A common theme, as this volume goes to press, is that the world’s leading democracies are facing a “crisis of legitimacy.” Although we can readily identify key challenges confronting democracy—in particular, threats to the integrity of elections, to the security of the rule of law, and to the freedom of the press—whether these problems undermine political legitimacy is much less clear. The murkiness derives in part from disagreement over the meaning of the term; legitimacy ranks among the most contested concepts in political thought. Yet it also remains among the most important.

This volume reflects the cutting edge of responses to the perennial question of legitimacy, drawing, in the distinctive NOMOS fashion, from political science, philosophy, and law alike. The chapters cover a range of actors, institutions, and practices, and address legitimacy from both a normative and a sociological or descriptive standpoint. As a result, less typically for NOMOS volumes, Political Legitimacy features several empirical contributions as well, reflecting the importance of contemporary work studying citizens’ beliefs about compliance and justice, and the widespread view that legitimacy has both moral and descriptive dimensions. Indeed, several chapters herein explicitly take up the relation between normative and descriptive legitimacy; some authors, like Jeffrey Lenowitz, distinguish further between moral, sociological, and legal legitimacy, or highlight differences between the “first-person” and “third-person” perspective, in Jennifer Rubenstein’s language.

Most chapters in this volume approach the question from the normative perspective, examining the grounds on which a state or
institution’s claim to authority might be morally justified, which is not to imply that there is consensus either on definitions of legitimacy or authority, or on what justification would require. Several authors, including Anna Stilz, argue that legitimacy entails a state’s moral right to issue laws and policies, and to coercively enforce these laws; such legitimacy derives at least partially (on a Kantian account adopted by both Stilz and Jonathan Quong) from the state’s successful performance of key functions. Others hold that legitimacy denotes institutions that possess justified authority, authority supported by reasons, and, often, that such justified authority gives subjects moral, content-independent, and/or pre-emptive reasons for compliance. Institutions may possess legitimate authority, following Joseph Raz’s influential account, in his *Morality of Freedom* (1986), because in issuing directives, such institutions would enable subjects to better comply with reasons that apply to them anyway. Alternatively, they may possess legitimate authority because they act for the sake of those subject to their directives (and are, on Daniel Viehoff’s account, thereby insulated from bearing the costs of their errors). Or, on a public reason conception of legitimacy, they possess authority because, as in Fabienne Peter’s chapter, they yield decisions that derive—at least sometimes—from reasoned agreement, and because, as described in Micah Schwartzman’s contribution, they act for permissible intentions.

Still others will insist that legitimacy rests on voluntary subject to rule: For Amanda Greene, a political order is legitimate insofar as its subjects “willingly assent” to being ruled (assuming that such regime performs the minimal function of providing for all subjects’ basic security). In turn, some will specifically reject such an account; Ekow Yankah argues that, under a republican conception of legitimacy, such obligations are necessarily reciprocal, consisting in a shared aim of the common good rather than grounded on individual consent as such.

From the standpoint of sociological legitimacy, which rests upon subjects’ actual beliefs about the justification of the regime, the circumstances under which legal authority elicits voluntary consent—and what signifies such consent—also remains disputed. (Indeed, following Margaret Levi, one might further distinguish between fully voluntary, “quasi-voluntary,” and contingent
consent.) Tom Tyler argues that consent derives from subjects’ beliefs in the appropriateness of the authority, which in turn derives from their beliefs that the authority is disposed to act fairly. On these grounds, they perceive that they have an obligation to obey the law; they do so because of a sense of responsibility and the value of cooperation in managing social order. Other contributors, notably Jeffrey Lenowitz and Sanford Gordon and Gregory Huber, will suggest that demonstrating a causal relationship between subjects’ beliefs in legitimacy and their compliance with the law is in fact quite challenging, and instead seek alternative strategies for measuring legitimacy.

Although these disagreements and others emerge in the chapters, the volume seeks to clarify the lines of argument across disciplines. As such, while the basic structure of the *Political Legitimacy* volume reflects the traditional division of the ASPLP and NOMOS into three core disciplines, the chapters are grouped thematically.

The first section of the volume addresses basic questions of the legitimacy of the state and its regime, drawing on competing traditions in the history of political thought from Kant, Hobbes, and Aristotle. In “Legitimacy and Self-Determination,” Anna Stilz argues that Kant’s political theory foregrounds collective self-determination as well as justice in state legitimacy. Were justice the sole grounds on which a state possessed the right to govern its population and territory, as traditional liberal theories hold, colonialism could be justifiable. As such, the justice of a state’s institutions—i.e., the state’s “functionalist” capacity to perform morally mandated functions in a reasonably just fashion—is necessary but insufficient to realize that state’s legitimacy. Individuals also possess an interest in autonomy, in being the authors of their political institutions. As such, to be legitimate, the state must also enable individuals to act autonomously through collective participation in the choice of their political institutions. That is, it must ensure that institutions reflect a shared will formed under conditions of free deliberative reasoning.

Jonathan Quong responds to Stilz in “In Defense of Functionalism,” holding that her account cannot explain the wrongness of colonialism by appeal to the way such acts prevent the colonized society from having institutions that correspond to their majority’s religion, culture, or conception of the good life—or to do so,
must depart from a Kantian commitment to state neutrality about the good life. Further, Quong argues, a functionalist approach to political legitimacy can indeed address the wrongness by appealing to the pro tanto wrongness of involuntarily changing people’s political status without their consent, waiver, or forfeiture. Quong defends this “individual status view” both as capable of meeting the demand to explain the wrongful nature of colonialism and as providing a more compelling explanation for the importance of democratic procedures—which Stilz argues are neither necessary nor sufficient to realize self-determination—as a means of allowing people to express their view of the establishment of political boundaries.

In “Is Political Legitimacy Worth Promoting?,” Amanda Greene provides a new account of political legitimacy, drawing on Hobbes and Weber, to argue that a regime is legitimate insofar as it secures “quality assent” to its rule by its subjects. By assent, Greene holds that a subject must willingly accept her political subjection, grounded in the judgment that her subjection corresponds to some values that she can identify and affirm. But such acceptance depends upon a “quality” filter, which requires the provision of basic security to each member. Greene’s account is Hobbesian insofar as it demands peaceful order; legitimacy, on Greene’s account, is not possible in open conflict and threat of civil violence. Yet it is also Weberian in its emphasis on the acceptance of a system of command, sustained by a group’s belief in its validity. The achievement of political legitimacy, understood as quality assent, realizes three key political goods: the avoidance of political alienation, the establishment of durable security, and the alignment of values justifying the exercise of power.

In contrast to the previous chapters, Ekow Yankah argues that attempts to ground legitimacy on Kantian or other liberal conceptions are necessarily fraught, and are incompatible with a natural and intuitive account of our lives in common. In “The Sovereign and the Republic: A Republican View of Political Obligation,” Yankah instead seeks to retrieve and defend a conception of Aristotelian republicanism, which grounds political obligation in our deep, inextricable moral and political connections; our well-being is bound up in the welfare of our community. As such, the justification of political and legal decisions at both the fundamental (the
creation of a community) and prosaic (zoning norms) levels must rest on appeals to the common good, rather than to the aim of securing our individual rights or interests against each other or the state.

The second section of the book takes up the reasons according to which institutional authority may be exercised. Fabienne Peter’s chapter, “Political Legitimacy under Epistemic Constraints: Why Public Reasons Matter,” defends the importance of a particular public reason conception of legitimacy. Via an examination of the epistemology of practical reasoning, Peter argues that sometimes permissible practical reasoning leads to disagreement about which outcome should be chosen, as in cases in which two people have justified beliefs about the correctness of opposing solutions and neither can provide compelling epistemic reasons for the other to change her belief. As such, in some epistemic contexts, political decisions must be justified to citizens in terms of public reasons, reasons that all could accept or that no one could reasonably reject. Peter holds, in fact, that this is the normal case of politics: We typically lack sufficiently robust knowledge of the correct political decision, and so justification in terms of objective reasons will be unavailable to us.

Daniel Viehoff’s chapter, “Legitimacy as a Right to Err,” argues that legitimate institutions, which possess the authority to impose duties, are empowered both to make mistakes in the exercise of their power and to be insulated from bearing the costs of these mistakes in a way that other actors and institutions are not. That is, the legitimate exercise of normative power does not hinge upon these institutions reaching correct decisions; rather, it is conditional upon them acting for their subjects for their subjects’ sake. Insofar as this is the case, the subjects themselves, as a matter of fairness, should bear the costs of good-faith errors made by legitimate authority. But one should distinguish this form of legitimate authority from justified authority, in which a person may possess such normative power but must bear the costs of her own mistakes. When an institution no longer acts for the benefit of its subject, it may no longer be shielded from bearing the costs of such errors; indeed, subjects may rightly resist the imposition of such costs.

In his chapter, “Official Intentions and Political Legitimacy: The Case of the Travel Ban,” Micah Schwartzman investigates the
moral conditions for the legitimate exercise of political power from a different vantage point. Drawing on the example of President Trump’s travel ban, in which courts held that the travel ban was unconstitutional because it was motivated by religious animus, Schwartzman asks whether we can give a moral justification for rejecting the legitimacy of an official action on the basis of the intention or motivation behind it. Whereas philosophers and legal scholars have argued that intentions are never directly relevant to the moral permissibility of actions, Schwartzman insists that this view cannot be sustained in reflective equilibrium through testing these arguments against cases of discretionary discrimination. He defends a doctrine of moral taint, which holds that past wrongful conduct by officials can yield appropriate skepticism about their later conduct; although this places a burden on these officials to demonstrate that their current actions are morally permissible, this burden can be satisfied through the acknowledgment of past wrongs and a credible demonstration of good faith.

Shifting to a different institutional setting, in “The Political Legitimacy of International NGOs,” Jennifer Rubenstein addresses the question of how to conceptualize the legitimate exercise of power for large-scale, Western-based humanitarian and development INGOs such as Oxfam and Doctors Without Borders. The literature on INGOs tends to treat the question of legitimacy by asking whether such institutions exercise political power according to a set of criteria such as accountability, responsiveness, transparency, and efficiency. Rubenstein argues that this criteria-based approach neglects two crucial aspects of political legitimacy: that legitimacy entails (1) a “low bar” or minimum threshold concerning (2) the moral right to rule. According to Rubenstein, recognizing the political legitimacy of INGOs gives those subjected to their power moral reasons to cooperate with it, or not to interfere with others’ compliance with such rules, and helps to provide such subjects moral reasons to resist illegitimate INGOs.

The final section of the volume turns to the empirical study of legitimacy and compliance, and on the relationship between what the authors describe as moral or normative accounts of legitimacy and sociological or descriptive legitimacy. Tom Tyler’s chapter, “Evaluating Consensual Models of Governance: Legitimacy-Based Law,” distinguishes two models of legal authority, one coercive and
one consensual. Whereas the coercive model motivates compliance through law by the threat of sanctions, the consensual model focuses on personal values and the role such values play in eliciting consent to law; this latter model entails legal legitimacy. Tyler argues that legitimacy requires that people relate to authority in terms of their beliefs about their obligation and responsibility to defer to their decisions, and that they believe that such authorities consistently rely on fair procedures in rendering decisions. Comparing data from the European Social Survey and an American national survey, Tyler evaluates legitimacy in terms of the relative importance of a set of moral and social values and demonstrates that they shape compliance with law; further, Tyler holds that public perceptions of procedural justice constitute a key antecedent of legitimacy.

In “On the Empirical Measurement of Legitimacy,” Jeffrey Lenowitz argues that Tyler’s findings distort the conception of legitimacy in potentially worrying ways. He examines Tyler’s claims—including that individuals are more likely to exhibit desirable legal behavior when they feel obliged to obey their authorities, trust these authorities, and believe them to share a common sense of morality—and demonstrates that they do not support Tyler’s causal claims as to the effect of such beliefs on sociological legitimacy, i.e., on individuals’ beliefs in the content-independent rightful authority of the law and its enforcers. Further, he shows that as Tyler measures only individuals’ perceptions of procedural justice, rather than the effects of institutions themselves, he gives authorities reason to focus on reforming such institutions so that they seem to be just, rather than become just. To avoid this outcome, Lenowitz asserts that moral argumentation remains indispensable for institutional change.

In response to similar concerns about the inferences drawn from empirical research, Sanford Gordon and Gregory Huber analyze the difficulties associated with measuring beliefs in legitimacy and of determining the causal effects of such beliefs on compliance. In their contribution, “The Empirical Study of Legitimate Authority: Normative Guidance for Positive Analysis,” Gordon and Huber argue that isolating the effect of legitimacy as one among other motivations for an agent to comply with an authority may be challenging; moreover, both the decisions of other citizens and the
authority itself affect an agent’s intrinsic and extrinsic motivations to comply. They develop a simple, formal model seeking to identify the conditions in which changes in citizens’ perceptions of an authority’s legitimacy affect their willingness to comply, apart from any extrinsic motivations (including strategic considerations). In light of these challenges, they urge care in invoking the causal significance of legitimacy.

Finally, in “Trustworthy Government and Legitimating Beliefs,” Margaret Levi examines the distinction between trustworthy and legitimate governments. Drawing on a wide range of empirical evidence, she argues that the two crucial aspects of trustworthy governments—their provision of promised goods and services and their procedural fairness in the determination and implementation of policy—do not fully explain the variation in beliefs about these governments’ legitimacy. Rather, legitimate governments also require widely accepted justifications for their members’ selection and their exercise of power, in particular. As in the previous chapters, Levi reflects on the challenges of distinguishing among the various conditions that may give rise to the behavioral response of compliance and highlights important new empirical results that shed light on these mechanisms. While Levi cautions that key economic transformations—including the decline in unionization—may threaten the shared justifications on which legitimacy rests, she identifies opportunities to reconstruct guiding principles in the process of establishing a new moral economy.

Without reaching any consensus, then, the chapters in this volume highlight several avenues for future research. When political decisions fall short of procedural or substantive justice, or are supported by weak or unjust reasons, at what point may we identify deeper problems to political legitimacy? When do beliefs about unfair or disparate treatment of members implicate political legitimacy, and when might beliefs concerning the state’s treatment of noncitizens, within or beyond political borders, pose a challenge to legitimacy? Does resistance necessarily reflect a weakening of legitimacy, or might protest and contestation illuminate pathways for the reaffirmation of core values? These pressing questions remain on the agenda for scholars and citizens alike; the modest ambition of this volume is to provide support for a range of potential responses.