

The Democratic Legitimacy in the Modern World: A Promising Authority... Elusive Implementations

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Legitimacy is similar to a reservoir — a wise regime will maintain a specific level because once the legitimacy standard has deteriorated, the regime will either fail or collapse.¹ The following question could be asked from the figurative expression above: is it really legitimacy, or legitimised?

1. An Ambiguous Concept

An inevitable overlap occurs while looking for the broad definition of legitimacy or the meaningful concept as a whole and, if you

agree in principle with the statement that legitimacy is ‘the right to practice power’, then several issues are raised, each one of which could illustrate the image of legitimacy as a whole.

These are:

- a. The practising ruler (ie. the government) is associated with power delegated by legitimacy
- b. The degree of people’s acceptance of political rule
- c. The legal complication of the power of legitimacy

d. The necessity of legitimisation in specific political situations

If you subscribe to this you might face ambiguity in a more insistent question: must all regimes claiming legitimacy be democratic? And if the public acceptance is the democratic criterion for legitimacy, the facts confirm that non-democratic regimes enjoy required legitimacy for their continuation. However, the benefit of the link of legitimacy and democracy emerges from the procedural side as the performance criteria of the political system, and this could be evaluated through its functional tasks that are defined by the expectations of most people who expect a level of confidence, and consequently legitimacy may be required for certain regimes.

Discrimination results in two images of legitimacy — a positive image and a normative image.

The positive image (reality) depends on the concept of public acceptance that defines the legitimacy of a political regime. This acceptance means that with the consent of the people such an authority can carry out its tasks, namely the acceptance and obedience of the people that represent the legitimacy. This image is more common in terms of the democratic concept that reflects acceptance and obedience as a sign of the legitimacy of non-democratic regimes.

The normative image is related to the doctrine of political philosophy, which includes the moral side or a government's right to power. It is obvious that through this image governments based on immoral practices could be realised through their right to carry out responsibilities against the people's recognition.

The democratic-liberal definition of legitimacy is the practice of power that is derived from a rational (wise) acceptance by inferiors. Hence, the link of legitimacy and acceptance is unavoidable and leads to the continuation of legitimate power. However, the democratic-liberal meaning of legitimacy is not the only decisive element of legitimate fulfillment by any authority or regime. According to Max Weber, three characteristics define the link of authority and legitimacy that enable an authority to claim legitimacy or the legitimised practice of rule. In return, this allows the individuals of certain political systems or the people to accept the legitimacy. These characteristics are as following:

1. **Charismatic Authority:** This authority derives its legitimacy from the loyalty

to sainthood and heroism, and the individual will ideally be distinguished

through the moral example he has established.

2. **Traditional Authority:** This is based on the solid belief of an ancient traditional sacredness and obedience to leaders who accept their authority from common traditions.

3. **Legal Authority:** This depends on acquiring legitimacy by legal means under constitutional rules whereby a superior's powers are legally binding and considered legitimate by the people.² Consequently, the difference between legitimacy and what is considered legitimate or legal must be clarified because an action might be legal but, at the same time, illegitimate, as stipulated in 'immoral' law. Licentious practices, for instance, are legal but illegitimate, and

an act or legitimate conduct that is illegal may lead to revolution that

overthrows a dictator's regime although such an act is not laid down in law

(revolution legitimacy).

When democratic legitimacy is under debate, democracy itself appears to be disputed, however, the perception of accepted democratic qualities by philosophers and theorists could lead to freedom of opinion, freedom of press, freedom of criticism etc., all of which enable the people to put forward their views on policies and political leadership. On the other hand, the Western democratic view represents procedural direction, which is the optimum democratic trait that emerges through fair elections and free intellectual expression, as well as the freedom of parties.³ If the understanding of legitimacy requires practicing democracy, a democratic profile is preferable in establishing legitimacy through procedures implemented by a regime,

procedures that are accepted and obeyed by the people. However, obedience is not necessarily an outcome of regime legitimacy as it is insufficient in itself; the people will abide by the orders of a regime they fear and do not accept as a legitimate authority. Authority is a legitimised power⁴ and according to R. Dahl, the relationship between authority and legitimacy occurs ‘when the influence of the leader is legitimate, which is normally indicated as an authority’s special type of influence.’⁵ Lukes, on the other hand, emphasises that authority is ‘a function of consent’⁶ and as such assures its legitimacy either by legitimate influence, traditional means or as a function of consent.

Through the three linked ideals of legitimacy, democracy and authority there is an overriding ambiguity over the concept of democratic legitimacy. The reasons that lead to this ambiguity are:

1. The competitive image of democratic thought that occurs concurrently with the call for legitimacy may enrich knowledge on democracy, however, it does not set a definite frame for democracy, which could be restricted by a number of votes that do not indicate majority acceptance. American elections are an example.

2. Democratic legitimacy requires representation by the people at all political levels.

However, the authority represented by the ruling elite could lead to a complicated process.

3. When talking about the meaning of legitimate authorities, an overlap may take place because some authorities theoretically adapt democracy and, accordingly, say that they are legitimate for this reason but, in fact, they obtain their legitimacy from the great influence and power enjoyed by their leaders (as in case of Hitler in Germany). In this case, a leader might be first elected democratically but then due to the legitimacy he gains from his position, act in a non-democratic way and give himself unlimited powers.

Dahl states that even in the USA, a relatively democratic society, political regimes that reflect contradictory principles in terms of authority attain legitimacy. For example,

companies, government establishments and some religious organisations are established according to hierarchical principles, not in accordance with democratic principles, even though a great number of US nationals who recognise the legitimacy of the US administration due to its democratic structure also recognise the legitimacy of such hierarchical regimes. This indicates that every political process is feudal, royal (minority rule), inherited aristocracy, plutocracy (rule of wealthiest), representative government or direct democracy, which have acquired legitimacy to the extent that people will sacrifice themselves in defending it.⁷ Since legitimacy realistically sounds like a synonym to democracy, idiomatically the theory results in unavoidable ambiguity in terms of the concept of a democratic legitimacy that could be implemented when required:

1. Since the main source of democracy is recognition of a government practicing

democratic principles that are applied according to the will of the people, and authorised or delegated by the people, and although this authority is carried out in accordance with definite democratic principles and differs from one ruling system, it nevertheless acquires legitimacy.

2. The diverse mechanism of the acquisition of legitimacy, for instance, the failure of a former political regime in fulfilling certain achievements that were subject to the acquisition of legitimacy, ie. all performance levels linked with legitimacy are considered as a quantity of performance or achievement regardless of the quality of the acquisition.

3. The image of an authority's legitimacy is based on the rational acceptance by

inferiors, representing a particular image acceptance of which is given by

those who are unable to grant their rational consent to the government because

they lack the legal or intellectual capabilities. They represent the image of

ordinary nationals.

4. Some nationals may accept certain aspects of a regime's legitimacy or

illegitimacy under a democracy.

5. The concept of democratic legitimacy is connected with stability, for example,

new political and economic regimes.

2. Direct Democratic Legitimacy (from Athens to Geneva)

Democracy is the people's vote through which they feel free, however, in a democratic context controlling a party's propaganda could mean misguided slogans and false promises. Alcibiades, the Greek philosopher, described Athens' democracy as a recognised foolishness.⁸ Since the Greek's creation of democracy, the term *demos*, Greek for people's self rule rather than the rule of any class or influential groups⁹, the people or nationals represented those belonging to Athens' society who were political and not humanistic. Hence, foreigners or expatriates did not participate in democracy as they were not citizens. Democracy, in the context of the Greek definition, was extracted from a caste vision, as citizens or landlords were entitled to membership of Athens' society, unlike the slave class and expatriates who resided in

Athens whose consent or otherwise to the political regime did not make any difference except for their separation from the domain of democratic legitimacy based on equality.

Jan Jacques Russo took advantage of both old Athens and modern Geneva, his homeland, in order to introduce his democratic model. His return to the past was an attempt to abstract the free spirit of the current state regime as a basis for his concept of being freed from the 'general will', which represents the legitimacy image in direct democracy. General will is correlated with public rights that must be granted to the people and which are guaranteed for each human individual — for example, the difference between the democratic image from that which prevailed in the past throughout the Athens democracy — moreover, general will is the defining tool of general interest, so consequently it legitimises the authority or the ruling. On the other hand, it enforces the legitimacy of will, whereas the task of the constitutional authority is outlined

in the establishment of general policies and the possibility of neutralising the actions of the executive authority. In this context of general will, individual freedom is achieved by the best route. Once every person utilises his capabilities under the high directives of general will, and recognises his right to consultation or cooperation, everyone will be part of a society.

One shall bind himself to the general will of the assembly he belongs to but not to any particular person's will. The member of this assembly will always get his right — no more no less.¹¹

Under general parliamentary, or liberal, democracy, any unauthorised rule by the people is not only invalid but is definitely not considered. Russo also realises that the image of consultation under general will is insufficient for agreement on the nature of public interest due to social and economical

differences, which may lead to the continuation of general will being directly threatened. Russo tried to emphasise the feeling of group spirit among members of society through which they could live in harmony and which enabled them to legislate laws that could be accepted by everyone so that legitimacy meant that each individual retained his own rights that were protected by the power of general will. This is what Russo was keen to achieve ie. legitimacy through general will, hence he states that a ruler would be unable to remain as leader forever unless he transferred his strength to legitimacy and obedience to duty.¹² The continuation of democratic legitimacy, according to Russo, is linked to maintaining political equality, which is considered the basis of not only participation by nationals in government but also of granting necessary legitimacy to the government. As much as the matter here emphasises the equality value in democracy, it also causes anxiety through the possibility of democratic implementation. If the exact definition of democracy is considered, it

becomes clear that no real democracy has ever been established.¹³

Democratic legitimacy, according to Russo, could be understood to have emerged from individuals' contributions in establishing certain criteria in the public interest. However, due to the level of legitimacy given by the democratic society to individuals in their quest for more wealth and the political influence resulting from the possession of wealth, the idea of public will as a direct democratic method will not be applicable in the same sense meant by Russo who dismissed all forms of parliamentary democracy or liberal democracy. Therefore, a member of parliament would not be representing his constituents but would only be an agent who could not take final action on anything. Furthermore, English people think that they are free but they are totally mistaken; they are not free until the time they elect a Member of Parliament and after that they become slaves.¹⁴

Russo and his strong defence of direct democracy and John Lock's ideas of liberal or parliamentary democracy are two continuously disputed notions of legitimacy. The first is limited to the agreement of general will when the government is illegitimate and the second emphasises individual consent as the basis for liberal democracy through civil freedom that is enjoyed by the individual and his ability to vote in parliamentary elections, thus paving the way for the acquisition or loss of legitimacy in terms of the ruling political regime.

3- Liberal Democratic Legitimacy (Legitimacy of Rational Consent)

Crisis of rationality emerges throughout social integration, in another words if the country could not settle the conflicting interests of people under its rule, it would be

considered illegitimate due to its failure in fulfilling its basic mission and its power would be the object of query.¹⁵

A reasonable analysis for authority legitimacy is based on the rational consent of the governed as stated by John Lock, who is considered the spiritual father of what is known as Liberal Democracy. Lock based his analysis on the rational principles of political authority or the reasons for its existence. Thus, he decided that it is logical to suppose the existence of natural rights for all people since they are human and these rights cannot be taken away from them. He said God granted people equal characteristics such as thinking, understanding and freedom so they should not be subject to others' arbitrary leadership. A political authority acquires its legitimacy when it comprehends this matter and this cannot be achieved without the consent and satisfaction of the people, resulting in laws laid down by a government's legislative authority that maintain the protection of peoples' rights and

their freedom in society, which should not be the subject to any legislative authority except that based on individual consent in an organised society.¹⁶

Lock searches for the best way to achieve the following aims:

1- The individual's freedom and protection of his properties

2- The acquired legitimacy through which political regime or government endeavours to achieve personal freedom and the necessary protection of private ownership.

3- The acquired legitimacy of a political regime through the consent or

satisfaction of society's individuals.

Lock also discovers that the social contract, through which authority is established, is the outcome of unanimous agreement by the people under majority rule, however, the important question in this context is whether a majority of 51% to 49% is sufficient to guarantee democratic legitimacy? In fact it is unlikely that democracy would survive when faced with a large minority because the democratic institutions would face obstacles if the majority is obliged to impose its rule constantly over such a minority.¹⁷

Lock attempts to restrict the rule of majority through the permanent recognition of the rights of all, but then the people would be faced by two factors that are illustrated by Lock's vision on the social mind. Firstly, explicit consent and secondly, tacit consent. Tacit consent, in terms of legitimacy, is concerned with the people openly declaring

their consent to government rule. Lock believes that through the consent of rational people to government rule that protect their properties and allow them to enjoy special benefits, the governing regime could acquire legitimacy. By rational people, Lock means property owners, as they are the only people who are able to air their views and take authority, but those who are unable to do so, ie. non owners who are a social entity that cannot be ignored, cannot understand what tacit is in the context of legitimacy based on consent, so what is their attitude towards a regime's legitimacy or otherwise? Since Lock and the 18th century, Liberal Democracy has been able to maintain its legitimacy, especially in England, because it depends on a genuine liberal principle: government power legitimised by the consent of the governed, which is gained from parliamentary democracy.

A liberal nation is distinguished by three main qualities: (a) a just, constitutional

democratic government that, to some extent, serves the main interests of citizens, and is related to laws and establishments; (b) citizens distinguished by what Stewart Mel calls joint emotional feelings that are related to cultural ideals, and (c) moral nature, which requires a strong connection with the political morals of justice.¹⁸

Since the mid 1980s, liberal democracy has enjoyed overwhelming popularity, not only due to its political efficiency as a companion to capitalism in the economic sphere, leading to its success and continuation, but also as a result of the failure of alternatives such as socialism and communism in achieving stability. Liberal democracy defeats the irrational idea that recognises states or individuals according to their importance and replaces it with a rational one that bases recognition on equality. Moreover, in nations that enjoy liberal democracy the likelihood of war will decline as these nations recognise each other's legitimacy.¹⁹ By contrast, Francis

Fokoyama's view is that regimes governed by tyrants, whether right or left wing, fail to develop legitimacy as they do not possess the goodwill nor any degree of flexibility enjoyed by liberal democracies. Despite the popularity of democracy as the main source of legitimacy in the today's world, electors of democratic regimes feel unfamiliar with political establishments and liberal democratic factional policies. However, it should be acknowledged that the remarkable and surprising popular trend towards liberal democracy will reinforce its prospects and support attempts to implement it. However, it must be acknowledged that this political current is subject to disruption then deterioration and failure. In fact, liberal democracy allows individuals and societies to be free from many political constraints but does not provide healthy situations for guaranteed legitimacy since it does not add anything new to human knowledge.

4. Democratising the Democratic Legitimacy

A suitable moment to introduce a new democracy would probably be that in which liberal democracy is enjoying intellectual domination and has captured people's imaginations globally as a concept of domination, and raising the concept of resistance and change in order not to maintain the people's dreams of openness and modernisation. This could be tackled through the democracy of dialogue or creating new examples that could go beyond the country's borders in a manner that suits cultural diversity in its global framework. In addition to searching for new forms of social exchange there could exist the possibility of establishing a strong union combining independence and social solidarity in order to guarantee legitimacy capable of settling disputes emerging from the conflict between thought and interests to attain political priorities. Therefore, deliberative democracy includes

two main elements. Firstly, democracy itself and secondly, dialogue. The democratic part concerns group decision making through the participation of all activists in dialogue, which takes place in order to provide the opportunity for discussion and rational attempts at decision making.²⁰ This debate appears similar to the concept of Russo's general will, although Russo believes that the right answer to political issues raised within society can be reached, and as it is impossible to find definite criteria as to what is right according to certain democratic institutions, the democracy of dialogue enables activists and participants to agree on certain criteria, or set of criteria, to control their process in making specific political decisions to agree on what should be done in disputes.

Habermas expresses his vision about the democracy of dialogue; he believes it is a limitless set of procedures that aims to reach an outcome that may not be right but is democratic dialogue based on communication

between free equal participants. Open minds that welcome all opinions and views within totally free discourse and open-minded participation aim to result in a unanimous rationale.²¹ Maybe the most important significance of democracy of dialogue or deliberative democracy is its relationship to the concept of establishing political legitimacy and maintaining it where elections and parliamentary representation do not guarantee its continuation because of interference from lobbyists or those with influence, or what is known as political sidelining. In this case political failure can be expected because of interference in decision making, possibly eventually leading to the loss of legitimacy. Therefore, democracy of dialogue should be emphasised as a policy concerned with the public interest that requires real equality between citizens and conveys the claim for their interests in a way that reflects the popular trend.

Democracy of dialogue could be explained in four main qualities:

a. Democracy of dialogue that is an independent progressive gathering

b. The participation of dialogue that gathers members' views that match the terms laid down by society defining a framework according to criteria reached through unimpeded discussion or deliberations between equal individuals. This is considered the basis of legitimacy

c. Democracy of dialogue is an assembly of various people with different preferences, ideologies and principles related to their behaviour in daily life.

d. A democratic gathering of members who believe that dialogue or deliberation is a source of legitimacy, and the importance of using clear terms in the outcome of their deliberations. Moreover, preferences are assigned for connection between deliberations and decisions reached as evidence of not losing relevance. Furthermore, each member attempts to be acquainted with each other's acquisition of dialogue capabilities ie. the capabilities required in general talk.²³ The concept of public reasoning based on a view that since individuals are participating in ongoing discussions to try to resolve general matters of dispute, they must explain the basis of their views considering that, to some extent, those others may support these views as they all enjoy freedom

and equal opportunities.²⁴ Hence, the importance of democracy of dialogue is applicable to all fundamental conflicts, taking into account that all disputes, conflicts or divisions cannot be resolved through continuous dialogue but eventually lead to establishing revived confidence among individuals under interconnected social relationships.

5- Legitimacy: The Dilemma of Implementing Democracy

The traditional image attributing legitimacy to a tyrant's rule through traditions, or bestowing religious sanctity (the theory that God is right) and forcing people into subjection is no longer accepted within the

multicultural and interconnected world. However, is it possible to say that people under democratic legitimacy are satisfied? According to Raymond Aaron, the French philosopher, they are if their basic needs are fulfilled and their key interests are totally in line with those of other democratic peoples. Nevertheless, satisfaction here does not mean that society is happy or delighted but that there is peace between people because they are all content with their situation at that time. The state of peace, or satisfaction as it called by Aaron, is contrary to both a state of peace by force or disability. John Roles agrees with Aaron, who believes that such terms are necessary for permanent peace and could be met by people living in constitutional liberal democracies who respect joint principles concerning government legitimacy.²⁵

The concept of democratic peace indicates that war takes place only where societies are dissatisfied with their commitments or with countries violating international legitimacy.

However, there is a global ideological game that justifies the overthrow of democratically legitimate governments eg. Musaddaq in Iran, Allende in Chile and Arbenz in Guatemala, among others. In the global tendency towards democracy, the emergence of absolute directions apposing its concept become difficult, however, claiming democracy is insufficient to acquire legitimacy because legitimacy crisis remains linked with performance, achievement or democratic fulfillment. Furthermore, the legitimacy of a dictatorship, or massive regimes based on performance under pressure of failure of economic growth, appears to parallel political performance where a government's tasks have not been conducted as expected by members of society.

Legitimacy crises are basically crises of change, therefore, their roots must be hidden in the nature of change of modern society being an effective element in the stability of democratic regimes.

The hypothesis of the crisis of legitimacy may be a result of what happens during the process of transfer to a new social entity.²⁶ However, implementing democracy, which legitimises a certain political regime, remains controversial even in stable democratic regimes like the United States. It is not true that American democracy means the American voter has the ultimate decision when it comes to selecting the American President. Many other factors and considerations have to be taken into account, which, of course, restrict the role of the voter. The weight of the vote is measured by the weight of the State in which voting takes place.

The United States follows the system of ‘maximum votes’ rather than ‘the majority of votes’, ie. If Candidate A gets 43% of the votes and Candidate B 42% of the votes, Candidate A wins although he did not get the majority of votes.²⁷ This means that it is

possible for a candidate to win the election even though the majority of voters have, technically, voted for his rival. The above example shows that the crisis of legitimacy is at best a democratic situation and indicates how democratic legitimacy will be practiced while being dependent on quantity rather than quality. In other words, it depends on the percentage of votes regardless of the votes of the majority.

While a continuous trend in the Arab world is towards democracy, the clearest image in the West is towards restricting democratic practices. Timothy Mitchell states that this is done by two means: firstly, by eliminating certain sectors from involvement and participation in politics and, secondly, by eliminating certain authorities from involvement in the political process.²⁸ However, there is always a keenness to create new forms of democracy to provide legitimacy to the existing ruler. There is a contradiction when discussing the concept of legitimate

democracy, as there is a gap between theoretical references that look at emphasising and establishing the concept and the implementation that seems to be multifaceted.

1. Figurative expression made by R. Dahl, American political scientist. See Bealy, F 2004, *The*

Blackwell dictionary of political science, p.190.

2. Weber, M 1947, *The theory of social and economic organization*, trans. A. M. Henderson and

T. Parsons, Oxford University Press, p.328.

3. Ray, C., Macridis and Brown, B.E [ed.] 1972, *Comparative politics*, The Dorsey Press,

Illinois, p.123.

4. Bealy, F., op. cit., p.189.

5. .Dahl, R 1993, *Political Analysis*, Ala Abu Zeid, Cairo, Al Ahram Center for Translation and

Publication, 1993 p. 78

6. Lukes, S 1974, *Power: a radical view*, Macmillan, London, p.31

7. Dal, p.79

8. t. Mustapha Abbadi, athnics' democracy, Alem Al Fikir Vol.(22), 1993. P.153

9. same reference, p.74

10. Heter, D 2007, Brief history on nationalism? T. Aasef Nasser, Makram Khalil, Beirut,

Al Saqi Press House , Kuwait, Babteen Center, 2007 p. 45-46.

11. Rousseau, J.J. 2002, The social contract and discourses, trans. G.D.H. Everyman,

London, p.192

12. Ibid., p.184.

13. Ibid., p.239.

14. Ibid., p. 266.

14. Kreep, I, Social Theory, From Barsons to Happarmas, Mohammad Hussain Ghulum, Alem Al Maarifa (224) p. 358.
15. Lock, J 1947, *Two treatise of government*, Hafner Press, New York, p.132.
16. Dal, p.79
17. Roles, J 2007, People's Law (Back to the Mind Concept) t. Mohammad Khalil, Cairo, Higher Council of Culture, national project for translation (1074) 2007 , p.43
18. Fokoyama, F 1993, The End of History t. Hussain Ahmad Amin, Cairo, Al Ahram Center for Translation and publication 1993, p.16

19. See Elster, intro. In J. E., (ed), *Deliberative democracy*, Cambridge University Press, 1998,
pp.1-19.
20. Habermas, J 1996, *Between facts and norms: contributions to a discourse theory on law and democracy*, Polity Press, Cambridge, p.56.
21. Cohen, J 1989, 'Deliberation and Democratic Legitimacy' in ed. A. Hamlin and P. Pettit, *The good polity: normative analysis of state*, Oxford, p.17.
22. Ibid. ch. 11.
23. Rawls, J 1993, *Political liberalism*, Columbia University Press, p.218.

24. Roles, J, op. cit., p.65.

25. Lipset, S. M. ‘Some social requests of democracy’ in *American Political Science Review*,
Vol. L.111, No. 1 (March 1959) p. 130

26. Myer, W 2004, The Party System Copied from Manaar Al Shuwairji, restricted democracy,
American Presidential Elections, Cairo, Al Mahrusa press house 2004 p. 52-53

27. Michel, T 2005, Democracy and the state in the Arab World, t. Basheer Al Sabaai, Cairo,
The Egyptian Public Authority for books, 2005 p.21

