

## The legitimization of global energy governance: a normative exploration

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# The Legitimation of Global Energy Governance: A Normative Exploration

Sylvia Karlsson-Vinkhuyzen

**Abstract** Global energy governance has very limited legitimacy in the eyes of most governments. Although the concept has been starting to surface in academic papers it is still barely used in policy discussions. It is contested, almost taboo, to raise the need for international norms around energy production or consumption, although a significant step forward was taken by including energy as one of the Sustainable Development Goals proposed to the UN General Assembly. It is becoming a bit less contested to strengthen international collaboration on renewable energy and energy efficiency. Least controversial are efforts to collaborate around efforts to increase access to modern energy for those who are still deprived thereof.

In this paper I analyse in more detail the present lack of legitimacy of global energy governance and more importantly the possible avenues for strengthening it as this is a prerequisite for the fundamental dimension of society that energy production and consumption constitutes in a new social contract. I take as starting point theories of normative legitimacy that consider its two major components as being input and output legitimacy. I elaborate on the output related arguments to strengthen global energy governance – its role for building a sustainable global energy system and deep energy security – grounded in the principle of subsidiarity. I further explore the necessary elements to ensure input legitimacy of global energy governance relating to participation, transparency and accountability.

Finally I discuss the possible relationship between this normative analysis of the legitimacy of global energy governance and the subjective legitimacy of the same phenomenon among state and non-state actors. The latter is what matters in the negotiations to address energy not only in the Sustainable Development Goals but also in the climate regime.

**Keywords** Energy governance • International norms • Legitimacy • Sustainable development goals • Energy security

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Global energy governance has very limited legitimacy in the eyes of most governments. Although the concept has been starting to surface in academic papers it is still barely used in policy discussions. It is contested, almost taboo, to raise the need for international norms around energy production or consumption, although a significant step forward was taken by including energy as one of the Sustainable Development Goals proposed to the UN General Assembly. It is becoming a bit less contested to strengthen international collaboration on renewable energy and energy efficiency and least controversial are efforts to collaborate for increasing access to modern energy for those who are still deprived thereof (Karlsson-Vinkhuyzen 2010). A good sign of this is the inclusion, after much lobbying efforts, access to affordable, reliable, sustainable and modern energy for all as one of the suggested Sustainable Development Goals.

This chapter analyzes in more detail the present lack of legitimacy of global energy governance and more importantly the possible normative avenues for strengthening it. The rationale for this is that such strengthening can be seen as a prerequisite for the fundamental dimension of society that energy production and consumption constitutes in the new social contract that was discussed in the Third *Rencontres Internationales de Reims* on Sustainability Studies in June 2013. The starting point here, is the theories of normative legitimacy with two of their major components being input and output legitimacy. The chapter elaborates on the output related arguments to strengthen global energy governance—its role for building a sustainable global energy system and deep energy security—grounded in the principle of subsidiarity. Further, the necessary elements to ensure input legitimacy of global energy governance relating to its sources and process are discussed. Finally, conclusions include a brief discussion about the possible relationship between this normative analysis of the legitimacy of global energy governance and the subjective legitimacy of the same phenomenon among state and non-state actors. The latter is what matters in the negotiations to address energy not only in the Sustainable Development Goals but also in the climate change regime.

## Energy in the New Social Contract

The way that we manage our relationship to the vast sources of energy this planet harbors is an essential component of a new social contract that could guide the development of our societies for the future. Our modern societies, and all the dimensions of these that have contributed to our increased well-being, security and development have been built on a strong addiction to cheap energy, mostly from fossil fuels (Smil 2003; GEA 2012). At the same time this addiction has, among many other things, enabled frightful advances in our ability to develop weapons to kill each other, made the air of our cities unhealthy to breathe and brought us climate change (GEA 2012, chapters 4 & 5). However, this addiction to fossil fuels has not been equally awarded all of humanity. Access to modern energy and thus the benefits of the services it provides has been and remains very unequal with 1.4 billion people having no access to electricity and 2.7 billion people who rely primarily on

traditional biomass for cooking (GEA 2012, chapter 2). Ironically the poorest not only suffer considerable health and other consequences from being deprived of modern energy services (indoor air pollution etc.), they will in many cases also be the primary victims of the excessive use of fossil fuels by those who have access to them through impacts of climate change.

Based on these few facts it is reasonable to conclude that the whole global energy system, including the ways that energy is produced and consumed and the infrastructures that support, it has to dramatically change (Karlsson-Vinkhuyzen et al. 2012). Indeed it needs such a radical change that we cannot envision what it would look like (Des Bouvrie et al. 2013). The question that I raise in this chapter is what role *global* (rather than regional, national or local) energy governance could have in bringing about this change and how this role could be legitimized. Adopting a Sustainable Development Goal (SDG) on energy as proposed by the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda (2013) would constitute a step towards strengthening such global energy governance.

## A Meager History of Energy in the UN

Global governance of issues such as the environment and development has a long standing on the agenda of the UN. And although their governance may be insufficient and/or ineffective in a number of dimensions the role of international norms and organizations in these domains is seldom questioned. They are seen as having a legitimate role, that is their authority is seen as justified (Bodansky 1999). Indeed, many would like international norms and organizations to be strengthened (Biermann et al. 2012; Kaul et al. 2003). When it comes to global governance of energy the story is entirely different.

Global energy governance has had, and still has as will be described below, very limited legitimacy at least in the eyes of many governments (Bodansky 1999).<sup>1</sup> Furthermore, although the concept has started to surface in academic papers in the 2010s (Lesage et al. 2010; Karlsson-Vinkhuyzen 2010; Goldthau 2011; Van Der Graaf 2013) it is still barely used in policy discussions including those that de facto center on such governance for example in the advocacy for the Sustainable Energy Access for All decade and an energy related SDG. And if global energy governance has advocates in civil society they are neither visible nor vocal.

The illegitimacy of global energy governance in the eyes of most governments is strikingly manifested by its very humble presence on the agenda of the UN System since its inception. Energy has during close to the 70 years of UN history been subject to: a handful of scientific conferences or meetings, some committees mostly under UN's Economic and Social Council, a few intergovernmental negotiations

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<sup>1</sup> I define global energy governance as encompassing those efforts that seek to address energy as a common affair in the international community (Karlsson-Vinkhuyzen 2010). This excludes possible governance measures among e.g. energy companies that focus on revenues for themselves.

over normative language and not the least considerable attention in the development lending or aid of the World Bank and some UN agencies (Karlsson-Vinkhuyzen 2010). Global governance on energy in the form of dedicated organizations, institutionalized cooperation or international norms has clearly been seen as an illegitimate sphere of UN action for much of the organization's history.

Nonetheless, there have been small steps in the direction of global energy governance in the first years of the 2000s. On the one hand energy in relation to sustainable development has been subject to negotiations of declarations and action plans in inter-governmental fora in the follow-up process the United Nations Conference on Environment and Development in Rio de Janeiro in 1992 (Najam and Cleveland 2003). This includes the meetings of the Commission on Sustainable Development that discussed energy in 2001 and 2006/7, the World Summit on Sustainable Development in 2002 and the United Nations Conference on Sustainable Development in 2012 (Rio+20). However, the texts that were adopted at these meetings were vague and without any clear role for global governance in achieving the adopted aspirations. The outcome documents of these meetings contained formulations such as:

Governments, taking into account their national circumstances, are encouraged to: Develop and implement appropriate national, regional and international policies and measures to create an enabling environment for the development, utilization and distribution of renewable energy sources. (United Nations Commission on Sustainable Development 2001, Decision 9 /1, para 17a)

We recognize that improving energy efficiency, increasing the share of renewable energy and cleaner and energy-efficient technologies are important for sustainable development, including in addressing climate change... We note the launching of the "Sustainable Energy for All" initiative by the Secretary-General... (United Nations General Assembly 2012, Para 128–129)

The initiative that governments did not endorse, encourage or support but merely 'note' – the UN Decade of Sustainable Energy for All 2014–2024 – is as most UN decades a very low key, bottom-up approach where governments decide what they want to work on and does thus not really indicate that the legitimacy of *global* energy governance has dramatically increased.

In line with the history of a very humble presence of energy in UN based global governance, energy was also glaringly absent in the Millennium Declaration and Millennium Development Goals (MDGs) (United Nations General Assembly 2000). In the non-governmental consultation processes towards a post-2015 development agenda and the SDGs there were efforts by many primarily UN agencies and non-state actors to include energy dimensions, both as one of the overarching targets (e.g. secure sustainable energy) and as being linked to a number of other goals and targets. For example, the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda (2013) suggests a goal to "secure sustainable energy" and list the following examples of specific goals that could be included: double the share of renewable energy in the global energy mix; ensure universal access to modern energy services; double the global rate of improvement in energy efficiency in buildings, industry, agriculture and transport; and phase out inefficient fossil fuel subsidies that encourage wasteful consumption. Nilsson argues that

“energy needs to be a key constituent of any globally agreed set of SDGs” that “the provision of energy services in poor economies should be an explicit goal” and that “SDGs should include goals for efficiency and practices and low carbon energy expansion” (Nilsson et al. 2012). Finally, the Global Thematic Consultation on Energy and the Post-2015 Development Agenda (2013) “call on all relevant actors to work together to develop and establish a global goal on energy” and conclude that there is “broad support for ‘sustainable energy for all’ as a global goal.” The fact that these efforts were partially successful, as the proposed SDG no 7 is to “[e]nsure access to affordable, reliable, sustainable, and modern energy for all”<sup>2</sup> indicates that governments are becoming more comfortable with at least the aspirational goal-setting part of global governance for the domain of energy.

## Legitimizing Global Energy Governance

At the heart of a social contract is what type of political authority has legitimacy, that is, what type of political authority is justified. It is not difficult to explain why governments do not consider global energy governance a legitimate activity. It is rooted in the close association of energy with national security; the state and its economic and military security was for most of the twentieth century at the center of concern and energy is a crucial element in both these dimensions of security (Peters 2004; Willrich 1976). Although the 1980s and 1990s saw developments that made energy to be seen more as a commodity of trade rather than an issue for security and geopolitics, the concern about energy security has for various reasons come back on the agenda in the early 2000s (Peters and Westphal 2013). Consequently, energy security is considered as a national public good with its provision often considered a priority for governments. Collaboration with other countries does not come easily within this paradigm and many win-win opportunities in energy investments, technology cooperation and governance are foregone (Karlsson-Vinkhuyzen et al. 2012).

The rest of this chapter will present alternative avenues for legitimizing global energy governance. I have earlier summarized the normative literature on sources of legitimacy in elements of international/global governance and used it to develop a framework for analyzing and comparing normative legitimacy (see Table 1). Sources of legitimacy in normative literature may of course not be identical to sources of subjective legitimacy – what is seen as legitimate by particular actors such as national governments (states). However, on the one hand there should be considerable overlap between sources of normative and subjective legitimacy (Black 2008), and on the other hand I would argue that also an elaboration of normative reasons for strengthening global energy governance is of value. For both these reasons I will use components of this framework when examining possible strategies to legitimize global energy governance and thus it becomes an exploration grounded in normative arguments.

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<sup>2</sup> See <http://sustainabledevelopment.un.org/focussdgs.html>.

**Table 1** Sources of legitimacy for elements of global governance

Components of legitimacy	Sub-components of legitimacy
Source-based legitimacy (input legitimacy)	Expertise
	Tradition
	Discourse
Process-based legitimacy (input legitimacy)	Government participation
	Non-governmental participation
	Transparency
	Accountability
Outcome-based legitimacy (output legitimacy)	Effectiveness
	Equity

Table 1 describes three different but very interrelated main components of legitimacy.<sup>3</sup> Each of these can in turn be divided into sub-components that enable a more detailed analysis.

## Output Related Legitimation

The possibilities to legitimize stronger global energy governance related to its output naturally depend on what output is considered desirable. From a normative standpoint it is possible to formulate at least two encompassing desirable outputs of global energy governance. The first desirable output is a global sustainable energy system, which implies an energy system that is sustainable in environmental, social and economic dimensions over time. This means that the system of energy production and consumptions (and all the infrastructure and social institutions associated with it) would be one that for example minimizes the risk for dangerous climate change, reduces the vulnerability of economic development to high and fluctuating fossil fuel prices and makes energy sources cheaper and more accessible for future generations (Karlsson-Vinkhuyzen et al. 2012). An equity dimension of such a system would be sustainable energy access for all, a goal already adopted by the United Nations General Assembly through its endorsement of the Sustainable Energy for All Decade (see above). The second desirable output is the goal of achieving deep energy security. This is related to energy access but goes further. The concept of ‘deep energy security’ expands the traditional notion of energy security to encompassing human security; deep energy security is energy security that contributes to human security over space (from local to global) and time (that is, now and for future generations) (Karlsson-Vinkhuyzen and Jollands 2013). Deep energy

<sup>3</sup>Adapted from Karlsson-Vinkhuyzen and Vihma (2009), p. 410. The original framework was developed for the legitimacy of international norms, but I would argue that it can equally well be applied to other elements of global governance.

security is a necessary condition for human security and cannot be achieved unless the global energy system is sustainable.

Assuming that these two goals are worth pursuing the following question is then how we can identify if governance at the global level could support achieving these goals? Similar questions about allocating governance to higher levels have been asked in federal states but also very much in the evolving European Union. In the EU the principle of subsidiarity has been adopted as a guide to allocating governance between levels. The principle appears in two dimensions within the EU, a substantial dimension which is linked to input legitimacy that we will talk about later and a procedural dimension which is linked to finding the level of decision-making which is most effective (Føllesdal 1998). If we here focus on output based legitimacy it is the procedural part of the principle that becomes of interest. This principle in its EU interpretation comes to imply that:

1. Action should be taken at the level where it is most effective, the effectiveness condition, and
2. Action at the higher level should be taken when lower levels cannot achieve the adopted goals in isolation, the necessity condition (the latter may be result of either lower levels not having the capacity or not having the political will).

Applying this procedural dimension of the principle on energy asks for governance at the global level in two cases. Firstly, global governance is needed when it is effective. This can be the case for example in areas where action by individual countries or the market is not likely to be sufficient such as development of (accessible) knowledge and norms promoting sustainable energy or when it aims to strengthen the coherence of the international community's (intergovernmental organizations), support for sustainable energy. Second, global governance is needed when it is necessary. This can be the case when many countries such as Small Island Developing States do not have the capacity to build up renewable energy sources and when other countries may have the capacity but not the political will for promoting sustainable energy. Another factor that can necessitate global governance is when global institutions (either norms and/or organizations) are contributing to preserving a fossil fuel based unsustainable energy system. Here we can think of the policies of international financial institutions that still predominantly invest in fossil fuel based energy systems, rules on trade and intellectual property rights that may constrain widespread technology transfer or favor unsustainable investments.

In normative terms there seems to be strong legitimation possibilities for global energy governance related to its output.

## **Input Related Legitimation**

The possibilities to legitimize global energy governance related to input can be explored along the sub-components of source based legitimacy; expertise, tradition and ideology on the one hand, and to the sub-components of process based legitimacy; participation, transparency and accountability on the other.



First looking at source based legitimation, it is clear that with so limited a history of addressing energy in global governance tradition is not going to do much for legitimation of UN based energy governance. However, it may play a role in the International Energy Agency's (IEA) efforts to be seen as *the* international organization on energy although it only has OECD countries as members. The IEA is also building much of its legitimacy on its energy expertise, as manifested in the annual production of the World Energy Outlook and its self-description as being "at the heart of global dialogue on energy, providing authoritative statistics, analysis and recommendations."<sup>4</sup> Ideologies that would be supportive of global energy governance could include those linked to world federalism, human security, fairness etc. Even adherents to liberalism could argue that market failures have to be addressed at the global level to manage these and to ensure a level playing field.

Moving on to process based legitimation this is linked to the substantive dimension of the subsidiarity principle that dictates decision-making as close as possible to citizens. This implies that these citizens should have some at least indirect access to the governance process through democratic institutions. If for effectiveness reasons we argue that governance is still needed at the highest, in this case global, level then the question instead becomes how to make governance at this level 'close' to the citizens – bringing some dimensions of democratic or similar characteristic elements that can give it democratic legitimacy. Possible sources of such legitimacy are the four sub-components of process based legitimacy outlined in Table 1.

The first sub-component of process-based legitimacy is governmental participation. Considering that at the moment perhaps the strongest intergovernmental organization on energy is the IEA whose membership is not universal this is a potential avenue for legitimation. The IEA does reach out to BRIC countries but it is a big step before it opens its doors to non-OECD countries as members and when it comes to governmental participation as a source of legitimacy it is decision-making power that counts. In contrast, UN agencies are mostly open for participation of all states but when energy is so low on the agenda they cannot do much. On the contrary, the International Renewable Energy Agency (IRENA) was established as a coalition of the willing outside the UN, they wanted to move faster among countries that had an interest in renewable energy.

The second sub-component of process-based legitimacy is non-governmental participation. Some political theorists have seen such participation as an avenue for strengthening the democratic character of global governance. However, strengthening the legitimacy of global energy governance through this avenue faces considerable challenges. There are very few international NGOs who act as advocates for strengthening global energy governance. There are a few working on energy access but there are hardly any voices raised for renewable energy and energy efficiency at least in the UN corridors when energy is discussed.<sup>5</sup> One reason for this could be

<sup>4</sup> See <http://www.iea.org/aboutus/whatwedo/>

<sup>5</sup> This is an observation from having followed the UN based negotiations on energy and some other international energy meetings in the 2000s. One example of an NGO advocating for energy access around the UN meetings is ENERGIA, an international network on gender and sustainable energy, see [www.energia.org](http://www.energia.org). This network is particularly interesting considering that energy is normally a very male dominated sector.

the technical nature of energy making it challenging for NGOs to take it up as a central topic.<sup>6</sup> Another reason can of course be that organizations that try to advocate for sustainable energy do not see any role for global governance in this. Perhaps a more fundamental question around participation is: How can local communities be engaged in a way that empowers them to identify their own goals and development pathways around energy in the context of a global SDG on energy?

The third sub-component of process-based legitimacy is transparency. Transparency is a major challenge in any global governance process. How can then a governance process on energy that on other levels is traditionally confined to small groups of closed networks be opened up and made transparent and accountable towards those whose lives their decisions influence?

Accountability is the fourth sub-component of process based legitimacy and it is a multidimensional concept. Its importance is emphasized by the High-Level Panel that argues that one of the five transformative shifts that should guide the post-2015 development agenda should be to “build peace and effective, open and accountable institutions for all” (High-Level Panel of Eminent Persons on the Post-2015 Development Agenda 2013). A prerequisite for holding actors to account is that there is transparency in who does what. In relation to international agreements such as SDGs the degree of implementation is an obvious activity that needs to be tracked through monitoring and reporting. However, countries are very reluctant to agree any monitoring by outside agencies, often claiming sovereignty reasons while probably well aware that monitoring is indeed what is needed to enforce norms. Having followed close-hand the fate of the proposal on reporting and follow-up of the energy agenda in the CSD (Karlsson-Vinkhuyzen 2010), where it was the issue that made it impossible for unwilling countries to accept the text, it is clear that any proposals around reporting have to be creative in approach to overcome this sensitivity.

In normative terms there are certainly a number of avenues to legitimize global energy governance related to its input although most of these would require a quite radical turn in global politics.

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## Conclusions

The analysis of normative components of legitimacy that could strengthen global energy governance shows that strong output based arguments can be made. Legitimation arguments based on the input to governance can also be made but seem to be quite challenging to realize. What matters in any efforts to actually strengthen global energy governance is, as I argued above, not normative but subjective legitimacy in the eyes of governments and other actors such as business and civil society. There is surely overlap between the components of normative legitimacy that I have just elaborated, and

(continued)

subjective legitimacy, but how much is open for research considering the deep rootedness of the national security paradigm. It seems clear that progress is only possible if this paradigm can be challenged by alternative discourses that could change the mind-set of leaders and governments. Such discourses, for example one on deep energy security, could not pick up without a switch in focus of national leaders towards considering impacts of their energy decisions on citizens of other countries and future generations. It is not enough to argue that it is necessary to base governance on national self-interest. The perspective has to expand towards global goods and benefits and from short to long-term horizons. Such a switch in mind-set and guiding value for decision making asks a lot of leaders – perhaps primarily political leaders but also individuals across organizations whether they have position of formal leadership or not. It really requires moral leaders in the sense where they have a “consistent orientation of service to the common good” (Anello 1997, p. 89) and a willingness to assume the personal risks inherent in dealing with resistance to change WHO (1988) quoted in Anello and Hernández (1996, ix). For an overview of a framework expanding on the concept of moral leadership see Vinkhuyzen and Karlsson-Vinkhuyzen (2013).

To conclude: If we adopted the goals of a global sustainable energy system and deep energy security and apply the procedural dimension of the subsidiarity principle we have some strong arguments for legitimizing stronger global energy governance in several areas if these goals are to be effectively achieved. We can also identify key aspects of strengthening the normative legitimacy of global energy governance through increased participation of countries and non-state stakeholders in the key institutions and processes, and a leap forward in opening up both the negotiation processes and their implementation to public scrutiny. At the same time I have illustrated how unlikely any strengthening of global energy governance is because of its low legitimacy in the eyes of many governments. The only way that I can see out of this dead-lock is individual leaders with the courage to move into new territory beyond the institutional constraints that surround them.

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