

Democracy under Stress Do Elections Guarantee Legitimacy?

Sascha Kneip and Wolfgang Merkel

Nowadays “elections are primitive and a democracy that reduces itself to elections is in mortal decline,” states Belgian historian David Van Reybrouck in his recently much-acclaimed book “Against Elections.” What are we to think of this? If we ask people in Western democracies what they most readily associate with the concept of democracy, in general, the right to vote in free, fair, and equal elections is the first thing that occurs to them. In fact, in their whole lives as *citoyens*, most people are unlikely to come any closer to democratic governance than in the democratic act of voting. By electing representatives, they are participating directly in the production of democratic legitimacy.

In representative democracies, the authorization of political power is essentially legitimated by means of the free, equal, and universal election of political parties and individuals. Loaded with republican pathos, we could say that collective democratic self-determination reaches its legitimate – albeit always provisional – culmination in the democratic act of voting.

However, this pathos may ring hollow. Falling voter turnout, waning confidence in political parties, diminishing party power and reputation, public demand for direct democratic procedures and democratic innovation, a perceived decline in the accountability of elected representatives, and shrinking party membership give rise to doubts on the adequate functioning of elections with regard to democratic legitimation. David Van Reybrouck even argues that elections should not be understood as the “crowning moment” of democracy but rather as the cause of a modern “democratic fatigue syndrome.” Elections, he claims, are elitist, aristocratic, and thus stand for the opposite of equal participation.

Are there alternatives to elections?

With much variation, other prominent political scientists like Colin Crouch, John Keane, Pierre Rosanvallon, and Wolfgang Streeck have also bewailed the failing legitimacy force of the democratic act of voting. But do these lamentations get to the heart of the political problem – let alone, do they offer alternatives to elections and parties? To find an answer, we first have to agree on the meaning of democratic legitimacy in the twenty-first century and on the roles that elections, parties, and necessarily also parliaments are playing, must play, and can play.

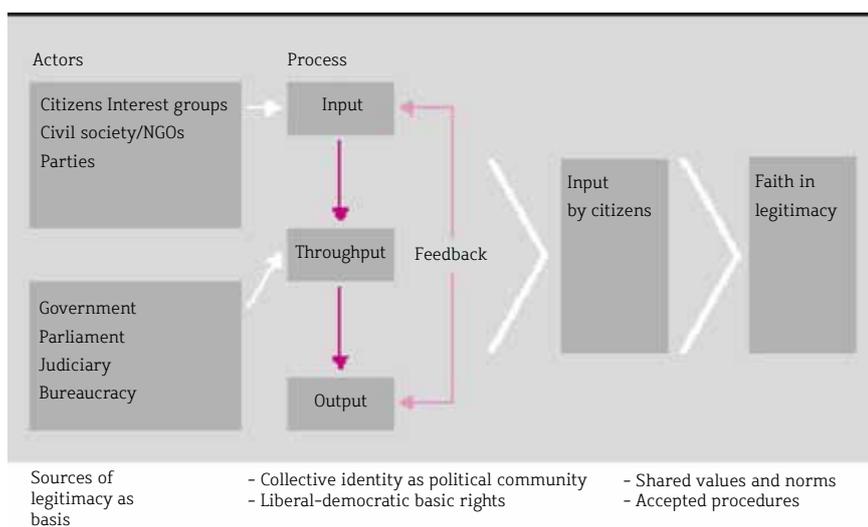
The functioning of modern democracy depends not least on its ability to incessantly regenerate democratic legitimacy – and thus itself. If the wellsprings of democratic legitimacy dry up or are supplanted by undemocratic alternatives, democracies inevitably plunge into a crisis of legitimacy. This does not have to result in regime change or a collapse of democracy. An internal erosion of democracy or certain aspects of democracy is more likely, at least within the OECD world. This could imply a shift of decision-making power from elected representatives to experts or to citizens randomly chosen by lot.

In abstract terms, democratic legitimacy is characterized by a combination of the idea of ethical individualism – the free and self-determined individual as the reference point for all considerations – with the notion of popular sovereignty. Popular sovereignty is contained by a constitutional order that declares freedom, equality as well as basic and human rights sacrosanct.

Summary: Decreasing electoral turnout, a dramatic decline in party membership, and waning confidence in democratic representatives increasingly call the reputation of democratic elections into question. Sometimes it is even claimed that electoral democracy is doomed to die. This apocalyptic view disregards the fact that elections remain *the* central legitimating mechanism of democracy – and that the alternatives discussed to date (direct democracy; representation by lot, by unelected experts or by NGOs) pose even greater legitimacy problems than the – admittedly imperfect – democratic election mode.

Institutions and procedures are thus closely tied to the normative substance of democratic orders. They have to be under constant scrutiny concerning the extent to which they are and remain consistent with this substance and translate it into actual policies. This applies particularly to fundamental democratic procedures, actors, and institutions such as universal elections, parties, and parliaments – all of them political inventions of the seventeenth to nineteenth centuries. They are under no guarantee of perpetuity. In the twenty-first century they will have to prove again that they are able to support and pursue the normative essence of democratic governance, namely collective self-government by individuals under the protection of the rule of law, and that they have not degenerated into simulative façades without substance, dominated by actors without legitimacy.

The factual production of democratic legitimacy is achieved through interaction between citizens and politicians, procedures and institutions, and the outcomes of decision-making processes. Retrospective and prospective evaluation of these procedures, institutions, and decisions by the citizens themselves plays an important role (see the figure). However, acceptance by the citizens alone does not suffice. Every single institution, every political actor has to be subjected to constant scrutiny on the basis of the underlying normative assumptions of democratic governance. For example, it is not sufficient democratic legitimation for the defective democratic regime in Hungary that a majority of the Hungarians approves in elections the illiberal mode of government pursued by prime minister Viktor Orbán. This is all the more true for the elected but nevertheless authoritarian governments of Putin and Erdoğan.



Source: Kneip and Merkel (2017)

If we understand the democratic political process as an interlocking sequence of input, throughput, and output, democratic elections undoubtedly have their place at the heart of the input dimension. The most important input functions for the production of democratic legitimacy can be identified as the support and demands of citizens, who express them not only but primarily by going to the polls. Throughput lies between input and output. It is the core governmental sector of democracy, where binding decisions are prepared and made (legislature), implemented (executive), and, where necessary, reviewed (judiciary). In democracies, the most important actors to accomplish this translation are still political parties and, to a lesser degree, interest groups that articulate and represent the demands of members and sympathizers.

Over the past three decades, non-governmental organizations (NGOs) and civic action groups have become important specialized and normatively oriented actors in legitimacy production. They also articulate preferences of citizens, but represent them in different ways. Unlike parties or political elites, NGOs such as Amnesty International, Human Rights Watch, WWF or other civil-society associ-

ations enjoy a high degree of public approval and moral authority. However, they have not been authorized to make binding decisions on society by any act of legitimation comparable to elections.

Whether these various modes of articulation and representation produce more or less democratic legitimacy and whether they can complement the classical representative institutions and procedures of democracy (e.g., in the form of civic councils, public meetings, or participatory budgeting) or replace them (e.g. in the case of referendums) remains to be seen. The same applies to action taken by citizens themselves, when they express their demands not in elections but through civic action groups, popular initiatives, referendums, or protest. It can plausibly be assumed that these alternative forms of participation can generate additional belief in legitimacy, but so far there is not enough empirical evidence to this effect.

Referendums are most likely to gain public approval for the political system. Although decisions made directly by the people have doubtlessly legitimacy from the point of view of popular sovereignty, only a socially selective fragment of the *demos* usually goes to the ballot box. Moreover, the results of such votes often bear an illiberal stamp. Civil society is usually supportive of democracy, which is quite obvious in the cases of Amnesty International or Human Rights Watch, but on occasion it has its downsides, witness the example of Pegida.

Groups of voters may be excluded – or exclude themselves

The biggest current challenge in the field of participatory legitimation (input) also has to do with parties and elections. Up to now, the key position of political parties in representative democracies lies in its representative status guaranteed by free, fair, and equal elections. But this relies on comparatively high voter turnout and low social, ethnic, or gender-specific selectivity at elections. If electoral turnout is falling, if certain voter groups are increasingly excluded (or excluding themselves), and if money is exerting a growing influence on election results (notably in the United States), it becomes more and more urgent to examine whether this form of public choice can still claim precedence over other modes of representation and political decision-making power.

In a situation where voters lack information, where parties lose credibility, where the trust of the electorate is declining and where party membership is shrinking, doubts arise about the legitimation figure “elections, parties, parliament, democratic decision-making.” In the light of these representation weaknesses, it is not by chance that more and more democratic theoreticians plead in favor of vesting greater decision-making authority in non-elected representatives such as professional civil servants, bureaucrats, experts, and courts (Rosanvallon), in representatives selected randomly by lot (Hubertus Buchstein), or in civil-society watch dogs (Keane).

From an empirical point of view, it can be observed that demands for unconventional forms of political participation and such participation itself appear to be gaining ground in both young and established democracies. Whether they can really produce more democratic legitimacy is theoretically disputed and empirically hardly investigated.

It is definitely a problem for democratic legitimacy that traditional actors (parties) and traditional forms of participation (elections) are losing public trust and support, while parties remain the most important institutional gatekeepers of policy and decision-making in all established democracies. However, political parties still have more comprehensive forms of ex-ante legitimation (through free and universal elections) and ex-post accountability (e.g., for government policy) than any NGO or non-elected political corporation has or can have. With regard to democratic legitimacy, political parties are thus caught between the rock of dissolving embeddedness in society and diminishing public trust and the hard place of an almost monopolistic access – legitimated through elections – to state decision-making arenas and resources.



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These observations are not a farewell to elections or parties, let alone to representative democracy. Under representative democratic regimes, universal, equal, and free elections are unexcelled procedures for legitimation and authorization. At least in the theory of popular sovereignty, only referendums could lay claim to greater legitimacy. In practice, however, referendums have considerable unintended side effects detrimental to democracy. Democratic innovations like civic councils, lot drawing instead of elections, or digital platforms for campaigns and voting can perfectly complement and enliven democracy. However, this refers in the first place to the participation aspect of democracy. For binding societal decisions, their fund of democratic legitimacy is extremely sparse.

The pillars of representative democracy – elections, parties, parliaments – are thus facing not demolition but major challenges. In order to meet them, parties, parliaments, and governments must be reformed and revitalized. Democratic innovations can supplement such efforts, but they cannot supersede the established institutions in most cases. We cannot rebuild democratic legitimacy just by replacing the old with the new: the old must remain in place as long as the new cannot show it leads to more and not less democratic legitimacy.

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