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Democratic reforms and legitimacy in established Western democracies

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Chapter 2

Two Views of Legitimacy — A Neoinstitutionalist Answer

2.1 Introduction

As discussed in the previous chapter, in the legitimacy crisis debate, there are those who conclude that parliamentary democracies are experiencing a serious malaise. For one, forces such as internationalization and deparliamentarization are supposedly altering the nation-state and widening the "gap" (Hix and Raunio, 2000, Norton, 1996). National institutions are losing substantial decision-making powers to international organizations or other non-elected institutions (such as the judiciary and various interest groups) meaning that citizens in democratic states are not able to vote on many important issues. This development is seen as making the political process less legitimate. Other scholars assert that the concept of legitimacy in established democracies is merely experiencing a shift from input-oriented principles (such as participation of citizens) to output-oriented principles (such as efficiency and effectiveness) (Scharpf, 1999, Hibbing and Theiss-Morse, 2005) or that the notion of crisis is much more complex if one looks at political discourse (Hurrelmann et al., 2005). These conclusions, however, are based on assumptions about the normative foundations of legitimacy; Empirical legitimacy indicators are even more ambiguous about the state of the legitimacy crisis. Lower levels of turnout in national and European elections, rising volatility levels between elections, declining levels of party membership and trust in various institutions are seen as signs that people are no longer supporting their political systems (Dalton, 2007). At the same time, however, citizens seem to hold on to principles of democracy and are

participating in the system in new ways whenever they deem it necessary - through various advocacy groups, social movements, by demonstrating or by contributing money to candidates during election campaigns (Van Gunsteren and Andeweg, 1994, Haunss, 2007, Norris, 2011).

Legitimacy is a concept that is difficult to define. It is often used interchangeably with concepts such as democracy, legality, authority, equality, participation, to name just a few. Sometimes, it is described as a force that binds members of the community to each other through the sharing of genuine political norms and values. At other times, it is the process of justifying the exercise of power based on pre-existing rules. It is a complex multidimensional concept that is often *"regarded as the political scientist's equivalent of the economist's invisible hand"* (Stone in Bekkers et al. (2007, p.6)). Scholars are unable to agree on how legitimacy should be defined, how it is created, whether it is on the decline and which factors influence it. The main reasons for the confusion in this debate is that different concepts of legitimacy are either combined or left unspecified (Krell-Laluhová and Schneider, 2004).

In this chapter I attempt to bring some order into the wealth of legitimacy concepts and indicators. This chapter also seeks to present a legitimacy model that combines different empirical and normative approaches and which helps us to understand and evaluate the impacts of institutional change.

2.2 The Normative Approach to Legitimacy

Almost every recent writing on legitimacy begins by mentioning Weber's work. Weber (1968) identifies three ideal type authority structures. The first, *charismatic authority*, is defined as power that derives its legitimacy from the public's perception of its leader's exceptional qualities or extraordinary achievements. Charismatic authority is also related to personal legitimacy in Eastonian terms (Easton, 1965). The second, *traditional authority*, obtains obedience among followers because it is connected to a custom, the usual way of acting under certain situations. The third form of authority, *rational legal authority* is based on rationality. Here rules are not arbitrary but predictable and enforced by the bureaucracy. Easton names this type of authority ideological legitimacy because it is embedded in ideas; in Weber's case the ideas of the enlightenment, democratic liberal beliefs in the constitutional state. Other political values that are connected to Weber's rational-legal framework, such as direct democratic views , representative democratic views or any other tradition of western philosophical thought could also be seen as important sources of legitimacy.

The source of legitimacy of the rational legal authority is located outside the system,

and the political order has to live up to these criteria in order to qualify as legitimate. In other words, as put by Hurrelmann et al. (2005, p.120), normative legitimacy is *"acceptability in the light of criteria provided by democratic theory or rather strands of political philosophy"*. It is a normative quality given to political systems, which have been established following certain principles that travel across time and space. From this view, legitimacy relates to the broad idea that all political decisions should be entrenched in norms and rules. A ruling or policy can thus only be considered legitimate if the appropriate procedures are followed (Barker, 1990). The primary question that scholars of normative legitimacy study is: To which political norms and values do authority figures refer when they want to motivate their decisions or change institutions? Why can the governing authority set collectively binding decisions, obtain resources from society and establish a monopoly on power? The yardsticks for legitimacy are often derived from the various models of democracy.

2.2.1 Variables of Normative Legitimacy: Constitutional Provisions and Law

Students of normative legitimacy often try to answer some of the questions mentioned above, by focusing on normative aspects of legitimacy, studying constitutional provisions and laws. Attempting to figure out whether political rules are validated because they are based on universal norms that are assumed to be inter-subjective and autonomous of the self (Rawls, 1985). That is to say, norms that *"are able to establish a moral duty to obey (. . .) collectively binding decisions even if they conflict with individual preference"* (Scharpf, 1998).

Traditionally, constitutional scholars have focused on procedural norms such as participation, accountability and procedural fairness (Weatherford, 1992). In other words, when making laws, are governors accountable to citizens through a method that permits equal and wide participation? Is the system designed in such a way as to guarantee that conflicts are settled following predictable procedures? The assumption of this approach is that outside observers can rank constitutions on a legitimacy continuum. This premise, many critics assert, is made too lightly (Rogowski, 1974). Informal rules and behaviors should also be taken into consideration. Furthermore, this method of evaluating legitimacy has often been criticized for not taking citizens' actual beliefs into account and is hence accused of being out of touch (Rogowski, 1974).

2.3 The Empirical Approach to Legitimacy

A second interpretation of Weber focuses on the various motivations citizens have for accepting rules that have been imposed on them. One motivation for complying with laws is fear of violence and punishment. However, this compliance will quickly evaporate once the threat disappears. A more stable form of compliance is one that is based on legitimacy. Legitimacy is now described as a feeling, a belief or a moral choice by the ruled that norms and laws should be obeyed. As put by Hurrelmann et al. (2005, p.120) it is the *"factual acceptance of nation state institutions in the population"*.

Following this second perspective the legitimacy of the political system depends on its ability to find support (Easton, 1965). Support is independent of coercion and based on free will. Dahl and Stinebrickner (2003) prefer to use the term *authority* because in this form of influence citizens feel morally obliged to obey. In this sociological understanding of legitimacy members of a community will obey the decisions of their governments even when they disagree with those decisions - not because of personal motivations or fear but inherent ideology. Legitimacy does not necessarily have to be connected to legality but rather refers to shared values and responsibilities (Kaase, 1979). Easton refers to this type of legitimacy as *structural legitimacy*. Structural legitimacy is the *"independent belief in the validity of the structure of norms of a political system and the roles that are fulfilled in this system"*(Easton in Bekkers et al. (2007, p.40)). Beetham calls it the descriptive approach to legitimacy (1991) because social scientists need to "describe" why the governed acknowledge and support their system. Unlike the normative approach, empirical legitimacy addresses attitudes that communities or individuals hold towards their system and rulers.

Empirical legitimacy also forms the basis of the cultural approach to politics. This strand of research started with Almond and Verba's seminal work on the civic culture. They define political culture as *"the particular distribution of patterns of orientation toward political objects among the members of the nation"* (Almond and Verba, 1989, p.13). The central thesis of this approach is that mass values play an important role in democracy. Researchers in this field have shown that various civic virtue indicators are important in understanding why some political institutions function well while others fail. Basically, when political institutions and mass-cultural values are congruent the political system is more stable and able to produce effective results. Some even argue that variations in political values are also able to explain variations in types of democracy:

> *"Rising self-expression values transform modernization into a process of human development, giving rise to a new type of humanistic society that promotes human emancipation on many fronts. This transformation has a number of important soci-*

> *etal consequences. One of them is that it encourages the emergence and flourishing of democratic institutions" and "Human development is not linked with all forms of democracy to the same degree; it is most specifically linked with the liberal aspect of democracy that institutionalizes human choice"* (Inglehart and Welzel, 2005, p. 149).

In the political science literature, mass values are conceptualized in various ways. For instance, postmaterialist values include demands for individual expression and autonomy. They incite citizens to demand more participation in the political decision-making process (Inglehart). Others use trust, political efficacy, religion/secularism, social capital (Putnam), membership in (voluntary) networks, grid-group (Douglas and Wildavsky).

Critiques of this approach argue that culture should not only be understood as a personal experience but also as a collective one, i.e. the aggregate numbers of individual values do not necessarily describe which cultures are present within a given society. In turn, defenders of this method establish the importance of (subjective) public values and attitudes by statistically demonstrating how it influences democratic and non-democratic institutions (Armingeon, 2007). Other researchers have shown that public attitudes towards democracy have been important factors in explaining several major political system reforms (Norris, 1999).

2.3.1 Variables of Empirical Legitimacy: Mass and Individual Level Attitudes

The primary questions scholars of empirical legitimacy study are: how do citizens perceive the political system? And do they share the same norms and values? Their method is inductive: they first observe the opinions of citizens and then try to explain what influences these opinions. Public opinion surveys persist as the most prevailing method in empirical research on legitimacy. This method came into being after the behavioral revolution of the 1950s and 1960s and Easton's seminal work on diffuse and specific support (which will be discussed in the following sections). Most surveys (such as the Eurobarometer, World Value Survey or European Value Survey) measure individual attitudes and behavioral inclinations concerning political arrangements and their central principles by questioning random population samples in various countries. They contain close-ended questions about acceptable and unacceptable features of the system, principles of right and wrong and other views about the community and institutions.

Survey questions can be ordered according to three different aspects of the political system: Orientations towards the nation, towards the state and towards incumbent

authorities (Norris, 2011). Variables range on a continuum from diffuse support to specific support. Easton defines diffuse support as the feeling of attachment that citizens have towards the norms and values in their system while specific support is their evaluation of the achievement of demands. Questions about norms and values such as belonging to the nation, feelings of patriotism, national identity and voluntarism are the most diffuse on Easton's dimension. The second level concerns the normative principles guiding the regime, such as: preference of democracy above autocracy or the evaluation of specific rights. Next, approximately in the middle of the continuum, generalized support of the state is positioned. These are variables connected to the evaluation of regime performance. The well known variable in this middle-level support is satisfaction with the actual performance and working of democracy rather than the ideal. Other variables connected to regime performance are confidence in regime institutions such as parliament, government, courts, police, military and the bureaucracy. And finally, closest to specific support, one finds variables for the approval of incumbent office-holders such as the president, MPs or the prime minister. The diffuse and specific support continuums are depicted in the empirical legitimacy box in Figure 2.1.

There is disagreement in the literature between proponents of the personal explanations of citizen attitudes and adherents of structural causes: Some (for instance Hardin (2006), Keele (2007), Newton (2001)) highlight psychological variables (such as interpersonal trust or social capital) and social economic variables (such as education and income) to explain orientations. Neoinstitutionalists highlight the reciprocal ways in which institutions affect the public's conception and how public opinion in return influences how institutions work (Miller and Listhaug, 1999, Mariën, 2012).

Within this approach it remains vague which levels of system approval and disapproval should be considered healthy or unhealthy for a democracy. Some contend that political dissatisfaction and distrust are an asset rather than a liability to democracies (Rosanvallon, 2008). If citizens are too trusting and insufficiently critical there is a risk that self-interested representatives will abuse their powers (Hardin, 2006). To avoid being disappointed citizens should be distrustful of politics, inspect and question state authorities and hold them accountable. As put by Hibbing and Theiss-Morse (2005, p.130): *"Most people would happily seize the opportunity to spend their time doing something other than politics if only they were convinced that elected officials would not then be able to use their positions for their own self-interest"*. In this view, criticism and scepticism of democracy should be institutionalized in order to decrease the chances of corruption and enhance democratic quality. In response other scholars have argued that although the literature is not clear about which levels of political distrust are problematic for the democratic system at the mass-level, it is clear that trust is desirable at the individual

level. Individuals who are trusting are more likely to follow legal rules, denounce free-riding behaviour, turn out at elections and are less likely to vote for extreme right and populist parties (Mariën and Hooghe, 2011, Mariën, 2011).

2.4 Reconciling Two Views of Legitimacy: A Neo-institutionalist Approach

Some scholars argue that legitimacy should be evaluated as a multidimensional concept (Horeth, 1999). There are manifold sources of a political system's legitimacy (Wimmel, 2009) and correlations between the different concepts are possible. Following Easton (1965), normative legitimacy and empirical legitimacy are to some extent mixed the concepts of diffuse and specific support. Diffuse support is the degree of public support for an institution in an abstract sense, regardless of short term policy outcomes. Scharpf (1999) tried to elaborate on Weber's legitimacy model and Easton's model of system support with the concepts of input and output legitimacy.

2.4.1 Input Legitimacy

The idea of input legitimacy (Scharpf, 1999) is similar to the idea of diffuse support in empirical legitimacy but it is defined more narrowly. It refers to the procedural features available and the agreement of the citizens with these procedures. With regard to norms, input legitimacy is associated with the quality of representation and the institutional procedures available for citizens to participate in the decision-making process. The feeling of trust and confidence in institutions plays an important role. In practice, those studying input legitimacy try to identify the direct and indirect possibilities for citizens to affect policies or their ability to participate in decision making.

Behavioral scholars such as Almond and Verba (1989) choose to turn away from the formal constitutional provisions for participation and rather look at the actual behavior of people. The belief here is that the biggest danger for democracies is not revolutions but citizen withdrawal from political life. Citizen participation is linked to the notion of input legitimacy, following the idea that democracy means the rule by the people and that their opinions and actions are vital for the proper functioning of democracy (Norris, 1999).

Scholars of political behavior concentrate on visible political activities in the system. Those that have identified a problem with political participation often refer to diminishing engagement in political parties and party membership, declining turnout levels

and increasing volatility (Dalton and Wattenberg, 2002, Mair, 2005). Another dominant opinion is that decreasing involvement might only be an indication of a widespread shift in conventional patterns of participation. Citizens nowadays are making use of contentious politics and innovative action repertoires such as participating in internet campaigns and protest movements (Stolle and Hooghe, 2005). Other examples, to name just a few, are participation in deliberation processes, voting in referendums, donating money to politicians or to grassroots organizations.

The only thing that is not clear in this approach to legitimacy is how to understand and asses the importance of different levels of participation whether conventional or non-conventional: which levels of participation should be considered healthy or unhealthy for a democracy (Sniderman, 1981)?. It also remains vague which type of participation is beneficial for democracy and which type is harmful. Equally important, an inactive polity does not necessarily have to signify a crisis of legitimacy but could rather be a sign of satisfaction with the existing order. Citizens might want to remain invisible like a stealth airplane, appearing only when things go wrong (Hibbing and Theiss-Morse, 2005).

2.4.2 Throughput Legitimacy

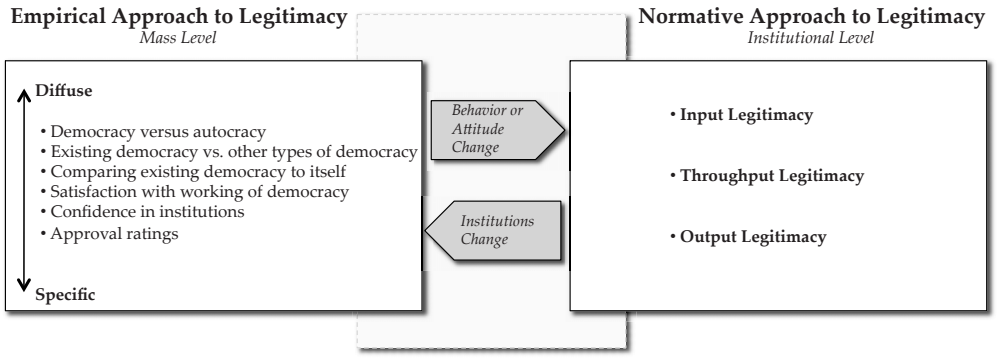
After citizens have used their right to directly or indirectly influence policy making during elections, representatives enter the political process together with lobbyists and bureaucrats. Here the institutional decision-making process (black-box) is identified and studied. Scholars look at transparency and information laws and the acountability and deliberation process to evaluate the quality of the throughput process (for instance: (Wimmel, 2009, Zürn, 2000, Schmidt, 2013)). Throughput-oriented legitimacy is based on the ability of the system to control itself - the idea of the trias politica (Wimmel, 2009).

2.4.3 Output Legitimacy

Output legitimacy stresses the importance of efficiency and effectiveness of democracy and the evaluation of outcomes such as economic prosperity, distributive justice, stability and responsiveness of policy. Within this approach, legitimacy depends on the quality of the results. More recently, with the emergence of the legitimacy debate around the European Union, scholars are concentrating on questions such as how well laws act in the common interest of the polity (Scharpf, 1998).

A popular method to evaluate output legitimacy is to observe not laws or public attitudes, but objective policy outputs according to the central principles of distributive

Figure 2.1: *Multidimensional Legitimacy*



fairness and efficiency (Weatherford, 1992). Is the government able to accomplish its goals without losing too much time or money? Are resources and burdens distributed equally? Performance measures are frequently described in materialist terms such as allocation of economic welfare, inflation, unemployment, national deficit, Gross Domestic Product (GDP), the disparity of income within a nation (GINI) or sustainable economic welfare (ISEW). Nonetheless, performance can encompass political and social benefits as well, for instance, protection of political rights, stability, responsiveness of leaders, environmental protection, health care, crime, education and life expectancy (HDI) (for a comprehensive overview see Roller, 2005). Most critics affirm that the weakness of this method, just as was the case with constitutional procedures, is that it focuses too much on formal structures and fails to notice the subjective aspects of the system (Weatherford, 1992). In other words, if a researcher concludes that income disparity is low in a certain country (objective measures) does this also mean that citizens experience it as such (subjective measures)?

Following the writings of Weber, Easton and Scharpf, legitimacy should be understood as a multidimensional and multilevel concept. As suggested in Figure 2.1, normative legitimacy on the institutional level is associated with empirical legitimacy on the mass level. Along these lines, based on neoinstituionalist theory, if existing institutions change this can have an impact on existing attitudes towards democracy through socialization processes and vice versa (for an overview see Hall and Taylor (1996)). Any disparity between the mass-level and institutional levels creates a tension in the political system and this might eventually elicit adjustments. There are different possibilities that could emerge between the different aspects of legitimacy. It is likely that major alterations of core institutions or democratic principles and procedures will have an effect on empirical legitimacy. Inversely, if political values were to change first,

these may confront existing institutional provisions. When institutions and attitudes change concurrently the results are inconclusive: they can either match or mismatch.

2.5 Legitimacy and Reform in the Following Chapters

The central concept of legitimacy is difficult to define because it has often been used as a synonym for other major ideas such as legality, authority or citizen participation. Researchers have often contributed to the legitimacy debate without specifying their understanding of the term. The goal of this chapter was to bring some order into the abundance of approaches concerning legitimacy and to introduce a legitimacy model related to institutional change.

The normative approach to legitimacy assumes that certain normative principles are leading for how the system is evaluated by citizens. However, they do not test the assumption. The empirical approach to legitimacy describes how the system is being evaluated by citizens. Yet they do not relate these evaluations to underlying normative foundations of the system. I combine the two.

The multidimensional model of legitimacy presented here consists of two main legitimacy dimensions: First the normative dimension, at the institutional level, focuses on the political norms on which institutions are based, the procedures, input and the output of institutions. Second, the empirical dimension focuses on citizens evaluation of the system.

According to neo-institutionalist theory, institutions and the masses influence each other through communication, institutional change, attitudinal change and behavior. This model helps us understand how legitimacy at the mass-level can bring about institutional change and inversely how to evaluate the impact of this change on the public's opinion. The multidimensional model presented above will be utilised in different ways to investigate the interactions between reforms and different dimensions of legitimacy.

To begin with, in chapters 3 and 5 I investigate how normative models of democrcay provide yardsticks for the different types of reform. I link the inventory of reforms to democratic theories. Most prominent in the literature is the distinction between direct and indirect democrcay. In chapter 3 I describe the indirect-direct dimension (figure 2.2).

In chapter 5 I combine the indirect-direct dimensions of democracy with the integrative-aggregative dimensions of democracy to build a typology for the reforms. The typology consists of the pendulum model, the consensus model, the voter model and the participatory model (figure 2.3).

Figure 2.2: *Indirect—Direct Dimension*

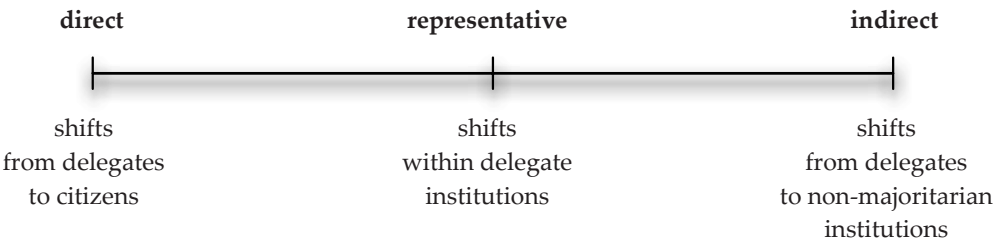
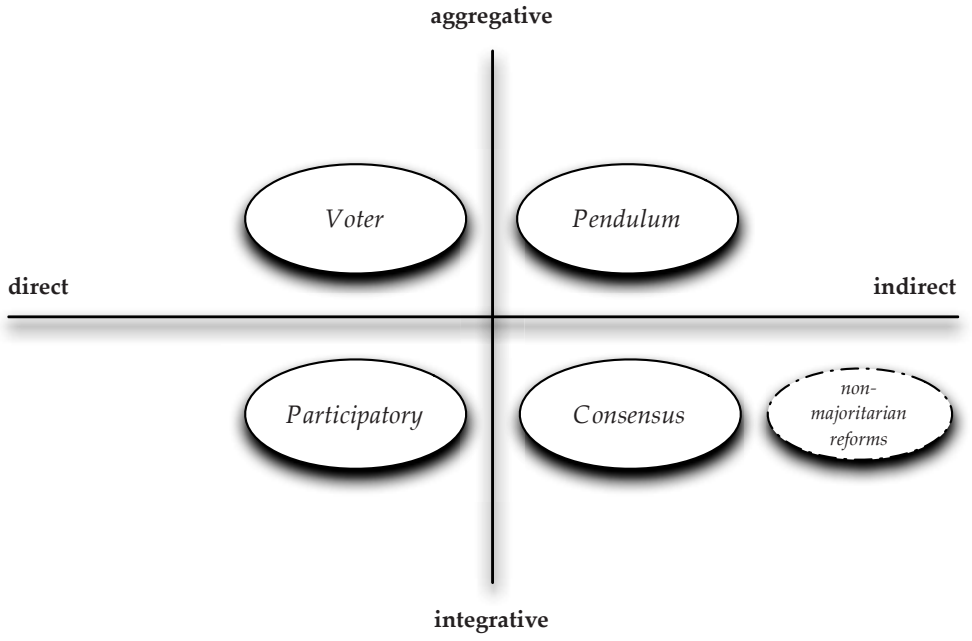


Figure 2.3: *Typology of Reform*



In chapter 4 I use the electoral reform literature to explain the occurrence of reforms in general. I investigate how veto-players and external factors such as election cycles, quality of government (throughput legitimacy) and economic development (output legitimacy) influence the occurrence of institutional change figure 2.4.

In the second part of chapter 5 I use grid-group theory to explain the choice for a particular type of reform (figure 2.5). I investigate whether mass-level cultural dispositions influence the type of reform implemented by reformers.

In chapter 6 I test whether the introduction of different types of reforms (pendulum, consensus, voter and participatory) have an effect on citizen's satisfaction with

Figure 2.4: *Occurrence of Institutional Change*

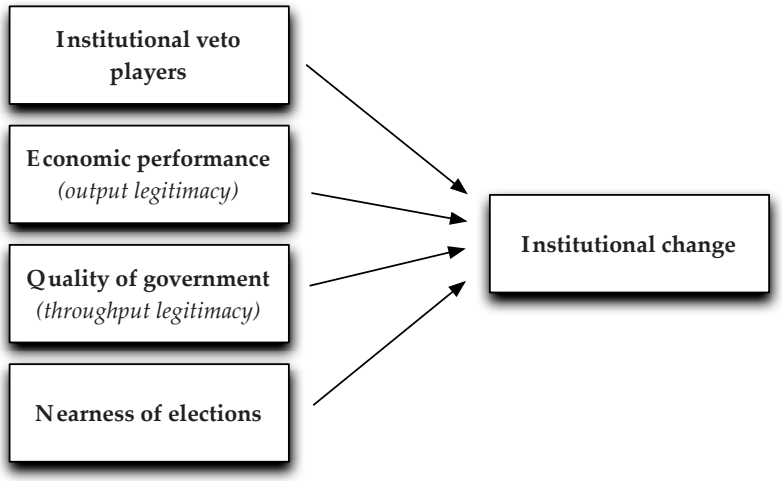
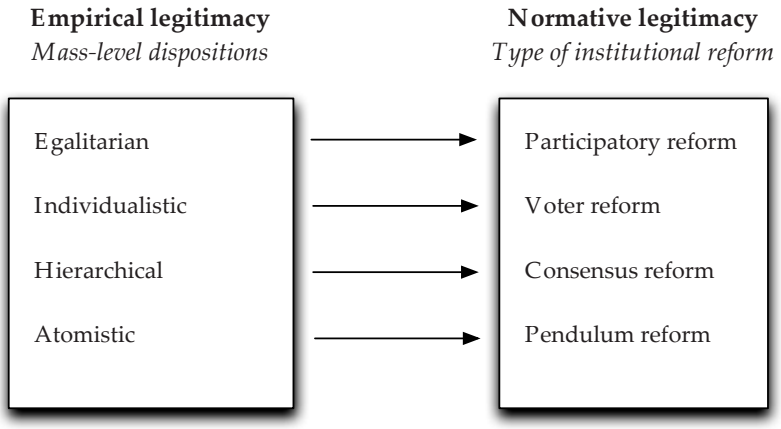


Figure 2.5: *Linking Mass-Level Dispositions to Type of Reforms*



democracy or trust in institutions (empirical legitimacy) (figure 2.6).

In chapter 7 I study whether bottom-up processes of reforms bring about more influence, inclusion, learning and deliberation into the system (figure 2.7).

Figure 2.6: *Impact of Reforms on Empirical Legitimacy*

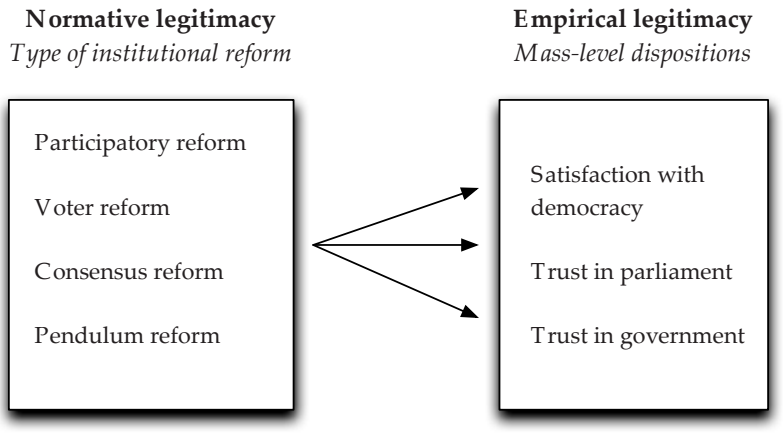


Figure 2.7: *Impact of the Process of Reform*