Legitimacy and the democratic quality of the political order in Britain, Germany, and Switzerland: A discourse analytical perspective

Paper for presentation at the ECPR Joint Sessions of Workshops, University of Uppsala, Sweden, April 13-18, 2004

Zuzana Krell-Laluhowá    Dr. Steffen Schneider

Collaborative Research Center 597 – Transformations of the State
University of Bremen
P.B. 33 04 40
28334 Bremen
Germany

Tel.:  +49-421-218 8716       +49-421-218 8715
Fax:  +49-421-218 8721       +49-421-218 8721

zuzana.krell-laluhowa@sfb597.uni-bremen.de  steffen.schneider@sfb597.uni-bremen.de

Draft version – not to be quoted – comments welcome
I Introduction

Although hardly a new concern, the general state and legitimacy of western democracies has received growing attention and been the subject of considerable debate over the last two decades. The demise of socialist regimes in the epochal seachange of the late 1980s and early 1990s initially seemed to vindicate the claim that democracy was a superior and more legitimate form of government than its main ideological competitor in the second half of the 20th century and hence, to justify the optimistic expectation that it would now spread quickly from Europe and North America to the rest of the world (Fukuyama 1992). This expectation of course proved to be premature. Not only have democratic movements in various parts of the world experienced setbacks and faced new authoritarian and fundamentalist challenges (Mandt 1993) that often refer to culturally specific, non-western traditions of democratic thought in order to justify their opposition to the principles of western democracy: In addition to these external challenges, the democratic quality and legitimacy of western nations’ political orders is increasingly questioned from within, and on the basis of arguments drawn from normative democratic theory, as well. Quite obviously, after the end of a bipolar world, the presumptive superiority and legitimacy of democratic government can no longer be justified by merely contrasting it with defunct socialist and totalitarian regimes. At the same time, the much-described dialectic of globalization and internal fragmentation has undermined the autonomy, capacity and integration of nation-states and their political communities, thus jeopardizing, in the eyes of many observers, the very economic, social and institutional prerequisites and foundations of effective and legitimate democratic rule. Yet the new governance structures that have emerged above, below or outside nation-states and their public sectors, including the European Union, seem to be fraught with their own democratic and legitimacy deficit. In this pessimistic scenario, which has arguably come to dominate, but is contested by a more optimistic one, western democracies are therefore threatened by external and internal challenges and faced with an erosion of their legitimacy, but no solution to this crisis in the form of legitimate supra- or transnational governance structures compatible with the new world order is in sight either.

This paper does not aim to contribute to the meta-narrative on globalization, the transformation of democratic nation-states and the legitimacy of western democracy that has come to dominate public and academic discourses alike, or to weigh the arguments in favor of its optimistic and pessimistic strands. In fact we believe evidence that permits to corroborate either one of them to be scant at best and moreover, that both give over-generalized accounts of actual trends. In our view, the debate remains inconclusive not the least because the concept of legitimacy is, despite its prominence in current discourses and political science in general, often left vague and used ambiguously. In our paper, then, we set out to substantiate the claim that only a firmer theoretical and methodological grasp on this concept will enable us to answer questions related to the legitimacy of western democracies in a more conclusive fashion. We further suggest that a decidedly empirical, comparative and discourse analytical perspective on legitimacy might help us to advance in that direction and provide some illustrations as to how such a research program may be implemented.

We develop our argument in three steps. In section II, we summarize core understandings of and prominent approaches to legitimacy. We distinguish normative, diagnostic and empirical lines of research and describe the contours of an empirical research program. In section III, we first give an equally brief overview of current hypotheses on the democratic quality and legitimacy of the EU and its member nations’ political orders and then criticize this literature’s contribution to empirical legitimacy research on theoretical and methodological grounds. In section IV, we begin with an outline of the theoretical framework and meth-
odological ramifications of a discourse analytical perspective on legitimacy. In the second part of this section, the application of such a perspective and the kind of results it may be expected to yield are demonstrated in a brief sketch of the comparative research project on legitimacy in Germany, Switzerland and the United Kingdom in which we are currently involved.1

II Three lines of legitimacy research: An overview

At least three perspectives on legitimacy, each generating a separate line of research with its own characteristic set of research questions and approaches, may be distinguished: normative, empirical and diagnostic. The occasional confusion surrounding the definition and precise meaning of the term legitimacy in political science is often a consequence of the fact that normative and empirical understandings of legitimacy are mixed up, especially in literature of the diagnostic type (Westle 1987; Kaase 1992; Mandt 1995).

Normative perspective: The genuinely normative perspective on legitimacy consists of research that concerns itself with developing and justifying a coherent and exhaustive set of benchmarks or criteria for the acceptability of a political order, a normative theory of legitimacy. Such a theory outlines the yardstick that a political order must approximate to qualify as legitimate. As the source of legitimacy is thus located outside any specific political order, such a normative concept of legitimacy is, in principle, not time or place bound. Empirical legitimacy beliefs and claims may be used as “clues,” but are otherwise of no interest. In western political thought, democracy has of course become the increasingly undisputed reference point of this perspective. There is no room here – and for the purposes of our argument, no need – to review and discuss the criteria of legitimacy proposed by different (e.g., liberal and deliberative) strands of normative democratic theory. It may therefore suffice to call to mind a few broad themes (Schmidt 2000; Abromeit 2002).

For all these strands, the legitimacy of a political order is entirely or predominantly a function of or equivalent with its democratic quality. The term democratic quality, in turn, refers to a bundle of criteria each of which is understood as a necessary condition of legitimacy. A form of government is usually characterized as democratic and legitimate in this literature if it embodies and respects some combination of substantive and procedural values and norms. Controversies have evolved around the exact definition and relative weight of these benchmarks, but there is wide agreement that they are complementary and hence, cannot be traded off against each other. Moreover, it has been discussed if the necessary condition of democratic quality, however defined, is also sufficient to ensure a political order’s legitimacy, or if non-democratic performance criteria (i.e., ones that may also be met by a non-democratic form of government, like the maintenance of external security, internal stability, prosperity, etc.) have to be included in a normative theory of legitimacy as well. Despite such controversies, this literature tends to propose a yardstick for legitimacy that is more or less closely linked with models of representative and parliamentary democracy. But of course the equation of democratic quality with legitimacy is more or less undisputed only within the perimeter of current and western political thought. It is, in other words, historically contingent and cultur-

1 The paper is based on an ongoing research project designed and directed by Roland Lhotta, Helmut Schmidt University (Hamburg, Germany), and Frank Nullmeier, University of Bremen, and carried out at the University of Bremen’s Collaborative Research Center 597 – Transformations of the State (project B1, “Wandel demokratischer Legitimation durch Internationalisierung und Parlamentarisierung?”), see http://www.sfb597.uni-bremen.de/download/en/forschung/B1_2003_abstract.pdf). Achim Hurrelmann, Tanja Pritzlauff and Achim Wiesner are also part of the research team. Our primary goal here is to present the rationale and contours of that project, and to describe the first steps we have made.
ally entrenched, but even in western democracies, non-democratic sources and criteria of legitimancy may continue to play a role at the empirical level.

*Empirical perspective:* As an empirical concept, legitimacy refers to the factual acceptance of a specific political order by its own citizenry and to the beliefs in which it is grounded (Kaase 1992; Lucke 1995). In addition to the examination of subjects’ legitimacy beliefs, one may also include rulers’ legitimacy claims (and the extent to which the two converge) in an empirical research program (Barker 2001). In any case, the focus shifts from developing normative benchmarks for a good political order to making descriptive and causal inferences on the scope and nature of legitimacy and processes of legitimation (i.e., processes of ascribing the property of legitimacy to a political order) in time and place bound contexts (Beetham 1991). The nature and foundations of legitimacy beliefs and claims are examined as social facts. An empirical perspective thus remains agnostic with regard to the question if, and how, normative benchmarks of legitimacy can be justified, but interested in the processes whereby they are advanced, made intersubjectively binding and respected (or not) in political decision-making; if beliefs and claims are in line with a particular normative theory of legitimacy may be observed, but no such link and most importantly, no link between democratic quality and legitimacy is assumed to exist a priori: The democratic quality of a political order may neither be a necessary nor a sufficient condition of its legitimacy in an empirical sense.

Both Max Weber (Weber 1968), in his seminal threefold typology of legitimate rule and underlying motivations of compliance, and David Easton (Easton 1965) have therefore extended their analytical perspective on the foundations of legitimacy beliefs beyond the criteria derived from or germane to normative democratic theory. In what arguably remains the most influential conceptualization of the term, Easton introduces legitimacy as a key resource of every political system, and as a function of diffuse and specific support. Affective and value-oriented in nature and hence, relatively insensitive to short-term fluctuations in system performance, diffuse support is thought to be created in socialization processes and to obtain where the members of a political community are convinced that the institutions and guiding principles of a political order, as well as the behavior of its representatives (regime and authorities in Easton’s terminology) correspond to their own moral principles and normative horizon. While diffuse support is seen as primarily anchored in legitimacy beliefs related to the political community and the regime, specific support is conceptualized as a function of the relationship between demands and the material output of a system, and as predominantly based on perceptions and evaluations of authorities. Thus neither diffuse nor specific support are necessarily tied to the democratic quality of a political order. In a similar vein, the dichotomy of input and output legitimacy, as proposed and used by Scharpf (Scharpf 1999) and others, does not, per se, imply anything about the democratic or non-democratic character of its constitutive elements. The input category is defined more narrowly than the concept of diffuse support and refers to procedural aspects and the consent of the governed. It is conventional to think of it in terms of principles of democratic rule, but non-democratic foundations of input legitimacy are of course conceivable as well. Criteria of good (i.e., efficient and effective) governance, on the other hand, may be met in a democratic or a non-democratic political order.

A typology of legitimacy beliefs and claims to be expected in varying empirical contexts might therefore be represented in a two-by-two matrix (Table 1) – based on (i) the (non-)correspondence of beliefs and claims with the necessary or sufficient conditions of democratic quality and legitimacy proposed by (some, most or all strands of) normative democratic theory and (ii) the input v. output distinction. The output category may (and in our view, should) be widened to include non-economic benchmarks of a political order’s material out-
put as well. The purpose of this matrix is merely illustrative and heuristic; we do not claim exhaustiveness with regard to the different types of legitimacy beliefs and claims that might be identified or authoritativeness with regard to their placement in the four cells; the latter obviously depends on one’s theoretical standpoint with regard to the criteria of democratic government. An empirical perspective on legitimacy is unlikely to reveal a complete disconnect between the normative benchmarks suggested by various strands of democratic theory and actual legitimacy beliefs and claims if applied to western societies. However, the relationship between the criteria of acceptability highlighted by normative theory and the ones creating factual acceptance in specific contexts may be looser than is often imagined.

Table 1: Foundations of legitimacy beliefs and claims

<table>
<thead>
<tr>
<th>Democratic</th>
<th>Non-democratic</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Input</strong></td>
<td></td>
</tr>
<tr>
<td>Popular sovereignty</td>
<td>Charismatic leadership, religious authority</td>
</tr>
<tr>
<td>Participation</td>
<td>Respect of traditions</td>
</tr>
<tr>
<td>Accountability, transparency (...)</td>
<td>Identity (...)</td>
</tr>
<tr>
<td><strong>Output</strong></td>
<td></td>
</tr>
<tr>
<td>Empowerment</td>
<td>Efficiency, effectiveness</td>
</tr>
<tr>
<td>Freedom and respect of human rights</td>
<td>Distributive justice, “good life”</td>
</tr>
<tr>
<td>Reversibility</td>
<td>Stability (...)</td>
</tr>
<tr>
<td>(...)</td>
<td>(...)</td>
</tr>
</tbody>
</table>

In the empirical line of research, legitimacy thus has to be perceived as a multi-faceted and dynamic, not a one-dimensional and static phenomenon. Its scope and nature are subject to variations and change. In a comparative perspective, the nature and foundations of legitimacy beliefs and claims can be expected to differ among individuals and members of particular social groups within a political community or between entire nations and cultures at any given point in time, but the comparison may reveal similarities and universal features as well. In a historical perspective, attention shifts to processes of legitimation, to the emergence and stabilization, erosion and replacement of legitimacy beliefs and claims. Many of the above-mentioned conceptualizations of legitimacy – certainly Weber’s, but also Easton’s and Scharpf’s – contain more or less explicit hypotheses with regard to variations and change between and within western and non-western societies. Finally, an empirical research program may move on from descriptive to causal inferences. In exploring causal relationships between legitimacy beliefs and claims on the one hand and economic, social and political factors on the other, these beliefs and claims may be considered as dependent or independent variables. Hence one may attempt to explain observed variations and change or examine how they impact the functioning of a political order.

If institutional arrangements on the one hand and the scope and nature of legitimacy on the other are closely related, as suggested by Easton and others, any emerging “mismatch” between the two is likely to be challenging for a political order and to trigger change. Once again, the basic scenarios ensuing a situation of “mismatch” may be represented in a two-by-two matrix, as illustrated in Table 2. Thus is it plausible that major transformations of the state – any change with regard to the core institutions, procedures and principles of the political order – will not leave the various aspects of empirical legitimacy untouched. Conversely, a prior shift in the prevailing legitimacy beliefs and claims may challenge existing institutional arrangements. Whether change originates on the institutional or on the legitimatory side, two outcomes can be imagined: In a pessimistic scenario, the emerging gap is not closed and perhaps even widens as dissatisfaction in the citizenry with the development or rigidity of the political order grows; delegitimation processes lead to the erosion of legitimacy in this sce-
nario and ultimately, a full-blown legitimacy crisis of the political order. In the optimistic scenario, where processes of institutional and legitimatory change are simultaneous from the outset or the gap is closed in a new “match,” relegitimation processes to the benefit of existing or new institutional arrangements alleviate the impact of the temporary “mismatch” and thus help to avoid a legitimacy crisis.

Table 2: A simple model of institutional and legitimatory change

<table>
<thead>
<tr>
<th>Institutional arrangements stable</th>
<th>Institutional arrangements change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legitimacy beliefs and claims stable</td>
<td>“Match,” legitimacy of the political order not questioned</td>
</tr>
<tr>
<td>Legitimacy beliefs and claims change</td>
<td>“Mismatch,” delegitimation processes and legitimacy crisis</td>
</tr>
</tbody>
</table>

(a) Gap widens, legitimacy crisis  
(b) Gap closed in new “match,” relegitimation processes

*Diagnostic perspective:* In addition to the normative and empirical lines of research, however, one may distinguish a third approach that combines aspects of the normative and empirical perspective and hence, might be called normative-empirical or diagnostic. Literature in this vein is normative in that it draws on a particular theory of legitimacy and the benchmarks suggested by it to evaluate the reality of a specific political order. It is empirical in that it presupposes and entails the operationalization and measurement of variables that serve as indicators for a political order’s legitimacy. For instance, if equal participation and fair representation are considered to be paramount, the degree of legitimacy may be inferred from data on electoral participation rates of different social groups, the social or ethno-cultural make-up of parliaments, etc. There is certainly no problem with (and much to be said for) this diagnostic literature if it offers both normatively plausible criteria of acceptability and equally plausible indicators. It must, however, be underlined that diagnostic literature of this kind does not provide insights into empirical legitimacy. This literature, then, becomes problematic if and when it suggests that normative assessments of a specific political order and its democratic quality can at the same time be used as indicators of the scope and nature of legitimacy beliefs prevailing in it. Such a conclusion would of course only be warranted if it could be shown that a particular normative theory of legitimacy also underpins the legitimacy beliefs and claims that dominate the examined political order. As suggested above, it takes genuinely empirical research to demonstrate this and in any case, it is unlikely that such research will reveal the congruence of legitimacy beliefs and claims made within a political community and just one set of normative benchmarks. Both the neo-Marxist (Offe 1972; Habermas 1973; Narr and Offe 1975) legitimacy crisis literature of the 1970s and its neo-conservative counterpart (Crozier, Huntington et al. 1975; Hennis, Kielmansegg et al. 1977, 1979) have been rightly criticized for inferring delegitimation processes and making dire predictions of a legitimacy crisis on the basis of normatively derived criteria and assessments of legitimacy. The evidence offered to corroborate these assessments was sketchy at best, there was hardly any attention to specific contexts and often, the operationalization and measurement of empirical legitimacy was skipped altogether. The far-reaching and overly generalized hypotheses made in this literature, and in the one on majority rule and competitive democracy (Guggenberger and Offe 1984), did therefore not weather the scrutiny of empirical researchers particularly well (Kaase 1979; Kaase 1985; Kaase 1992).
Each of the three lines of research outlined here, then, makes valuable contributions to legitimacy research. However, we believe that the enormous wealth of normative and diagnostic insights contrasts with a relative dearth of empirical ones. The results of diagnostic research have to be taken with a grain of salt if empirical legitimacy is the focus of interest, and many aspects of a genuinely empirical perspective remain seriously under-researched. We now turn to the current literature on the democratic quality and legitimacy of the EU and its member nations’ political orders to carry home these points.

III Legitimacy and the democratic quality of political orders in the European Union and its member states

1 An overview of findings and hypotheses – pessimistic v. optimistic scenarios

Against this backdrop, it does not come as a surprise that the transformations of the state observed, described and (tentatively) explained over the last few decades have raised the question which impact they might have (had) on empirical legitimacy. It is plausible to expect that they might in fact have created the kind of “mismatch” described in the preceding section. The political orders of European and other western nations in the first three postwar decades may be described as different versions of the democratic nation-state, or Democratic Constitutional Interventionist State (DCIS).\(^2\) The DCIS, in its ideal-typical form, is characterized by particular institutional arrangements (notably the rule of law, constitutional and democratic government, as well as the welfare state), state functions (external security and internal stability, the promotion of aggregate wealth and distributive justice, etc.) and resources. The literature on the DCIS suggests that this form of the state enjoyed considerable success and a high degree of legitimacy during the “trente glorieuses,” and that each of its components and functions was linked with one or several patterns of legitimation that fall into the categories of substantive values, procedural norms or material output. In short, the “match” between the institutional setting of the DCIS on the one hand and legitimacy beliefs and claims on the other seems to have been tight and extremely propitious for the economic, social and political success that western nations had during the postwar era. The current debates on the democratic quality and the legitimacy of political orders in European and other western nations, on the other hand, are embedded in the new and by now widely familiar meta-narrative on globalization, the transformations of the state and the change of democratic governance, according to which the crisis of the nation-state, or Keynesian welfare state, has ushered in new forms of governance above, below or beyond the nation-state and its public sector, as well as having important consequences for representative and parliamentary democracy (Kohler-Koch 1998; Zürn 1998; Held, Goldblatt et al. 1999; Goldmann 2001; Vobruba 2001).

Legitimacy trends have been discussed both at the national level and at the level of supranational organizations and international regimes within this meta-narrative: Is the legitimacy of the DCIS and its national variants at stake in the wake of economic, social and political changes since the 1970s, or have the patterns of legitimation sustaining it been adapted? Conversely, are supranational organizations and international regimes like the EU that take over (or usurp) some of its functions successful in attracting the legitimacy that the DCIS arguably once had – and if so, which are the patterns of legitimation sustaining them? There is widespread consensus that the democratic quality and legitimacy both of the EU and of its member nations’ political orders have suffered due to the outlined trends. Yet there is a more

\(^2\) DCIS is the acronym developed and used in the projects of the Bremen Research Center on Transformations of the State.
optimistic view that foresees the emergence of a new “match” of institutional arrangements and legitimacy beliefs as well.

**Pessimistic scenario:** For the pessimistic majority, the main reference points of legitimacy beliefs and claims in the postwar era were the nation-state and especially, the core principles and institutions of representative and parliamentary democracy. Still in this view, however, the capacity of the nation-state, the quality of representative democracy and hence ultimately, their legitimacy are threatened and undermined by the twin processes of internationalization and deparlamentarization. The various aspects of internationalization – notably, economic globalization and emerging forms of international regulation, including European market and political integration – thus not only hollow out the autonomy and capacity of the nation-state, but are also seen as direct cause for the reduction of democratic quality at the national level. As national governments are the key actors in driving, or reacting to, internationalization, demanding freedom of action unimpeded by the participation or control of parliaments, the process is at the same time thought to weaken the popular sovereignty of national political communities, as represented by parliaments (Börzel 2000; Marschall 2002).

Yet deparlamentarization – the declining autonomy and influence of parliaments – and the growing informalization of politics also seem to be propelled by trends unrelated to internationalization, a general “Auswanderung der Politik aus den Institutionen” (Schütt-Wetschky 2001). Parliaments, which used to produce and secure democratically legitimized policy output, see their responsibilities curtailed in several ways and directions. Deparlamentarization may take the form of judicialization, the strengthening of bureaucratic agencies, of (old or new) corporatist arrangements (bargaining systems, networks, roundtables), or of expert bodies. It may also take the form of shifts to individual consumers and the market, to the family, the community, or associations. In each of these cases, parliaments are weakened and give up responsibilities and influence in favor of other institutions and actors, such as judges, public servants, the representatives of organized interest and parties, or scientists. As a consequence, there seems to be a widening gap between the formal responsibilities and traditional functions of parliaments and their actual chances to assume these functions and shape politics. Ultimately, popular sovereignty, the participation chances and the representation of the citizenry seem to be jeopardized (Waechter 1994).

In short, this pessimistic view considers the consequences of internationalization and deparlamentarization to be largely negative, as root causes of a “transformation” (Dahl 1994), or even of the “end of democracy” (Guéhenno 1996) and the nation-state. The institutions, procedures and principles of representative and parliamentary democracy are seen as weakened while institutions and actors whose democratic legitimation is in doubt are strengthened, but at the same time, they remain the legitimatory core of the DCIS and legitimacy remains bound to the nation-state. Values and norms shared in the past seem to have dissolved, threatening the acceptance of policy output, but there seems to be a void of institutions, procedures and principles that could replace parliaments and the principles of representative democracy, or the nation-state. In the absence of successful adaptation, the described trends must, still according to that view, not only reduce the democratic quality of political decision-making, but also usher in delegitimization processes of the key actors, procedures and institutions of an increasingly challenged DCIS, an erosion of its legitimacy and ultimately, a full-blown legitimacy crisis. Thus this view assumes a direct causal link between transformations of the state, developments related to the functioning and quality of representative democracy, and empirical legitimacy.
The process of European integration and the supranational institutional arrangements that this process has yielded are, together with the forces of globalization and various international regimes (Stein 2001), thought to be prominent among the factors that contribute to the alleged erosion of democratic quality and legitimacy in the member states of the EU. A majority of contributors to this literature shares the pessimistic view that the EU, just as it creates legitimacy problems in its member states, suffers from an arguably even larger democratic and legitimacy deficit itself. Hence the verdict on the state of national political orders is exacerbated and compounded by an equally skeptical evaluation of the democratic quality and legitimacy of the EU. Once again, representative and parliamentary democracy provide the yardstick for this negative evaluation: Whereas representative democracy at the national level is weakened by the double process of internationalization and deparlamentarization that European integration represents and fosters, the institutional arrangements of the EU itself do not correspond to this model altogether, and never have. Rather, intergovernmental negotiations, decision-making by bureaucratic agencies and expert bodies, comitology, and judicialization (as well as negative market integration) seem to curtail the role and influence of the EU parliament (Kielmansegg 1996; Foellesdal and Koslowski 1998; Kuper 1998; Offe 1998; Katz and Wessels 1999; Scharpf 1999; Lord and Beetham 2001).

Optimistic perspective: There is, however, a more sanguine minority strand of this literature as well. This view argues that the reference point of empirical legitimacy has changed with the transformations of the state and of democracy, that new modes of governance that are able compensate for the demise of old ones are being actively sought, and that relegitimation processes on their basis are likely or have already begun to counter the delegitimation of obsolescent political institutions, procedures and principles. While the elements of representative and parliamentary democracy may have provided the key normative benchmarks for and foundations of legitimacy beliefs and claims in the DCIS era, they are now seen as anachronistic and outdated (Mirbach 1990), but also as subject to change. The new modes governance are more likely to be at the supra- or subnational than at the national level, and emerging forms of post-parliamentary (Benz 1998), associative or deliberative (Schmalz-Bruns 1999) democracy are thought to offer functional equivalents to parliaments, parliamentary routines or even formal political institutions writ large in ensuring the democratic quality and legitimacy of political decision-making. Legitimacy, in this line of reasoning, is more and more often situated beyond the nation-state and its public sector, and instead of a mere erosion of legitimacy, a change in the forms of legitimation is expected. Bargaining systems, networks and roundtables, expert bodies, etc. appear in a much more positive light. Similarly, on the basis of more output-oriented approaches of democratic theory, it is argued that even the democratic deficit created by internationalization and deparlamentarization need not usher in a legitimacy crisis if the new structures and forms of governance above, below or beyond the nation-state and its representative institutions are considered to be, and accepted as, geared toward the public interest and problem-adequate (Scharpf 1999). It therefore does not come as a surprise that there is a more optimistic minority strand of the EU literature as well. Its proponents argue that the yardstick of representative and parliamentary democracy is even less appropriate in gauging the legitimacy of the EU than the legitimacy of national political orders under the changed circumstances of the post-DCIS era (Coultrap 1999; Abromeit 2002).

2 Measuring legitimacy – a critique of existing literature

The pessimistic and optimistic scenarios outlined above are usually embedded in literature of the diagnostic type. Here we do not intend to discuss the normative considerations and arguments that underpin the two scenarios or to take sides in the debate between their re-
spective proponents. Our interest is directed towards the empirical claims made in the diagnostic literature. We thus take a step back and ask how much we actually know about the scope and nature of empirical legitimacy, and how robust the evidence for its erosion or growth is. We argue, first, that the pitfall of confounding normative legitimacy with actual legitimacy beliefs and claims is rather common in the diagnostic literature and secondly, that there are unresolved problems with regard to the theoretical conceptualization, operationalization and measurement in the empirical literature as well.

Confounding normative and empirical legitimacy: The diagnostic literature combines its normative assessments of empirical reality with two sets of causal statements: The first links internationalization and deparlamentarization processes or other independent variables with change in those variables – e.g., the decisional autonomy of parliaments – that are used as benchmarks of democratic quality. For their operationalization and measurement, the diagnostic perspective can draw on a vast body of empirical literature that devotes itself precisely to the measurement of democracy and democratic quality. This literature is often based on Dahl’s (Dahl 1971) polyarchy ideal-type and has developed various indices and scales (Lauth, Pickel et al. 2000). While the reliability and validity of the proposed indicators may be open to debate and establishing this first kind of causal links is certainly not self-evident, we are more concerned about the second set of causal statements here – i.e., the one that suggests that democratic quality and legitimacy beliefs are related. As stated above, in order to substantiate this claim, one has to show that the normative benchmarks used by researchers to assess democratic quality are indeed the basis of, or homomorphous with, the legitimacy beliefs prevailing in various national contexts and their respective foundations. In short, wherever legitimacy can be shown to be in doubt from a normative perspective, an empirical legitimacy crisis is expected, and vice versa. We suggest that this kind of causal links has so far not been well established. For instance, the effects of internationalization and deparlamentarization on legitimacy beliefs may be over-estimated precisely by those researchers that equate democratic quality with legitimacy if it turns out that actual beliefs are more strongly grounded in the material output of political regimes. And it has been shown that citizens’ evaluations of, say, the influence of parliaments greatly diverge from academic expert judgements to begin with (Norton 1990).

Moreover, even where genuine attempts to probe the scope and nature of empirical legitimacy are made, the operationalization and measurement of the concept is often characteristically biased, and many aspects and dimensions are neglected. The empirical literature – which, as far as we can see, provides much more corroborating evidence for the pessimistic than for the optimistiv view – tends to privilege two types of methodological approaches and data: (i) survey research and data on individual attitudes (opinions, values, belief systems); (ii) observation and data on individual or collective behavior.

Survey research: There is no doubt that the public opinion survey remains the dominant method in empirical research on legitimacy and support for democracy, on national political cultures and global value change. Survey research continues to enjoy a high reputation as the most “scientific” branch of political science. This reputation is largely grounded in the fact that it permits, or seems to permit, the testing of hypotheses by way of quantitative-statistical procedures, the formulation of covering-law explanations and hence, the production of cumulative results. That survey research has become the preferred instrument for the measurement of legitimacy beliefs as well, yielding a vast body of literature, is unsurprising, given that both the pre-eminent Eastonian conceptualization of diffuse support that most empirical researchers draw on and the opinion survey as a method are rooted in the behavioralist and structure-functionalist mainstream of the 1950s and 1960s. If diffuse support is based on as-
sessments of the extent to which authorities comply with, and the regime and political community embody, personal norms and values, a focus on the micro level of individual attitudes and belief systems and hence, on the survey instrument seems entirely appropriate.

In the Eastonian theoretical mould, the typical approach in the field of legitimacy research has therefore consisted in gauging individual attitudes and behavioral dispositions with regard to political orders and their core elements through surveys of representative samples of national populations. Questionnaires are usually made up of a series of closed and a few open questions. Attitudinal questions refer to (non-)desirable aspects of the political order, belief questions to convictions about right and wrong. A typical and important example for this approach is provided by the Eurobarometer, which contains question items related to the acceptance of, and feelings about, political communities (pride to be British, German, Swiss or European…) and regimes (trust in a given list of national and supranational institutions, satisfaction with the state of national and European democracy…). Another typical category of question items asks respondents if they agree with statements implying certain normative benchmarks of legitimacy (“politicians never listen to what ordinary people say”…). Correlations among responses to different question items are then established in order to make inferences on individual belief systems while the aggregation of individual data and the subsequent calculation of frequency distributions, averages and other statistical parameters are used to make inferences on the overall scope and nature of empirical legitimacy within particular social groups or entire nations. Moreover, this literature probes correlations between the belief systems thus revealed at the individual or collective level and various socio-demographic variables (Muller 1970; Fraser 1974; Muller and Jukam 1977; Weatherford 1992; Anderson and Guillery 1997).

Survey research has attracted criticism from various angles (Dryzek 1988; Rosenberg 1989; Dryzek and Berejikian 1993; Potter 2001). There are conspicuous and familiar methodological problems, but a much more fundamental critique on theoretical and epistemological grounds may be formulated as well. We shortly review its elements and discuss the aspects that reduce the instrument’s value specifically for research on empirical legitimacy. A particularly scathing critique of survey research and its use in political science has, for instance, been formulated by John Dryzek (1988) on the basis of a discourse analytical perspective. However, unlike Dryzek or Shawn Rosenberg, we do not propose an all-out critique of survey research in political science and hence, do not suggest that attitudinal data on legitimacy are entirely invalid or irrelevant. Notably, we are – in the context of our argument – neither interested in nor convinced of the contention that the micropolitical foundations of survey research unwittingly and invariably reinforce a specific and limited (i.e., liberal and constitutionalist, or “realist”) conception of democracy, “contributing to the legitimacy of the political system where such politics may be found” (Dryzek 1988: 722). After all, many survey researchers believe to have discovered an erosion of legitimacy in western democracies, and that this erosion indeed has to do with reduced democratic quality. We are thus more concerned about the empirical biases of the instrument.

These biases largely stem from the restricted and skewed notion of agency underlying survey research. Respondents are not granted full subject status, as it were, but are treated as information-processing units and dissolved into bundles of structured attributes (and mass politics is then perceived as agglomeration of such attributes rather than of individuals). They react to stimuli provided by the questionnaire and this, under the sway of psychological and social forces largely unknown to them and beyond their control. The idea that exogenous forces determine attitudes, and that the latter can – or indeed must – be captured by exposing respondents to uniform stimuli in the necessarily artificial and hierarchical survey encounter
is linked with covering-law aspirations. There is of course some methodological reasoning on
the need to ensure that these stimuli are indeed applied uniformly and to control for the effects
of question wording and ordering, for biases created in the survey encounter, etc. The related
problems become all the more acute where the measured concepts, such as legitimacy, are
rather vague and ambiguous and where linguistic, national and cultural boundaries are trans-
gressed.

However, the flaws of survey research are not easily solved by formulating question
items more clearly, by securing their equivalence across linguistic boundaries or by develop-
ing a better theory of question ordering effects, and the like. For they are rooted in the fact
that attitudes are conceived as disembodied by survey researchers, to “have a real existence
outside and independent of political discussion and action” and hence, to be “invariant across
the degree of action or inaction involved in a situation” (Dryzek 1988: 711, 712). If the
meaning of stimuli is dependent on contexts and action-related, then so is the meaning of ex-
pressed attitudes. Both dimensions, however, are deliberately pushed aside where the focus is
exclusively on the micro level of individual attitudes. The survey instrument can therefore not
tell us anything about the processes in which attitudes are shaped, expressed or transformed,
and they can at best inform us about behavioral dispositions, not about actual individual and
collective behavior and its outcomes, as “political processes can proceed and conclude in
ways that do not simply reflect and aggregate individual dispositions, be these dispositions
fixed and predetermined, or flexible and malleable” (Dryzek 1988: 714). This atomistic view
of societies and political communities appears particularly inappropriate where legitimacy
beliefs and claims, processes of de- or re legitimation are concerned.

Moreover, as the opinion survey is a highly reactive method, questionnaires tend to be
steeped with the language and underlying concepts of “democratic theory [which] is the moral
Esperanto of the present nation-state system, the language in which all Nations are truly
united, the public cant of the modern world, a dubious currency indeed” (Dunn 1979: 2, here:
Dryzek and Berejikian 1993: 48) – a telling comparison: Just as Esperanto is strongly biased
in the direction of Whorf’s SAE (i.e., western) languages, questionnaires are likely to be
skewed in the direction of implicit normative positions or socially and culturally specific un-
derstandings of key terms used. At the very least, they predefine the categories in which re-
spondents have to (ex)press their attitudes and beliefs. We are thus not likely to learn very
much about the actual contours of people’s legitimacy beliefs: For instance, which are the
aspects of a given political order that they would highlight themselves, which are the founda-
tions and sources of their legitimacy beliefs, including unexpected ones, and in which issue or
policy contexts does legitimacy become a topic? How are legitimacy beliefs and assessments
formed and phrased, and what do revealed attitudes mean against the backdrop of specific
contexts? Moreover, quantitative data on the scope and nature, erosion or growth of legiti-
macy are not only difficult to interpret, but also unlikely to tell us very much about qualitative
variations and change and the processes or factors that trigger or explain them.

**Observation of political behavior:** We therefore suggest that individual attitudes
documented by survey research should be retained as merely one dimension of empirical le-
gitimacy. Given the limitations of survey research, a second prominent approach has relied on
the observation of individual and collective political behavior. The legitimacy of a political
order is here inferred from the occurrence or frequency of certain types of conventional and
non-conventional political behavior. Electoral participation and abstention rates, the vote for
mainstream or anti-establishment parties, the rise of protest movements, etc., may thus be
used as indicators of legitimacy. Arguably, the meaning of attitudinal data is clarified if the
scope and nature of actions linked with behavioral dispositions are observed, and a shift from
these dispositions to individual and collective behavior also brings social interaction back into the picture. Moreover, observation is a non-reactive (or mildly reactive) method.

However, the behavioral indicators suggested in the literature raise their own problems. In many cases, it is not very clear how they should be interpreted or weighed. It may suffice to make this point by calling to mind that there is, for instance, no agreement on the electoral participation rates or the degree and forms of participation that are “normal” for a democracy and conducive to its stability (Sniderman 1981). An increasingly passive citizenry may thus indicate an erosion of legitimacy, indifference or high levels of satisfaction with a political order and conversely, an active citizenry may signify that a political order is considered as open to genuine participation – and hence, legitimate – or that it is considered as illegitimate and resisted for that reason. Moreover, the observation of, say, protest events alone does not tell us very much about the specific aspects of a political order that are de- or re-legitimized, about the different meaning of forms of action in particular contexts, or about the foundations and sources of legitimacy beliefs that drive people towards political action. A mere combination of individual and behavioral data, then, adds a second dimension to empirical legitimacy, but still leaves important aspects of it in the dark.

This leads us to conclude that one of the pessimistic and optimistic scenarios outlined above may be accurate or be borne out eventually, but that both may also have as little to do with empirical legitimacy as the crisis discourse of the 1970s. Like this older literature, the new one tends to make sweeping generalizations on the state of legitimacy in western democracies on the basis of sketchy and partly biased evidence. What is needed, then, is an approach that examines legitimacy beliefs and claims in the contexts in which they are made, enables us to discover the meaning of expressed attitudes and observed behavior, captures the dynamic character of de- and re-legitimation processes and lastly, gives due weight to qualitative variations and change.

IV A discourse analytical perspective on legitimacy

1 Theoretical contours and methodological implications

In order to address the methodological and theoretical shortcomings of existing legitimacy research, we suggest to explore the potential of a discourse analytical perspective. We first outline its theoretical rationale and contours, introduce key analytical concepts and demonstrate how the perspective could be implemented in more systematic empirical research on legitimacy beliefs and claims. A brief discussion of some methodological consequences of the suggested focus on the discursive dimension of legitimacy ensues.

Discourse theory and analysis have become increasingly prominent over the last couple of years and decades in linguistics, the cultural and the social sciences, and the term discourse is now frequently used. However, given its multi-disciplinary background, the breadth and heterogeneity of research questions, methodological approaches and theoretical stances subsumed under the heading of discourse analysis is considerable. Just like legitimacy research, discourse analysis comprises normative and empirical strands, but even the latter can be divided into a plethora of research programs. Once again, there is no room here to give an exhaustive overview of this literature (Keller, Hirsland et al. 2001; Keller, Hirsland et al. 2003; Keller 2004). The rise of discourse analysis and the term discourse to prominence can be dated to the 1960s and linked with the cultural or linguistic turn, the development of constructivist perspectives and the renewed strength of an interpretive paradigm in many of the
Besides the Anglo-Saxon and primarily linguistic tradition of conversation analysis and the sociology of knowledge (Berger and Luckmann 1966; Keller 2001; Knoblauch 2001), the French structuralist and post-structuralist perspectives associated with names like Barthes, Derrida, Lacan and of course Foucault have been particularly influential. The common denominator of this otherwise disparate literature can be seen in its interest for and focus on the role of language and signs, bodies of knowledge and ideologies for the constitution of societies. The literature is thus tied together by the shared understanding that social interaction, the construction and mediation of reality are essentially linguistic or communicative processes and that discourses, as core media and products of these processes, are central aspects of social life. In one way or another, the analysis of social reality and its elements is therefore reconceptualized as the analysis of discourses, their (re)production and transformation, their function for or impact on societies, their internal structures and content – and moreover, of the bodies of knowledge, interpretive patterns, truth and validity claims that discourses constitute or entail, and of the discursive practices and strategies used to create and sustain, challenge and transform them.

The political nature of discourses: Political science has discovered the discourse analytical perspective rather hesitantly and late (Nullmeier 2001). The most prominent strands of the discipline continue to orient themselves towards one of the poles of the structure v. agency divide, thus focusing either on the macro level of institutions or the micro level of individual actors with their preferences and interests, attitudes and behavioral dispositions. Rational-choice and other approaches within the latter strand, like institutional approaches, have given a characteristically limited role to beliefs and ideas, norms and values more recently (as extension of institutions, or by exploring the “opposition” of interests and ideas). To the extent that discourse analysis has been propagated and used by political scientists, on the other hand, it has often (e.g., in Ernesto Laclau’s and Chantal Mouffe’s contributions) been at a very high level of abstraction and hence, more speculative than empirical. This relative neglect is unfortunate as the political nature and significance of discourses, discursive practices and strategies and hence, the potential of a discourse analytical perspective on different aspects of political reality are quite obvious. A quick expansion on the common denominator outlined above, combined with a few key themes of the Foucauldian tradition, may suffice here to substantiate this claim (Schwab-Trapp 2001).

The construction of social reality in and by way of discourses means that they are more than just a linguistic representation of that reality. It is within discourses and through discursive practices and strategies that the range of legitimate participants in these construction processes is determined: Who can participate, where, when, and how? Moreover, discourses establish rules for legitimate modes of communication and argumentation, for the form and content of acceptable contributions, even for the objects of a specific discourse and for the definition or demarcation of words and semantic fields available to refer to these objects. Which actors control and which rules govern discourses, then, has a bearing on the definition of membership in societies, on their integration and on consensus formation, the definition of right and wrong, appropriate and inappropriate, normal and deviant, etc. To the extent that discourses provide societies and political communities with a more or less shared and collectively binding set of descriptions, interpretations and evaluations of social reality, and of truth and validity claims related to their political orders, they are public goods, and their public nature is instrumental in securing these goods.

This eminently political function of discourses of course implies, pace Foucault, that discourses and power are inextricably intertwined: Social power is to a large degree the power to impose one’s own interpretations and evaluations of social and political events and rela-
tionships together with the causal attributions and normative foundations on which they are based. Yet this political function of discourses also implies that the processes that lead to their emergence, stabilization and change are always conflictual and hence, power struggles are not the least fought with discursive practices and strategies that aim to influence communication and argumentation processes. And political decision-making processes in a narrow sense are themselves initiated and performed with the help of discursive practices while their outcomes are influenced by the more or less successful use of discursive strategies by political actors. Specific policy outcomes, the distribution of power in social and political discourses, as well as the rules governing them may, for instance, be challenged and ultimately, changed if “oppositional” voices manage to mobilize collective action in favor of social and political reform through discursive strategies. Hence discourses are not only more than linguistic phenomena. Due to their public and confictual nature, their role in decision-making and in the institutionalization of collectively binding truth and validity claims, they are also more than just social phenomena. Instead, they have to be viewed as genuinely political, and there is a nexus between discourses, social practices writ large and the institutional arrangements of political orders. Yet the materiality and sui generis character of political discourses precludes the replacement of this analytical category with other, structure or agency oriented concepts. The emergence, (re)production and transformation of discourses therefore deserves to be moved from the periphery to the center of political science.

Discourses guide and legitimize social and political action by shaping acceptable and collectively binding interpretations and evaluations of social and political events and relationships, and they are themselves shaped in communication and argumentation processes whose character is political. This suggests both the existence and the particular importance of discourses centered around the legitimacy of political orders as a whole and their core institutions, procedures and principles. The legitimacy of a political order can, in other words, be understood as topic and result of a specific – and highly relevant – discourse, which we call legitimacy discourse. Legitimacy beliefs and claims are revealed in and sustained by these discourses, and according to their rules. The participants in and contributions to discourses propose and justify, or question, normative benchmarks and foundations of legitimacy, debate the extent to which criteria of acceptability are met and make observations or causal attributions with regard to trends or events that strengthen or weaken the legitimacy of a political order and its core elements. The discursive construction of (il)legitimacy, as it were, may thus either result in the legitimation of a political order by institutionalizing a collectively binding normative yardstick and shared assessments on the extent to which it is approximated, or it may foster delegitimation processes and challenges to such a yardstick. A particular course of political action is likely to be considered acceptable by the citizenry if it can be discursively tied to a legitimate political order and the discourse that underpins it, and vice versa. The significance of a discourse analytical perspective on legitimacy, then, stems from this double legitimatory potential of discourses in general and legitimacy discourses in particular.

And yet, notwithstanding the fact that the issue of legitimacy is more or less obliquely touched upon by authors like Foucault, Laclau or Mouffe, there has so far been little effort to develop a discourse analytical perspective geared toward the requirements of an empirical research program. Unsurprisingly, the point of departure for our own effort is not provided by normative discourse theory or ethics in the Habermasian mould (Habermas 1988; Habermas 1992; Chambers 1996). We are not interested in using discourse analysis for the criticism of ideologies either (Fairclough 2001; Hirsland and Schneider 2001; Jäger 2001). Instead, our goal is the development and use of an analytical framework that is conducive to systematic research on legitimacy and middle-range theory building. Data collected and interpreted within that framework should ultimately enable us to corroborate rather than just metaphorical-
cally claim the significance of discourses, discursive practices and strategies for the construction of legitimacy, and to better understand processes of de- and relegitimation.

Operational definition and constitutive units of legitimacy discourses: As outlined above, discourses are usually defined as a specific (i.e., linguistic and communicative) and rules-based set of social practices. In the operational definition that underpins most empirical research, they are conceived as “virtual” text corpora that represent particular bodies of knowledge or “the volume of discussion” (Dryzek and Berejikian 1993: 50) on a topic of social or political interest, such as the legitimacy of a political order. As basic units of analysis, texts are linked with each other and their social environment through manifest or implicit semantic and pragmatic relationships (Jung 2001). Actual research is then performed on samples from these corpora, and the intertextuality criterion tends to be relaxed in favor of the less demanding criterion of a shared topic, as implicit semantic relationships are either hard to substantiate or can be safely assumed – e.g., where the public character of the media creates de facto networks of texts (Jung 2001: 33). Such an operational definition can draw on relatively straightforward linguistic criteria for the demarcation of texts while various other parameters – the topic under consideration, the delimitation of examined discourses in space and time, a focus on particular categories of discourse participants or texts, etc. – are set by the researcher in terms of her specific research interest.

However, in line with Jung, we suggest to go a step further and to build on individual utterances or statements rather than entire texts as basic units of analysis; discourses, then, are conceived as networks of utterances on a particular topic and legitimacy discourses, as networks of legitimatory statements. This approach is more appropriate because one and the same text may contain utterances that belong to different discourses altogether or represent different positions within a discourse – e.g., when a text presents and debates different legitimacy beliefs and assessments. We therefore define a legitimatory statement as a publicly communicated statement by an individual or collective actor that de- or relegitizes a specific object of legitimation – i.e., evaluates it as (il)legitimate – and in justifying its assessment of the object, usually (but not always) draws on a specific pattern of legitimation. Leaving aside, for a moment, variables related to its author, the internal structure and content of a legitimatory statement may then be characterized by the following set of variables:

The first of these variables – the de- or relegitizing character of its evaluative content – is based on the dichotomy of (il)legitimate, (in)acceptable or (un)justifiable, (un)justified, unless intensity is of interest, too. Hence only a specific type of communicative acts and a small part of all utterances with political reference objects qualify as legitimatory statements. This restriction, for instance, excludes descriptive or directive speech acts, the formulation of political demands, etc. (Searle 1969). Secondly, a legitimatory statement’s character may either be generic – the object of legitimation is evaluated as (il)legitimate without further justification –, or it may refer to a specific pattern of legitimation. We define a pattern of legitimation as a causal attribution on the basis of argumentative topoi used to justify the perceived (il)legitimacy of an object of legitimation. The topoi may, for instance, be

As language is but one system of symbolic representation, a discourse analytical perspective may be thought to include a symbolic dimension of legitimacy. Flags, monuments, national anthems, parliament buildings and other architectural structures, uniforms, etc., may thus be viewed as symbols – and the action of waving flags, singing national anthems, etc. as symbolic practices – with legitimatory content and hence, part of de- and relegitimation processes. Oral and written texts – speech acts – are, then, seen as a specific form of communication, and the dividing line between discursive practices in a narrow sense and the wider set of symbolic practices would be a function of the linguistic or non-linguistic signs and forms of communication that dominate them.
one of the input and output oriented, democratic and non-democratic criteria in Table 1, in addition to which any number of other criteria may exist.

Thirdly, a legitimatory statement has an explicit object of legitimation. In principle, any number of objects (including, for instance, a cultural tradition, a social practice, the way person x behaved yesterday, etc.) can be de- or relegitimized. However, we restrict our definition to a subset of political reference objects – namely, political orders as a whole, their core elements, as well as the core aspects and functions of the DCIS. We further argue that only those utterances should be considered as legitimatory statements that are characterized by a certain degree of abstraction, decontextualization and generalization. With regard to objects of legitimation, this means that they belong to the polity rather than to the politics dimension – i.e., that formal institutions, procedures and principles rather than everyday political conflicts and routines or specific individual and collective actors (president Bush, the Democratic party, the NAACP, etc.) are evaluated. The term objects of legitimation thus refers to a class of political objects that largely coincides with Easton’s regime term and excludes the objects he calls authorities. We do include a few important types of collective actors (the political class or elite, the party and interest-group systems), though, if they are indeed evaluated collectively and as elements of the regime, and we also consider legitimatory statements that assess entire political communities. Finally, the objects of legitimation may be national or supranational.

Leaving aside its illocutionary component, a legitimatory statement therefore has the structure “OL x (a) is (il)legitimate (b) because of PL y (c).” The statement may omit an explicit formulation of (b) if the evaluation of (a) is already implied in (c). For instance, a statement like “the political system of the United States is (in)efficient” qualifies as a legitimatory statement because the reference to the pattern of legitimation “efficiency” amounts to an implicit evaluation of the object of legitimation as (il)legitimate. This type of legitimatory statement can be reformulated in such a way as to correspond to the above-mentioned extensive structure. Hence our example may be reformulated as “the political system of the United States is (il)legitimate because it is (in)efficient.” Conversely, the statement may omit an explicit formulation of (c) if a clear evaluation like “the political system of the United States is (in)acceptable” is proffered.

Two further points should be made here. To begin with, the linguistic form of a legitimatory statement and the grammatical functions of its elements may not exactly correspond to the above-mentioned structure in its extensive or reduced versions. In other words, the elements of the statement are not necessarily integrated in a single sentence or causal clause. They may have various grammatical functions and be spread over several sentences, but must be recognizable as components of a single evaluative and argumentative unit on the basis of proximity (say, within a paragraph) and other, more substantive criteria. No matter what the precise linguistic form and grammatical functions of objects and patterns of legitimation are,

4 However, an important caveat has to be made. The example can only be treated in this way – and hence, interpreted and coded as delegitimizing – where the context shows that “efficiency” rather than its opposite is considered to be the positive end of the yardstick contained in this pattern of legitimation. This assumption may appear obvious in the case of efficiency: Who would consider the maximization of inefficiency to be a plausible legitimatory benchmark for a political order? Yet things are often less obvious in practice: One may, for instance, delegitimize a political order because it maximizes efficiency to the detriment of some other criterion, such as distributive justice. And many patterns of legitimation whose “directionality” appears to be unequivocal in the context of normative democratic theory in fact have “two faces” in reality. For instance, meaningful participation is arguably linked to the existence of real choices between or among candidates and parties and hence, of political competition. Yet in the American case study that is part of our research project, delegitimation on the basis of “partisanship” or “politics” occurs frequently.
they must be identifiable as such, and the described reformulation of the underlying legitim-atory statement must be possible without distorting or over-interpreting the meaning of the text from which it is derived. Also, in contrast with attempts in speech act theory to associate particular communicative acts with specific (and closed) word lists, we do not believe that such an approach is likely to be successful with regard to legitimatory statements. The evaluative content and patterns of legitimation contained in these statements can in fact be conveyed through a quasi-unlimited number of words (in our sample, for instance, we have colorful statements that refer to the United States as “gangsta nation,” etc.), linguistic means and rhetorical tools (metaphors, irony, rhetorical questions, etc.).

In addition to these three variables, we suggest that a few others may be of interest. A legitimatory statement may be situated in a specific issue or policy context, be framed in a particular way, linked with further argumentative topoi, etc. Again, the degree of abstraction, decontextualization or generalization is relevant here. Thus while a relevant utterance can be situated in or grow out of the context of a specific issue or policy field, it should transcend that narrow context to qualify as legitimatory statement. In other words, we do not consider a specific policy instrument, law, regulation or court ruling as objects of legitimation. Hence we exclude statements on, say, “the legitimacy of the EITC,” but not evaluations of the welfare state at large. On the other hand, it is obviously pertinent to know which issues and policy debates are most likely to trigger the production of legitimatory statements. Any number of other frames or argumentative topoi may be linked with or searched for in legitimatory statements, depending on the particular research interest. If this interest is, for instance, directed towards scrutinizing the pessimistic and optimistic scenarios of section III, one may want to keep an eye on statements that contain observations and causal attributions related to the processes of internationalization and deparlimentarization.

The analysis of individual legitimatory statements quickly leads back to the analysis of relationships and networks and hence, to the rules governing entire legitimacy discourses. In a similar vein, the examination of linguistic aspects shifts to the examination of discursive practices and strategies underlying these statements. Both the form and content of individual statements and their relationships with other contributions on the topic of legitimacy, whether made simultaneously or previously, have to be taken into account. Every assessment of a political order and its core elements is made in the context of existing statements and of the rules governing legitimacy discourses, and its meaning can only be derived against this backdrop. Moreover, legitimatory statements not only advance their own interpretations and evaluations, but also justify the causal attributions and normative foundations, truth and validity claims on which they rely. More or less explicitly, their authors aim to be persuasive and to immunize their own positions against being questioned or criticized as false, incomplete, narrowly interest-guided, etc., and perhaps to contest or refute competing positions as well. A range of defensive or offensive discursive strategies may be used to achieve these objects. However, the vocabulary, linguistic means and rhetorical tools available, the narratives to which new contributions can allude, etc., all reflect the internal structures and content of the legitimacy discourses within which they are situated. Hence, in many cases, it is effective to wrap one’s own assessment of a political order and its core elements in vocabulary, or to draw on metaphors, topoi and bodies of knowledge, whose meaning and use are familiar, standardized and widely accepted, thus giving legitimacy to the legitimatory statement itself, while at the same time being open for reinterpretation. Just as positions may be strengthened by capitalizing on the legitimatory potential of positively connotated terms and metaphors, competing ones may be devalued by associating them with negatively connotated vocabulary. These strategies thus have the form of maneuvers of demarcation or coupling, pace Laclau’s logic of difference and equivalence, and standardized discursive references and routines along such lines can be ex-
pected to be particularly important precisely where the appropriate interpretation and evaluation of a specific action, event or, in our case, a specific political institution, procedure or principle is still very much in doubt or controversial. A statement that fails to abide by the rules of legitimacy discourses may not be heard or be considered as an acceptable contribution in the first place.

In assessing the legitimacy of a political order and its core elements, statements may notably rely on the following discursive strategies. In keeping with the terminology used above, the first one may be called diagnostic: In order to justify its evaluative content, a legitimatory statement can offer an explicit reference to a normative conceptualization or model of the state or of democracy, and to the theoretical positions, sources or authors to which it belongs. The second and third strategy are variations on a comparative theme: A political order may be de- or relegitimized by comparing it with another (foreign) one, and a national political order may be evaluated as (il)legitimate against the backdrop of a comparison with a supranational one, or vice versa. In the wake of internationalization and the transnationalization of public spheres—and hence, in the wake of European integration—the rising frequency of both strategies might be expected. The fourth, historical strategy uses the past in order to evaluate the current state of a political order. In a way, historical contextualization can be considered as the foundational technique of de- or relegitimation: The past and its discursive “updating” are core elements of any interpretive struggle over political events and relationships, and references to the past may be used to justify or criticize the present. In other words, no discourse is created, stabilized or challenged “from scratch.” Instead, the (re)production and transformation of legitimacy and other discourses invariably builds on existing, historically grown interpretive patterns, narratives and topoi. Thus, for instance, we might expect frequent references to the heyday of the DCIS in legitimatory statements of current transformations of the state.

Three dimensions of empirical legitimacy: We do not suggest to replace a focus on individual attitudes or individual and collective behavior with the analysis of legitimacy discourses. Instead, we argue that discourses represent a third dimension of legitimacy. However, legitimacy research cannot merely combine data on the three dimensions and methodological approaches in an additive fashion. We believe that a discourse analytical perspective could provide the integrative theoretical framework for the interpretation of these data, and of the ways in which the dimensions relate to each other.

First, a discourse analytical perspective along the lines suggested here does not exclude the micro level of individual attitudes and behavior; it is not the subject-less perspective taken by some strands of discourse theory (Bublitz 2001). But the supposedly disembodied attitudes measured by survey research would be placed in their discursive context. Hence the point is not that individual attitudes and behavioral dispositions, preferences and interests, norms and values have no real existence and hence, are no meaningful analytical concepts. Yet these attitudes are themselves expressed and shaped in the situational context of, and through participation in, legitimacy discourses. The mere aggregation of individual attitudinal data is likely to provide an inaccurate picture of legitimacy beliefs precisely because the underlying atomistic image of societies neglects context and the role of social and communicative interaction in determining the meaning of revealed attitudes. Legitimacy discourses and their networks of individual legitimatory statements, not the reactive attitudinal data prompted by survey research, enable us to gauge the nature and foundations of legitimacy beliefs and claims. To the extent that attitudes become relevant play a role in the (re)production and transformation of legitimacy discourses, they do so as discursive contributions. Legitimatory statements, in turn, are much richer than attitudinal data precisely because they entail infor-
information on context, and on the interpretive patterns and argumentative topoi in which legitimacy beliefs and claims are rooted.

We have seen above that the link between attitudinal data and individual or collective behavior (the meso level of social interaction) is tenuous; at best, survey research documents individual behavioral dispositions. By contrast, our discourse analytical perspective perceives discourses as action-oriented and hence, the forms of conventional and non-conventional political behavior often used as indicators for the second dimension of legitimacy do not disappear out of sight either. The point of a discourse analytical perspective on legitimacy is to situate attitudes and observed behavior in the context of social and communicative interaction. The participants of legitimacy discourses, by proposing and justifying, contesting and refuting their evaluations of the political order and its core elements, not only make discursive contributions that imply an action, but in fact use discursive practices and strategies to perform it. The (re)production and transformation of more or less shared and collectively binding evaluations of this kind in more or less conflictual discursive processes is an important element of collective political behavior. Discursive practices are thus one – and a crucial – form of social practices themselves, the dividing line between discursive and non-discursive practices or action-oriented debates and action is permeable, and an encompassing definition of practices may be incorporated in the very concept of discourse (Dryzek 1988: 715).

We take up this idea by distinguishing legitimacy debates and conflicts. While the former are triggered and sustained by discursive practices only – i.e., by at least two related de- and relegitimizing statements within the same issue or policy context –, debates are linked with events and non-discursive practices in the latter. These political events that, in turn, trigger interpretations within legitimacy discourses are defined as time and place bound practices. One may, for instance, differentiate between the practices of formal political institutions (related to the making, enforcement and adjudication of collectively binding decisions), organizational practices (of parties, interest groups, etc.), action practices (rallies, protests, etc.), media practices (interviews, talk shows, etc.) and others (celebrations, etc.). It is obvious that each of these forms of action combines discursive and non-discursive elements, often in an inextricable fashion. It therefore vindicates a discourse analytical perspective if protest researchers define the object of their research as “kollektive, öffentliche Aktion nicht-staatlicher Träger, die Kritik oder Widerspruch zum Ausdruck bringt und mit der Formulierung eines gesellschaftlichen oder politischen Anliegens verbunden ist” (Rucht, Hocke et al. 1992) and use political claims analysis – in other words, a text based, content or discourse analytical method rather than observation – to collect data on such events and forms of behavior (Imig and Tarrow 1999; Koopmans and Statham 1999; Rucht 2001; Koopmans and Rucht 2002). Empirical legitimacy is created or withdrawn through a similar combination of discursive and non-discursive forms of action, including non-conventional political behavior and hence, it will be interesting to examine how existing data sets on protest events and the data on legitimacy discourses that we have begun to collect will “speak to each other.”

In short, a discourse analytical perspective on legitimacy not only integrates the notion of agency, but also rehabilitates it, as it were, by making it more realistic. Individual and collective actors are not seen as behaving in a merely reactive fashion, under the sway of causal forces, steered by attitudes as intrapersonal cognitive units or following an exclusively instrumental rationality, but as interacting with each other by way of discursive and non-discursive practices and hence, at least in part, in line with a discursive rationality as well. Just like attitudes, individual behavior gains its meaning in the context of social and communicative interaction, as it has “no existence independent of the individual’s orientation to his or her social context. In other words, how individuals construct reality is inseparable from the roles
they think they can, do, and should play in relation to that reality” (Dryzek and Berejikian 1993: 50). In describing the context of legitimacy discourses, it is useful to distinguish and examine two aspects, as captured in the concepts of discursive fields and communities (Schwab-Trapp 2001).

Political actors engage in discursive practices and pursue discursive strategies within public arenas that define their chances of access, role and power, the discursive instruments, options and resources at their disposal, and the overall rules of the discursive game that is played by these actors. In line with Schwab-Trapp, we refer to these arenas as discursive fields. Four such fields are likely to be particularly important for the (re)production and transformation of legitimacy discourses – the media, parliaments, the judicial system (notably, the level of constitutional courts), and academia. Together, legitimacy discourses in these fields are instrumental in defining and guaranteeing shared or binding criteria of acceptability in western democracies and serve as gatekeepers against radically competing views. The media ensure that legitimacy debates and conflicts reach a wider public. The centrality of the public sphere and of discourses taking place in it has been maintained both from an empirical and a normative angle – e.c., the presumptive lack of a transnational public sphere often plays a role in negative assessments of the EU’s democratic quality and legitimacy (Sarcinelli 1998; Jarren, Sarcinelli et al. 2002; Sarcinelli 2002; Klein, Koopmans et al. 2003). The most prominent form of discourse analysis therefore consists in the analysis of media content, and while we leave the exact nature of relationships between the media and other discursive fields open here, we nevertheless suggest that legitimatory statements produced or transported by the media have particular weight within wider legitimacy discourses. They should therefore be put on center stage in a discourse analytical perspective on legitimacy. However, legitimacy beliefs and assessments are also influenced by the claims of political institutions and their representatives. For instance, given that their role as legitimizing agencies is eroding or changing according to the scenarios outlined above, parliaments and MPs might be expected to engage heavily in legitimacy discourses. The rulings of constitutional courts are not only indicators or elements of legitimacy debates and conflicts, but often advance legitimacy claims and specific legal benchmarks of legitimacy as well. Finally, the legitimacy of political orders and their core elements is an important topic within academia (notably, for legal scholars and political science). A focus on these four fields, then, enables us to capture legitimacy beliefs and claims at the mass and elite levels of communication to the extent that they enter the public sphere. Private conversations remain outside the purview of our perspective.

While each of these fields is characterized by specific text types that are primarily geared towards particular audiences or readers, the participants of and contributions to these fields may of course overlap and interact. The boundaries between discursive fields are thus permeable, and intertextuality also creates interdiscourses. For instance, legal opinions and judges, or parliamentary speeches and political actors, may be quoted and interviewed in the media; intellectuals write newspaper articles on questions of democratic quality and legitimacy in order to influence political elites, thus bringing the terminology of legal scholarship or democratic theory to the public sphere; political actors may, in turn, draw on such articles in their speeches and press releases, etc. Depending on the extent to which the fields overlap and interact and to which legitimatory statements transcend their boundaries, the dominant or peripheral status of individual contributions, interpretive patterns or argumentative topoi in legitimacy discourses can greatly vary (Schwab-Trapp 2001: 270).

Legitimacy and other discourses are divided in competing positions and voices – each offering its own set of interpretations and evaluations –, and these voices are represented by individual or collective actors. Again in line with Schwab-Trapp, we refer to these groups or
coalitions of discourse participants as discursive communities. They may differ in terms of their social background and/or degree of institutionalization and hence, consist of formal institutions, organizations and their representatives or represent milieus that are only bound together by their shared discursive positions. In any case, the preferences and interests, norms and values, organizational structures and identities defining them are themselves to a large extent created by discursive processes of exclusion – separating competing positions and their representatives from each other – and of integration. A shared repertoire of interpretive patterns, narratives, etc., is crucial in that regard.

Such discursive communities tend to be represented by discursive elites speaking in their name and being perceived as representatives of their communities by the wider public. These elites usually dispose of high amounts of symbolic (as well as economic, cultural or social) capital as a result of public recognition of their achievements and/or the role they play in their respective communities; they may thus be able to extend their authority from the discursive communities they speak for to entire societies. Elites assume several functions. With more or less explicit collective support from rank-and-file members, they push issues and topics on the public agenda that are of particular importance for their communities, offer interpretive patterns, formulate demands on behalf of them and hence, to the extent that their discursive strategies are successful, steer debates in a direction that corresponds to the preferences and interests, norms and values of their communities. Given their authority and visibility, they also serve as reference points and their discursive contributions, as indicators of positions held by entire communities (Schwab-Trapp 2001: 271f.).

Legitimacy discourses, then, comprise at least two discursive communities, which we call de- and relegitimizers. These may be further subdivided – e.c., on the basis of the specific objects and patterns of legitimation that they advance or privilege. The communities of de- and relegitimizers of course have to be understood as constructed analytical categories, held together by the de- or relegitimizing nature of their discursive contributions, but one would expect certain types of individual and collective actors, including formal political institutions, organizations and their representatives, on one or the other side of this basic dichotomy. Thus mainstream parties and members of the political establishment may be hypothesized to be concentrated on the relegitimizing and anti-establishment parties, the members of protest movements, etc., on the delegitimizing side. On the other hand, where delegitimizing positions are expressed by members of the establishment – including, for instance, commentators of national quality newspapers –, one may interpret this as sign of a severe legitimacy crisis. Once a distinction between the mass and elite levels of legitimacy discourses is made, the idea that empirical legitimacy obtains or can be conceived as the aggregate of individual attitudes is pushed aside further. Instead, the (re)production and transformation of these discourses is expected to be dominated by the elites of the above-mentioned discursive fields – Easton’s (1965: 154) “politically relevant” actors in their social context rather than a representative sample of respondents –, as they have the power and resources to make themselves heard and to influence discursive processes.

A focus on social and communicative interaction at the same time highlights the dynamic character of legitimacy discourses, the concrete processes of de- and relegitimation whereby they emerge, are stabilized and change. The members of discursive communities and elites, through their contributions and practices, engage in strategic behavior – e.c., using some of the linguistic means and rhetorical tools and discursive strategies sketched above. These strategies may, for instance, be used to consolidate, shift or bridge cleavages between discursive communities, and to integrate or break up communities. It is through the repetition and ordering of discursive practices and contributions – in sequences of communicative inter-
action – that social and political reality – here: (il)legitimacy – is constituted. Where these sequences entail successful challenges to existing discourses, they may lead to the rise and institutionalization of new discourses and discursive formations.

With the term discursive formations, another widely used concept in discourse analysis, we highlight the institutional aspect of discourses and their relationship with the macro level of entire political orders and societies. Unlike Foucault, who uses discourse as the most general and encompassing term and distinguishes four discursive formations within it, we once again follow Schwab-Trapp in comprehending discursive formations as the more or less institutionalized outcomes of discursive processes that clarify the issue or topic around which a discourse is centered, define and (temporarily) stabilize the rules governing discursive fields and communities, the rules and conventions governing the production of discursive contributions that are deemed appropriate, and the weight attributed to individual contributions. Discursive formations also determine how these fields and communities are linked with each other, what their respective functions and roles, options and resources are, and which positions are at the center or on the periphery of a discourse. Thus discursive formations notably determine which positions are seen as collectively binding.

While all discursive formations can be viewed as having this institutionalized nature, legitimacy discourses not only refer to formal political institutions, procedures and principles as objects of legitimation, but the related discursive fields and communities, as well as discursive practices and strategies, can be expected to be influenced by the very institutional arrangements that are dealt with in legitimatory statements. Hence legitimacy discourses may be characterized as “language [or communication] in institutions” (Jung 2001: 30) in a double sense: Institutional arrangements shape discourses and vice versa, legitimacy discourses play a crucial role in ensuring their correct functioning and maintenance. For instance, the roles and identities of de- and relegitimizers are likely to be embedded in or tied to core institutions of a political order. These core elements are usually referred to when the legitimacy of the political order at large is evaluated and debated, and while assessments of these elements are decisive for the maintenance of legitimacy, they are at the same time likely to be singled out and hotly contested where a political order is being delegitimized. Moreover, one might expect a certain “elective affinity” between institutional arrangements, objects and patterns of legitimation. In one way or another, then, specific institutional arrangements may be hypothesized to have an “anchoring” function for national legitimacy discourses.

Indicators of empirical legitimacy, then, can be found at each of the three dimensions, but we get the best idea of the scope and nature of legitimacy beliefs and claims, of the meaning of those indicators, and of processes of de- and relegitimation by focusing on the discursive dimension. As an integrative perspective on empirical legitimacy, discourse analysis also enables us to capture the historically and culturally grounded nature of legitimacy beliefs and assessments entertained and revealed by people “out there” in different national contexts – the variations (or similarity) and change (or stability) of national legitimacy discourses, de- and relegitimation processes. As indicated above, a focus on the historical dimension and dynamics of conflict and change is in fact built into the very concept of discourse and hence, the examination of trajectories and cycles of (re)production and transformation is constitutive for the discourse analytical perspective. Change may occur in just one dimension or aspect of legitimacy separately, or in more than one of them at the same time, and it may be quantitative, a mere erosion or growth of legitimacy, or qualitative. Within legitimacy discourses, quantitative change would, for instance, be illustrated by shifts in the relative frequency of de- and relegitimizing statements, while the configurations of objects and patterns of legitimation would remain largely unchanged (or perhaps slightly weakened or strength-
Qualitative change may entail shifts in the built-in orders or relative weight of discursive fields or communities, or it may concern entire discursive formations. Within specific communities and their discourses, qualitative change may consist in the integration or replacement of traditional with new interpretive patterns, etc. (Schwab-Trapp 2001: 270f.). Hence qualitative change in legitimacy discourses can be diagnosed where not only the relative frequency of de- and relegitimizing statements, objects and patterns of legitimation shifts, but the very configuration of these variables and the meaning of patterns – e.g., the substantive criteria used to define effectiveness –, or where entirely new patterns, argumentative topoi and frames emerge in the context of legitimacy debates and conflicts. For instance, one might ask if the communities of de- and relegitimizers in western democracies have continued to rely on the same preferred configurations in recent years or put forward new ones, perhaps indicating a change in discursive strategies. And one might examine if references to the processes internationalization and deparlamentarization are increasingly present in legitimacy statements, and how related causal attributions are framed. Are these processes indeed held responsible for an erosion or growth of democratic quality and legitimacy?

A discourse analytical perspective is also sensitive to the fact that discourses are culturally specific and place bound. Hence one may compare if specific actors, discursive communities and fields, social groups or entire nations and cultures are characterized by preferred configurations of objects and patterns of legitimation, typical discursive strategies of de- and relegitimation, etc. Once again quantitative variations and qualitative ones can be distinguished. Are there characteristic differences with regard to these configurations between de- or relegitimators, or do they differ in the direction of their evaluations only? Combining a historical and a comparative perspective, one can further ask if national trajectories converge in the direction expected by our optimistic and pessimistic scenarios or not. Finally, moving from descriptive to causal inferences, a discourse analytical perspective may be combined with a look at legitimacy or other discourses as independent and as dependent variables. Where they are viewed as independent variables, their impact on the scope, nature and outcomes of specific legitimacy debates and conflicts, and on the functioning and stability of entire political orders and societies is examined. As dependent variables, the influence of such context factors as the very institutional arrangements whose legitimacy is dealt with in them, political cultures, including national traditions of democratic thought, etc., may be examined.

**Methodological consequences:** We argue that a discourse analytical perspective not only gives access to a hitherto neglected key dimension of legitimacy and hence, to the complex and multi-faceted nature of legitimacy beliefs and claims, but also avoids, or at the very least balances, the intrinsic biases of competing methodological approaches. This is so because it goes beyond the reactive and uniform approach of survey research and is genuinely reconstructive, even more so than the methodological alternatives suggested by Dryzek (1988, Dryzek and Berejikian 1993) (Q methodology, non-standardized in-depth interviews, ethno-graphic observation of or interaction with subjects, etc.). Like other discourses, legitimacy discourses and legitimatory statements are the product of concrete social and communicative interaction. The verbal or textual data on which a discourse analytical perspective relies are therefore not prompted by researchers, but natural. In collecting and examining networks of legitimacy statements, we permit actors to “speak for themselves [...] not holding them up against any measuring rod external to them” (Dryzek and Berejikian 1993: 49). The approach is thus “reconstructive in that it does its utmost to find its categories in how its subjects actually do apprehend the world, not in how the researcher expects them to do so” (Dryzek and Berejikian 1993: 48). How do citizens and political actors express their legitimacy beliefs and assessments, which normative benchmarks and criteria of acceptability do they propose, and how do they justify and frame their interpretations and evaluations? Which objects and
patterns of legitimation are, for instance, highlighted and coupled by discourse participants if they raise the topic themselves and are not confronted with a preselection of objects and patterns? No preset notions and no a priori hypotheses as to what the thrust of evaluations is going to be or as to which configurations are likely to occur, appropriate or consistent are brought into this perspective. To the extent that findings appear inconsistent from a normative point of view, they are nevertheless treated (and perhaps ultimately, explained) as empirical facts, not dismissed or criticized (like Dryzek, however, we remain skeptical about "explanation" along the lines of a deductive, hypothesis-testing approach based on some cause-effect model, and instead suggest to begin by searching for configurations in the empirical material).

Yet we certainly do not suggest that the data we collect and examine are theory and method-independent, or that there are no specific methodological challenges to be tackled and problems to be solved in empirical research using a discourse analytical perspective. It is not unfair to say, though, that the bulk of the literature under the heading of discourse analysis has so far given scant attention to linking theoretical reflections with genuinely empirical research in the tradition of the social sciences (Keller 2001: 15), or in feeding empirical results back into their often elaborate theoretical frameworks (Jung 2001: 29). As a consequence, methodological questions – the operationalization and measurement of analytical concepts and variables, reliability and validity, etc. – have usually received short shrift. We believe that much remains to be done in this respect.

In principle, a discourse analytical perspective on legitimacy may draw on the entire range of methodological approaches and instruments that are available for the analysis of texts. One may thus locate oneself at the qualitative-interpretive or at the quantitative-statistical end of the methodological spectrum. As it is mostly anchored in the interpretive paradigm, the discourse analytical literature has tended not to stray very far from the qualitative pole. However, there is no a priori reason why a discourse analytical perspective should not draw on quantitative procedures or a mix of qualitative and quantitative ones, especially as content analysis has long ago skipped Berelson’s inappropriate restriction to so-called manifest content (Merten 1983; Früh 2001). In our view, there is in fact much to be said for such an eclectic approach, not the least when the discourse analytical perspective is brought to bear on empirical legitimacy. For such a perspective faces a typical dilemma (Schwab-Trapp 2001). On the one hand, discourse analysis is essentially about the reconstruction of meaning, the process character of communication interaction, etc. It thus necessarily relies on the interpretive skills of the researcher to a large extent. This crucially important attention to detail suggests the appropriateness of a case-study or small-n comparative orientation and hence, of qualitative methods. The context bound and multi-faceted character of empirical legitimacy makes this line of reasoning even more plausible. On the other hand, the number of contributions of any significant discourse is likely to be high, perhaps too high for the systematic application of qualitative methods. Moreover, in order to make descriptive or even causal inferences and generalizations on the internal structures and change of discursive formations – generalizations that are often made in the literature –, at least some numerical data are needed. It is difficult to see how the claim that a particular set of discursive contributions – e.g., a particular type of legitimatory statements – and its authors dominate a discourse can be substantiated if no information on frequency distributions and on the representativeness of the text corpus examined is available. The mere frequency of specific discursive contributions may not be the only or not even the most important, but certainly is one indicator of their collective validity and institutionalization (Schwab-Trapp 2001: 274). The discourse analytical literature often remains vague in its methodological positions and even vaguer with regard to numerical data because of this real or perceived dilemma and its lack of familiarity (or comfort) with quanti-
tative methods. Yet the bridging of the qualitative-quantitative gap should also enable us to increase the benefits to be reaped from a discourse analytical perspective.

The clarification of the “virtual” text corpus from which a sample is drawn – in our case, the definition of legitimatory statements and their sources – should therefore be the first step, followed by the choice of an appropriate selection procedure – which text types from which discursive communities and fields are considered, how is the corpus demarcated in time and space, and how is it compiled? – and a clarification of the sample’s representativeness, which in turn determines which descriptive and causal inferences can be made on the basis of the analyzed text corpus. The next steps would consist in the construction of appropriate category systems for the variables of interest, coding and the performance of statistical operations.

Given the complexity and unavoidably equivocal nature of political language, the need for interpretive disambiguation can be expected to arise at the coding stage already. Moreover, qualitative methods can be used in a more thorough small-n analysis of typical or deviant cases (as identified through statistical operations) from the large sample, or of discursive contributions and practices that are considered to be particularly relevant for some other reason. Hermeneutic methods or methodological approaches gleaned from grounded theory come to their right here. There is of course no unique recipe for the implementation of a discourse analytical perspective, and empirical research on legitimacy raises its own set of methodological questions and difficulties. We therefore wrap up the main part of this paper by a sketch of the research design on which our own project on legitimacy in Germany, Switzerland and the United Kingdom is based.

2 Some empirical illustrations – legitimacy discourses in Germany, Switzerland and the United Kingdom

It is beyond the scope of this conceptual paper to give a detailed presentation of the kind of results that empirical research along the suggested lines might yield, or to test and substantiate any specific hypotheses, descriptive and causal inferences. Our own project is in its early stages. In order to illustrate how a discourse analytical perspective on legitimacy could be implemented and which results it might yield, we therefore restrict ourselves to a sketch of our research design. Our project examines and compares the legitimacy discourses of four countries: Germany, Switzerland, the United Kingdom, and the United States. In keeping with the European focus of this workshop, the following remarks will only draw on evidence from the first three of these countries, though.

The cases: The rationale of our sample is to maximize variation with regard to the factors that may be thought to influence the structures and trajectories of national legitimacy discourses. Hence it contains two EU members (Germany and the United Kingdom) alongside Switzerland, which has so far not joined the EU, but continues to have intense public debates on the issue of membership. Moreover, one of the countries (Germany) is a founding member of the EU whose political elites remain highly committed to European integration, while another one (the United Kingdom) has become a member much later, and is characterized by considerable skepticism, even hostility, toward the integration project at both the elite and the mass level.

Our sample also represents major variants of the DCIS. Differences that might be expected to matter exist in the “democratic,” the “constitutional” and the “interventionist” di-
mension of that state form, at the polity, politics and policy levels. Here, we restrict ourselves to pointing out the most obvious differences. Thus our sample certainly represents two or three distinctive welfare regimes, depending on the typology used. Moreover, with the United Kingdom, it contains the prototype of Westminster or competitive democracy (the departures from the Westminster model are few, minor and mostly recent). Parliamentary democracy along the lines of that prototype is modified by a PR electoral system, federalism, a written constitution and a strong judiciary branch in Germany. Switzerland, on the other hand, most closely approximates the model of consensus democracy, and representative institutions and procedures are complemented by strong elements of direct democracy. At the politics level, differences with regard to the cleavage and party-system structures are just as considerable, and the sample thus includes a two-and-a-half party system with centralized parties in the United Kingdom, a multi-party system with centralized parties in Germany and another multi-party system with more decentralized parties in Switzerland.

Finally, differences with regard to historical experiences, political cultures and national traditions of democratic thought that might be expected to influence legitimacy discourses also come to mind easily. Thus Switzerland and the United Kingdom have long traditions as constitutional and democratic states, and experiences of foreign occupation, authoritarian or totalitarian rule are remote or lacking in both cases. Their historical trajectories contrast with Germany’s authoritarian and totalitarian experiences. These divergent trajectories are, in turn, linked with characteristic traditions of political thought (just consider the development of German thought on parties, parliaments and other key elements of democratic government).

Just as it is not our intention to exhaust the list of potentially relevant differences among the three countries, we do not have the ambition at this point to suggest any specific causal relationships among the mentioned variables or between this set of variables and national legitimacy discourses. But the outlined differences in institutional arrangements, political cultures and national traditions of democratic thought lead us to expect rather substantial variations with regard to the scope and nature of empirical legitimacy and with regard to the stability and change of legitimacy discourses in the three countries.

The text corpus: As a pertinent and sufficiently large text corpus for the analysis of legitimacy discourses does not yet exist, our first (and ongoing) task consists in its creation. We are currently in the process of identifying relevant texts from January 1, 2004 onward but aim to extend the time frame of our corpus to the 1990-2005 period. Ultimately, it will include texts from each of the four above-mentioned discursive fields, such as parliamentary speeches, court rulings and pieces of academic writing. Here, we only describe how we select relevant articles from the two quality newspapers per country that we examine in order to capture the thrust of legitimacy discourses in the media: Frankfurter Allgemeine Zeitung and Süddeutsche Zeitung for Germany, Neue Zürcher Zeitung and Tagesanzeiger for Switzerland, Guardian and Times for the United Kingdom. In line with our conceptual framework, articles are included in our corpus if they contain at least one legitimatory statement. However, we retrieve and save entire articles rather than just the paragraphs containing these statements. In contrast with the usual content-analytical procedure, texts are thus not discarded in the process of coding and transforming them into data matrices geared toward statistical analysis, the first part of our study, but remain available for subsequent qualitative analysis, the second part, as well.

Texts are retrieved from an electronic media databank in a computer-aided two-step procedure. In order to minimize falsely negative and positive search results – the omission of
relevant and the inclusion of irrelevant articles –, we combine automated search routines for the preselection and retrieval of texts with a manual (interpretive) approach to final selection. The search routines are essentially similar for each language and country, but adapted to the peculiarities of their respective political orders and terminology. Their construction principle is derived from our definition of legitimatory statements. Articles are thus retrieved if at least one of their paragraphs contains one or more terms from an “objects of legitimization” and a “patterns of legitimization” dictionary (word list), respectively. Thus, for instance, an article is found if it contains the terms “democracy” and “legitimate,” (in)effective” or “(un)fair” within the same paragraph. The virtually unlimited number of linguistic ways to phrase legitimatory statements prevented us from developing a fully automated search procedure, but our routines are effective in minimizing falsely negative results in the retrieval process. Finally, and once again in line with our theoretical considerations, only a very limited number of clearly irrelevant text types, such as event schedules, listings of stock prices, obituaries or weather reports, are always excluded. Hence relevant articles may, for instance, be news reports, commentaries or features, and they may, in principle, appear in the politics or any other section of our newspapers.

Our focus on two quality newspapers per country obviously amounts to a sampling procedure and hence, raises questions of representativeness. Part of the justification for this is of course related to the undoubtedly huge size of the “virtual” text corpus of legitimacy discourses which therefore cannot be fully documented, let alone examined, with the limited resources at our disposal. Yet we believe that the decision to restrict our analysis to a sample of newspapers can to some extent be justified on theoretical grounds as well. The decision to ignore tabloids is thus based on the assumption that the most important legitimatory debates with national scope will tend to be driven by – or at the very least, to be fully reflected and most clearly articulated in – a country’s quality newspapers. The journalists, guest authors and readership of these papers may be viewed, then, as discursive elites of larger discursive communities whose positions strongly influence legitimacy beliefs and assessments at the mass level. And while we do not want to suggest that the discursive contributions of tabloids are merely simplified versions of the elite positions staked out in quality newspapers, we believe that the inherent bias of our sample can be estimated fairly accurately.

A similar argument can be made for our choice of newspapers. If papers see the legitimacy of the political order at stake in the context of specific events, issues or policy fields may of course be greatly influenced by their ideological orientation. Legitimatory statements always entail a generalization beyond the politics and authorities of the day. This step of generalization is not only relatively rare – we hardly ever retrieve more than a dozen of these statements per paper and week –, but whether it is made at all depends on a discourse participant’s worldview as well. Thus, for instance, a left-wing paper may see the legitimacy of a political order jeopardized by even minor welfare cuts while its right-wing competitor may come to the opposite conclusion – or else, interpret them as irrelevant for the legitimacy of the political order altogether and hence, not even frame them as legitimacy issues. To the extent that papers indeed differ in their de- and relegitimizing evaluation of particular issues or in their inclination to perceive and frame them as legitimacy issues, any sample can therefore create a bias. In selecting two papers per country – wherever possible, one with center-left and one with center-right stances –, we hope to reduce this danger and to capture the scope and nature of key discursive positions with reasonable accuracy.

Some hypotheses and illustrative examples: Our overview of institutional and other differences among the three countries suggests a certain number of plausible hypotheses on the kind of legitimatory statements that is likely to be most frequent within each national le-
gitimacy discourse. Specific institutional arrangements might impact legitimacy discourses in a twofold way. On the one hand, it may be hypothesized that the core elements of each political order will dominate these discourses and hence, have an “anchoring” function – i.e., that they will be debated and evaluated more often and influence legitimacy assessments of the political order as a whole more strongly than more peripheral elements. On the other hand, one might also expect that there is a characteristic “elective affinity” between specific objects and patterns of legitimation and hence, that different patterns of legitimation will be used more or less often in different political contexts. A typical legitimatory statement might also be expected to respect a certain understanding of “directionality” in using patterns of legitimation (that is, a particular understanding as to which ends of the evaluative yardstick represented by each of these patterns should be considered as positive and negative, respectively, in the context of that political order). Hence a typical delegitimizing statement would claim that a political order or one of its core elements is far removed or shifting away from the arguably positive end of the benchmark used and conversely, a typical relegitimizing statement would claim the opposite. Finally, one might hypothesize that a typical legitimatory statement on a supranational political order like the EU is usually grounded in the same configurations of objects and patterns of legitimation as a typical statement on the national order. It would thus evaluate the EU as legitimate if the European equivalents of national “anchoring” institutions, procedures and principles are considered to perform well if measured against the benchmarks considered important in the national context, and vice versa. In that sense, statements with national and supranational objects of reference would “mirror” each other. Empirical research may then confirm our hunches as to which kind of statements should be most frequent and typical – or else, it may reveal legitimatory statements that evaluate a political order or one of its elements on the basis of different, perhaps entirely counter-intuitive, configurations of these variables. We now illustrate these ideas and our coding scheme with a few examples.

Which combination of objects and patterns of legitimation would we expect in a typical legitimatory statement in Switzerland? It certainly seems plausible to hypothesize that the institutions, procedures and principles of direct democracy will be frequently used and particularly important objects of legitimation (perhaps together with principles of consensus democracy, federalism, etc.). And we would expect that it should respect the “elective affinity” of direct democracy on the one hand and patterns of legitimation referring to popular sovereignty, citizen and grassroots participation – democratic input criteria – on the other. And in using the yardstick of these criteria, it should consider more, not less popular sovereignty, etc., as positive. A typical relegitimation of the Swiss political order at large or its direct democracy would then maintain that they are legitimate because they ensure that input criteria are indeed met in that way. A typical delegitimation, on the other hand, might suggest that the legitimacy of the political order has shrunk because internationalization and forced convergence with EU policy has hollowed out citizen legislation through initiatives, and the like. Conversely, a typical de- or relegitimizing statement on the EU from a Swiss perspective might center on elements of direct democracy in the EU (or their lack) and the extent to which European political institutions, procedures and principles weaken or strengthen participation. A comparison between the EU and Switzerland that highlights the lack of plebiscitary elements in the former may then be used to relegitimize the national political order. The following example is very much in line with what we would expect to read:

“Die direkte Demokratie bedeutet eine politische Kultur, in der Macht fein ver- teilt wird, Partizipation der Betroffenen viel gilt, niemand befehlen und die meisten einander höchstens überzeugen können. Trotz ihrem Alter ist die direkte Demokratie ausgesprochen modern, denn sie stellt den individuellen Bür-
This example not only corresponds to our definition of a legitimatory statement, but in fact contains several of them, each of which we code separately. The legitimacy of direct democracy – and the crucial importance of this element and its correct functioning for the legitimacy of the entire political order – are expressed in a very explicit and unequivocal fashion. The paragraph contains evaluations of direct democracy, of the political order (“Politik”) and of the Swiss political community, which is referred to as “moderne, vielfältige Gesellschaft,” as well. Several input criteria are linked with these objects of legitimization: Direct democracy is legitimate (and underpins the legitimacy of the political order as a whole) because it distributes power, fosters popular sovereignty and participation, as well as supporting deliberative processes that are not hierarchical but rather let the better argument win; direct democracy is also qualified as both an old (and hence, venerable) tradition and, like the political community, as modern. Moreover, its positive impact on the national identity and integration highlighted. The paragraph may thus be broken into several relegitimizing statements – each combining an object and a pattern of legitimation. The following variables are coded for each statement: object of legitimation, pattern of legitimation, whether the statement is de- or relegitimizing, its issue or policy context, and whether the statement also refers to the processes of internationalization and deparlamentarization. The following quotation provides the expected “companion” statement with the EU as object of legitimation. Unsurprisingly, the EU is delegitimized – and this, by drawing on criteria that closely “mirror” the ones in the first example:

In a similar fashion, hypotheses on the configurations of variables in typical legitimatory statements may be formulated for the other two countries. Variations among and change within our cases can then be measured and expressed in quantitative terms, as variations and change in the frequency distributions of objects and patterns of legitimation, of de- and re-legitimating statements, etc. The overall erosion or growth of a political order or one of its elements may be gauged in this fashion. We are, however, particularly interested in discovering qualitative variations and change, the emergence of new and surprising configurations, and in learning about the discursive contexts in which these qualitative shifts occur. Shifts may, for instance, entail new combinations of objects and patterns of legitimation, such as when direct democracy in Switzerland or any other element of the political order there and in the other two countries are increasingly evaluated on the basis of output rather than input or non-democratic rather than democratic criteria. Direct democracy may then be legitimate primarily because it is a “Garant für Freiheit, Sicherheit und Wohlfahrt” (“guaranteeing freedom, security and public welfare,” NZZ, January 17, 2004) or, rather counter-intuitively, appears as illegitimate because it represents “eines der großen Hindernisse auf dem Weg der Schweiz in die Europäische Union” (“one of major obstacles on Switzerland’s way into the European Union,” NZZ, February 18, 2004). Qualitative change may also entail shifts in the patterns of legitimation typically used by de- and relegitimizers, in the issue and policy contexts of legitimacy debates or in the framing of legitimatory statements.

To give yet another example, in both Switzerland and Germany, federalism remains an important and frequently evaluated object of legitimation, but is increasingly assessed in terms of its efficiency and effectiveness (instead of democratic input criteria) and hence, there is a marked shift toward delegitimizing statements as well:


Federalism is a longstanding key element of the Swiss and German political orders. In the United Kingdom, by contrast, devolution is a recent addition to the political order that constitutes a shift away from the Westminster model. We may hypothesize that a new element like devolution that significantly modifies institutional arrangements will also tend to be among the more frequent objects of legitimation in the wake of its introduction. Hence it is particularly interesting to examine, in the British case, to what extent the new regional level of democracy. This prerequisite is not met in Europe. [...] For citizens to accept a democratically achieved decision, a certain feeling of belonging together, for instance, the self-perception as national or supranational community with regard to which one has rights and duties, is needed. This is not the case in the EU, [...]."

7 “I am not at all opposed to federalism. But in Switzerland, federalism is experienced in a way that makes things very difficult for the country. It exacerbates its small territorial size, increases the regulatory density and furthers slows down an already slow reform process. In short, it is, de facto, a huge energy and money wasting machine.”

8 “Unitary federalism has developed an increasingly pronounced levelling effect over the last 50 years, says Erhardt. In the labyrinth of mixed responsibilities, transparency, accountability, diversity and the stimulating effect of competition have been lost.”
government in Scotland and Wales has entered the country’s legitimacy discourse and which evaluations and patterns of legitimation are tied to that innovation in the initial wave of assessments. Although we do not want to pretend at this point that we have already captured the general thrust of these assessments, or the relative frequency of de- and re-legitimizing statements, there is some evidence that democratic input criteria (and dissatisfaction with the country’s “electoral dictatorship”) play a considerable role, such as when it is underlined that “people will feel devolution benefits them in having decisions made closer to home” (Guardian, January 7, 2004). On the other hand, there is growing controversy over other traditional core elements of the British political order, like the monarchy:

“Those who want to preserve the monarchy’s ability to adapt to modern Britain should realise that only by embracing long-overdue reform and allowing a new grown-up debate with Her Majesty’s disloyal opposition will they regain legitimacy and respect – and finally move the debate decisively on from “what the butler saw.” (Guardian, January 5, 2004) – “The actress Vanessa Redgrave is currently in Toronto with the Royal Shakespeare Company’s production of John Barton’s The Hollow Crown, a history of the kings and queens of England. According to the adverts for the Canadian audience, ‘it illuminates in story and song the splendid institution of the monarchy; its rich history, its colourful pageantry, its noble traditions.’ (Times, January 30, 2004) – “The Tory prescription is for a Balkanisation of parliament and ultimately the Balkanisation of Britain. But the truth is that their attack is opportunist. They opposed devolution, as they opposed all Labour’s efforts to democratise and modernise our antiquated constitution.” (Guardian, January 21, 2004)

These paragraphs illustrate that tradition as a pattern of legitimation is still relatively frequent in the United Kingdom, as one might expect, but certainly not uncontroversial. One might add here that it is not only possible to hypothesize what the objects of legitimation with “anchoring” function in any given system are or the extent to which an “elective affinity” between objects and patterns of legitimation should be expected, but also that there might be an “elective affinity” between entire national legitimacy discourses and specific patterns of legitimation. Thus given the country’s historical experience, appeals to tradition or charismatic leadership may be thought to be problematic and hence, used with care in Germany. By contrast, we found a statement delegitimizing the British political systems on the grounds that it was unconducive to heroic political behavior. On the other hand, if we found that tradition or leadership as patterns of legitimation are used increasingly often in Germany, it would be a particularly significant finding and certainly an indicator of qualitative change.

We break off the discussion of possible empirical results at this point with the general remark that even a cursory browsing of our as yet small text corpus suggests that the number of distinct patterns of legitimation is much higher than might be expected, and that patterns that are not expected by or even incompatible with any version of normative democratic theory are quite frequent. This does not mean that democratic and input criteria are unimportant, but it suggests that evaluations of a political order’s democratic quality and its legitimacy are certainly not the same thing. Moreover, considerable national variations in the structures and trajectories of legitimacy discourses indeed seem to exist.

As indicated above, the first step of our research will consist in a quantitative analysis of our sample of legitimatory statements. This analysis can, for instance, result in information on the frequency distributions of particular configurations of variables, on the issue and policy contexts that are most likely to trigger legitimacy debates, on the extent to which these de-
bates are now tied with observations on internationalization and deparlamentarization processes, etc. But we intend to use our text corpus as basis for qualitative analysis as well. In fact the preceding lines should already have made it clear that a strong interpretive component is involved even in the text selection and coding procedure of the quantitative part. The examples used here are rather explicit and unequivocal. Some of them visibly draw on the language and arguments of the academic literature on topics like European integration or federalism. In many instances, however, the formulations used and the evaluative content transported by them are more ambiguous and oblique.

V Conclusion

In our paper, we focused on the state of research on empirical as opposed to normative legitimacy. We argued that these two concepts have to be clearly distinguished, that empirical and normative legitimacy may only be weakly linked, and that the prevailing understanding of empirical legitimacy is characteristically limited and biased for theoretical and methodological reasons. We further argued that legitimacy may, in principle, be operationalized and measured in three (or even four) dimensions: attitudinal, behavioral, discursive (and symbolic). We then made the case for a comparative and discourse analytical perspective on legitimacy and sketched its contours. We view the discourse analytical perspective as an integrating the micro and meso levels of individual attitudes and behavioral dispositions, social and communicative interaction with the macro level of institutional arrangements and political cultures. Given the process character of discourses, the perspective lends itself particularly well to the analysis of variations and change in the structures and trajectories of national legitimacy discourses. In the final part of the paper, we illustrated our perspective with legitimatory statements on Germany, Switzerland, and the United Kingdom – data collected in the context of a larger research project on empirical legitimacy in these three countries and the United States. We presented our approach to text selection and coding, suggested a few hypotheses and demonstrated how they may be verified using this material.

While it was much too early for us to draw firm conclusions, we further suggested that our comparative research design is likely to reveal considerable differences in the structures and trajectories of legitimacy discourses in these three countries rather than the process of convergence around one or another set of normative benchmarks expected by our pessimistic and optimistic scenarios. National traditions of democratic thought are very likely to be part and to influence the nature of national legitimacy discourses, and by including academia as one of four discursive fields with particular importance for de- and relegitimation processes, we also underlined the role of different strands of normative democratic theory – and their authors as discourse participants or discursive community – in these processes. However, and just like Dryzek in his empirical work on democratic beliefs in the United States, we have so far found little evidence that legitimacy beliefs and assessments revealed in discourses exactly coincide with a particular strand of democratic theory even though some legitimatory statements reveal closer and more explicit links to it than others. Even if we allow for national traditions of democratic thought, legitimacy discourses in the three examined countries can be expected to be much more complex and multi-faceted, notably including non-democratic (and perhaps in many cases, highly idiosyncratic and counter-intuitive) patterns of legitimation.

In our own comparative project, then, we pursue a genuinely empirical research interest. We aim to document variations and change as thoroughly as possible and hence, to develop a more differentiated picture of legitimacy beliefs and claims than in the existing literature. Ultimately, these results may of course be integrated in a perspective that goes be-
yond the empirical level. One may, for instance, be interested in determining to what extent normative benchmarks of democratic quality and legitimacy advanced by this or that strand of democratic theory are indeed used or reflected in actual legitimacy claims and assessments. At this point, we reiterate that we object to the equation of empirical and normative legitimacy, but not to a normative-empirical or diagnostic approach per se. Hence we disagree with Dryzek’s contention that “[a] theory of democracy [and legitimacy] is viable to the extent that there is a discourse or combination of discourses to which it can relate” (Dryzek and Berejikian 1993: 57). If empirical research shows that there is no or little congruence between legitimacy assessments on the one hand and normative concepts of legitimacy on the other, the gap can obviously not be used to refute normative arguments (just as it may be impossible to derive normatively plausible arguments from expressed legitimacy beliefs and assessments), but empirical research can be used to gauge the extent to which criteria of acceptability can be thought of as universal (in time and space) or not and hence, to enable normative and diagnostic literature to make more realistic assumptions or to recognize which normative arguments have to be fed into legitimacy discourses more effectively in order to increase the congruence of benchmarks of democratic quality on the one hand and legitimacy on the other.
Literatur


Ko operation on a paragraph level.


