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LEGITIMACY – A PREREQUISITE FOR A SUSTAINABLE DEMOCRATIC COMMUNITY

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ABSTRACT

In short, there is no sustainable democratic community without legitimacy. A prerequisite for sustainable development, political and security stability is a political system that legitimizes itself—where legitimate is the government that accepts, and even initiates, the process of its own legitimization; a government that reexamines itself. The concept of political legitimacy expresses the need for a political order—or government—to be based on the voluntary consent of the members of a political community and on their support. Conversely, from the perspective of those who are governed by a particular order or authority, that order and authority must be worthy of the support they have received or will receive. For a government and order to be legitimate, they must have the support of the majority, adherence to appropriate procedures, and value-based legitimacy. Liberal values give full content to the democratic principle: human rights and freedoms, the rule of law, separation of powers. Undemocratic political culture, façade constitutionality, and authoritarian rule are natural enemies of pluralism. In practice, citizens and their political representatives declaratively accept constitutional democracy based on equal citizens, while in concrete political terms, they overwhelmingly advocate for special collective rights that lead to the ethnicization of society. Particular interests are imposed as primary, so instead of an integrative political community based on equality and the preservation of cultural distinctiveness, political activity is driven by collective ethnic ambitions, which have led to division, exclusion, and general social disintegration.

Keywords: legitimacy, human rights, popular will, democratic procedure, values

INTRODUCTION: DEFINITION OF THE PROBLEM, KEY CONCEPTS, AND RESEARCH FRAMEWORK

The concept of political legitimacy expresses the need for a political order, or authority, to rest on the voluntary consent of members of a political community—that is, to rest on their support. Conversely, from the perspective of those who find themselves within a particular order or under specific authority, that order and authority must be worthy of the support they have received or will receive (Lutovac, 2025: 33). What is the essence and meaning of legitimacy? What are the sources of legitimacy? How does legitimacy manifest in practice? What is quasi-legitimacy and how does it appear? These are all questions that will be addressed through a principled theoretical reflection and placed in the context of the real lives of contemporary political communities. Special attention will be given to majority support as an important segment of legitimacy, democratic procedure, and the observance of values

without which full legitimacy cannot exist. The relationship between legitimacy, on the one hand, and human rights and popular sovereignty, on the other, will be especially highlighted because of its significance.

In this context, we could define political order as a set of institutions and the relationships among them—or as an order in society shaped by political authority. Authority is a concrete relationship between those in power and the subordinate.

The key issue in legitimacy, therefore, is the basis on which members of a political community consider authority to be justified. On the other side, it is about the basis on which the authorities try to obtain confirmation from citizens of their justification. Viewed historically, this has changed over time, but the main subject of this study is the modern elements and formulas of legitimacy (Lutovac, 2025: 28). Power is the ability to impose one's will despite resistance. Authority is legalized power that holds a monopoly on force—but the state's monopoly on force is not sufficient for governance.

To govern, it is necessary to have convincing and widespread citizen agreement with the manner and substance of rule—that is, acceptance of authority. The legitimacy of authority is a precondition for its survival. Force alone is not enough. A political order and authority, in addition to force, must also have justification (Lutovac, 2025: 31).

SOURCES OF LEGITIMACY: POPULAR WILL (THE WILL OF THE CITIZENS), DEMOCRATIC PROCEDURE, VALUES

The main source of legitimacy for political authority in liberal-democratic systems is the popular will (the will of the citizens). However, popular will alone is not sufficient for authority to be legitimate. Rational democratic procedures are also necessary—procedures through which authority is established and by which it operates. Of fundamental importance in this regard are free and secret elections, which are based on universal and equal suffrage. The principle that guides elections is the principle of majority, but with the obligation to protect minority rights—both political and national or ethnic rights (typically through the election of their representatives to parliament, the core institution of representative democracy).

An exception to the majority principle is the realm of values, particularly fundamental human rights and freedoms (e.g., the right to life, freedom of speech and assembly, freedom of conscience, freedom of the press, freedom from arbitrary arrest and imprisonment). These rights and freedoms cannot be subjected to voting and are independent of electoral outcomes.

LEGITIMACY IS NOT A STATE, BUT A PROCESS.

One of the important practical questions regarding legitimacy is whether someone who gains electoral support receives a permanent or term-limited license to legitimacy. No! Legitimacy requires constant reaffirmation of worthiness—continuous justification of the support received in elections. Legitimacy is not a state; it is a process.

Once public support is obtained, this does not mean that the support remains valid regardless of how one governs. On the contrary, it implies that support must be justified throughout the term of governance—through lawful conduct, respect for codified and customary values, and fulfilment of promises made during the election campaign. It is unacceptable, for example, to claim that the president of the state holds full legitimacy solely because they won a majority in the election, and that such legitimacy cannot be questioned regardless of how they behave or what policies they pursue.

When a politician, political party, or coalition refuses or fails to confront corruption and lawlessness, when laws do not apply equally to all, when human or minority rights are violated,

when policies are conducted contrary to the public interest, or when governance significantly diverges from what was promised during the election campaign—these are all grounds for loss of legitimacy and for initiating a process to verify public support.

THE MEANING AND ESSENCE OF LEGITIMACY

Historically speaking, legitimacy has always had a dual role: on one hand, to facilitate governance, and on the other, to ease the burden of political authority on those who are governed. In the 20th century, liberal-democratic systems became exemplary models for developed democracies. Authority possesses democratic legitimacy if it has the support of the electorate, procedural legitimacy, and if it respects a generally accepted system of values (the rule of law, legal order, freedom, equality, human rights, etc.). Crises of legitimacy are possible, but this type of political system can relatively successfully overcome them through the mechanisms it possesses.

According to liberal doctrine, a legal state (*Rechtsstaat*) means not only that citizens are obliged to obey the law, but also that the government is subject to the law—and that the laws themselves are subject to scrutiny. In a broader sense, the modern concept of legitimacy is linked to the phenomena of power and authority on one side, and to human rights, freedoms, and generally accepted values on the other.

THE RELATIONSHIP BETWEEN LAW AND VALUES

When values and customs align with laws and legal norms, a high degree of social harmony is achieved. In such cases, legitimacy is not questioned by those in power who respect and maintain that harmony. However, throughout history, customs or values have often come into conflict with positive legal norms—and this is still not uncommon today.

The conflict between values and order was strikingly portrayed by Sophocles in *Antigone*. Cicero, in his idea of natural law, saw the necessity for its supremacy over positive law and believed that positive law must be subordinate to certain natural (ethical) principles. Plato is considered one of the philosophical originators of the idea of the rule of law. In his unfinished work *Laws*, he called rulers and governors “servants of the law,” believing that the preservation or collapse of the state depended on whether they would be servants or masters of the law. “It is necessary that people have laws and live according to them, or else they are no different from wild animals” (Plato, 1971).

As the best form of governance, Aristotle also described the rule of law in his *Politics*: “It is not good that the supreme authority should belong to a person rather than to the law, because the human soul is subject to passions” (Aristotle, 1960: III, 3). What he particularly emphasized was the need for laws to be good and wisely constructed—because if laws are bad, then ruling by law solves nothing. Only good laws can truly be called laws, because if they are bad (not in the public interest), they are not real laws at all.

Starting from Radbruch’s position that law “can only be understood within a framework of behaviour associated with values” (Radbruch, 2006: 14), there can be no legality without reliance on a generally accepted value system. Likewise, there is no legitimacy without a value framework. In other words, legitimate is the behaviour, act, institution, regime, or order that does not contradict the fundamental, generally accepted values of a political community. The experience of Nazism provides the most vivid example of the gap between legality and legitimacy. First and foremost is the issue of enacting laws that are not good in the Aristotelian sense and therefore cannot be considered laws. Then, even if they are enacted and are contrary to the public interest and violate human rights and freedoms, they can and must be contested.

Insisting on the application of laws that, by nature, are not truly laws—even if they are formally valid—can lead to people being persecuted, harassed, or even killed—all in accordance with the law. Thus, the Nazi regime met the criteria of legality but not of legitimacy.

Radbruch illustrated this with the concepts of statutory injustice and superlegal law, emphasizing how a legal system may be flawed in the Aristotelian sense if it rests on bad laws. In other words, what is legal is not necessarily legitimate, and vice versa: something that seems justified or acceptable may not, at the same time, be in accordance with the law (Radbruch, 2006: 50). A legitimate order is one that citizens accept based on their belief in its justification, usefulness, validity, and fairness. In this sense, Radbruch stresses that not every governmental will expressed in the form of law should be recognized as law. Laws may be the expression of arbitrary will by those in power, instruments of sheer force or raw power.

MAJORITY SUPPORT AS AN ELEMENT OF LEGITIMACY

From Aristotle to Tocqueville and John Stuart Mill, there has been discussion about whether majority support is sufficient to ensure legitimacy, with warnings about the dangers of the tyranny of the majority. A majority, by its support, cannot turn evil into good—it can only make it a greater evil, says Franz Neumann (Neumann, 1974: 177). In other words, while greater support is desirable and necessary, it is not sufficient for authority to be considered legitimate.

For authority to be legitimate, a fundamental condition—recognized since Plato—is that it respects the laws, not just creates them, and that those laws are value-affirming.

Three General Approaches to Legitimacy

1. The “Higher State Interest” remains, to this day, a component of various ideologies and populist narratives. It is often used as a legitimizing tool or mere justification for undemocratic practices, even authoritarian rule. The creation of an image of enemies and “dangerous others” and justification based on reasons of national security are part of the policies of many undemocratic regimes and populist governments.
2. Those who make the laws, and those who enforce them, must be subject to the law. Legitimate are those state organs that respect and implement the laws. And the people do well to submit to such authority—and even better if they depose the powerful who do not obey the laws (Rousseau, 1993).
3. Habermas begins from the position that only the values of popular sovereignty and the fundamental rights of citizens can legitimize state authority, even when it uses state coercion (Habermas, 2022). The importance and role of the state’s monopoly on force is not denied, but this monopoly is not the basis of legitimacy—it is the protector of legitimacy. Authority, in a way, legitimizes itself—through democratic freedoms, procedures, elections, as well as mechanisms like recall, constitutional review, administrative oversight, and all other forms of control over the state apparatus.

When force becomes the foundation of legitimacy rather than its protector, we are dealing with quasi-legitimacy.

MODERN INTERPRETATION OF LEGITIMACY: FORCE AS PROTECTOR, NOT BEARER OF LEGITIMACY

In short, there is no sustainable democratic community without legitimacy. A prerequisite for sustainable development, political and security stability is a political system that legitimizes itself—one in which legitimate is the authority that accepts, and even initiates, the process of its own legitimization (Luhmann, 2021: 30).

Still, the presumed consent of citizens rests on the belief that decisions have been made correctly—and if that is not the case, there is no consent, which leads to a crisis of legitimacy. Habermas maintains that only the values of popular sovereignty and the fundamental rights of citizens legitimize state authority—even when it exercises coercive power (Habermas, 2022). Not all laws are in the public interest, and such laws have not been considered true laws since Aristotle. Only good laws—those serving the public interest—are true laws. That is why Radbruch states: “Statutory injustice cannot be the basis of legitimacy. “When law is perverted, the basis of positive law becomes superlegal law (Radbruch, 2006: 14).

Thus, the cited authors do not deny the significance and role of the state’s monopoly on force, but they do not see that monopoly as the basis of legitimacy—rather, as its protector. Legitimacy resides in the sphere of societal consent and legal compliance, and the manner in which authority is exercised must be in alignment with the public interest. Only then does authority truly acquire or maintain legitimacy.

Legitimacy of authority is gained through elections—but for that to happen, the elections themselves must be legitimate—legally regulated. That is how legitimacy attains its legal and political manifestation. Luhmann says legitimacy is expressed through a “general willingness to accept decisions whose content has not yet been determined” (Luhmann, 2021: 27–28). Habermas, for his part, believes that through democratic freedoms, procedures, elections—as well as recall, judicial review, administrative oversight, and all other forms of control over the state apparatus—authority, in a way, legitimizes itself.

Authority must be exercised reliably, not arbitrarily; according to rules, not outside of them. Only then does legitimate authority become lawful—or its position becomes consolidated. In modern democracies, legitimacy of state authority is affirmed through free and fair elections, not through sham elections, as in tyrannies or autocracies.

Opposed to the claim that whatever is legal is also legitimate are the proponents of modern democratic legitimacy, who argue that authority is not legitimate just because it is legal—for even autocracies or tyrannies can be legal according to existing law. However, such law can lie outside the value framework of the community. Citizen consent rests on the belief that authority serves the public interest, which in turn generates a sense of civic duty to respect such authority. In other words, legitimacy presumes legality—but it also goes beyond it by imparting a value-based dimension to those who hold power and the state they represent.

LEGITIMACY AND LEGITIMATION – QUALITY AND PROCESS

It is important to distinguish the concept of legitimacy from that of legitimation. Namely, legitimacy is a quality of authority, while legitimation is the process by which rulers seek to justify their authority. Every political order—even the most powerful—must ensure the support of the governed, because without it, it is doomed to short-lived existence (Blažević, 2010).

One of the essential characteristics of any authority is the monopoly over the use of force—that is, the ability to apply force and sanctions through institutions. Yet authority cannot be sustained over time by relying solely on coercion; it requires acceptance and support from those who are governed. Citizens or subjects accept this not only because of possible sanctions, but also because they expect or believe that authority protects their interests and upholds commonly accepted values.

Any authority—regardless of how powerful its apparatus may be—cannot achieve stability without the majority loyalty of its citizens or subjects. In building support and loyalty, ideology plays a significant role—it shapes the generally accepted value system in society. We live in a time when, in all political systems regardless of their nature, propaganda plays a key

role in shaping and maintaining support and loyalty—especially through television, and increasingly through the internet, social media, and news portals. This is why the struggle to control and manage the media is a key battleground for winning support. The media are no longer merely tools for informing the public—they have become, primarily, instruments for shaping public opinion.

LEGITIMACY, POLITICAL SYSTEM, AND ORDER IN PRACTICE

Today, legitimacy is most simply defined as authority (government) accepted by citizens that acts in the interest of the public. Contrary to earlier identification of legality with legitimacy, it is now even argued that authority and order are legitimate if they are accepted and supported by citizens, regardless of whether they were established through legal means. The events in the Arab countries, known as the “Arab Spring,” confirm the thesis that equating legality with legitimacy is unsustainable, and that for the survival of authority and order, legitimacy is more important than legality. Without legality, power can be seized and retained for decades (Libya, Tunisia, Yemen, Syria...), but when legitimacy is lost, power collapses—and possibly the entire order.

Legitimacy in its broadest sense means that citizens accept the social and political order—that is, the political system—and within it, the authority constituted through a known democratic procedure. Therefore, the legitimacy of the order, the political system, and the authority rests on the support of the citizens. According to Lipset’s definition, legitimacy is “the capacity of a system to engender and maintain the belief that existing political institutions are the most appropriate ones for the society” (Lipset, 1969: 99).

So, legitimacy in the widest sense means recognition of state authority by citizens—that is, acceptance of the system’s institutions that fulfill the general interests of the political community. By expressing such a stance, citizens actually give support to authority and consent to the political system. From the citizens’ perspective, the political system is legitimate—and institutions are legitimate—when they achieve the general interests of the community to which they belong.

Legitimacy is significant because it transforms power into authority, thus enabling governance through non-coercive means—in other words, governance with the consent of citizens. Put differently, institutions of a legitimate state can, in practice, ensure a partnership with citizens. It can be said that since the last century—when the systems we call democracies became the standard for developed democratic states and a model for those that aspire to become such—authority has democratic legitimation if it has sufficient citizen support, procedural legitimacy (i.e. it respects democratic procedures), and if it acknowledges and respects a generally accepted system of liberal values (rule of law, legal order, freedom, equality, human rights, etc.).

These are the liberal-democratic systems. Thus, in liberal-democratic systems, authority is made legitimate by: the will of people (the will of the citizens), procedural legitimacy, and respect for the appropriate value system.

A political order is a form of governance or political organization that encompasses a system of institutions and authority in a given state. In a broader sense, a socio-political order also includes, beyond the political order, customs, laws, prejudices, beliefs, and shared passions, which according to Raymond Aron, make up the social order (Aron, 1997: 50–68). Since Aristotle, political theory has been concerned with seeking the right political order—one that eliminates the condition of insecure freedoms and disordered rights. According to Aristotle, only the “order of virtue” can be considered a legitimate political order (Aristotle, 1960).

If we understand the state (order) in the Kantian sense as “the union of a multitude of people under legal laws” (Kant, 2008), then that union signifies the transition from a natural state to a so-called civil condition—a community of free people governed by external laws to which they have given their consent. This occurs through a “primordial contract” whereby all individuals in the nation relinquish their wild, lawless freedom in order to regain freedom within a legal condition—based on their own legislative will. The state (order) fulfills its purpose only if it enacts laws to which the citizens have given their consent—if it is legitimized in an appropriate way. This means it has procedural legitimacy, i.e. that this “consent” can be realized through an appropriate lawmaking procedure. According to Kant, only a state that has procedural legitimacy is legitimate—a state that rests on legislation supported by the people, a state where the principle of majority applies, and where representatives of the people enact the laws (Kant, 2008).

Agreement with an order based on laws is a precondition for accepting the authority elected through a previously accepted and established procedure. In this way, both the order and the authority gain legitimacy. If there is no willingness on the part of citizens to accept the order or authority in practice, then there is no legitimacy—and without legitimacy, everything can collapse like a house of cards: both the order and the authority, regardless of legal structure, procedures, or monopoly on force.

LEGITIMACY and Quasi-Legitimacy

The issue of the relationship between fear and legitimacy is a special challenge in political science. Vojislav Stanovčić attempted to shed light on it through the interpretations of two Italian authors—Gaetano Mosca and Guglielmo Ferrero. Mosca’s concept of the “political formula,” i.e. legitimacy, denotes a system of religious, legal, or philosophical beliefs that justify and facilitate political rule (Pavlović, 2011: 11). Mosca’s legitimacy formula liberates both rulers and subjects from mutual fear, creating a relationship of interdependence based on trust and acceptance.

Quasi-Legitimacy

Ferrero, in his work *The Principles of Power; the Great Political Crises of History*, developed this problem further and, in his critique of Thomas Hobbes, identified the principles of legitimacy. To Hobbes’s idea that the state and political institutions are a response to existential fear born in the pre-political state, Ferrero responded with the idea of civilization as a “school of courage” and with a theoretical concept of legitimacy as a form of social contract among political actors—one that liberates society from the fears produced by institutions themselves (Ferrero, 1942).

Starting from the premise that power resists control, Ferrero points to the phenomenon of quasi-legitimacy—a false appearance of legitimacy devoid of real substance—highlighting that modern societies have more often lived under conditions of apparent legitimacy than genuine legitimacy. Through his analysis of “Bonapartism,” which he describes as the most regressive form of rule born of Europe at that time (“Bonapartism is an ulcer on the political body of Europe”), Ferrero warns that violent changes and political and constitutional discontinuities in societies naturally give rise to autocracies, dictatorships, and other illegitimate forms of political rule (Ferrero, 1942).

This methodological insight by Ferrero is of great importance for political theory—including political theory in Serbia. It has led some authors to describe the Serbia that began to take shape in the late 1980s as characterized by autocratic and quasi-legitimate rule. A rule that, like a “house built on sand,” can never fully stabilize (Podunavac, 2019: 149).

Many authors see the essence of democracy in the principle of majority rule, but they also address the structural problems of that principle when applied in practice (Lutovac, 2020a). One danger is the tyranny of the majority; another is the tyranny of a minority that has captured the state and society (Lutovac, 2021). Overcoming these dangers lies in limiting power and building a basic social consensus.

CONSTITUTIONAL PRECONDITIONS OF LEGITIMACY

Vojislav Stanovčić sees the control and limitation of political power within the concept of constitutionalism. Constitutionalism, in a narrow and formal-legal sense, refers to the process by which the state establishes a constitution as the highest legal act—a fundamental law that contains the basic norms upon which the entire legal system of the state will be founded, and which must rest on real legal and political relations (Stanovčić, 2010: 107–165). There is a widespread tendency among ruling elites to impose political will and laws on others while not subjecting themselves to those same laws. Political arbitrariness has always existed, as has the effort to limit it.

Over time, a practice developed to accomplish this through constitutional means—by establishing the principle of the rule of law; by creating state institutions and determining their status and competences; by dividing powers into legislative, executive, and judicial branches; by regulating free and fair elections; by guaranteeing property rights; through economic regulation and public finance; by guaranteeing human rights and civil liberties—in short, by regulating, controlling, and limiting authority, and by safeguarding the rights and freedoms of citizens.

LEGITIMACY THROUGH THE LENS OF HUMAN RIGHTS AND POPULAR SOVEREIGNTY

Jürgen Habermas addressed the topic of legitimacy indirectly by writing about the specific relationship between human rights and popular sovereignty (Schaefer, 2004). Human rights and the sovereignty of citizens (the people) are mutually conditioned and exist in a constant state of tension. In other words: liberal and democratic values. When that balance is disrupted, we either get tyranny of the majority or the neglect of the majority principle, which in turn gives rise to populism (Lutovac, 2020). On one hand, absolute insistence on individual rights renders the principles of democracy—particularly the majority principle—meaningless. On the other hand, absolutizing popular sovereignty leads to the tyranny of the majority and the subjugation of all kinds of minorities. This tension can be resolved through liberal democracy, which respects both democratic and liberal values and works to balance them. Habermas believes that law can be legitimized through communicative mediation between individual rights and popular sovereignty. This is possible only through norms to which all participants in rational discourse can agree—only such norms can claim universal validity. Habermas interprets sovereignty of the people procedurally. On one side, it is practiced through public discourses; On the other, through decision-making processes within democratically structured political institutions. These dimensions of legitimizing law are different but interdependent: Public discourse occurs in civil society, while political decisions are made in the democratic institutions of the state.

This approach is part of Habermas’s theory of deliberative democracy, which differs from the liberal democratic model—based on the defence of individualism and protection of private interests of citizens—and from the republican model of democracy, which is based on the political participation of active citizens. The theory of deliberative democracy emphasizes

the importance of civil society. Civil society is a sphere of autonomous public communication that is complementary to state administration, not a substitute for it. The plural discourses of civil society are supposed to contribute to the rationality and legitimacy of decisions made within the political system.

This understanding of democracy—and, consequently, of the foundations of legitimacy—is becoming increasingly widespread in the political practice of well-functioning democratic states. The broader meaning of the concept of legitimacy includes citizens' confidence in the correctness of policies based on laws and other regulations that form the foundation of the legal system and political order.

The Loyalist Syndrome

Support regardless of the worthiness of authority (or despite its unworthiness) Loyalists are those who remain faithful to the authorities out of the belief that it is natural to support power, no matter what kind it is. They are usually victims of undemocratic, unworthy rule—those who have fared relatively the worst under such governance. True loyalists are mostly victims of authoritarian propaganda—people whose money was stolen from their wallets, only to be “returned” to them in small spoonfuls, just enough to survive. They are the ones who believe that the government is the one giving them pensions, that the government secures their jobs, that the government built the bridges and roads.

They are people who are not doing well, but who believe that things would be even worse without the current authorities. The deeper roots of such an attitude toward power lie in authoritarian political culture and entrenched value orientations. Hence the loyalty to government—no matter what kind of government it is. This is the loyalist syndrome: loyalty to power simply because it is power. Regardless of what that power is like, whether it works in their interest or against their personal interests—they support it. There is a widely held belief that “every authority should be respected, no matter what it's like.”

This attitude is a relic of religion within secular political culture: “all authority comes from God!” Since the 1990s, such individuals have consistently made up about a quarter of the electorate. Every government can count on this quarter of citizens as a social pillar of its legitimacy. Because they relate to authority not based on interest but on conviction and a sense of duty, those in this group can be classified as pre-modernist in orientation. They are the ones who say, “I'll vote for you when you come to power.”

Egoists and Populists

In addition to loyalists, there are also opportunists. Opportunists are egoists, not loyalists. They will support any government—as long as they benefit from it. The most numerous group, however, consists of those with a populist orientation, who say: “Authority should be respected as long as it works in the interest of the people.”

The key question here is: How do they assess whether the government is working in the people's interest? On the basis of what information? Which media do they follow? That is why the media are important. That is why RTS (Radio Television of Serbia), which is the dominant source of information, matters.

If we add up the loyalists and the populists and then include the egoists, we'll better understand electoral behavior and the dominant political orientations of the citizens.

Rationalists

At the core of democratic change are the citizens with a rational-democratic orientation. These are the people who believe that when the government does not act in the public interest, it should be replaced through free and fair elections. They are the citizens who want free media, accountable politicians, an independent judiciary, a free public prosecutor's office, and a professional police force. They see institutions as services for the citizens. These are the citizens who care deeply about whom they support and what kind of state they live in. They want a well-ordered state and a society based on justice.

CONCLUDING REFLECTIONS

The individual agrees to the limitation of some of their freedoms in exchange for the protection of the fundamental human rights and freedoms of all. The responsibility of the state is constitutionally and legally defined, but at the same time, it is also limited by basic human rights and freedoms. The only justified reason for the state to restrict human rights is a threat to the rights of other citizens. However, if the government violates human rights or fails to properly use its authority to protect and guarantee them, it loses legitimacy.

The United Nations states that the rule of law is a principle of governance under which everyone—including the state itself—is subject to the law. Laws must comply with international human rights rules and standards and be applied and protected by an independent judiciary. The rule of law and human rights are inseparable. Without the rule of law, human rights cannot be realized. Without human rights, the rule of law is a technical mechanism without a moral compass.

In order for authority and political order to be legitimate, they must possess value-based legitimacy. Liberal values give full meaning to the democratic principle: human rights and freedoms, rule of law, separation of powers. An undemocratic political culture, façade constitutionality, and authoritarian rule are natural enemies of democratic governance and political order (Lutovac, 2023).

Civic, National, and Hybrid Concepts of the Political Community

In practice, citizens and their political representatives declaratively accept constitutional democracy based on equal citizens, but in concrete political terms, they predominantly support special collective rights that lead to increased ethnification of society. Particular interests are imposed as primary. As a result, instead of an integrative political community grounded in equality and the preservation of cultural particularities, political activities are driven by collective ethnic ambitions, which have led to division, exclusion, and even general social disintegration.

There is a fear of separatism on one side, and a fear of discrimination on the other. This leads to tendencies toward centralization on one side, and demands for various forms of autonomy on the other.

Members of national minorities, shaped by the experience of the 1990s, seek legal security and protection of their identity through collective rights, often at the expense of integrating into the broader community. If we add the still strongly expressed nationalism in the region, we better understand why the politics of interculturalism and the construction of an integrative political community face serious obstacles—no matter how attractive they may be in principle, or how universally and morally superior they may appear.

In the constitutional and legal system of Serbia and in political practice, elements of multiculturalism, liberalism, and nationalism are all present. The fact that, instead of the rule of law, the dominance of political parties prevailed in practice has also affected minority communities: minority political representatives systematically assumed authority over members of their own national groups and gradually built that authority into the institutional-legal system.

This opened the question of loyalty priorities, which reflected on the hierarchy of legitimacy foundations. In political practice, the ruling majority assesses its approach to national minorities based on usefulness:

Should it seek minority support, or treat minorities as an enemy or dangerous other, because that might garner more support? These two approaches are mutually exclusive, but in practice, they can be combined depending on circumstances and in cooperation between the political representatives of the majority and the minority.

Unfortunately, in this region, it is still easier to gain majority support by stoking fear of the other than by promoting pluralism and unity (Lutovac & Bašić, 2017). A government cannot be legitimate if it does not respect fundamental human rights and special rights defined by the constitution and laws. Only a government that passes laws but also respects and implements them in practice can be considered worthy of support and respect—that is, legitimate.

The prospects for integrative multiculturalism (interculturalism) will depend significantly on the acceptance and promotion of intercultural dialogue—above all, on democratic management of cultural diversity, a form of governance based on human rights and fundamental freedoms, one that promotes the valuing of diversity as an element of political culture and strives to act in accordance with the maxim: "From equal opportunity for all, to equal enjoyment of rights." (Lutovac, 2020b)

It is necessary to create space for intercultural dialogue, to adopt and transmit intercultural values and knowledge that will allow citizens to participate more fully and meaningfully in social and political life. With such an approach, the general commitments to multiculturalism—along with the institutions and normative frameworks that support it—can gain their full meaning.

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