often special vested interests that will prove costly for the common good and future generations.

Second, given the denationalization of structures for social action—that is, the blurring of spatial boundaries—the national level seems to be too limited for political processes that concern the common good. Let us assume that the judges in Karlsruhe had ruled that the ESM required a referendum for a constitutional amendment in Germany. Such a decision would have had wide-ranging effects on all of Europe. But such a unilateral decision violates the principle of

democratic legitimacy if it is understood to mean that everyone affected by a decision should have a say.

The euro zone is not uniquely affected. Is a majority decision in the United States to not lower CO_2 emissions still democratic when it means that Pacific Islands dwellers will lose their homes? In the age of globalization, not only do the national policies of democratic states lose their effectiveness—often they are no longer capable of reaching their goals without international cooperation—but their perceived normative dignity also suffers.

Majority decisions in democratic states are not just sometimes incorrect and wrong—like all decisions, they have always been. Rather, in a denationalized knowledge world, the defective condition is increasingly systemic. That could be the explanation—though not the justification—why, worldwide, the inherent democratic legitimation of majority decisions seems to be diminishing compared with technocratic and liberal legitimation, and why citizens seem to welcome the weakening of majority decision-making democratic methods although they still champion democracy as an organizing principle.

References
Beetham, David: The Legitimation of Power. Atlantic Highlands: Humanities Press International 1991.

Crouch, Colin: Postdemocracy. Frankfurt a. M.: Suhrkamp 2008.

Guggenberger, Bernd/Offe, Claus (Eds.): An den Grenzen der Mehrheitsdemokratie [At the Limits of Majoritarian Democracy]. Opladen: Westdeutscher Verlag 1984.

Hay, Colin: Why We Hate Politics. Cambridge: Polity Press 2007.

Norris, Pippa: Democratic Deficit: Critical Citizens Revisited. Cambridge: Cambridge University Press 2011.

Zürn, Michael: "Autorität und Legitimität in der postnationalen Konstellation [Authority and Legitimacy in the Postnational Constellation]." In: Anna Geis/Frank Nullmeier/Christopher Daase (Eds.): Der Aufstieg der Legitimitätspolitik. Rechtfertigung und Kritik politisch–ökonomischer Ordnungen [The Rise of the Policy of Legitimacy. Justification and critique of the political–economic orders]. Leviathan Sonderband 40/27 [Leviathan Special Volume]. Baden–Baden: Nomos 2012, pp. 41–62.