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A state-centered approach

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Rational legitimacy: A state-centered approach

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Legitimate authority is believed to be a central feature of political stability (e.g. Diamond 1999; Mishler & Rose 2001). Legitimate authority exists where claims to authority are supported by appropriate legitimation which is accepted and complied with voluntarily. Most governments engage in some minimum of legitimation, i.e., providing arguments about why their authority or actions are legitimate, in order to enhance compliance among their citizens, although legitimation is often accompanied with more heavy-handed methods of enforcement, including the threat of force.

Lack of legitimacy may be a critical feature of political instability in autocratic systems or underdeveloped democracies but even in developed ones it has become an increasingly relevant topic of political research in recent decades (e.g., Anderson et al. 2005; Norris 2011; van Ham and Thomassen 2014; Tyler 2006). This trend may be due partly to more critical citizen attitudes towards government and the inability of governments to respond effectively to central policy problems in an age of globalization and economic uncertainty. Many authors consider dealing with the legitimacy crisis a key challenge for improving governability and securing the future of democracy (Beetham 1991; Kelman 1969; Papadopoulos 2013; Rothstein 2009; Stoker 2006; Tyler 2006).

An important strand in the literature on legitimacy places its roots at the input side of the political process, suggesting that the people have agreed to limit their freedoms in exchange for the benefits of government. This is an essential feature of the contractarian approach to legitimacy which traces the origins of legitimacy to a social contract, where "consent derives from the idea of contract or mutual agreement" (Cudd & Eftekhari 2018, 1). The contractarian tradition, going back to Hobbes, has a distinguished lineage of both radical and conservative writers, seeing the duty to comply with authority originating in implicit consent on the social contract. A number of influential authors, working in the Hobbesian tradition, see rational assessments by individuals of the vulnerabilities associated with the state of nature and the benefits of cooperation as the reasons why they might wish to enter a social contract (e.g., Buchanan & Tullock 1962; Gauthier 1986; Narveson 1988). While the historical evidence for states actually originating in this manner is questionable (e.g., Tilly 1985), the idea of an implicit contract may still be defended if it can be shown to reflect rational calculations of how best to organize government (Buchanan & Tullock 1962). Thus, the hypothetical version of contractarianism, is probably the mainstream contemporary version (Cudd & Eftekhari 1918). Questions, nonetheless, have been raised. As Dworkin (1975) points out: "A hypothetical contract is not simply a pale form of an actual contract; it is no contract at all" (17).

In the present paper we approach the issue of state legitimacy from a different angle. We argue that contractarian approaches cannot account for rational compliance and look instead for an alternative basis of legitimacy, closer to the Weberian approach, which looks for the roots of legitimacy at the output side of the political process. This approach has closer affinities with predatory approaches to the state (e.g., Tilly 1985) than contractarian ones. Rulers, nonetheless, have interests which – given certain conditions (e.g., North et al. 2006) – may lead them to seek acceptance of their authority and cooperative relations with their subjects.

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We suggest that rather than seeking the roots of legitimate authority in a society-centered approach, as in the contractarian tradition, a more promising line of research starts with the capacity of the state to earn legitimacy and facilitate voluntary compliance. The challenge for a state-centered approach, however, is to show that voluntary compliance is compatible with the assumption of individual rationality.

An essential element of Weber's (1968) concept of authority, which he also calls legitimate domination, is that it requires "a minimum of voluntary compliance" (212). Compliance, in itself, thus, does not necessarily imply legitimate authority as compliance can be the result of other forces.

> *Naturally, the legitimacy of a system of domination may be treated sociologically only as the probability that to a relevant degree the appropriate attitudes will exists, and the corresponding practical conduct ensue. It is by no means true that every case of submissiveness to persons in positions of power is primarily (or even at all) oriented to this belief. Loyalty may be hypocritically simulated by individuals or by whole groups on purely opportunistic grounds, or carried out in practice for reasons of material self-interest. Or people may submit from individual weakness and helplessness because there is no acceptable alternative (214).*

The perceived duty to obey exists, according to this, irrespective of the means of enforcement and the availability of sanctions, positive or negative. Legitimacy is a feature of certain types of power, i.e. those which are accepted, to some extent, by those yielding to it. It is not a feature of instrumental behavior, such as working for payment or giving in to threats. Such behavior is guided by the rewards or punishments associated with it rather than the duty to comply. Voluntary compliance is the compliance of those who stop at traffic lights where there is no traffic and no chance of being caught breaking the law. It is the compliance of those who pay taxes even in cases where tax avoidance is legal or tax-evasion is almost impossible to detect. And it is also the compliance of those who refuse to cheat on examinations, even when they have the opportunity and no risk is involved.

If compliance with authority on the ground of perceived legitimacy exists at all, it poses a challenge to conventional notions of rationality, i.e. the view that assumes rational behavior to be guided by calculated egoism and the maximization of individual benefits. In most cases we expect rational egoists to take full advantage of the opportunities which present themselves, uninhibited by anything other than the sum of expected costs and benefits. But claims to legitimacy demand something different. In addition to calculations of costs and benefits they prescribe behavior based on considerations of legitimacy, which may, or may not, point in the same direction as rational egoism.

The present paper deals with the compatibility of rational choice and legitimacy. We ask if there is any need for a rational conception of legitimacy, and, if so, what it might look like.

Legitimacy and legitimacy theory

Although a number of different indicators have been used as proxies for legitimacy (e.g. system satisfaction, violence, turnout, tax compliance see Gilley 2006), one danger of using such measures is that it may complicate the task of holding independent and dependent variables separate. Knowledge of how legitimacy is generated and maintained, how lack of it affects government and, most fundamentally, how the concept itself should be applied in research, remains rather incomplete. In a narrow sense, legitimacy may simply mean legality, but most social scientists are likely to find this use of the concept too restrictive. According to Weber (1968), legitimacy refers to some quality of government, as perceived by the citizens, which makes it normatively obligatory to comply. Government may, for example, be perceived as responsive to community interests, as a fair and impartial administrator of rights and obligations, or an efficient provider of welfare and public goods. It is important, however, to distinguish voluntary compliance from other types of obedience, which as noted above, may be guided by weakness and helplessness, sheer pretentions of loyalty, or compliance rooted in material self-interest. Compliant behavior which is attributed to legitimate power is, by contrast, guided by normative justifications for consent which is perceived as voluntary by the individual (Beetham 1991, 16-19).

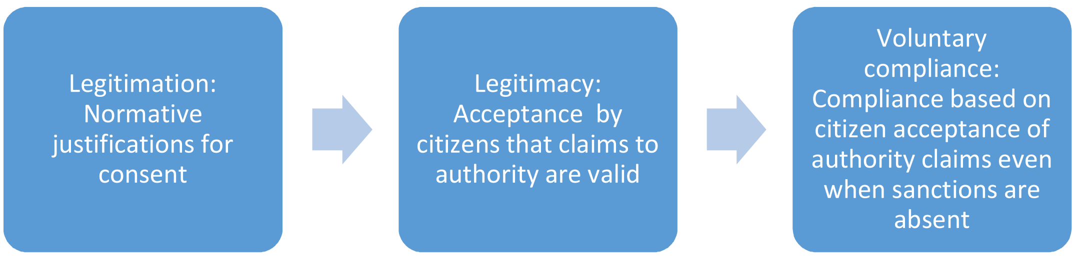

Figure 1. Legitimate authority: Legitimation, legitimacy and voluntary compliance

Legitimate authority according to figure 1 has three main components, i.e. legitimation, legitimacy, and voluntary compliance. Legitimation simply means that some attempt is made to offer a normative justification for claims to authority, through the application of relevant principles to concrete situations. Legitimacy is the acceptance by those whom authority claims are directed at that they are valid. Voluntary compliance means compliance with authority even in the absence of sanctions. All three components are essential for the exercise of legitimate authority. If only one or two are present, the exercise of legitimate authority has failed.

In the present context we take "voluntary" to mean that compliance is expected to some extent irrespective of the positive or negative consequences which are assumed to follow in each case. Empirically, instrumental behavior and voluntary compliance can occur together, e.g. when a law-abiding citizen obeys traffic control and at the same time avoids fines. In fact, Weber (1968) goes so far as to say that "a certain minimum interest of the subordinate in his own obeying will normally constitute one of the indispensable motives of obedience even in the completely authoritarian duty-relationship" (945). Conceptually, however, legitimacy requires not merely compliance, but that the "command is accepted as a 'valid' norm" (946). Thus, instrumental behavior can in principle be non-voluntary in the sense that in the absence of sanctions the behavior would not occur. Some people, no doubt, would not pay taxes if there were no negative consequences. Government action may be considered legitimate when the principles on which it is based are accepted by the citizens as normatively binding. Acceptance of legitimacy, however, does not automatically lead to compliance, since the citizens may, e.g., for reasons of self-interest, engage in non-compliant behavior. Government action will be considered illegitimate when citizens find the legitimation given lacking, either because they are in substantial disagreement with its normative basis, or because they find government action inconsistent with its normative justification. As an example of the former, adherents of direct democracy might find a parliamentary majority for a given proposal an insufficient justification for its acceptance if a popular majority was lacking. As an example of the latter we might think of a government policy justified by egalitarian concerns when that policy has highly non-egalitarian consequences.

Does legitimacy make a difference?

The basic proposition in need of verification is that legitimacy affects compliance. This position is what we call legitimacy theory. The alternative position is that compliance is primarily based on calculations of costs and benefits, i.e., rational choice. According to the rational actor approach individual considerations of private gain determine action (Downs 1957; Shepsle 2010; see also Riker and Ordeshook 1968). This leaves little room for legitimacy as we define it. Compliance will occur where its perceived benefits are greater than the risks of non-compliance. In the rational approach there is no space for 'doing your duty' (Barry 1970) which would violate the assumption of individual maximization commonly associated with neo-classical economic theory (Simon 1983). Although attempts have been made to reconcile rational action and altruism (Elster 2006), cooperation is usually studied in relation to the specific mechanisms (be it coercion or selective incentives) which may or may not solve problems of collective action (Shepsle 2010).

Our aim in the present paper is to examine if legitimacy, as defined by Weber, is unconditionally antithetical to rationality. Weber rejects the idea that giving in to threats, hypocritical behavior, and working for private gain are sufficient conditions for true legitimacy. Yet he provides an opening for a mixture of different motives behind legitimacy when he speaks of some "minimum of voluntary compliance". This suggests that the reasons for compliance may be complicated and voluntary compliance can play either a small or a large role in different contexts. Legitimacy is according to this not a categorical variable, taking only either-or values, but can be conceived of as a scale, from no legitimacy to high legitimacy. Non-legitimacy (or illegitimacy) means rejection of claims to authority while high legitimacy means willingness to abandon all critical evaluation of it. The behavioral correlates of legitimacy, however, are not this simple. Rejection of authority claims can be accompanied either by non-compliance or by forced compliance, e.g. where strong sanctions are involved. Equally, according to Weber, non-legitimacy may lead to compliance in the case of exchange relationships, e.g. where compliance is bought simply through rewards of some kind. To conventional market economists the latter may seem a strange way to approach the issue, since free market exchange is by definition voluntary in the sense that no-one is forced to enter into market transactions (e.g. Friedman & Friedman 1980). Weber, however, was concerned with the evaluation of authority claims where individual self-interest was not seen as a decisive factor. Rather, the strength of the authority claim itself, irrespective of how it affects the complying individual, is crucial. In this respect, legitimacy seems in fact to be either antithetical or at best irrelevant to rational choice, where self-interest plays a crucial role. The empirical claim of rational choice theory should, according to this, be that legitimacy plays a small role in human behavior and the fear of sanctions or promise of rewards is the driving force behind compliance.

Several authors have adopted this or similar stances concerning compliance across a wide array of subjects, including crime (Becker 1968), corruption (Rose-Ackerman 1999; Jain 2001), and tax-fraud (Allingham and Sandmo 1972). The basic idea is formulated in Becker's (1968) approach to crime:

> *The approach taken here follows the economists' usual analysis of choice and assumes that a person commits an offense if the expected utility to him exceeds the utility he could get by using his time and other resources at other activities. Some persons become "criminals," therefore, not because their basic motivation differs from that of other persons, but because their benefits and costs differ (176).*

According to this, the analysis of various kinds of 'deviant' behavior should focus on factors such as expected benefits, potential costs, and the amount of uncertainty or risk involved. The effectiveness of deterrence, e.g., in the form of enforcement and punishments, is likely to be a key influence on crime frequency, corruption, and tax-evasion. The explanatory power of this approach is essentially an empirical issue which cannot be dealt with adequately in the present context. What we need in the present contexts is simply to consider if the claims of legitimacy theory have any credibility against the simple version of the economic model.

Tax compliance is a relatively well-researched area where the explanatory power of the expected utility model can be put to a test. Following in Becker's footsteps, authors such as Allingham and Sandmo (1972) and Srinivasan (1973) claimed that tax compliance could be modelled on the basis of a relatively simple model where income, tax rate, auditing and penalty played a key role. This model has been put through relatively extensive testing based on surveys, experiments and aggregate data. The results indicate that economic choice is insufficient to account for compliance and a severe system of surveillance and punishments may in fact be counterproductive under certain conditions. The results from empirical testing are in many cases ambiguous concerning income and tax rates and, given that the probability of audit is low in most countries, tax evasion should be far more common than it is. Severe fines may improve compliance, especially when associated with effective audit, but they may also increase tax resistance if the tax system is perceived as unfair (Kirchler et al. 2007).

Several different factors seem to contribute to tax compliance, in addition to the structure of incentives. Richardson (2006) reports, on the basis of data from 45 countries, that non-economic factors have the strongest impact on regression results on tax evasion. "Overall," he reports, "the regression results indicate that the lower the level of complexity and the higher the level of general education, services income source, fairness and tax morale, the lower is the level of tax evasion across countries." (150) Other studies indicate the importance of the quality of governance (Ruge 2012, see also Scholz and Lubell 1998) and perceptions of the general levels of compliance (Levi 1988).

The literature on tax compliance indicates that individual or social norms may play an important role in how citizens interact with governments. This does not mean they always will. But to account for the instances where they do, we need a rational account which moves beyond the simple cost-benefit model.

We distinguish between two different approaches in this respect. On one hand, it seems possible to focus the search for legitimacy on collective *decision rules* which might provide a rational basis for consent by those affected by them. That is, because a decision has been reached by rational means it is to be obeyed. On the other hand, it might also seem possible to focus on the individual's reasons or *basis of compliance,* apart from the decision rule in use. This might be achieved, e.g. by developing more sophisticated assumptions concerning the context in which compliance is expected to take place and the characteristics of participants. The two strategies are not mutually exclusive. A rational decision rule may provide an adequate basis, ex ante, for legitimacy and compliance. It need not make it rational to comply ex post, however, as we discuss below.

Legitimacy and rational decision rules

Influential attempts by rational choice theorists at coming to terms with legitimacy are in the contractarian tradition. Authors working in this tradition seek rules for making decisions that fulfil minimum conditions of rationality and fairness, so that members of a group are likely to accept them as binding without knowing specific outcomes or how they might affect each of them. Given a time-honored tradition of skepticism concerning collective decisions in the rational choice framework, the task of finding acceptable rules is crucial for casting politics in any sort of positive role. The problems of aggregating multiple wills or interests in a single conclusion are well known to any student of electoral systems as are the dangers of arbitrary or cyclical results.

Buchanan and Tullock (1962) laid the foundations of 'constitutional economics' in a much-cited book titled "The Calculus of Consent". Most collective decisions, they maintain, involve a cost, and rational individuals are likely to opt in favor of rules which minimize the costs accruing to themselves. Hence, "[t]he only means whereby the individual can insure that the actions of others will never impose costs on him is through the strict application of the rule of unanimity for all decisions, public and private" (72). However, since such a rule is likely to produce inhibitive transaction costs in large groups, the rational individual is likely to agree to a more inclusive one, thus "trading some of his protection against external costs for a lowered cost of decision making" (72). Side payments are likely to ease the way for Pareto improvements in such systems of increased majorities, which makes the individual vote assume the characteristics of marketable property rights (186).

Decision rules based on super-majorities, however, are open to criticism. They fail to guarantee minority rights (McGann 2002) and yet impose a highly conservative and somewhat arbitrary decision rule which defends the status quo, whatever its nature. Moreover, they also fail to avoid the problem of cyclical majorities, which is, perhaps, the most serious challenge to any system of voting (Riker 1982).[2] Others, searching for a rational foundation of decision rules, accept that the possibility of cycles may be unavoidable. Thus, Patty and Penn (2014) suggest we need a theory of democracy which makes cyclical decision-making legitimate, i.e. accepts that there are no best outcomes of the democratic procedure. The key to this lies in the role played by legitimation, which is the process of comparing decisions with chosen principles. The principles themselves may be incomplete and cyclical – they are simply exogenously given – but the defining feature of legitimacy is the consistency between the principle in force and the choice that is made. The defining criteria of consistency include stability, sensibility of outcome, and sequence coherence.

Patty and Penn's theory of legitimacy is relatively modest in the claims it makes in favor of democratic governance while it is realistic in the sense that it allows us to apply principles of legitimacy to a broader spectrum than merely electoral democracy, including the judiciary and the bureaucracy. The question, however, which they do not address, is how important legitimacy of this kind is for the political system. They specifically note that their theory is "not intended to be predictive" (121) which leaves the question of its relevance in search of good answers.

Block and DiLorenzo (2000) criticize Buchanan and Tullock for failing to realize that politics is not founded on consent. "The fatal flaw" they maintain "in the voluntary theory of the state advocated by constitutional economists is that no state ever has been, or ever could be, voluntary. (580)" One of the problems of contractarian approaches to legitimacy is that they fail to make the connection between a rational method of decision making and rational reasons for compliance which rational individuals are likely to abide by individually. Thus, we might agree that some procedure x was in all likelihood the best way to decide on a system of taxation, but as calculating individuals we might still decide that tax evasion was best for us personally. Given that our individual decisions on tax compliance are unlikely to affect the fate of the system of taxation, we would still reap the benefits from a rational system of taxation while at the same time be able to obtain additional benefits by making evasion our personal tax-policy. While we return below to the issue of how far compliance may be rational, it is pertinent at

[2] Note, however, that Caplin and Nalebuff (1988) show that no majority cycles exist if the distribution of voter preferences is concave and the required super-majority is 64% or larger. The more general insight is that under 'reasonable' restrictions on the distribution of preferences, super-majority rules may be effective in preventing electoral cycles.

this point to recall an important strand in rational choice theory which suggests that common interests (e.g., adherence to a rational system of decisions) do not necessarily lead to collective action (Olson 1965; Ostrom 1990). The logic of collective action suggests that even if a system of taxation is designed through a system of decision-making that we consider in our interest we still have the incentive to free ride, in the sense of utilizing opportunities for tax avoidance or even tax evasions. The collective action problem may be a crucial factor in important areas of compliance, including tax-compliance (Levi 1988) and corruption (Rothstein 2011).

Rational and voluntary compliance

The collective action problem suggests that if legitimacy is actually a contributing factor to compliance it cannot be based entirely on the legitimacy of a contract. Thus, closer attention must be paid to the mechanism supporting compliance. An essential feature of Weber's approach to the state was his emphasis on its non-contractarian nature. Quoting Trotsky to the effect that "every state is founded on force", he goes on to define the modern state as "a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory" (Weber 1958, 78). The state's claim to legitimacy follows a logic of its own which need not depend on the imagery of a social contract (e.g. Clark et al. 2009, ch. 4; Clark et al. 2017). This suggests that the context in which compliance takes place may be a separate, and in some cases a sufficient, source of legitimacy.

Perhaps the most ambitious attempt to develop a rational notion of voluntary compliance is that of Levi (1988) in her study of tax compliance. She claims rulers can reduce the cost of compliance in three ways, i.e. through coercion, ideology, and quasi-voluntary compliance. Coercion, however, can be costly, and ideology relies a lot on "extrarational" motivations, which makes it difficult to model in rational choice terms. This leaves quasi-voluntary compliance as Levi's main contribution to the tax compliance literature. Such compliance, in the case of taxes, is "*voluntary* because taxpayers choose to pay", while it is "*quasi*-voluntary because the non-compliant are subject to coercion – if they are caught" (52). It can develop where the taxpayers are confident that rulers use the taxpayers' contributions to produce desired goods and where other taxpayers are also doing their share. Levi's main explanatory variable, i.e. the bargaining power of other actors to constrain the state, gives only a vague notion of why voluntary compliance may vary substantially between states, groups and individuals. Thus Dryzek (1990) points out that "… a skeptical reader who has assimilated what Sir Karl Popper has to say on this score [i.e. the formation of specific hypotheses on the basis of already known facts] mighty prefer a specification of the kind of evidence which would support falsification, followed by a search for it. Instead, what Levi provides is unremitting, and unavoidably selective, adducement of evidence that bolsters her theory" (309)

Our ambition, then, is to develop a theoretical account which is suitable for testing. We organize our presentation in three parts, corresponding to three steps in the establishment of legitimate authority. The first step is the establishment of credible commitment by *the state* to a policy of strong enforcement (which D'Arcy & Nistotskaya (2017) call credible enforcement) while at the same time limiting its predatory tendencies. This essentially means establishing strong institutions and the rule of law. The second step emerges through the strategic choices faced by *the citizens* when dealing with institutionally strong states and the transaction costs involved in evaluating the potential costs and benefits compliance and non-compliance on a case-by-case basis. This may, under certain conditions, lead to the development of compliance heuristics for at least part of the citizens. The third step is the emergence of compliance *networks*, where the belief that the general level of compliance is high is likely to raise the perceived costs of non-compliance. Where bribes and tax evasions are believed to be common, the stigma and loss of reputation associated with being found out are likely to be far less serious than in a community of strong compliers. Networks may consist of different types of actors, including individual citizens, voluntary and religious organizations, business and trade communities as well as various types of government agencies.

The first step: the state and the strategy of consistency

To a certain extent, the problem of state legitimacy may be conceived of as problem of co-operation between states and their citizens. The state has an incentive to reduce enforcement costs that may lead to greater policy efficiency and a more secure position for the prevailing regime. At the outset we assume that no trust exists between the state and the citizens but that they interact repeatedly over longer periods of time. Repeated interactions may lead to reciprocity, depending on the strategies adopted by the players. A state seeking the co-operation of its citizens will adopt a strategy which facilitates the formation of stable expectations by the citizens. Instead of evaluating the merits of compliance from one case to another, this allows the citizens the possibility of developing simple decision rules that they can adhere to, without having to incur high information and transaction costs on every occasion. Strategies to this effect by the state may include a stable legal system, non-corrupt and impartial administration, and a stable policy environment. This means that the citizens can relatively easily compare the long-term benefits of compliance against the short-term benefits of non-compliance. In a less stable or consistent policy environment the long-term benefits of compliance are more uncertain and hence less valuable.

The state, at the outset, has no guarantee that the citizens will choose to be cooperative. Even if the state provides policy consistency the citizens may still decide to defect and choose not to cooperate, e.g. to cheat on taxes, participate in bribes, or take part in subversive political activity. In order to forestall such non-cooperative behavior, the state has to apply sanctions in order to make its commitment to consistency credible. Citizens are likely to respond to sanctions when judiciously applied. However, the draconic use of fines and punishments may undermine co-operation, in cases where it is already established to some degree, since the citizens may perceive them as defections on behalf of the state. Hence, with a more cooperative citizenry, the state may have an interest in a milder and more responsive system of enforcement (Murphy 2005).

Psychological research indicates that people tend to react strongly to procedural fairness and impartiality (Tyler 2006). A strategy of consistency will lead to impartiality and strengthen the citizens' sense of procedural fairness. The key feature of a regime pursuing a strategy of consistency is the rule of law much more than electoral democracy (Rothstein 2009).

Thus, cooperation may develop where states apply a strategy of consistency, but to apply Axelrod's phrase (1984), this is still "cooperation without friendship". Cooperation without friendship implies that players can achieve co-operation without the aid of any emotional bonds between them. The language of politics, however, is often highly emotional, invoking moral obligations and values.

The second step: citizens and transaction costs

There is nothing in the rational choice or game theoretic approach that calls for an assumption about perfectly informed actors. Information is costly and actors can be rationally ignorant, if they expect information costs to be higher than the benefits from obtaining information (Downs 1957). They may also develop information-saving strategies, as in the case of legislator cue-taking (Box-Steffensmeier et al. 2015).[3] The choice facing a citizen when considering non-compliance is whether to adopt a simple heuristic applying to all similar choices or to analyze each instance separately. When governments follow a strategy of consistency relying on heuristics is more likely to be a reasonable strategy – but when the government's actions are inconsistent or arbitrary, heuristics are likely to be a poor guide for behavior. Exceptions apply primarily when the potential costs and benefits are very uneven (in which case the citizens might invest in analysis) or if citizens foresee the failure of governments to keep up their end of the bargain.

Heuristics are prescriptions that make sense of potentially complex situations without detailed analysis. They may come in the form of simple principles ("I always respect speed limits" or "I never cheat on taxes"), or they may contain more elaborate codes. If the citizens know with certainty that non-compliance will be punished, they are likely to comply. Similarly, if negative sanctions are highly unlikely, this may lead to a high level of non-compliance. The problem occurs in the wide variety of cases that occupy a position somewhere in between. Uncertainty and risk can be seen as a tax on expected outcomes and are likely to induce caution. Some research indicates that individuals may be more risk averse than might be expected on the basis of expected utility theory (Kahneman and Tversky 1979). However, risk taking seems more likely when people aim to avoid losses and less likely to obtain gain. This is likely to strengthen citizen responsiveness to state strategies described in the first step. Thus, increasing the risks of non-compliance may create a disproportional amount of compliance compared to the increase in the actual levels of risk.

The third step: Networks and the conditionality of compliance

States may not be the only type of actor playing a role in facilitating the conditions for voluntary compliance. The state may be aided in its role of monitoring citizens by different other actors in the citizens' networks. These networks can, e.g., be of a business or professional nature (Miller 2000), or they can be religious, as in the case of the Swedish Lutheran clergy in the early modern period (Nistotskaya and D'Arcy 2018). In Italy, by contrast, the Catholic Church saw the state as a competitor, seeking to undermined it and contributed to a fertile ground for tax evasion (Hien 2018). Because of their membership in various networks, citizens may invest in their reputation, both vis-á-vis other citizens and the authorities, which help them to gain access to various types of positions or exchange opportunities. If reputations matter, like they can in repeated games, this increases the costs associated with non-compliance (and more generally, defections from co-operation). Those who have successfully built reputations based on such principles are likely to value them higher than those who have not. Hence, we are likely to find behavioral variations based on the amount of risks involved with non-compliance. Professional groups, for example, rely greatly on reputations and are likely to be strong compliers (Miller & Whitford 2016).

Again, if reputations matter, most people will find it advantageous to talk as if they have internalized the norms of co-operation and compliance. The tricky question is whether this should be regarded as merely "cheap talk" or if they truly believe in the relevant principles. While this question may seem important when economists meet moral philosophers, the behavioral consequences may be limited. Whether the citizen actually believes or merely cares for her reputation may never be discovered – it may even be unclear to the citizen herself. But the simplest and most economical way of behaving in accordance with codes of conduct is to believe in their superiority. People who are unable to form such beliefs (e.g. psychopaths) may have difficulties in committing to them in a credible manner.

[3] See also literature on voters' use of heuristics, e.g., Fortunato & Stevenson (2016), Bowler et al. (2018).

If obtaining a good reputation has the benefits we suggest, why then is it not, everywhere, a dominant strategy? After all, there are clear indications that corruption and crime are common in large parts of the world. One of the reasons is that governments do not everywhere follow a strategy of consistency. Institutionally weak states are unable to carry through such a strategy, at least to the extent required for legitimacy and voluntary compliance to acquire a dominant role. Part of the citizenry is similarly always likely to think that the short-term benefits of non-compliance outweigh the more uncertain benefits accruing from a good reputation. If a sufficiently large number of citizens do not comply with norms, even ones which they accept as beneficial in general, this creates an additional problem: legitimacy (even if recognized) is not turned into voluntary compliance. Compliance is conditional on the belief that a sufficiently large number of others will comply. If compliance induces cost of some kind (refusing bribes, paying taxes) the belief that others are avoiding such costs creates a collective action problem. Even if the state's need for revenue is accepted, each individual citizen is unlikely to alter the outcome. Moreover, in situations where non-compliance is common, there will be a lot of tax-payers who have not invested heavily in the principles of honest compliance, and hence the value of a good reputation is smaller.

At which point legitimacy reaches the threshold point of satisfying the conditions for general compliance is difficult to predict. Granovetter (1978) suggests that thresholds may be sensitive to relatively minor nuances from one case to another. It is a valid task for further research, nonetheless. Our approach suggests that state's strategies are a primary factor affecting the attainment of compliance thresholds and that they are likely to succeed best among groups or populations where reputation plays a large role.

Discussion

In this paper we have attempted to establish three main points, admittedly in a precursory manner, as stepping stones towards a rational approach to the study of legitimate authority. In the first place we claim there is an important difference between contractarian and state-centered approaches to legitimate authority. The contractarian approach is concerned primarily with the relationship of input-side legitimation and acceptance, which is induced from the beneficial features of legitimate authority, such as avoiding the state of nature and realizing the potential benefits of cooperation. The nature of legitimation may vary, depending on different theoretical specifications. A modest claim in this vein is the proposition that legitimation, consistent with general principles, is at the essence of legitimacy (Patty & Penn 2014). The precise content of legitimation may not be crucial, although in many cases some kind of input process is referred to. A more ambitious version stipulates that some kind of consultation takes place, although theories of participatory democracy are often not very precise on the precise manner in which this happens. The mere feeling of being listened to is believed to contribute to acceptance and hence compliance. A still stronger input version of legitimation sees it based on the majority principle, according to which the right to participate in a vote binds one to the option preferred by the majority.

We maintain that a state-centered approach to legitimacy is a credible alternative to the contractarian ones. It is concerned less with the normative aspects of legitimacy and more with empirical realism and explanatory power. According to this, the state plays a crucial role in developing the preconditions for legitimate authority. While we do not deny the possibility of systems of co-operation emerging from below, as in the examples expounded by Ostrom (1990), the main sources of state legitimacy, e.g. in Northern Europe, developed in a different manner. State reform, emphasizing the rule of law, seems historically to have been a key ingredient in developing legitimate forms of governance, much more than input factors such as electoral democracy (Rothstein 2009). States' rationales for establishing legitimate authority lie primarily in reducing enforcement costs and establishing sustainable sources of revenue. In order to do this, they need a strong institutional foundations, on which predictability, the consistent implementation of policies and impartiality rest. Such strategies on behalf of the state will allow citizens to develop long-term strategies of behavior which will minimize their risks and information costs in dealing with authority.

Our second point is that a major limitation of the contractarian approach is that it fails to come to terms with the collective action problem. Thus, leaving aside the thorny issue of historical accuracy, the main challenges to the contractarian approach have to do with *individual compliance*. Claims about acceptance of legitimacy have either been assumed to be followed by compliance or the problem has simply been ignored. The logic of collective action, however, tells us that even if legitimation is accepted, this will not inevitably lead to voluntary compliance. Individuals may have interests which they are unable to act upon as a collective. Hence, special attention needs to be devoted to how the collective action problem can be solved, even if decision acceptance has been achieved.

The state-centered approach puts the question of compliance at the forefront. Whether acceptance of authority claims are valid is a separate issue from the actual decision to comply. But the state plays a crucial role in both cases. We suggest that legitimate authority may be established by the state in three steps. In the first place, the state needs to be able to develop certain types of practices, especially *consistent and impartial implementation*, which are likely to elicit long-term strategies of rule compliance by the citizens.

The second step has to do with how the individuals react. Consistent state strategies allow the citizens to form heuristics to reduce their transaction costs. Hence, we expect citizens to be more likely to conform with authority claims when they are part of clear and consistent state strategies than when they are based on arbitrary considerations or particularism. Institutionalization and the rule of law are thus essential preconditions for legitimate authority.

Finally, a state-centered approach relies crucially on an institutionally strong state credibly committed to enforcing compliance. Compliance, according to this, is essentially *conditional* upon the perceived compliance by others. Not all states are likely to achieve this in crucial areas of public policy and even where norms of compliance are relatively strong, different groups of citizens may vary in their sensitivity to the sanctions associated with non-compliance. Essentially, we expect groups which rely to a high degree on reputation and credibility (e.g. professional groups) to show a higher level of compliance than those who have invested less in social networks.

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