

Getting it right: solving legitimacy trilemma in major public endeavours

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Most megaprojects struggle with securing trust, majority and morality in the eyes of their stakeholders. A sensible dialogue between adverse parties seems to be doomed to fail. But is it really? When trust is a scarce resource and a majority behind or against a megaproject not convincing enough, both project supporters and opponents may benefit from a shared platform to develop, defend and (potentially) conflate their morality tales...

A high profile, yet rather modest ceremony on the beach of the German island of Fehmarn at the end of November 2021 marked so far the most important milestone for the currently largest infrastructure project in Europe – the Fehmarn Belt Fixed Link. Construction works on what is to become an 18 km-long submerged tunnel in the Baltic Sea, offering a new and faster rail and road connection between central Europe and Scandinavia, officially started on both ends. Not everyone was in a cheerful or celebratory mood though. For several stakeholders – notably local activists, German environmental groups and a ferry operator - the moment when shovels in the hands of some of the top German and Danish politicians touched the fine sand was a moment of sadness. It meant the ultimate defeat after a very long battle. Not that the outcome was unpredictable. Ever since the international treaty was signed between Denmark and Germany back in 2008, the construction of the tunnel became a *fate accompli* that was difficult if not impossible to escape. And yet some kept hoping circumstances would change eventually forcing the project's end. They have not, but in the meantime, the opponents tested the integrity of the agreement and the project itself to their limits scoring several notable successes along the way. Needless to say, both sides spent millions of euros in the multi-level PR and legal battle over the years. An obvious question offers itself: could the costly conflict have been avoided or, at least, softened?

The case of the Fehmarn tunnel illustrates the tragedy faced by most infrastructure megaprojects: they rarely result in a win-win situation for everyone. There is usually someone who is going to disagree, be disappointed or even suffer from the project impact. In most democratic societies, individual sacrifices are only acceptable in the name of a 'legitimate greater good'. Perceived legitimacy, together with stakeholders' resolve and resources determine the degree of resistance and thus transaction costs involved in project implementation. Yet, legitimacy, just like greater good, remain rather nebulous concepts. [Our research](#) identified three major factors that, through their interplay, define the perception of legitimacy, either of a project, or its opposition among project stakeholders. They are: majority, trust and morality.

In democratic societies, the habitual method of obtaining what organizational scholars call social legitimacy is through achieving a **majority**. The notion is that, if most people support an idea, it is probably legitimate. Accordingly, an expression of the will of the people is often mixed with the term public interest. Several tools serve to measure the will of the people. However, be it the direct and more expensive route in the form a dedicated referendum, or mechanisms of representative democracy (a government's decision or, in better case, act of parliament), votes often lead to oversimplification of complex matters into binary choices. One would wish to say these choices are well-informed. However, knowledge, opinions, interests and emotions surrounding a megaproject tend to be so scattered that even a professional bureaucratic apparatus, let alone lay politicians and citizens have a hard time getting their heads around them.

Neither are megaprojects immune from other notorious lapses of democracy: What if the newly initiated megaproject was not in the ruling party's manifesto? Then there is the trouble with water-thin majorities where minor swings in the mood may change the whole result. One hesitates to ask, but: should any minority respect any majority? Purists among democrats would probably insist: "majority means majority". "Well, yes, but majorities often get it wrong," nit-pickers would counter adding some frightening examples from the past. And with megaprojects costing billions of dollars/euros/pounds and disturbing and often transforming their surrounding areas and communities for good, you do not want to be wrong. A local vs national majority represents another painful dilemma.

Arguably, the inhabitants of the Fehmarn Island did not choose to build the tunnel. It was imposed on them by the political decision of the two national governments. This decision was cemented by votes in the two national parliaments. In addition, indicative polls on the state or national level showed a clear majority for the fixed link project. Also locally, on the Danish end, the project seemed to be quite popular. On the German island of Fehmarn and among German environmentalists, though, it was a different story. It is therefore obvious that even overwhelming majorities are not enough to mute the minority voices calling the project illegitimate. For one basic aspect of legitimacy was missing on the German side: trust.

Luckily for some megaprojects, there are countries where government decisions, usually backed by persuasive legislative approval, go almost undisputed. It is not just dictatorships and tyrannies, but also countries like Denmark with a high level of **trust** in institutions, state organizations and their actions. Contrasts with other countries are laid bare in cross-border projects – like the Fehmarn Belt tunnel. One respondent in our study - a Danish environmental activist - put it in the following way: „*There is a difference between the German and the Danish attitude to government. We have a high level of trust that when [national] government is involved in something, then what comes out of it is probably relatively objective. In peripheral Germany, where many feel let down by the federal government, they have a deep-seated distrust.*” The abundance of trust gained through years or decades of interactions with positive outcomes does not necessarily spare you a scrutiny. However, starting the scrutiny from a place of trust and appreciation, rather than an expectation of being deceived or cheated, makes a big difference.

As an average citizen you cannot make the full assessment yourself, so you need to trust in the analysis done by those that can do it. These could be governments, but also individuals with extensive subject matter experience in megaprojects, or NGOs of high reputation. Crucially, traditional feasibility studies or impact assessments can generate only as much trust as the one who commissioned them. Where trust fails, the power of argument must win. The ultimate way for achieving legitimacy (irrespective of majority or trust) is through **morality** of your cause (as perceived by project stakeholders) and the way you choose to pursue it. It is about convincingsness and rigour of your reasoning and showing you care about the wider consequences of the project, or your opposition against it. The latter involves letting stakeholders share their concerns and opinions, but also giving them opportunity (wherever it is feasible) to work together in the spirit of co-creation. There are ways how to avoid wastage, minimise damage, suffering and compensate disappointment if the two sides are open to finding a solution.

A critical evaluation of stakeholder concerns and needs and an open communication about these is a basic precondition of moral legitimacy. Authorities in the Fehmarn Belt project devised and launched a discussion platform for supporters and opponents of the fixed link where conflicting issues should be resolved, and tensions diffused. And it worked to a certain degree as far as experience of some of the civil servants is concerned. In a sense, it elevated opponents into the position of equal partners. But crucially, some key opposing stakeholders refused to participate and for others,

representing the project, their participation was an ordeal. The former called the whole initiative a “window dressing” alleging the appointed moderator’s bias in the project’s favour. The latter were frustrated by the seemingly endless and often heated debates.

So, is the role of similar dialogue fora as potential legitimacy generators or legitimacy melting pots doomed to fail? Not necessarily - our study shows that listening to and empowering stakeholders from early stages of the process through some sort of joint discussion and arbitrational bodies could be a part of the solution. The ability to concentrate the argumentation and translate it, in a trustworthy way, into comparable and assessable categories represent a quality all decision-making bodies long for. But for a dialogue forum to succeed, all options need to be on the table at the very start and every stakeholder group made equal. Some of the stakeholders in the Fehmarn Belt project who were consulted early on and whose arguments were taken seriously (e.g., bridge option scrapped in favour of the tunnel) showed their understanding and tolerance. Enough time should be left for discussions to take place, but a firm time frame should make sure they do not drag on forever. It is a good idea for the moderator to be elected, rather than appointed, and a budget should be set up for independent studies looking into all potentially conflicting issues and suggesting solutions. The make-or-break issues that may render the whole project unfeasible (e.g., bored vs immersed tunnel) should be independently arbitrated at the outset to prevent wastage of time and money by either side. In conclusion, dialogue fora represent an expense, but it might be money worth spending compared to the costs of a full-scale untamed conflict.