LEGITIMACY AND THE ADMINISTRATIVE STATE: ONTOLOGY, HISTORY, AND DEMOCRACY

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The state appears to be facing a legitimacy crisis. Longstanding electoral democracies have experienced a steady decline in popular legitimacy and participation. Surveys point to falling rates of trust in government and declining support for elected politicians across many states since at least the mid-1970s (Dalton 2004). Citizens have become more and more suspicious of politicians and public officials, and more and more dissatisfied with existing political and administrative processes. Research also points to declining rates of voting in elections. According to one global study, the percentage of eligible voters who cast a vote in elections that were classified as competitive rose steadily between 1945 and 1990, but then dropped. Whereas the average participation rate for elections held during the 1980s was 68%, this figure fell to 64% in the 1990s (International Institute for Democracy and Electoral Assistance 2009).

The American case is instructive. A few years ago, Harvard's Vanishing Voter Project found that the period from 1960 to 2000 marked the longest ebb in voter turnout in U.S. history (Patterson 2002). In the run up to the 2000 presidential election, the Project found that more than 60 percent of regular voters agreed with the statement: "Politics in America is generally pretty disgusting" (Patterson 2000). More generally, while caution is always needed in interpreting public opinion studies, a good deal of evidence suggests that there is a deep divide between public preferences and actual public policies on a wide range of domestic and international issues. A 2005 Gallup poll, for instance, found that more than 7 in 10 Americans agreed that the country would be better off "if the leaders of our nation followed the views of the public more closely" (Newport 2005). In a 2008 poll, four in five Americans agreed that their country is "run by a few big interests looking out for themselves," rather

than "for the benefit of all people" (Program on International Policy Attitudes 2008).

How are we to explain and evaluate the rising tide of anti-government sentiment? Scholars of Public Administration have often wrestled with the problem of legitimacy. One noteworthy recent example is Thomas Catlaw's *Fabricating the People: Politics and Administration in the Biopolitical State* (2007) – the subject of this symposium. Catlaw argues that the problem of legitimacy arises in large part from the assumptions the administrative state makes about "the People". He claims that the state behaves as if it were based on a single sovereign entity called "the People" when really there is no such entity. In his view, the awkward ontology of the People underlies the difficulties that we have – as scholars and citizens – in making sense of the discretion that individual bureaucrats possess given their role is meant to be one of enacting the public will as expressed by democratically-elected representatives. It is perhaps worth emphasizing that Catlaw's argument is that there is no "People" and so no "Public Will" that exists, let alone exists as any kind of unified entity, prior to representation and construction. Thus, Catlaw's aim is obviously not to advocate an alternative form of government that would properly reflect the will of the People. His aim is, rather, to offer an ontological diagnosis of the legitimacy problem confronting the administrative state.

Arguably, few people today actually believe in a unified popular will. We live in multicultural societies. Neoclassical economists and rational choice theorists have spread formal and folk versions of the idea that humans act on self-interest, including politicians and bureaucrats. Many of us are thus likely to agree with Catlaw's conclusion that the People as a unity does not exist. For us, the interesting questions to ask of his book are ones such as: How are "fantasies" of a popular will constructed? What is the ontological nature of a people? How did the state come to embody an allegedly unified People? What is the administrative state? What crisis of legitimacy follows for it from the absence of a unified popular will?

The rest of this paper addresses these questions. However, the particular way in which it poses these questions

reflects a more general concern about Catlaw's *Fabricating the People*. Historicist answers to these questions would narrate the contingent making and remaking of the administrative state, the crisis of legitimacy, and particular claims about the content of a popular will. Catlaw sometimes seems to be adopting just such a historicism. Nonetheless, at other times *Fabricating the People* seems to adopt a different (post-)structuralist stance. Catlaw's ontology and his political analysis can appear to depend less on historical narratives about the contingent constructions of particular meanings and practices, than on (post-)structuralist propositions about the allegedly inevitable place of differences and exclusions within systems of signs. At an abstract and theoretical level, therefore, this paper is asking Catlaw whether, when pressed, he is a historicist – perhaps drawing inspiration from the genealogies of Michel Foucault's – or whether he is more indebted to (post-)structuralism – perhaps drawing inspiration, directly or indirectly, from the differential accounts of language and mind of respectively Ferdinand de Saussure and Jacques Lacan. Is *Fabricating the People* about contingent historical phenomena that arise out of particular actions and speech-acts, or is it about the allegedly inherent quasi-structural relations within language and ontology?

The first question is, therefore, an abstract and theoretical one: should we adopt a historicist or a (post-)structuralist constructivism? On the one side, historicists believe that meanings and practices are products of contingent language-use and activity. Historicist constructivism implies not only that we make the social world by acting on our beliefs, but also that we make the beliefs or meanings on which we act. Historicists argue that concepts and beliefs are not natural or inherently rational ways of classifying objects, but rather the contingent products of usage arising against a particular historical background. On the other side, (post-)structuralists often suggest that meanings arise from the relations of difference among semantic units. The meaning of a concept comes from what it is not. In this view, meaning is a product not contingent usage, but of the relations among the units within a semiotic code.

(Post-)structuralist constructivism draws on the linguistic formalism of Saussure. According to Saussure, signs

combine a signifier (or sound) with a signified (or concept). These signifiers and signified are presumed to have content because of their difference from other units in a system of signs. (Post-)structuralists often use Saussurean linguistics to argue that meanings arise negatively from the relations of difference within the system of signs that make up a language. Meaning appears to be purely differential, a product of the relations of difference in a synchronic system. To study meanings is not to ask how language is used by historically situated agents, but to study the synchronic relations between units in a system.

There are several reasons to reject this linguistic theory. For a start, Saussure argued for this theory only as a methodological gesture that would establish linguistics as a science (Saussure 1966: 13), and it would be a mistake to treat his methodological gesture as a kind of philosophical account of language. In addition, linguists have rejected formal, structural analyses of language for transformational grammars, and social scientists should be wary of touting outdated linguistic theories. Finally, and most importantly, there are philosophical arguments that strongly suggest language just is not purely differential. The easiest way to introduce these philosophical arguments is to distinguish a contextual theory of meaning from a differential one. Many philosophers, including W. V. O. Quine (1970) and Ludwig Wittgenstein (1972), accept a contextual theory of meaning, according to which concepts gain meaning only in broader "webs of belief" or "language games", without thereby being seduced into a purely differential theory.

So, the dominance of contextual theories of meaning need not lead us to the differential ones inspired by Saussure. Consider, for example, the case of malaria. Perhaps we cannot teach someone the meaning of malaria merely by pointing to examples and saying "malaria". But our inability to do so shows only that the meaning of malaria depends on our background theories about the world, not that the meaning of malaria derives from its difference from other concepts. On the contrary, if we accept various theories about the cause of certain physical symptoms, then we can define malaria positively as, for example, a fever caused by the presence in the body of the protozoan parasite of genus *Plasmodium*. The example of

malaria points to the more general point: we can bind a concept to its referent within the context of background theories. Many (post-)structuralists treat arguments against pure meanings as sufficient to establish a differential theory of the sign. They are wrong to do so. A contextual theory of meaning provides a clear alternative.

We might begin to make the contrast between historicism and (post-)structuralism more concrete by applying it to the key concept of Catlaw's book. A second question is, therefore: how should we conceive of "the People". Catlaw rightly suggests that our assumptions and beliefs are constitutive of the political life we create and live. In that sense, he is also right to suggest that modern representative democracy relies on a specific set of beliefs, arguably including ones about the People as sovereign. Historicists would then want to suggest that those beliefs are contingent and changeable. Over time different contested beliefs about the People might give rise to changing practices of citizenship, representation, and democracy. The study of Public Administration would include analyses of these shifts in beliefs and practices. At times, Catlaw appears to present his book as just such an analysis, suggesting, for example, that the administrative state appeared at a distinctive historical moment. However, at other times, Catlaw appears to postulate more (post-)structural, even necessary, ontological relationships between representation, the People, and unity. Right at the beginning of *Fabricating the People*, for example, he tells us: 'what we will see is that the fundamental commitment of representation is to a *unity* behind appearance and difference or, in the language of philosophy, that *being is One*" (Catlaw 2007: 5). Yet there are no clear grounds for assuming these relations are as Catlaw describes them. Surely we can conceive of ourselves as representing (in both a linguistic and a political sense) not a unity but a multiplicity. Surely we can represent a bundle of objects or persons that share common features at some levels of abstraction but vary with respect to their other features and/or other levels of abstraction.

A similar shift between historicist constructivism and a reified (post-)structuralist ontology appears in Catlaw's use of the term "biopolitics". The concept of biopolitics is most

commonly associated with Foucault's genealogies. Foucault used the term "biopolitics" in a resolutely historicist manner. He argued that biopolitics is a uniquely modern phenomenon that arose only when states began to regulate their subjects through technologies that operate on bodies and populations. Biopolitics began to emerge as a contingent historical practice only during the eighteenth century. Indeed, biopolitics could not possibly have arisen earlier since it presupposes particular ideas about species and populations and particular statistical techniques for tracing the demographic patterns among populations. As Foucault explained:

> [Biopower includes . . .] a set of processes such as the ratio of births to death, the rate of reproduction, the fertility of the population and so-on. It is these processes – the birth rate, the mortality rate, longevity, and son-on – together with a whole series of economic and political problems which . . . become biopolitics' first objects of knowledge and the targets it seeks to control (Foucault 2003: 243).

In contrast, Catlaw appears to conceive of biopolitics in a way that takes it out of history. Indeed, in a footnote, he explicitly distances himself from Foucault's historicism (Catlaw 2007: 210-211). Catlaw defines biopolitics as the imposition of a unified political form onto life. He then unpacks the nature of biopolitics not by reference to a historically contingent set of technologies, but in terms of a kind of structural logic of exclusion that appears to be a kind of necessary ontological consequence of the concept of the People. He suggests that the People has no content and so necessarily defines itself by reference to the binary other it excludes. Yet, there are no obvious grounds for postulating such a structural logic. Surely we can conceive of the People as made up by a complex pattern of similarities and differences, each defined not in terms of what they are not but rather in the context of background theories about, for example, citizenship. Surely we can conceive of the People as composed of different degrees and types of citizenship

to each of which we attach different clusters of rights and duties, and each of which is itself open to disputation (Cohen 2009)

So far this paper has been questioning the extent to which Catlaw eschews historicist constructivism with its narratives of contingency in favor of a (post-)structural ontology based on apparently reified oppositions. What follows will illustrate the contrast between historicism and (post-)structuralism by considering how it plays out in analyses of the administrative state and its discontents. It sketches a historicist narrative of the administrative state (Bevir 2010).

A third question is: How should we explain the prevalence of the idea that "the people" constitutes a unity? This idea dominated the nineteenth century as part of a broader developmental perspective that fused Enlightenment and romantic themes in progressive narratives to depict the nation state as emerging out of pre-political communities that were bound together by language, ethnicity, and culture. The idea that the people are a unity arose and flourished, in other words, only at a specific historical juncture. It is in not an ontological paradox that inevitably arises as part of any attempt to think about community, politics, or the state.

During the nineteenth century, Enlightenment and romantic thought intermingled. Social and political theorists restated themes from Jeremy Bentham and Adam Smith in the context of the organic concepts associated with historical evolution, cultural variety, and human agency. Enlightenment social science continued to inform accounts of the inner workings of modern society, but romantic organicism encouraged social theorists to locate their accounts of modern societies in developmental narratives. Developmental perspectives drew on the conjectural histories of the Enlightenment and on the romantic emphasis on living beings making political life through their purposeful and imaginative activity. Historians such as George Bancroft used organic or evolutionary terms to frame narratives of the unfolding of the principles of nationality and liberty. Developmental narratives also attracted both sides in the philosophical dispute between idealists and positivists. Positivists may have followed Auguste Comte, J. S. Mill, and Leopold von Ranke in promoting rigorous

scientific methods, but they thought evolutionary theory was the pinnacle of science, and as a result, adopted developmental narratives as the contexts in which to situate their empirical findings. Idealists may have thought of the absolute as spiritual perfection, but they increasingly relied on Hegelianism to argue that the absolute unfolded through a developmental process. Developmental perspectives dominated social and political philosophy during the late nineteenth century precisely because they could bring together conjectural histories, theories of evolution, and accounts of the unfolding of divine providence.

The nineteenth century was thus dominated by national histories framed in terms of the gradual triumph of the principles of nationality and freedom. These histories fused the ideals of the nation state and democratic liberty by suggesting that both expressed an organic community. American historians such as John Burgess argued that "the national state is the consummation of political history" (Burgess 1934: 247). They conceived of the nation state as an organic unit defined by ethical, functional, and linguistic ties and a shared past. Herbert Adams argued that the institutions of the state constituted "the all-uniting element of civil society and of the common life of men" (Adams 1895: 171). Many national histories concentrated on Teutonic principles that allegedly emerged among the tribes and village communities of Northern Europe before going on to flower in England and then America. The principles had supposedly given rise to representative institutions, constitutional liberty, local self-government, and common law. This historical argument typically had more to do with the historical evolution of civilizations than the biological characteristics of races. Different civilizations were equated with shared cultural and moral habits or common social and political institutions. Yet, equally, all civilizations were generally located at various stages of a common process of evolution or growth.

If the idea that the people constitute a unity is a historically specific idea, then we might also investigate its decline. One way of opening this investigation may be to pose a fourth question: How should we explain the administrative state? If the concept of the People as a unity was especially prevalent among the developmental perspectives of the nineteenth century,

then it seems somewhat implausible to suggest, as Catlaw sometimes does, that the administrative state is some sort of symptom of the concept of a unified People. After all, the administrative state only really arose in the early twentieth century, and it did so in part precisely because people began to lose faith in the developmental perspectives that had dominated the preceding century. The administrative state itself is, in other words, a contingent historical product of the shift from development modes of knowledge to modernist ones.

Modernist modes of knowledge have precursors in nineteenth century innovations in mathematics and logic. George Boole and John Venn pioneered set theory and other forms of mathematics that extended logical analyses far beyond syllogisms, and by the end of the nineteenth century, these mathematical innovations were being deployed in new approaches to the study of society, such as neoclassical economics. Despite these precursors, however, modernism flourished only as people struggled to comprehend the First World War. The War undermined the faith in progress and reason that had informed developmental narratives. Images and ideals of progress still appeared after the War, but progress was then presented as dependent on the promotion of new sciences capable of solving social problems. The new sciences were modernist empiricist (Adcock, Bevir, and Stimson 2007; Everdell 1997; Porter 1995; Ross 1991; Schabas 1990). They divided the world into discrete, discontinuous units, and they sought to make sense of these units by appeals to mathematical rules and analytic schemes. Formal calculations and typologies replaced narrative as a mode of explanation.

The First World War also challenged the principle of the nation state conceived as an expression of an organic unity, which when expressed in popular sovereignty acted as a guarantor of liberty. The erosion of the principle of the nation state inspired many social scientists to try to get behind what they now condemned as constitutional pieties in order to explore what they now believed to be the real back and forth of contemporary politics. Some believed that social conditions had changed so dramatically that elder principles could no longer serve their purpose. They then expounded on the need to explore

these new conditions and to craft new institutions for the twentieth century. The idea of the nation state increasingly gave way to government and administration. Government was understood in more neutral terms as an aggregation of the diverse interests and attitudes found in society, or even as the institutions that articulated, managed, and responded to these interests and attitudes.

Modernist social science undermined the concept of the state as an expression of a people or nation who shared a common good. Equally, however, it raised the possibility of legitimating government by appealing to formal expertise. The state no longer needed to express a coherent nation or a public will. Instead, elected representatives could define policy goals, while experts – social scientists, professionals, and bureaucrats – devised rational, scientific policies in accord with these goals. The administrative state was, in other words, a modernist response to worries about the democratic process. Modernist social scientists, such as Mosei Ostrogrorski, Graham Wallas, and W. F. Willoughby, drew attention to the factionalism, propaganda, and financial extravagances to which democratic governments were prone. Many believed that an insulated and centralized bureaucracy could act as a counter to both the collective irrationalities of the electorate and the strong organized interests found in civil society. Advocates of an administrative state saw it as embodying public spirit and scientific neutrality defined in stark contrast to the self-interest and factionalism that they found in the democratic process. Some of them associated bureaucracy with efficiency; it was a rational form of organization, facilitating specialization by function. Others mentioned inefficiencies and problems associated with bureaucracy but dismissed these as a price worth paying for the benefits of a neutral, civic-minded administration.

A final question is: Why is the administrative state facing a crisis? Recall that the administrative state arose precisely because belief in a nation state based on a unified People gave way to bureaucracies based on modernist expertise. Contrary to what Catlaw sometimes suggests, therefore, the current crisis of the administrative state can not be the result of the ontological fallacies in the very idea of a unified People.

Instead, the crisis of the administrative state needs explaining in terms of the perceived failings of bureaucracies based on modernist expertise.

Modernist social scientists highlighted the role played by factions and special interests in policy making. Many appealed to a neutral bureaucracy to guard the common good: the administrative state represented scientific expertise and rationality. Yet, by the late 1970s, the administrative state had entered a time of crisis as the dominant strands of modernist social science (especially neoclassical economics and rational choice theory, but also institutionalism and other mid-level theories) cast doubt on the neutrality and effectiveness of bureaucratic hierarchy.

The new governance of markets and networks arose as an attempt to resolve this crisis in the administrative state. Ironically, policy makers responded to the crisis by introducing reforms based on modernist social science. It is useful here to distinguish between two waves of reform. During the first wave, neoclassical economics and rational choice inspired attempts at privatization and marketization and the spread of new styles of management. During the second, sociological theories of institutions, systems, and planning inspired attempts to promote networks and partnerships in various whole of government agendas.

No matter what our judgment of the effectiveness of the new governance, we might recognize that its new theories and new worlds have exacerbated concerns about the democratic legitimacy of the state. Consider the issue of accountability. The rise of folk and formal notions of rational choice means that we are increasingly aware of the private motives of public actors and the ways in which these may interfere with the pursuit of public goods, raising issues about the moral hazards associated with citizens delegating decisions to elected politicians and especially public officials. Equally, the rise of new worlds of governance means that we are increasingly aware of the limits to central control and coordination in systems where policy making and service delivery are dispersed among a range of public, voluntary, and private organizations. As policies are being made and implemented by private sector and voluntary sector actors,

so there are fewer lines of accountability tying these actors back to elected officials, and moreover, those there are may be too long to be effective. The complex webs of actors involved can make it almost impossible for the principle to hold any one agent responsible for a particular policy. In short, accountability looks both ever more important and ever more elusive. No wonder surveys point to falling rates of trust in government and declining support for elected politicians.

There are important differences between historicist and (post-)structuralist perspectives on public administration. The two are somewhat incompatible. Simply put: an object (such as the administrative state) cannot be both a contingent product of a particular diachronic process and a necessary product of a synchronic structure. On one side of this split, a historical ontology would trace the contingent processes by which the administrative state had been made and remade. On the other, a (post-)structural ontology would postulate an unchanging essence to the administrative state.

Perhaps someone might argue that a historical process gave rise to a dominant pattern. Then, however, they would confront the question of whether that pattern was to be understood in historical or (post-)structural terms. If they are historicists, they will see the dominant pattern as a practice that is contingent and shifting; they will trace the historical processes by which people have made, challenged, and remade the dominant practice. If they remain tied to more structuralist tropes, they might suggest that the dominant pattern is a deeper ontological structure based on something like a natural kind or the necessary relations of difference among signs. Surely they could not have it both ways. Either the administrative state is contingent (subject to flux and change) and contestable (containing competing meanings or actions) or it is not. If it is, moreover, an adequate account of the legitimacy crisis of the administrative state cannot equate it with a given ontological structure. Instead an adequate account of the nature and crisis of the administrative state would have to decenter any such structure to explore its contingency and contestability – the competing meanings and actions by which people have made and remade it.

Fabricating the People contains as many historicist as (post-)structuralist tropes, so that Catlaw appears to wobble uneasily back and forth between the two. In contrast, my main aim has been to highlight the philosophical chasm between historicist and (post-)structuralist analyses of language and ontology, and then to show how this chasm separates two very different accounts of the crisis of legitimacy in the administrative state.

REFERENCES

Adams, H. (1895) "Is History Past Politics?", *Johns Hopkins University Studies in Historical and Political Science* 3 (1895), 165-177.

Adcock, R, Bevir, M, and Stimson, S., eds. (2007) *Modern Political Science: Anglo-American Exchanges since 1880*. Princeton: Princeton University Press.

Bevir, M. (2010) *Democratic Governance*. Princeton: Princeton University Press.

Burgess, J. (1934) *Reminiscences of an American Scholar*. New York: Columbia University Press.

Catlaw, T. (2007) *Fabricating the People: Politics and Administration in the Bipolitical State*. Tuscaloosa: University of Alabama Press.

Cohen, E. (2009) *Semi-Citizenship in Democratic Politics*. Cambridge: Cambridge University Press.

Dalton, R. (2004) *Democratic Challenges, Democratic Choices. The Erosion of Political Support in Advanced Industrial Democracies*. Oxford: Oxford University Press.

Everdell, W. (1997) *First Moderns*. Chicago: University of Chicago Press.

Foucault, M. (2003) *Society Must be Defended*, trans. D. Macey. New York: Picador.

International Institute for Democracy and Electoral Assistance (2009) Turnout Over Time. Retrieved January 12, 2010, from *http://www.idea.int/vt/survey/voter_turnout1.cfm*

Newport, F. (2005) Americans Want Leaders to Pay More Attention to Public Opinion. *Gallup*, October 12, 2005. Retrieved April 22, 2010, from *http://www.gallup.com/poll/19138/americans-want-leaders-pay-attention-public-opinion.aspx*

Patterson, T. (2002) *The Vanishing Voter. Public Involvement in an Age of Uncertainty*. New York: Alfred A. Knopf.

Patterson, T. (2000) Point of Agreement: We're Glad It's Over [Opinion]. *New York Times*, November 8, 2000.

Porter, T. (1995) *Trust in Numbers: The Pursuit of Objectivity in Science and Public Life*. Princeton: Princeton University Press.

Program on International Policy Attitudes (2008) *World Public Opinion on Governance and Democracy*. College Park: University of Maryland. Retrieved April 22, 2010, from *http://www.worldpublicopinion.org/pipa/pdf/may08/WPO_Governance_May08_packet.pdf*

Quine, W., and Ullian, J., (1970) *The Web of Belief*. New York: Random House.

Ross, D. (1991) *The Origins of American Social Science*. Cambridge: Cambridge University Press.

Saussure, F. de. (1966) *Course in General Linguistics*, ed. C. Bally and A. Sechehaye, trans. W. Baskin. New York: McGraw-Hill.

Schabas, M. (1990) *A World Ruled by Number: William Stanley Jevons and the Rise of Mathematical Economics*. Princeton: Princeton University Press.

Wittgenstein, L. (1972) *Philosophical Investigations*, trans. G. Anscombe. Oxford: Basil Blackwell.