

Ingolfur Blühdorn (ed.)

In Search of Legitimacy

Policy Making in Europe and the Challenge
of Complexity

Barbara Budrich Publishers



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Introduction

Legitimacy Crises, Efficiency Gaps, Democratic Deficits

Ingolfur Blühdorn

Legitimacy, like democracy, is an essentially contested concept. Sources of legitimacy and patterns of political legitimisation have changed over time and adapted to evolving socio-economic conditions. Since the beginning of the modern era legitimacy has been understood, first and foremost, as *democratic* legitimacy which implies, more than anything, that the people, the *demos*, have given their consent – if not to each and every policy decision, then at least to the selection of representatives who take these decisions, to the rules and procedures through which they are taken, and to the institutions which organise their implementation. In contemporary European polities, the democratic understanding of political legitimacy is hegemonic. However, this does not imply that other forms of political legitimacy and legitimation have become entirely irrelevant, nor does it mean that the evolutionary process in which notions of legitimacy and patterns of legitimisation are constantly recast has come to a halt. Indeed, European societies are currently witnessing a manifest resurgence of concerns about *legitimacy crises*, *efficiency gaps* and *democratic deficits*. These concerns and the responses they have triggered in different countries and different policy areas are the subject matter of this book.

The new debate about legitimacy crises and democratic deficits originates from major developments on both the demand side and the supply side of legitimacy. On the demand side, public expectations for political legitimisation have sharply increased, firstly, because in line with the emancipatory trajectory of modernity claims to individual and collective self-determination continue to grow while the willingness to accept authorities and subordinate personal values or interests to notions of a larger *common good* continue to decline. Secondly, technological innovation and progress have rapidly expanded the range of the technically feasible and thus of decisions to be taken, with the social implications of these decisions becoming ever more wide-ranging, long-lasting and difficult to foresee. Thirdly, the internal differentiation and fragmentation of modern societies, on the one hand, and their inte-

gration into increasingly global networks and interdependencies, on the other, have prompted the evolution of new modes of governance which rely on national and transnational institutions that cannot claim democratic legitimacy but still have significant impact on the every-day lives of local communities and individuals.

Complexity is the key concept under which these different developments can be subsumed. Rising levels of complexity have notably increased the demand for political legitimacy and legitimisation. Yet on the supply side there is a marked decline in the ability to generate legitimacy. At the national level, spreading disaffection with political parties, distrust in political elites, and the erosion of civic virtues and capabilities all imply that democratic legitimacy in the traditional sense, i.e. legitimacy that derives directly from the involvement and consent of the *demos*, can no longer be generated to an extent that matches demand. At the transnational level democratic structures and institutions do not yet exist, and even within Europe their construction has proven extremely difficult, not least because a shared European identity integrating European populations into a single *demos* with common values and interests has not yet emerged. Against this background, efficient policy making and a high problem solving capacity of political institutions at national and EU level have been expected to compensate for the weakness of democratic legitimacy in the traditional (input) sense. Yet, the rise of complexity also affects the output side of the policy process, i.e. it impairs the efficiency of policy delivery. Thus the condition of increasing complexity represents a formidable challenge: Whilst it is evident that increasingly complex societies require increasingly complex modes of governance and political legitimisation, it is much less evident what such modes might look like. For the time being there is primarily the widening gap between democratic expectations, on the one hand, and the experience of efficiency gaps and democratic deficits on the other. The ways in which European polities are trying to confront this challenge are the topic of this book. It explores the problem of legitimacy generation under conditions of complexity.

Of course, neither legitimisation crises nor the problem of complexity are entirely new phenomena. Still, in contemporary European societies the anatomy of these crises and the ways in which these problems are managed are markedly different from earlier phases. When in the 1970s Offe and Habermas, for example, were diagnosing a legitimisation crisis, they were, following the post-Marxist tradition, talking about the (in)stability and political (un)sustainability of capitalism (Habermas 1973, 1975; Offe 1972, 1984). Updating classical Marxist analysis for the emerging post-industrial era, they suggested that the order of capitalism will probably not be overthrown by a proletarian revolution but more likely collapse because of its inability to sustain its legitimacy. Capitalist systems, they suggested, are in the long run unable to reconcile the logic of capital accumulation with the bottom-up pres-

sure for political participation and public welfare provision. At the time the *new social movements* seemed to provide powerful empirical evidence for capitalism's mounting legitimisation crisis.

In the contemporary context, however, the question is neither what will trigger the collapse of capitalism nor whether the capitalist order can stabilise its basis of legitimacy. Despite the recent meltdown of the financial system and the evident unsustainability of the established socio-economic order in a range of other respects, the continuity of consumer capitalism appears to be beyond doubt. Whilst the free market capitalism of the 1990s now seems to be undergoing a metamorphosis into a more regulated variety, the basic principles of capitalism itself seem to be beyond the need for major justification and legitimisation – if only because an alternative is nowhere in sight, indeed barely imaginable, because consumerist aspirations and lifestyles have acquired the status of non-negotiability, and because the social implications of its potential collapse would be of such unimaginable magnitude that it just cannot be allowed to happen. So the question is no longer whether and how the system of capitalism can legitimate itself, but what is now at stake is the very principle and idea of democratic legitimisation. In other words, the concept of the legitimisation crisis has changed its meaning: whilst in the 1970s it denoted a *crisis of capitalism* emerging from capitalism's inability to stabilise its crumbling basis of legitimacy, it now denotes a *crisis of democratic legitimisation*, i.e. the principle of democratic legitimisation itself is under review. Whilst in the 1970s there could be no doubt that democratic governance is both normatively desirable and empirically possible, and the diagnosed legitimisation crisis was conceptualised as an outstanding opportunity for progressive, emancipatory and authentically democratic politics, this overwhelming confidence has meanwhile grown fainter. It has been superseded by a distinct awareness of the inefficiencies of democratic processes and the limitations of democratic legitimisation. Although at the declaratory level, commitment to democratic empowerment and democratic values remains high – indeed, at this level commitment seems more uncompromising than ever – the discursive celebration of democratic principles is becoming increasingly detached from the empirical reality of governance. Conditions of complexity and the imperatives of their efficient management have given rise to *post-democratic* modes of governance and legitimisation. To what extent conditions of complexity may indeed *necessitate* such post-democratic modes is a recurring question throughout this book.

The discussion of problems of complexity management, too, has precursors in the 1970s. In contrast to the intellectuals of the new left, who at the time saw the legitimisation crisis of the capitalist system as a chance for progressive potentials, their counterparts on the emerging new right were very concerned about the prospect of an 'overloaded state' presiding over a condition of 'ungovernability' (e.g. Crozier et al. 1975; King 1975). From their

perspective, emancipatory movements, societal differentiation and the spread of value pluralism had nurtured over-inflated expectations addressed to the state and led to a fragmentation of power which undermined the state's ability to efficiently fulfil its functions. Reducing citizen expectations, rolling back the state, increasing self-responsibility and reinstating respect for authority and status were the primary remedies proposed. From today's perspective, however, it can safely be said that these remedies were unsuccessful. Effective means for stopping or even reversing the rise of complexity have not been found. The logic of emancipation and differentiation is firmly built into the process of modernity itself and cannot be blamed on supposedly misguided individuals or social movements. Therefore, European democracies are confronted with the inescapable dilemma that the pressure for policy justification and political legitimisation continues to increase, whilst the foundations of political legitimisation and the capacity for legitimacy generation continue to erode. It is against this background that this book raises the questions:

- How does the increase in societal complexity impact on the efficiency of policy making and on the legitimisation of politics?
- How are political actors and institutions in different European polities and at EU level seeking to *manage* the condition of complexity and generate social acceptance for their policies?
- How do problems of legitimisation materialise in concrete policy areas, and what strategies are being devised for resolving them?
- How does the condition of complexity reconfigure the foundations of democratic politics and transform prevalent conceptions of democratic legitimacy?

Such questions can be approached in a number of different ways. Proceeding from the assumption that there is a set of non-negotiable and unchangeable democratic norms which political institutions and processes ought to comply with, many observers simply demand the fulfilment of the as yet unfulfilled promises of democracy. Others acknowledge that the rise of societal complexity implies significant change and explore how patterns of democratic legitimisation might be adapted. Others again, are less oriented towards advising political institutions but pursue a descriptive-analytical agenda, trying to conceptualise and explain the ongoing transformation of democracy. These observers are more receptive for the changeability of democratic norms, and for them notions like the much-lamented democratic deficit or legitimacy crisis themselves become subject to critical investigation. Empirical research into democracy and legitimacy, finally, explores the ways in which individuals, communities and public discourse factually perceive of democratic institutions and what criteria are constitutive for their respective understandings of legitimacy.

The contributions to this volume do not pursue one uniform approach. Rather than being based on one single theoretical model they explore the

problem of legitimacy generation under conditions of complexity from a range of different methodological access points. Some of the chapters offer empirical analyses which give rise to concrete policy recommendations. Others take a primarily theoretical approach and place the emphasis on conceptualising and explaining the ongoing transformation of democracy and reconfiguration of legitimacy in European polities. The first two chapters, in particular, are of a theoretical nature. They do not aim to set out a common theoretical framework for the analyses that follow, but they do provide conceptual foundations on which the later, more policy-oriented contributions build. Chapter 1 has the function of an extended introduction. Whilst in its second half it also develops a very distinct theory of *post-subjective* and *post-democratic* modes of political legitimisation, it first of all offers a detailed analysis of different dimensions of complexity and of the diverse elements constitutive to the generation of democratic legitimacy. Chapter 2 looks more closely at the relationship between democracy and efficiency. Starting out from the observation that especially in conditions of complexity democratic procedures are often not particularly efficient, while efficient procedures are often rather undemocratic, Joachim Blatter distinguishes different understandings of both democracy and efficiency. His analysis is inspired by the notion of *reflexive modernisation* and comes to the conclusion that the alleged tensions between the two objectives can be reconciled if both democracy and efficiency are reconceptualised to reflect the contemporary condition of *second* or *reflexive* modernity.

Chapters 3 and 4 offer empirical analyses of citizens' expectations about the legitimisation of policy making and of government efforts to confront tendencies of political disengagement. Pierre Lefebure takes the case of France to investigate whether citizens are really, as British Prime Minister Gordon Brown once suggested, primarily interested in policy outcomes paying at best secondary attention to how they have been achieved. His focus group analyses produce clear evidence that even in conditions of complexity, citizens value democratic participation and input at least as much as efficient policy delivery and output. Alexandra Kelso, in turn, focuses on the case of Great Britain where the government has committed itself to forging a new relationship with the citizenry that entrusts Parliament and the people with more power. Based on the analysis of various government reports and initiatives, she comes to the conclusion that so far the attempts to overcome the tensions between the stated desire to improve the functioning of democracy and the ambition to retain efficiency in public policy making have not made a significant difference.

The following three contributions then explore different strategies for the governance of complexity. Informal government in the cooperative state, delegation of authority to institutions which are insulated from the political process, and delegation of policy-making to the European Union are all in-

dispensable tools for the management of complexity, yet they are all fraught with problems of legitimation. Uwe Jun investigates informal government in Germany in the Kohl, Schröder and Merkel administrations and suggests that informality does not necessarily imply a lack of transparency and a deficit of legitimacy. Martino Maggetti focuses on independent regulatory agencies and refutes the claims that such bodies produce a better policy output than democratic institutions, that they are more transparent and accountable than the latter, and that they are really insulated from the political process. Timm Beichelt explores the process of EU policy coordination. Again, he takes Germany as his primary case study and demonstrates that even in complex constellations of multi-level governance ways can be found to achieve efficiency in policy making whilst still securing appropriate levels of political legitimacy.

Chapters 8 to 10 deepen the enquiry into the legitimacy of EU policy making. Each of them focuses on one particular policy area. Peter Bursens explores whether the EU's Open Method of Coordination (OMC), itself a prime tool for the management of diversity and complexity in EU policy making, is a suitable mechanism for enhancing the legitimacy of transnational policy making. The European Employment Strategy is his primary case study for assessing the effectiveness of the OMC. Karen Heard-Lauréote investigates to what extent Advisory Committees can enhance the European Commission's legitimacy. She focuses on agricultural policy for evaluating Advisory Committees. Jens Newig and Oliver Fritsch are probing the EU's claim that expanding public participation is an effective means of enhancing the quality and implementability – and thus the legitimacy – of policy decisions. For this purpose they review a large number of empirical cases from environmental policy making. All three chapters are coming to the conclusion that as yet the EU is finding it extremely difficult to supplement its hitherto primarily output-based strategies of policy legitimisation by a dimension of input legitimacy.

The last two contributions, finally, are returning to the level of national policy making and are devoted to the analysis of legitimacy generation in two further crucially important – and contested – policy areas: the governance of technology and health policy. In each case the authors explore how increasing levels of issue complexity and societal differentiation put limits to participatory and consensus-oriented decision-making – and how alternative strategies of generating legitimacy cannot adequately fill the void. Soile Kuitunen and Kaisa Lähteenmäki-Smith assess the attempts of the Finnish government to strengthen the inclusiveness of technology policy, a policy area which has traditionally been characterised by strongly hierarchical and elite-centred structures of decision-making. Claudia Landwehr and Ann-Charlotte Nedlund look at the sensitive issue of the allocation of health goods. Examining the cases of Sweden, Britain and Germany, they argue that

in contemporary European societies health policy is increasingly about cutting back entitlements and removing securities. Yet the legitimisation of rationing decisions in health policy is notoriously difficult – and notoriously hard to achieve in democratic arenas.

Overall the analyses collated in this book further pursue a research agenda which had already inspired the earlier publication *Economic Efficiency – Democratic Empowerment* (Blühndorn and Jun 2007). Yet, whilst this earlier book had focused narrowly on the relationship between democracy and efficiency, and had investigated policy making in only two European countries (Britain and Germany), the present book widens the perspective, firstly, by adding complexity and legitimacy as key parameters of analysis and, secondly, by including a much larger sample of European polities, policy areas and policy levels. The evidence presented in the individual chapters is mixed both in terms of the compatibility of efficiency and democracy and as regards the impact of rising levels of complexity on the ability of political institutions to secure legitimacy. Conditions of high complexity clearly increase the pressure for legitimisation and at the same time impair the generation of input as well as output legitimacy. Yet, the rise of complexity also triggers a reconfiguration of democratic norms and patterns of legitimacy generation which necessitate a review of established notions of legitimacy crises, efficiency gaps and democratic deficits. Empirical research and democratic theory are only beginning to get a grip on these ongoing transformations.

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Chapter 1

Democracy beyond the Modernist Subject: Complexity and the Late-modern Reconfiguration of Legitimacy

Ingolfur Blühdorn

1. Unsustainable democracy?¹

The concept of sustainability has originally been understood in a primarily ecological sense and was then appropriated by economic actors committed to sustaining economic growth and competitiveness. Yet, the concept can also productively be applied to political arrangements and especially to liberal democracy. A particular system, practice or social arrangement is deemed unsustainable if it depends on resources – natural or cultural – which are finite, cannot be substituted, and are used up at a faster rate than they can regenerate or be reproduced. In the same sense that the social values, practices, structures and lifestyles which are characteristic of modern society have proven unsustainable ecologically, they may also prove unsustainable politically, i.e. the political order, liberal democracy, to which modernist values have given rise and which currently sustains the capitalist consumer culture may well prove unsustainable.² In fact, debates about the crisis and perhaps exhaustion of democracy have been ongoing for some time. In many democratic countries the socio-cultural foundations underpinning democracy seem dangerously eroded and anti-democratic movements are on the rise. At the same time, the label of democracy has been appropriated by political regimes which hardly fulfil even minimal democratic norms, and in the academic debate the notion of *post-democracy* has gained some currency (e.g. Crouch 2004; Buchstein and Nullmeier 2006). Therefore, the question for the sustainability of liberal democracy and, more specifically, how advanced

1 I would like to thank Mathew Humphrey, Karsten Fischer, Andrew Dobson, Roger Eatwell and Anna Bull for their valuable comments on an earlier draft of this chapter.

2 In the German speaking debate the suggestion that liberal secular democracy is based on cultural foundations which it cannot itself produce and stabilise is often referred to as the *Böckenförde paradox* (Böckenförde 1964/2004). Daniel Bell has dealt with related issues in *The Cultural Contradictions of Capitalism* (Bell 1976).

modern societies are managing to sustain a political order that increasingly displays signs of unsustainability, is becoming paramount.

This question arises for different reasons and has, accordingly, different dimensions. Firstly, in many advanced liberal democracies declining levels of electoral turnout, receding membership figures for political parties, trade unions and other traditional associations, declining trust in democratic institutions and political authorities, and the erosion of social capital and the capacities of citizenship all seem to suggest that democracy may at some stage simply dry out due to a lack of public participation and capability. Indeed, political disaffection, disengagement, cynicism and apathy no longer seem exclusive to well established and mature democratic systems, but new democracies, for example in eastern Europe, seem to be affected as well. In a way, this kind of concern seems to be the least worrying one, for whilst there is a comprehensive literature that diagnoses and laments a decline of democratic virtues, social capital, civic culture, generalised trust and political engagement in contemporary democracies worldwide (e.g. Bauman 2000; Boggs 2000; Putnam 2000; Macedo et al. 2005; see also Kelso in this volume), there is an at least equally comprehensive literature forcefully arguing that democratic values are enjoying more support today than at any earlier time, that social capital is not declining but only transforming, that citizens have more access to the political process than ever before, and that allegations of political apathy are misleading because the rise of new forms of political engagement is in fact more than compensating for the decline of more traditional forms (e.g. Inglehart 1997; Norris 1999, 2002; Cain et al. 2003; Inglehart and Welzel 2005; Dalton and Klingemann 2007; Dalton 2008). Rather than for the unsustainability of democracy, this literature provides evidence for the 'great flexibility of democracies' (Dalton and Klingemann 2007: 15) and reassures us that ongoing cultural shifts in advanced modern societies actually 'increase the potential for elite-challenging actions' (Inglehart and Welzel 2005: 118) and 'improve the quantity and quality of political participation' (Dalton 2008: 94).³

Complementing the worries about the input side of democracy there are, secondly, concerns about the output side, i.e. about the performance of democratic systems. In particular, there is the question whether democratic systems are capable of coping with the increasing diversity of social demands, and whether under conditions of escalating societal complexity democratic structures are still an effective and efficient means of delivering public welfare and wellbeing (e.g. Fuchs 1998; Lijphart 1999; Roller 2005; Fuchs and Roller 2008). Debates about 'democratic overload' and the 'un-

3 For a critical assessment of these optimistic reassurances see, for example, Furedi's discussion of 'Disengagement – and its Denial' (Furedi 2005: 28-48; furthermore: Blühdorn 2006a, 2007a).

governability' of modern societies have been ongoing for a long time (e.g. Crozier et al. 1975; King 1975; Hennis et al. 1977, 1979). They have built on Weberian-Schumpeterian doubts about mass democracy and have recently been reinforced by the internationalisation of politics which tends to further weaken the political effectiveness of – mostly national – democratic institutions (e.g. Beck 1998; Scharpf 1998a; Zürn 1998, 2003; Anderson 2002; Held 2004; Leibfried and Zürn 2006). What is under review here is the problem solving capacity and the political steering capacity of democratic systems in view of increasingly complex and transnational issues such as social justice, environmental problems, security challenges, mass migration or collapsing financial markets. These performance or output related concerns about the sustainability of democracy are a far more serious challenge than the one discussed before. For whilst there is no shortage of academic writing on the strategies which national governments and transnational regimes are devising in order to cope with the complexity of contemporary problem constellations in an efficient and effective manner,⁴ only few observers are confident that these strategies comply, or can be made to comply, with democratic norms. Instead, the management of late-modern complexity seems to foster reliance on *post-democratic* forms of governance (Zolo 1992; Rancière 1997; Blühdorn 2004a, 2006b, 2007b; Crouch 2004; Jörke 2005; Buchstein and Nullmeier 2006).

Thirdly, and related to both previous points, there is the question whether and how liberal democracy can adapt to the transformation or even dissolution of the modernist foundations on which it was based. Beyond the notions of the sovereign nation state or the collective identity of the *demos*, these modernist foundations include, in particular, the notion of the *autonomous* and *identical*⁵ subject (individual and collective) which is the central point of reference of the system of liberal democracy and indeed its very purpose. In contemporary debate, democracy often appears to have the status of an intrinsic value and an essentialist norm, but it is worth calling to mind that modern democracy had emerged as a tool for the political realisation of the modernist idea of the autonomous subject, i.e. for the self-determination and self-realisation of the modernist individual which following the Enlightenment had successfully installed itself as the ultimate value and source of political legitimacy. Modern democracy is based upon the axiom of the autonomous

4 Strategies such as the *deparliamentarisation*, *informalisation*, *delegation* and indeed *depoliticisation* of government have been discussed by a wide range of authors (e.g. Benz 1998; Boggs 2000; Burnham 2001; Thatcher and Stone Sweet 2002; Strøm et al. 2003; Braun and Galardi 2005; Fischer 2006; Flinders and Buller 2006; Kettell 2008) and are the focus of several contributions in this volume.

5 The term *identical* here implies: being defined by and claiming a distinct, clearly identifiable, autonomously created, unitary and stable identity. The concept will be discussed in more detail further below.

individual and the belief in the distinguishable and consistent (although always evolving) identity of individuals and social groups. It is 'the institutional reflection of the emancipative forces inherent in human development' (Inglehart and Welzel 2005: 299). In the ongoing process of modernisation, however, this notion of the autonomous subject, this specifically modernist idea of the individual and collective Self, has become outdated. Notions of individuality and identity have changed, and thus the very foundations of democracy are, one might say, rapidly dissolving. Accordingly, democratic systems now have to reconfigure their relationship to the individual citizen and to the *demos* at large. In particular, democratic systems have to adapt the modes in which they generate political legitimacy which is, arguably, the most severe challenge to the sustainability of democracy. Yet whilst a lot has been written about the (im)possibility of democracy beyond the modernist nation state and about changing notions of identity in the late-modern condition, the particular questions whether and how late-modern democracy can cope with the disintegration of its specifically modernist point of reference, and how it can rearrange its relationship to the late-modern Self remain strangely underexplored: 'A massive literature', Inglehart and Welzel suggest, 'has largely overlooked democracy's most fundamental aspect: human emancipation' (Inglehart and Welzel 2005: 300)⁶ and, ironically, their own work must largely be subsumed under this verdict.

Thus the question for the sustainability of democracy has normative as well as empirical dimensions. As yet there is no indication that in advanced modern societies *unsustainable* democracy may in fact collapse and be superseded by a different form of political organization. But there is plenty of evidence that in response to increasing levels of societal complexity democratic systems are adapting their modes of governance and that the emerging forms are experienced as failing to comply with established democratic norms. The perceived discrepancies between democratic ideals and experienced political realities are widely conceptualised as *legitimacy crises*, *efficiency gaps* and *democratic deficits* which public discourse and the academic literature are approaching from a variety of different perspectives: Normative democratic theory watches over the fulfilment of established democratic norms and provides guidance on how contemporary politics may generate democratic legitimacy thereby reasserting its moral worthiness of public support and securing factual compliance and cooperation by citizens. Empirical legitimatisation research investigates to what extent and for what reasons individual citizens or social communities consider particular policies, political actors,

6 In Brodocz et al.'s recent volume *Bedrohungen der Demokratie* (Threats to Democracy, 2008), for example, the challenges inherent to changing patterns of identity construction are barely touched upon, even though this volume compiles the expertise of more than twenty leading scholars of democracy.

political institutions and political processes as legitimate, and how the notion of legitimacy is constructed and reconstructed in public discourse. Social and political theorists in the descriptive-analytical tradition try to devise conceptually consistent and empirically plausible descriptions and explanations of how and why democratic norms, empirical democratic practices and societal discourses about democracy are changing.

In the present chapter, it is primarily this third approach which guides the exploration of late-modern democracy. The central questions to be addressed are: How do democratic systems in advanced modern societies respond to the triple sustainability challenge outlined above? How do they address their perceived legitimacy crises, performance gaps and democratic deficits? How do they adapt their modes of generating legitimacy? How do they reconfigure their relationship to the late-modern subject? In a word: How do they manage to sustain a political order that seems increasingly unsustainable?⁷ Following Inglehart, the concept of modernisation will be at the centre of the subsequent analysis: Processes of modernisation trigger processes of social value change which in turn affect political culture and trigger democratic change. Yet, the ‘emancipative theory of modernisation’ which has always informed Inglehart’s work (e.g. Inglehart 1977, 1997; Inglehart and Welzel 2005: 299-300) will be extended by an important dimension that Inglehart does not recognise: Beyond the constitution and assertion of the autonomous subject, the process of modernisation and emancipation also entails the reflexive dissolution of exactly this modernist ideal. Honneth describes this second stage of the emancipatory trajectory of modernity as the ‘liberation from autonomy’ (Honneth 2002).⁸ For the currently ongoing transformation of democracy this second order emancipation is, I will argue, of exceptional significance, and to fully explore this significance is the objective of this chapter.

The next section first addresses the two most commonly cited causes of democratic deficits and legitimacy crises: the internationalisation and deparliamentarisation of politics, and then turns to the ongoing process of (reflexive) modernisation which is not only the underlying cause of the latter two phenomena but also a useful access point to the discussion of the most crucial issue in the late-modern transformation of democracy: the reflexive dissolution of modernist notions of the Self. Section three is devoted specifically to the relationship between democracy and complexity, whereby the focus is first on the ‘democratic dilemma’ (Dahl) that democratic structures tend to be inefficient, whilst efficient structures tend to be undemocratic; then on the

7 Indeed, beyond the specific research agenda of this book, the present chapter ought to be read as a further contribution to my ongoing exploration of the *politics of unsustainability* (e.g. Blühdorn 2002, 2004a/b, 2007c/d).

8 Translation of citations from German-language sources here and throughout the chapter by the author.

complexity of late-modern individuals who are embracing *liquid* forms of identity commensurate to *liquid life* in *liquid modernity* (Bauman 2000, 2005); and finally on the structural mismatch between contemporary forms of liquid identity and the institutional order of representative democracy. Section four discusses the strategies developed by advanced modern societies for the generation of legitimacy. It starts out by mapping the key parameters which are constitutive to the generation of legitimacy, then explores a trend towards rationalisation that has transformed legitimacy in late-modern democracies, and concludes by highlighting the shortcomings of the forms of legitimacy generation that have become prevalent. The final section then further explores these shortcomings from a normative as well as empirical point of view. It portrays the simultaneity of, on the one hand, the decentralisation of the individual, the disintegration of the modernist subject and the emergence of objectivist (*post-democratic*) modes of legitimacy generation and, on the other hand, the radicalisation of demands for self-determination, self-realisation and individual-centred legitimisation as the key challenge which advanced modern consumer democracies are having to confront. It suggests that late-modern societies are coping with this challenge by supplementing their expert-based, depoliticised and output-oriented modes of legitimacy generation by something that may be conceptualised as *performative legitimacy*. Under conditions of late-modern complexity performative legitimacy is, arguably, essential for sustaining the democratic order which might otherwise indeed be unsustainable.

2. Reflexive modernisation

Recent debates about legitimacy crises and democratic deficits have been fuelled, in particular, by two factors: firstly, the *internationalisation* of politics, i.e. the increasing extent to which policy is made at the supranational level and shaped by international actors; and secondly, the *deparliamentarisation* of politics, i.e. the increasing extent to which at the national and subnational level policy making has migrated into extra-parliamentary fora and is dominated by actors who do not command a democratic mandate.⁹ The first of these developments, i.e. the internationalisation of politics, has a dual impact on national democracies: (a) political power and decision-making competencies in ever more policy areas are moving towards transnational bodies and

9 See, for example: Beck 1998; Greven 1998; Majone 1996, 1998, 1999; Moravcsik 1998, 2002, 2004; Scharpf 1998b, 1999, 2003, 2004; Zürn 1998, 2003, 2004; Thatcher and Stone Sweet 2002; Strøm et al. 2003; Braun and Galardi 2005; Follesdal and Hix 2006; Leibfried and Zürn 2006, and the majority of contributions to this volume.

arenas and therefore away from national democratic institutions; and (b) decisions taken at the supranational level need to be ratified and implemented at the national level, which turns supposedly sovereign national political institutions into executive agencies for policies on the formulation of which they have had at best marginal impact, but for the effects of which – particularly if these are deemed negative – national electorates will hold them fully responsible. Both aspects undermine the effectiveness with which national governments can respond to the priorities and preferences of the *demos*, and they weaken the bond of trust between the latter and their democratic institutions. Indeed, from the perspective of the electorate the internationalisation of politics raises the question why citizens should at all invest commitment into democratic processes, and trust into political institutions, if all major issues are being determined by transnational actors and regimes, with national democratic institutions having very limited scope for autonomous and effective action. At the implementation stage there is the question why citizens should at all accept and comply with policy agendas which, whilst interfering ever more deeply into formerly national policy areas and impacting ever more strongly on their everyday lives, have neither been negotiated nor voted upon in a democratic manner.

The second of the above cited points, i.e. the deparliamentarisation of politics, implies that political issues and decision-making competencies are increasingly delegated to non-majoritarian bodies and agencies. ‘The late twentieth century’, Moravcsik notes, ‘has been a period of the *decline of parliaments* and the rise of courts, public administrations and the *core executive*’ (Moravcsik 2002: 613). In many policy areas advanced industrial democracies ‘insulate themselves from direct political contestation’ (ibid.) with democratic government being superseded by the depoliticised ‘regulatory state’ (Majone 1996). At the same time, the increasing complexity of policy issues and interest constellations has given rise to patterns of informal government and network governance. Whilst these new policy networks in the ‘cooperative state’ (Benz 1998) also provide new opportunities for the engagement of interest groups and civil society actors, this ‘post-parliamentarian’ (ibid.) form of governance once again implies a devaluation of the central arena of democratic deliberation and decision-making, and it raises questions of transparency, accountability and legitimacy (e.g. Fischer 2006: 50).

The internationalisation and the deparliamentarisation of politics disempower national democratic institutions, impair the right to democratic self-determination and disrupt established chains of democratic legitimisation and accountability. They increase the distance between decision makers and decisions takers and thus undermine the democratic ideal of the congruence between the governing and the governed. They trigger complaints about democratic deficits and mobilise protest movements, nationally and internationally. Yet, for an appropriate understanding of the challenges to democracy it is es-

sential to grasp that the trends of internationalisation and deparliamentarisation are not the cause of the perceived crisis of democracy. They are themselves only symptoms of the process of modernisation which is the underlying cause and trigger of the ongoing transformation of democracy.¹⁰ This process of modernisation is driven by its own logic. Its dynamics is difficult to control, probably impossible to reverse, and since its inception rationalisation, individualisation, differentiation and temporalisation have belonged to its constitutive elements.¹¹

On the basis of their ‘emancipatory theory of modernisation’, Inglehart and Welzel have suggested that the ‘underlying theme’ of modernisation is ‘the growth of human choice, giving rise to a new type of humanistic society that has never existed before’ (Inglehart and Welzel 2005: 299). They have highlighted how ‘rising self-expression values provide a social force that operates in favor of democracy, helping to establish democracy where it does not yet exist, and strengthening democracy where it is already in place, improving the effectiveness of democratic institutions’ (ibid.). They assume that the process of modernisation incrementally transforms ‘merely formal democracy’ into ‘genuinely effective democracy’ (ibid.). Yet, this rather undialectical account does not recognise that in a number of respects the process of modernisation also represents a severe challenge to democracy:

Firstly, modernisation gives rise to a widening gap between the need for political legitimisation on the one side, and the capabilities to produce this legitimacy on the other. As it makes established traditions negotiable and opens up ever new options and opportunities, the progress of modernisation renders both private and social life eminently political. Choices and decisions have to be made at the exclusion of alternative options. Particularly if they impact on the social sphere, such choices need to be publicly justified and politically legitimised. Yet as the process of modernisation is chipping away at all exist-

10 Accordingly, any attempts to renationalise politics or to reverse the process of deparliamentarisation would invariably be doomed to fail. Such neo-national and neo-parliamentary impulses – which predictably surface in political rhetoric from across the ideological spectrum – disregard that societal function systems, individual life worlds, the realm of social interaction and the problems which electorates want to see addressed have irreversibly expanded beyond the boundaries of the nation state, and that the expectations and demands which contemporary electorates regard as non-negotiable cannot be fulfilled by the forms of democratic government which had been designed for conditions of much lower social complexity.

11 Particularly the term *temporalisation* may require further explanation. It aims to capture, firstly, the steady shortening of innovation cycles and, by implication, the declining time span for which any artefacts and social arrangements may be expected to last before becoming subject to a new round of innovation. Secondly, it captures the tightening focus onto the present and the increasing value accredited to the instant servicing of momentary needs, imperatives and desires, which take priority over the values of the past and consideration for the future.

ing normative yardsticks that might be applied for this purpose, the rapidly expanding demand for political legitimisation clashes with the constantly declining ability to deliver on this demand.

Secondly, the process of modernisation also leads into an organizational dilemma. Since their inception, modernity and modernisation have been a process of social differentiation and the build up of societal complexity. The specialisation of knowledge, the diversification of social identities and increasingly multifaceted social relations and patterns of interaction necessitate sophisticated procedures of coordination which can manage the achieved level of diversity and complexity in an efficient and effective manner. Democratic processes, however, are not only cumbersome and resource intensive, but with their ideal of deliberative consensus, their binary logic of yes/no votes and their simplistic dualism of majority and minority they are structurally inadequate for the articulation and management of late-modern complexity (Benz 1998: 203).¹²

Thirdly, the ongoing process of modernisation represents a challenge to democracy in that it implies a transformation of the core value and point of reference of both modernity itself and of the political system of democracy: the autonomous Self. As indicated above, 'modern democracy relies on the axiom of the self-control of individuals' (Beck 1997: 44). 'This principle was postulated and analysed in the political theory and philosophy of the Enlightenment' (ibid.) which has originally created and installed the idea(l) of the autonomous Self as the ultimate bearer of value and subject of rights. The Enlightenment initiated the process of the constitution and emancipation of the modernist subject and its identity, and the process of modernisation has always remained a process that centres on the core value of the subject, steadily extending its rights and nurturing its claims to individuality, self-determination and self-realisation. On the other hand, however, the process of modernisation has continuously increased the complexity of the Self (individual and collective) and its identity, which has affected its internal coherence, consistency and stability. This transformation of the Self and its identity represents a challenge for both normative democratic theory and in an empirical-practical sense. From the perspective of the former, the problem is that contemporary notions of individuality and identity do not provide a solid foundation for any notion of democratic legitimacy. From the empirical-practical perspective it becomes ever more difficult for democratic institutions to integrate and be responsive and accountable to the burgeoning diversity of incompatible, inconsistent and highly volatile demands articulated by late-modern society's 'atomised citizens' (Pattie et al. 2004: 276-80).

Thus, the problems which contemporary democracies are having to confront do not really originate from the much debated internationalisation and de-

12 These points will be elaborated further below.

parliamentarisation of politics but, ultimately, from the dynamics of the modernisation process itself. Trying to capture, firstly, the uncontrollability of this process and, secondly, its tendency to once again dissolve the certainties which modernity itself had once established in its struggle against pre-modern uncertainties, Beck has suggested the term *reflexive modernisation*¹³ (Beck et al. 1994; Beck 1997) and notes that 'democracy is becoming reflexive' (Beck 1997: 43): 'Quite independently of whether we like it and approve of it, regardless of whether it is considered progressive or catastrophic' we are witnessing the 'reflexive questioning of the fundamental principles of democracy' (ibid.).¹⁴ Perhaps more succinctly even than Beck's thinking in terms of a *second* or *reflexive modernity*, Luhmann's functionalist theory captures the inadequacy of the modernist ideas underpinning democracy (Luhmann 1995, 2000). Suggesting, as it does, firstly, that the analysis of advanced modern society needs to proceed from the basic category of the autonomous function system rather than the autonomous subject (individual or collective); that, secondly, these function systems are systems of communicated meaning and therefore not tied to national boundaries or delimited and integrated by territorial categories; and that, thirdly, societal interaction and development are not governed by the system of politics¹⁵ but evolve in a largely uncoordinated and uncontrolled manner from the interplay of society's diverse function systems, the systems-theoretical model acknowledges and implies (a) the decentralisation of the autonomous subject (individual and collective), (b) the decentralisation of the nation state, and (c) the decentralisation of the system of politics. It necessitates that democracy be reconceptualised beyond its modernist foundations and modernist categories. In particular it raises the questions:

- *Can there be democracy beyond the autonomous and identical subject?*
- *Can there be democracy beyond the nation state?*
- *Can there be democracy beyond government as the central site of power and societal coordination?*

13 The term denotes the automotive and largely unreflected 'self-transformation of industrial society' (Beck 1997: 15) in which 'the foundations of modernization in industrial society are called into question by that very modernization' (Beck 1997: 40).

14 Beck refers, in particular, to the notion of the territorial nation state, the idea of national sovereignty, the belief in the unity of the people (national identity) and in the congruence of the governing and the governed, and to the notion of politics as the centre of power governing all social relations and societal interaction. Yet, like Inglehart, he does not consistently think through the implications of the reflexive modernisation of the most central modernist idea, namely that of the autonomous Self and identical subject which is, ultimately, underpinning all the other beliefs mentioned before.

15 For Luhmann, the system of politics is only one of many societal function systems and in no way superior to, or in control of, the others.

The existing literature on the transformation of democracy addresses primarily the last two of these questions¹⁶, yet the key point is, arguably, the first one. Appropriate conceptualisations of the contemporary challenge to democracy and of the ways in which advanced modern societies are managing this challenge not only need to overcome the *territorial bias* in democratic theory and the social sciences more generally (Beck 1998: 10-19) but also – even more importantly – what by analogy might be called the *subjectivist bias*. They need to rethink democracy beyond the modernist notion of the subject. And whilst transnational or even global political institutions managing the affairs of the transnational or even global community in a democratic manner are, in principle, thoroughly conceivable, democracy without the notion of the autonomous and identical subject seems much less conceivable – indeed inherently contradictory.¹⁷ Therefore, democratic theory needs to pay much more attention to changing notions of subjectivity and new patterns of identity construction which underpin democratic needs and expectations. It needs to take into account that modernisation does not only transform empirical conditions and social relations which are supposed to be ordered in accordance with democratic norms, but also prevalent notions of individuality, identity and subjectivity which are the source and referent of such norms. After all, legitimisation crises, efficiency gaps and democratic deficits are *subject-centred* categories: they are *subjectively experienced violations of subject-centred norms*.

Acknowledging the interplay between the modernisation-induced transformation of empirical conditions and the parallel transformation of social norms and expectations, Schneider et al. (2006: 200-202) have distinguished three different types of legitimacy crises:

1. *Crises of democratic institutions*, in which established democratic norms remain uncontested, but political institutions are seen to not comply with them and are therefore deemed to lack legitimacy.

16 With the literature on transnational and cosmopolitan democracy (e.g. Held 1995; Albrow 1998; Zürn 1998; Beck 1998, 2006; Beck and Grande 2007) covering the former and the literature on governance, the cooperative state, regulative politics, etc. (e.g. Rosenau and Czempel 1992; Majone 1996, 1999; Rhodes 1997; Giddens 1998; Czada et al. 2003; Marcussen and Torfing 2006; Sørensen and Torfing 2008) covering the latter.

17 Some post-modernist thinkers (e.g. Lyotard 1984; Laclau and Mouffe 1985; Mouffe 1993) have claimed that the emergence of post-modernist forms of subjectivity and identity provides new opportunities for radical democracy. Neo-modernists such as Beck (1997) or Inglehart (1997) have emphasised that the post-modernisation of society bears major potentials for the further democratisation of democracy. Yet, the implications of the decline of the modernist subject for democratic theory remain underexplored, and in political practice the governance of post-modern complexity seems to have given rise, more than anything, to *post-democratic* forms of governance (Crouch 2004; Jörke 2005; Buchstein and Nullmeier 2006; Blühdorn 2006b, 2007b).