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Legitimacy and Accountability in Polycentric Climate Governance

KARIN BÄCKSTRAND, FARIBORZ ZELLI AND PHILIP SCHLEIFER

19.1 Introduction

Polycentricity is characterised by institutional fragmentation as well as interdependence among actors. It is a situation wherein, for instance, non-state and state actors can be both regulators and regulated at the same time. Polycentricity raises a set of new questions for the core governance aspects of legitimacy and accountability: how can legitimacy and accountability be enhanced in the emergent polycentric system of climate governance where the state is not the only or even the primary source of authority? Is the democratisation of a system consisting of multiple and overlapping forms of authority feasible and even desirable? Who should be represented in the decision-making structures of the various units of the polycentric system, and to whom should such units be accountable? In addressing these questions, we analyse legitimacy and its challenges from multiple perspectives.

On the one hand, we consider their normative dimension. Normative legitimacy is grounded in democratic theory. Democratic theory defines normatively justified standards with which real-world institutions ought to comply. In this chapter, we focus on a set of core democratic values, and how they are institutionalised and can be enhanced in polycentric governance. Particular attention is given to the challenges that arise for establishing accountability in this context – i.e. the idea that those in positions of influence should be responsive to the interests of their constituencies. On the other hand, we analyse the state of sociological legitimacy in this field. Unlike normative legitimacy, sociological legitimacy is a matter of perception – i.e. whether actors accept an institution (or its decisions) as legitimate, regardless of the standards on which these judgements are based.

Not much scholarly attention has been directed towards these issues which lie at the nexus between polycentric governance, climate change, democracy, legitimacy and accountability. Much more ink has been spilt on describing the

emergence of polycentric climate governance and weighing its implications for effectiveness. As a normative ideal, several virtues of polycentricity have been stressed, such as enhancing ‘innovation, learning, adaptation, trustworthiness, levels of cooperation of participants, and the achievement of more effective, equitable, and sustainable outcomes at multiple scales’ (Ostrom, 2010: 552; see also Chapter 1). To be fair, some of these virtues touch upon legitimacy concerns. Trust building, which is advanced as a core element in polycentric governance, resonates with sociological legitimacy (Dorsch and Flachland, 2017). However, normative legitimacy – centred around criteria and values such as deliberation, accountability, participation and transparency – has featured less in the scholarship on polycentric governance, which has been preoccupied with spurring more effective collective action.

We pursue two main objectives in this chapter in order to stress the urgency of further advancing the nascent research interest in the legitimacy and accountability of polycentric climate governance. First, in Section 19.2, we make the case for a stronger research focus on the polycentricity-legitimacy-accountability nexus. We develop the argument that certain legitimacy and accountability challenges are inherent to polycentricity in general and that the policy field of climate change is no exception to this. In fact, polycentric climate governance is a prime example for such challenges given its relatively high degree of complexity – hence references in the existing literature to notions like regime complexes, networked and experimentalist governance (Bulkeley *et al.*, 2014; Falkner, 2016a; Sabel and Victor, 2017). We therefore start by examining the overall conceptual challenges raised by legitimacy and accountability in polycentric (climate) governance, distinguishing between normative and sociological legitimacy and different forms of accountability (which we will label external, internal and networked accountability).

Second, in Section 19.3, we briefly illustrate a research agenda on accountability and legitimacy dynamics for two domains of polycentric climate governance, namely (1) corporate climate action, and (2) climate minilateralism. We select these two types of institutional arrangements, as they are currently the most important manifestations of the emerging system of polycentric climate governance. At the same time, they also vary in important respects and thus provide different insights, as they are driven by very different types of agents with varying legitimacy implications, namely non-state actors and governments.

Section 19.4 concludes with a short outlook on how to address legitimacy and accountability gaps in the light of the renewed role for the state and the United Nations Framework Convention on Climate Change (UNFCCC) in polycentric climate governance. In doing so, we acknowledge that there is no ‘one-size-fits-all’ approach to strengthening the legitimacy and accountability of polycentric governance.

19.2 Inherent Challenges: Polycentricity, Legitimacy and Accountability

The literature on polycentric climate governance has thus far focused on the origins, effectiveness and mitigation potential of multilayered governance arrangements. In fact, a polycentric approach has been hailed as *the* best option for climate stabilisation (Ostrom, 2010; Cole, 2015). Largely absent in the literature so far is a debate on the legitimacy challenges posed by the twin issues of representation and inclusion (who should be part of decision-making bodies in various networks?) and accountability (to whom should such bodies be accountable and how?). In line with several scholars (Black, 2008; MacDonald and MacDonald, 2017), we argue that new approaches are needed to grasp and assess the legitimacy and accountability of polycentric climate governance.

Such approaches should better reflect a polycentric governance system which encompasses a multitude of mechanisms, forums and actors, and a mix of public, private and hybrid authority engaged in governance functions such as agenda-setting, rule-making, implementation and monitoring. It echoes scholarly concerns about the general nexus of polycentricity and legitimacy ‘beyond the state’ and the consequences of the regulatory shift from state-centred to private and/or networked governance. Like these other forms of governance, polycentric climate governance is likely to be vulnerable to a ‘legitimacy deficit’ (Buchanan and Keohane, 2006).

In the following, we discuss several of these overarching and inherent challenges arising from the polycentricity-legitimacy nexus. With this, we make a case for more systematic analyses of legitimacy and accountability – and gaps thereof – in polycentric governance systems.

19.2.1 Multiple Authorities

Due to their functional and spatial differentiation, polycentric networks have a lower degree of jurisdictional integrity compared to state-centric governance. This dispersed and fragmented authority poses a challenge to democratic governance. If we take authority to mean the legitimate exercise of power (Bernstein, 2011), polycentric governance systems consist of many sites of political authority. ‘Liquid’ authority – meaning transnational, non-state, non-electoral authority – is replacing and/or supplementing traditional ‘solid’ sovereign authority (Krisch, 2017). Hickmann (2017) stresses that this does not necessarily mean a complete shift of authority away from the (inter)governmental level, but it implies a reconfiguration of the functions of central institutions in a changing authoritative landscape.

Polycentricity means the co-existence of multiple (and autonomous) territorial and non-territorial multiple centres of decision-making with different objectives,

values and steering instruments – and ongoing shifts in the relationships and authority constellations among these different centres. Multiple authorities are often self-governing, and the principle of subsidiarity is central as local units set their own rules. However, polycentricity can be distinguished from fragmentation as it involves the existence of multiple centres of authority within an *accepted* set of overarching rules (Aligica and Tarko, 2012: 250).

Global climate governance is a prime example of a polycentric system. There are identifiable centres, notably the UNFCCC, which after the Paris Agreement has regained its role as the epicentre of climate governance. The UNFCCC provides an overarching set of norms and rules evident in the 2°C/1.5°C goals (see Chapter 2). Public and private authority are deeply intertwined in climate governance, as states have delegated authority to private actors, for instance through the Kyoto Protocol's Clean Development Mechanism (Green, 2014). Private actors also generate their own norms, rules and standards. The expansion of carbon market governance was made possible through the enrolment of private firms as auditors and monitors of carbon offsets, and scientists as experts of carbon removal methodologies. The increasing interconnections and interplay between state and non-state actors, for instance in hybrid governance arrangements, is a challenge to accountability, as the latter concerns a relationship that exists between those who wield power and those whose lives are affected or constrained by the exercise of power.

As a consequence, polycentric climate governance has many participants and regulators at subnational, intergovernmental and transnational levels involved in processes such as goal formulation, decision-making, monitoring and review – with significant implications for accountability and legitimacy (Black, 2008). How, then, can we ensure that multiple regulators spanning the public–private divide remain accountable for their actions? Polycentricity is underpinned by a normative ideal: polycentric governance enhances legitimacy by providing an opportunity for enhanced participation, deliberation and experimentation, pluralism, diversity and trust building (Ostrom, 2010). A normative assumption is that trust is promoted, or alternatively framed, such that sociological legitimacy is more likely in polycentric governance. However, as Skelcher (2005: 89) argues, ‘the design of democratic governance is more problematic in a polycentric system . . . as political authority is dispersed across separately constituted bodies that do not stand in hierarchical relationship to another.’

Hence, the existence of multiple authorities does not automatically result in polycentric governance systems that stimulate participation, representation and inclusion by a multitude of actors. Achieving this remains a major challenge. As we illustrate in our brief empirical examples in Section 19.3, polycentric governance can equally be non-transparent and exclusive in providing closed venues for coalition building, trust and bargaining between powerful elites from government,

market and civil society. This image is far from the normative ideal in polycentric theory: of multiple platforms and domains actively facilitating dialogue and deliberation between political decision-makers and affected stakeholders.

19.2.2 Normative and Sociological Legitimacy

Legitimacy is an essentially contested concept in social science and political philosophy, usually referring to the justification of authority. Two approaches can be discerned – normative or sociological legitimacy: ‘To say that an institution is legitimate in a normative sense is to say that it has a *right to rule* whereas an institution is legitimate in a sociological sense when it is widely *believed* to have a right to rule’ (Buchanan and Keohane, 2006: 405).

Normative legitimacy requires a normative theory of legitimate rule-making. Such a theory needs to specify and justify standards against which real-world arrangements can be assessed and evaluated, for instance in terms of their effectiveness or fairness. By contrast, sociological legitimacy means the acceptance of the rule-making authority among constituencies, regardless of the standards on which these judgements are based. They may be (but do not have to be) derived from norms, values and principles of liberal democracy, such as accountability, transparency, inclusion and deliberation.

Sociological legitimacy prevails when authority and rule-makers have the consent of those who are subject to it, while normative legitimacy can be established if the authority conforms to predefined standards. Compliance with rules and norms takes place if actors *perceive* the social and political order as acceptable (Buchanan and Keohane, 2006: 405; Bernstein and Cashore, 2007: 2). Sociological legitimacy is closely linked to the study of the *legitimation* (or delegitimation) of governance, entailing the justifications and claims to legitimate authority by global governance institutions (Bernstein, 2011).

Following a normative notion of legitimacy in the context of the European Union, Scharpf (1999) argues that legitimacy has two dimensions: input (or procedural) legitimacy and output (performance) legitimacy. Input legitimacy stems from procedural logic and asks: are policies and norms developed in a transparent, fair, inclusive and accountable manner? Output legitimacy is associated with a consequential logic, collective problem-solving and effectiveness and asks: do norms and institutions result in collective problem-solving and performance?

What does polycentricity imply for these two core dimensions of legitimacy? Following Scharpf’s (1999) conceptualisation, researching normative legitimacy in polycentric climate governance would identify the sources of legitimacy in various types of polycentric arrangements. Are they effective in targeting the

problem of climate mitigation, or do they derive legitimacy from being inclusive, representative and accountable? In this fashion, the overall legitimacy of polycentric governance rests on combining effective problem-solving (i.e. ultimately avoiding dangerous climate change) with fair, accountable, inclusive and transparent procedures.

As previously discussed, a recurrent (and largely unsubstantiated) claim is that polycentric governance can better generate trust, support and collaboration (see Chapter 1), i.e. to fare better in terms of sociological legitimacy. Dimensions such as trust and collaboration are part of major definitions of polycentricity (Dorsch and Flachsland, 2017). Another recurrent claim is that polycentric governance can also enhance normative legitimacy, in terms of promoting fairness and participation and equitable outcomes (Ostrom, 2010). Finally, the scholarship on polycentricity and climate change more frequently asserts (rather than examines) the assumption that polycentric governance generates more effective and sustainable governance across multiple levels and sites.

However, the distinction between normative and sociological legitimacy is more of an analytical device, and most researchers usually think in terms of both. A normative approach to legitimacy can make political acceptance (sociological legitimacy) part of its evaluative criteria for legitimacy. As Buchanan and Keohane (2006: 406) argue: '[i]t is important not only that global governance institutions be legitimate but that they are perceived to be legitimate. The perception of legitimacy matters, because in a democratic era, multilateral institutions will only thrive if they are viewed as legitimate by democratic publics.'

As we illustrate in our empirical examples, both the normative and sociological dimension of legitimacy remain contested terrain in polycentric climate governance. The challenges are of a theoretical (e.g. which normative principles apply to private governance?) as well as an empirical nature (e.g. what are the legitimation dynamics surrounding polycentric climate governance?).

19.2.3 Accountability

Accountability concerns those who govern as well as those who are being governed. The idea is that those in positions of power should be responsive to the interests of their constituencies. Accountability is, hence, about the relationship between an agent and a principal. It 'implies that some actors have the right to hold other actors accountable to a set of standards, to judge whether they have fulfilled their responsibilities in light of these standards, and to impose sanctions if they determine that these responsibilities have not been met' (Grant and Keohane, 2005: 29). Accountability can only result in legitimacy if there are sanctions available (e.g. voting rulers out of power, or reputational sanctions such as naming and

shaming) once actions or decisions are incompatible with the values and preferences of principals.

Accountability becomes more complex in polycentric governance with no single, coherent principal but rather a plethora of public and private actors that operate in various transnational networks. New forms of accountability, as well as an extension of the principal-agent model in representative democracy beyond the domestic context, are needed. The principals of accountability in a polycentric system are different from the standard principal-agent model (hierarchical, state-centred and electoral). This calls for less vertical forms of accountability, moving towards a more horizontal mode of operating that stresses mutual monitoring and review, peer accountability and transparency (see also Chapter 12). By the same token, we can distinguish between internal (delegated), external (societal) and networked accountability (Grant and Keohane, 2005; Bäckstrand, 2008). The latter three non-electoral forms of accountability are more applicable to polycentric governance.

The problem of accountability at the transnational level is amplified in polycentric climate governance, where actors are both regulators and regulated, be it cities, intergovernmental agencies, carbon market actors or standard-setting organisations (Bäckstrand, 2008). The range of accountability and legitimacy challenges is so varied in polycentric climate governance that the key task becomes one of analysing the dynamics and logics of legitimacy and accountability in each. Polycentricity includes governance arrangements requiring top-down, hierarchical accountability as well as horizontal, non-hierarchical (market, peer and reputational accountability). The former, which is aligned with hierarchical forms of governance, has clear principal-agent relationships. For example, governments that are involved in different climate clubs (Falkner, 2016a) are accountable to their citizens, and international bureaucracies such as the UNFCCC Secretariat are accountable to their member states.

19.3 Legitimacy and Accountability Deficits in Polycentric Climate Governance: Two Examples

In the following, we use two major subsets of polycentric climate governance as examples to empirically illustrate the aforementioned challenges. Given space constraints, we can only provide brief and non-exhaustive explorations, for which we chose two core institutional developments. While the lines between private and public governance are often blurred in polycentric systems, our first example – transnational private governance – focuses on the former, whereas the second example – climate unilateralism – emphasises the latter. We do not claim that these cases are representative for polycentric climate governance as

a whole, which has many more facets and dimensions. However, they provide important insights into the most salient issues at hand.

19.3.1 Transnational Private Governance

The Paris Agreement institutionalised ‘hybrid multilateralism’ (Bäckstrand *et al.*, 2017), denoting an intensified interplay between multilateral and transnational climate action, with the UNFCCC Secretariat taking a role as facilitator or orchestrator of transnational climate action (Hale, 2016; see also Chapter 11). The Lima-Paris Action Agenda (which later morphed into the Marrakech Partnership for Global Climate Action) and the Non-state Actor Zone for Climate Action (NAZCA) were launched to galvanize the groundswell of actions on climate change mitigation and adaptation from cities, regions, businesses and civil society organizations (Chan *et al.*, 2018). This development is part and parcel of a wider shift towards more private forms of governance in global environmental politics. Abbott, Green and Keohane (2016) observe that while the growth of formal international organisations has stalled, the population of private governance organisations has increased exponentially in recent years.

One important manifestation of this trend is non-state market-driven governance (Cashore, Auld and Newsom, 2004). Prominent examples include the Forest Stewardship Council, the Roundtable on Sustainable Palm Oil and Fairtrade International. Created by firms and civil society actors, these programmes set standards for transnational production and often operate certification programmes. The International Trade Centre, a specialised agency of the United Nations, now counts more than 230 non-state market-driven programmes in a wide range of industry sectors (ITC, 2017). While most of these initiatives are not formally integrated in NAZCA, many of them address climate change-related problems such as deforestation, land-use change, biodiversity loss and renewable energy. There are also a large number of programmes that are directly involved in climate governance, as they interact with intergovernmental, national and subnational frameworks in various ways. One example is the Rainforest Alliance’s participation in the UN-REDD programme. Another example is Fairtrade International’s newly created Climate Standard, aiming to enable smallholders and rural communities to better adapt to climate change.

The proliferation of non-state actors in this governance domain has led to multiple, often overlapping, authorities (Abbott, 2012). The example of renewable energy governance in the EU illustrates the issue well. To implement its policy targets (10 per cent of renewable energy in the transport sector by 2020), the European Commission closely engages with non-state market-driven governance in this area. Acting as an orchestrator, it developed a meta-standard approach and recognises

compliant private governance programmes as equivalent (see also Chapter 11). These measures have created a regime of hybrid biofuel governance, in which public and private authority are closely intertwined. But this approach has not been without challenges. Most importantly, scholars are concerned about a ‘race to the bottom’ among private regulators. They describe how the EU’s meta-standard approach has set a very low bar for formal recognition. Among other things, it includes no requirements for stakeholder inclusion or transparency. This has resulted in a situation in which a large number of industry-dominated programmes have out-competed more inclusive governance arrangements, such as the Roundtable on Sustainable Biomaterials (Schleifer, 2013).

However, there are also reasons for optimism. Studying the related field of transnational forestry governance, Overdevest and Zeitlin (2014) describe how the EU assembled an experimentalist regime, which successfully combines public regulatory oversight with peer review and multi-stakeholder participation at the transnational and local levels. Non-state market-driven programmes like the Forest Stewardship Council are closely integrated in this regime, and there is evidence for the occurrence of meaningful deliberation and experimentation. Overall, the examples illustrate some of the challenges but also opportunities posed by multiple authorities. On the one hand, it can lead to regulatory conflict and competition, in which democratic principles are undermined. On the other hand, there is a possibility of assembling these multiple authorities into highly inclusive institutions that cross governance levels and geographical regions. Either way, public actors appear to retain a crucial capacity in shaping these outcomes.

Closely connected to the issue of multiple authorities, accountability and legitimacy issues continue to loom large in the private governance literature. Particularly, establishing accountability remains a major challenge. In the transnational realm, private governors are typically self-selected, and there is no demos available to hold them to account. For these reasons, principal-agent accountability – the main mechanism in liberal democracies – does not work in this context (Dingwerth, 2007). Transparency is often suggested as an alternative. Hale (2008) identifies three ways through which transparency can breed accountability in transnational governance: market pressures, public discourse and self-reflection. For example, market pressures can trigger a ‘transparency action cycle’ in which information disclosure triggers constructive behavioural change (Fung, Graham and Weil, 2008). Sceptics, however, question transparency’s ability to truly empower accounting actors in global environmental governance (Buchanan and Keohane, 2006; Gupta and Mason, 2014). They believe that ‘[w]ithout standards and sanctions ... accountability that is both effective and widely viewed as legitimate will remain elusive’ (Grant and Keohane, 2005). Hence, there is no

agreement amongst scholars on the relationship between transparency and accountability.

Existing empirical studies also paint a mixed picture (Auld and Gulbrandsen, 2010). In a recent quantitative analysis, Schleifer, Fiorini and Auld (2017) find that most non-state market-driven programmes do not disclose information in areas of ‘deep transparency’ – i.e. information about actual processes instead of information about paper procedures. They argue that transparency levels are often insufficient to promote accountability as hypothesised by Hale (2008) and others. A glance at the wider literature on accountability in global environmental governance reveals further complexities and contradictions (Gulbrandsen and Auld, 2016; Kramarz and Park, 2016). In this regard, Kramarz and Park (2016) observe how the rapid proliferation of accountability mechanisms in this domain has done little to stop the environment from deteriorating. This perceived lack of effectiveness could further exacerbate the legitimacy challenges faced by private governance institutions, damaging their output legitimacy.

In general, the legitimacy of private governance remains contested terrain. With regard to the normative dimension, multi-stakeholder participation was long hailed as the ‘gold standard’ of legitimate private rule-making. These ideas have their origin in deliberative democratic theory, with its focus on stakeholder participation and unconstrained dialogue (Dingwerth, 2007; Stevenson and Dryzek, 2014). However, more empirically oriented scholars increasingly question the validity of this ‘inclusiveness paradigm’. This research points to the limited deliberative capacity of private multi-stakeholder governance (Schouten, Glasbergen and Leroy, 2012). Dominated by international actors and rational scientific understandings of sustainability, initiatives like the Roundtable on Sustainable Palm Oil would often exclude local discourses and critical voices. At the same time, the sociological legitimacy of private environmental governance remains fragile and in flux (Bernstein and Cashore, 2007; Bernstein, 2011). Internal challenges arise as industry and civil society actors struggle over influence and policy outcomes, sometimes destabilising multi-stakeholder processes from within (Boström and Hallström, 2012; Schleifer, 2016). External challenges include the legitimation politics surrounding the creation of industry-sponsored competitor programmes (Fransen, 2012; Ponte, 2014). A new trend is the rise of ‘home-grown’ initiatives in the global South, such as the Indonesian Sustainable Palm Oil Standard (Hospes, 2014; Schouten and Bitzer, 2015). Backed by state and industry actors in developing countries, they increasingly contest the authority of transnational rule-making organizations like the Roundtable on Sustainable Palm Oil.

19.3.2 Climate Minilateralism

While transnational climate action is one of the major institutional and procedural developments driven by non-state actors, climate minilateralism is arguably the most prolific state-driven institutional development in polycentric climate governance. Minilateral climate coalitions or clubs, that is initiatives predominantly governed by a limited number of governments, have multiplied since the mid-2000s. Established by elected state governments on the one hand, but excluding a large group of countries on the other, they have distinctive legitimacy and accountability implications that we briefly explore in this section.

One can distinguish *three different types of clubs*. First, there are climate-related initiatives that have arisen from clubs with cross-cutting policy agendas that are not restricted to climate change. A prominent example is the Gleneagles Process of what was then the Group of 8 (G8, today G7), initiated by the United Kingdom in 2005 to bolster the chances of securing a strong climate agreement in Copenhagen. In 2007, the G8 also established a mainly informal dialogue with five other countries – China, India, Brazil, Mexico and South Africa – known as the G8+5, which also featured energy on its agenda.

Second, and parallel to the growing climate agendas of overarching clubs, a first rush of climate-specific minilateral arrangements emerged from the early 2000s onwards. Several new technology arrangements, all of them oriented towards mitigation, brought together member states and corporate actors, such as the Carbon Sequestration Leadership Forum and the Global Methane Initiative (see Chapter 16). Further initiatives arose after the Kyoto Protocol's entry into force, such as the (now-defunct) Asia-Pacific Partnership on Clean Development and Climate in 2006 and the Major Economies Process on Energy Security and Climate Change in 2007 (McGee and Taplin, 2009; Zelli, 2011).

After the Copenhagen climate conference, a third wave of minilateral initiatives emerged. Some of these covered new topics, for instance the Climate and Clean Air Coalition, which addresses the issue of short-lived climate pollutants. Others were directly affiliated with the United Nations and existing international organisations, such as the Carbon Pricing Leadership Coalition, convened by the World Bank and launched at the UN climate conference in Paris in 2015. Moreover, this third wave includes coalitions initiated by developing countries. As van Asselt and Bößner (2016: 54) hold, 'it is likely that climate coalitions will continue to emerge and co-exist with the UNFCCC.' This is also because, in addition to the more deeply institutionalised, implementation-oriented clubs, dialogue forums and political ad hoc coalitions come and go.

What does the trend towards greater minilateralism imply in terms of different dimensions of legitimacy and accountability? Arguably, the main focus of the

literature has been directed towards normative legitimacy, and particularly input legitimacy. There was a considerable lack of inclusiveness of the first two waves sketched earlier. Poorer countries, such as small island states or least-developed countries, were excluded not only from overarching clubs like the G7/8 or the Group of 20 (G20) but also from technology-specific partnerships, which showed no interest in a more balanced composition in terms of economic strength or vulnerability to climate change (van Asselt, 2007). This selectivity has triggered fierce criticism from various scholars. For Eckersley (2012: 33), ‘it offends the basic principles of communicative justice to restrict the negotiations of any anti-pollution treaty to the biggest polluters and to exclude victims of pollution simply because their pollution contribution is negligible.’

This picture has changed with the third wave of unilateralism that brought not only new clubs particularly targeted to developing countries but also a certain opening of some of the existing unilateral arrangements. A recent systematic comparison by Brandi and Bauer (2017) of a sample of 38 clubs shows that 33 of them have an open and inclusive approach and explicitly invite new partners to join. The ‘by-invitation-only’ exceptions are mostly clubs in the first and/or second waves. As a result, more than 120 countries are members of climate clubs today.

Recent unilateralism has also exhibited a growing and more diverse non-state membership. More than two-thirds of the clubs analysed by Brandi and Bauer (2017) include non-state actors. While corporate actors were often the only non-state partners in older technology clubs, the new initiatives also feature an increasing number of cities, civil society and international organisations among their members. Yet, notwithstanding a formally equal status in about half the clubs, they have a relatively low influence on decision-making and other key functions.

An even more difficult question to assess regards normative output legitimacy, i.e. how effective are climate clubs in targeting their key objective, which for most of them is mitigating climate change? Initial comparative studies by Andresen (2014) and Weischer, Morgan and Patel (2012) concluded that climate unilateralism has achieved very little in terms of carbon emissions reductions and that the clubs mostly serve as dialogue forums. Hovi *et al.* (2016: 7) caution, however, that ‘scholars are still relatively early in the process of trying to understand the potential of climate clubs for being instrumental in mitigating climate change.’ Their findings suggest that a combination of conditional commitments and access to a club good can be highly conducive ways to foster effective climate clubs.

While the long-term problem-solving effectiveness of climate unilateralism remains low or even uncertain, some clubs yield palpable consequences for other, more immediate aspects of output legitimacy. As Falkner (2016b: 87) stresses, one of the core ideas behind such coalitions is ‘more effective bargaining’, i.e. reaching

an agreement much more quickly than in multilateral negotiation settings, due to a smaller number of like-minded countries and the prospect of the provision of club goods (cf. Kahler, 1992). Indeed, Brandi and Bauer (2017) find that 90 per cent of the climate clubs in their sample managed to set rules, principles or norms with relevance for their objectives or functions. This included some sort of quantified and thus measurable target for 12 of the 38 analysed clubs. However, comprehensive measurement, reporting and verification systems are still absent from most minilateral efforts to address climate change (Falkner, 2016b: 93).

Another aspect of output legitimacy that merits more scholarly attention is the (de)legitimizing impact of climate minilateralism on multilateralism. This relates to a core argument in polycentric theory, namely that governing units 'are capable of making mutual adjustments' to develop collaborations and produce trusting interrelationships over time (Ostrom, 1999: 57). Indeed, as the comparative studies by Andresen (2014), Weischer *et al.* (2012) and Brandi and Bauer (2017) show, most climate clubs provide new venues for great powers to enhance and reinvigorate their bargaining power in UN climate negotiations. The most recent example is the G20 summit in Hamburg in July 2017. The meeting's agenda brought climate change into the debates among the world's leading economies, which in the end reaffirmed the support of 19 members for the Paris Agreement in spite of Washington's withdrawal. Furthermore, it was especially the third wave of climate minilateralism that induced a shift in narrative 'towards ways in which climate coalitions could complement the multilateral climate regime' (van Asselt and Bößner, 2016: 54).

The United States and Australia were the main drivers behind the second wave of climate minilateralism and designed some of the technology partnerships as alternative models or rival forums to the UNFCCC. This goes in particular for the Asia-Pacific Partnership (cf. van Asselt, 2007). Today, with the Partnership disbanded and especially the newer partnerships more strongly linked to the UNFCCC, most of this initial inter-club rivalry has vanished. It is too early to assume this is an irreversible trend, but if it continues it would confirm Ostrom's hypothesis on mutual adjustments in polycentric governance, for example through supporting similar goals and measures (cf. Gehring and Faude, 2014).

This prospect notwithstanding, the sociological legitimacy of climate minilateralism remains rather low. Gampfer (2016) analysed the connection between certain design features of climate clubs and their support rates. He used conjoint experiments embedded in nationally representative surveys in the United States and India and found that 'climate club approaches suffer from low public support' (Gampfer, 2016: 81). Some aspects may slightly enhance support rates though, including a higher share of carbon emissions regulated by the club, all member countries having to commit to emission reductions, the availability of club goods and

disadvantages for non-members. While more research is needed on a larger sample of countries, Gampfer's results resonate with other observations on specific minilateral arrangements. The Asia-Pacific Partnership, for instance, 'was widely perceived to be a laggards' club (Falkner, 2016b: 92), with key countries (the United States, Australia and Canada) led by governments that were sceptical of the need for urgent climate action. More striking still, while G7/G8 or G20 meetings regularly draw major media attention and civil society protests on site, most citizens do not know about climate-specific clubs. This creates a 'shadow of legitimacy', which may put an additional burden on the UN climate regime as the one climate governance institution that is known to these audiences. Thus, while the new role of the UNFCCC as an orchestrator of different climate actions raises some legitimacy concerns, it may also have a (re-)legitimizing effect by directing public attention towards the polycentric character of climate governance today (see Chapter 12).

This shadow of legitimacy also implies challenges to the accountability of climate clubs – but arguably to a lesser extent than for transnational and private climate actions. At least this may be the case for vertical or hierarchical accountability. The majority of citizens might not be aware of most climate clubs in which their respective governments participate, but they can still hold them accountable for associated climate policies (cf. Falkner, 2016a). That said, the aforementioned lack of measurement, reporting and review systems in most climate clubs (cf. Brandt and Bauer, 2017) sets certain practical limits to this form of accountability. This may be partly compensated through horizontal types of accountability. Importantly for both peer and reputational accountability, the NAZCA platform includes several minilateral arrangements. This platform gives the clubs an opportunity to showcase their commitments and achievements, and at the same time provides the UNFCCC Secretariat with the possibility to keep track of them. There is room for improvement of course: only a minority of climate clubs are registered on NAZCA and minilateral coalitions hardly report themselves but leave this to the parties involved in them (van Asselt and Bößner, 2016: 59–60). Still, the ongoing mutual adjustment between multilateral and minilateral governance arrangements also implies a rise in peer accountability as governance becomes more polycentric.

19.4 Conclusions

We argue that a normative legitimacy approach focusing on democratic values is both novel and useful to understanding polycentric climate governance. It seeks to reduce the democratic deficit by enhancing democratic values – participation, transparency, deliberation and accountability – in polycentric governance

(Dingwerth, 2007; Bäckstrand and Kuyper, 2017). The democratisation of polycentric climate governance can be seen as a set of values that are met to different degrees.

As Ostrom would have argued, a key challenge is that there is no ‘one-size-fits-all’ approach to assessing the legitimacy of polycentric climate governance due to the diverse legitimating audiences with different preferences and priorities with regard to mitigation and adaptation. Given the structural diversity of polycentric climate governance, the task should be to identify the varied accountability and legitimacy logics that are operating. Scholars have proposed alternative models of accountability, representation or localised deliberation and direct participation that better accommodate shifting and overlapping authority, structures and corresponding target audiences and publics (Black, 2008; MacDonald and MacDonald, 2017). The normative grounds for assessing the legitimacy of authoritative polycentric institutional arrangements vary: ‘transnational legitimization can best be accomplished, for now, through more piecemeal assemblages of mechanisms that contribute only partially, and in differing degrees, to authorities’ political legitimacy’ (MacDonald and MacDonald, 2017: 334). Their legitimacy rests on whether polycentric authorities are successful institutions for collective action and for addressing different audiences’ concerns. Skelcher (2005: 90) discusses the challenges to democratic governance at the systems level of polycentric governance given that the different units often have their own legitimacy dynamics and realms for accountability. Frequently, polycentric networks are loosely coupled to institutions of representative democracy and have weak ‘democratic anchorage’ (Sørensen and Torfing, 2004).

Polycentric theory has been relatively silent on the role of the state as a facilitator of effective and legitimate climate governance. However, numerous scholars argue that the rise of polycentric and networked governance by no means implies the demise of the state. Mansbridge (2014) even calls for a strengthened role of the state in polycentric climate governance. Along similar lines, Sabel and Victor (2017) suggest that the UNFCCC could serve as a focal point for integrating and facilitating the expanding universe of transnational and intergovernmental climate governance. Polycentric governance operates in the ‘shadow of hierarchy’ as states and intergovernmental organisations act as orchestrators of climate governance. Oberthür (2016: 91) argues that the Paris Agreement recalibrated the role of the UNFCCC to provide direction and orchestrate the emerging polycentric governance landscape of mitigation and adaptation actions undertaken by states and non-state actors alike. As transnational and intergovernmental realms of climate action are more closely aligned in the post-Paris era, more attention should be paid to

strengthening legitimacy and accountability in orchestration (Bäckstrand and Kuyper, 2017).

The Paris Agreement also reinforced a domestic logic to global climate politics, with nationally determined contributions as its core element (Falkner, 2016a). Recent work highlighting the role of the domestic context in promoting transnational governance initiatives confirms the return of the state (Roger, Hale and Andonova, 2017). An important normative implication is that both states and international organisations such as the UNFCCC should provide the ‘democratic anchorage’ (Sørensen and Torfing, 2004) for polycentric climate governance through their roles as facilitators and orchestrators.

Sociological and normative legitimacy are linked. Perceptions of the UNFCCC as a legitimate orchestrator of polycentric climate governance depend on whether it is transparent, inclusive, accountable and effective. The legitimacy crisis the UNFCCC suffered at the 2009 Copenhagen summit was related to the failure to agree to a new global climate treaty. Conversely, the success of the Paris Agreement meant that the UNFCCC regained its legitimacy among state and non-state actors. The credibility of the UNFCCC as a legitimate orchestrator or facilitator of transnational climate action will hinge on how far it can garner support among state and non-state actors alike (see also Chapter 12).

References

- Abbott, K. (2012). Engaging the public and the private in global sustainability governance. *International Affairs*, 88(3), 543–564.
- Abbott, K., Green, J. and Keohane, R. (2016). Organizational ecology and institutional change in global governance. *International Organization*, 70(2), 247–277.
- Aligica, P. and Tarko, V. (2012). Polycentricity: from Polanyi to Ostrom, and beyond. *Governance*, 25(2), 237–262.
- Andresen, S. (2014). Exclusive approaches to climate governance: more effective than the UNFCCC? *In Toward a New Climate Agreement: Conflict, Resolution and Governance*, ed. T. L. Cherry, J. Hovi and D. M. McEvoy. London: Routledge, 167–181.
- Auld, G. (2014). *Constructing Private Governance: The Rise and Evolution of Forest, Coffee, and Fisheries Certification*. New Haven, CT: Yale University Press.
- Auld, G. and Gulbrandsen, L. (2010). Transparency in nonstate certification: consequences for accountability and legitimacy. *Global Environmental Politics*, 10(3), 97–119.
- Bäckstrand, K. (2008). Accountability of networked climate governance: the rise of transnational climate partnerships. *Global Environmental Politics*, 8(3), 74–102.
- Bäckstrand, K. and Kuyper, J. (2017). The democratic legitimacy of orchestration: the UNFCCC, non-state actors and transnational climate governance. *Environmental Politics*, 26(4), 764–768.
- Bäckstrand, K., Kuyper, J. and Linnér, B. *et al.* (2017). Non-state actors in global climate governance: from Copenhagen to Paris and beyond. *Environmental Politics*, 26(2), 561–579.

- Bernstein, S. (2011). Legitimacy in intergovernmental and non-state global governance. *Review of International Political Economy*, 18(1), 17–51.
- Bernstein, S. and Cashore, B. (2007). Can non-state global governance be legitimate? An analytical framework. *Regulation & Governance*, 1(4), 347–371.
- Black, J. (2008). Constructing and contesting legitimacy and accountability in polycentric regulatory regimes. *Regulation & Governance*, 2(1), 137–164.
- Brandi, C. and Bauer, S. (forthcoming 2017). *Climate Clubs: Potentials and Pitfalls for Enhancing Legitimacy in Global Climate Governance*. Bonn: German Development Institute, in press.
- Buchanan, A. and Keohane, R. (2006). The legitimacy of global governance institutions. *Ethics & International Affairs*, 20(4), 405–437.
- Bulkeley, H., Andonova, L. and Betsill, M. *et al.* (2014). *Transnational Climate Change Governance*. Cambridge: Cambridge University Press.
- Cashore, B., Auld, G. and Newsom, D. (2004). *Governing through Markets: Forest Certification and the Emergence of Non-state Authority*. New Haven, CT: Yale University Press.
- Chan, S., Falkner, R. and Goldberg, M. *et al.* (2018). Effective and geographically balanced? An output-based assessment of non-state climate actions. *Climate Policy*, 18(1), 24–35.
- Cole, D. (2015). Advantages of a polycentric approach to climate change policy. *Nature Climate Change*, 5(2), 114–118.
- Dingwerth, K. (2007). *The New Transnationalism. Transnational Governance and Legitimacy*. London: Palgrave Macmillan.
- Dorsch, M. and Flachsland, C. (2017). Examining a polycentric approach to global climate governance. *Global Environmental Politics*, 17(2), 45–64.
- Eckersley, R. (2012). Moving forward in the climate negotiations: multilateralism or unilateralism? *Global Environmental Politics*, 12(2), 24–42.
- Falkner, R. (2016a). The Paris Agreement and the new logic of international climate politics. *International Affairs*, 95(2), 1–28.
- Falkner, R. (2016b). A unilateral solution for global climate change? On bargaining efficiency, club benefits, and international legitimacy. *Perspectives on Politics*, 17(1), 87–101.
- Fransen, L. (2012). Multi-stakeholder governance and voluntary programme interactions: legitimization politics in the institutional design of corporate social responsibility. *Socio-economic Review*, 10(1), 163–192.
- Fung, A., Graham, M. and Weil, D. (2008). *Full Disclosure: The Perils and Promise of Transparency*. Cambridge: Cambridge University Press.
- Gampfer, R. (2016). Unilateralism or the UNFCCC? The political feasibility of climate clubs. *Global Environmental Politics*, 16(3), 62–88.
- Gehring, F. and Faude, B. (2014). A theory of emerging order within institutional complexes: how competition among regulatory international institutions leads to institutional adaptation and division of labor. *Review of International Organizations*, 9(4), 471–498.
- Grant, R. and Keohane, R. (2005). Accountability and abuses of power in world politics. *American Political Science Review*, 99(1), 29–44.
- Green, J. (2014). *Rethinking Private Authority: Agents and Entrepreneurs in Global Environmental Governance*. Princeton, NJ: Princeton University Press.
- Gulbrandsen, L. and Auld, G. (2016). Contested accountability logics in evolving nonstate certification for fisheries sustainability. *Global Environmental Politics*, 16(2), 42–60.
- Gupta, A. and Mason, M. (eds.). (2014). *Transparency in Global Environmental Governance: Critical Perspectives*. Cambridge, MA: MIT Press.

- Hale, T. (2008). Transparency, accountability, and global governance. *Global Governance*, 14(1), 73–94.
- Hale, T. (2016). ‘All hands on deck’: the Paris Agreement and non-state climate action. *Global Environmental Politics*, 16(3), 12–21.
- Hickmann, T. (2017). The reconfiguration of authority in global climate governance. *International Studies Review*, 19(3), 430–451.
- Hovi, J., Sprinz, D. and Sælen, H. *et al.* (2016). Climate change mitigation: a role for climate clubs? *Palgrave Communications*, 2, 16020.
- International Trade Centre (ITC). (2017). Standards Map. Available at: www.standardsmap.org/ [Accessed 8 August 2017].
- Kahler, M. (1992). Multilateralism with small and large numbers. *International Organization*, 46(3), 681–708.
- Kramarz, T. and Park, S. (2016). Accountability in global environmental governance: a meaningful tool for action? *Global Environmental Politics*, 16(2), 1–21.
- Krisch, N. (2017). Liquid authority in global governance. *International Theory*, 9(2), 237–260.
- MacDonald, K. and MacDonald, T. (2017). Liquid authority and political legitimacy in transnational governance. *International Theory*, 9(2), 329–351.
- Mansbridge, J. (2014). The role of the state in governing the commons. *Environmental Science and Policy*, 36, 8–10.
- McGee, J. and Taplin, R. (2009). The role of the Asia Pacific partnership in discursive contestation of the international climate regime. *International Environmental Agreements: Politics, Law and Economics*, 9(3), 213–238.
- Oberthür, S. (2016). Reflections on global climate politics post Paris: power, interests and polycentricity. *The International Spectator*, 51(4), 1–15.
- Ostrom, E. (2010). Polycentric systems for coping with collective action and global environmental change. *Global Environmental Change*, 20(4), 550–557.
- Ostrom, V. (1999). Polycentricity – Part 1. In *Polycentricity and Local Public Economies*, ed. M. McGinnis. Ann Arbor: University of Michigan Press, 52–74.
- Overdevest, C. and Zeitlin, J. (2014). Assembling an experimentalist regime: transnational governance interactions in the forest sector. *Regulation & Governance*, 8(1), 22–48.
- Ponte, S. (2014). ‘Roundtabling’ sustainability: lessons from the biofuel industry. *Geoforum*, 54, 261–271.
- Roger, C., Hale, T. and Andonova, L. (2017). The comparative politics of transnational climate governance. *International Interactions*, 43(1), 1–25.
- Sabel, C. and Victor, D. (2017). Governing global problems under uncertainty: making bottom-up climate policy work. *Climatic Change*, 144(1), 15–27.
- Scharpf, F. (1999). *Governing Europe: Effective and Democratic?* Oxford: Oxford University Press.
- Schleifer, P. (2013). Orchestrating sustainability: the case of European Union biofuel governance. *Regulation & Governance*, 7(4), 533–546.
- Schleifer, P. (2016). Let’s bargain: setting standards for sustainable biofuels. In *Sustainability Politics and Limited Statehood: Contesting the New Modes of Governance*, ed. A. Esguerra, N. Helmerich and T. Risse. New York: Springer, 47–73.
- Schleifer, P., Fiorini, M. and Auld, G. (2017). Transparency in Transnational Sustainability Governance: A Multivariate Analysis of Regulatory Standard-Setting Programs, EUI Working Papers, Robert Schuman Centre for Advanced Studies 2017/16.
- Schouten, G. and Bitzer, V. (2015). The emergence of southern standards in agricultural value chains: a new trend in sustainability governance? *Ecological Economics*, 120, 175–184.

- Schouten, G., Glasbergen, P. and Leroy, P. (2012). On the deliberative capacity of private multi-stakeholder governance: the roundtables on responsible soy and sustainable palm oil. *Ecological Economics*, 83, 42–50.
- Skelcher, C. (2005). Jurisdictional integrity, polycentrism, and the design of democratic governance. *Governance*, 18(1), 89–110.
- Sörensen, E. and Torfing, J. (2004). The democratic anchorage of governance networks. *Scandinavian Political Studies*, 28(3), 195–218.
- Stevenson, H. and Dryzek, J. (2014). *Democratizing Global Climate Governance*. Cambridge: Cambridge University Press.
- van Asselt, H. (2007). From UN-ity to diversity? The UNFCCC, the Asia-Pacific Partnership, and the future of international law on climate change. *Carbon and Climate Law Review*, 1(1), 17–28.
- van Asselt, H. and Bößner, S. (2016). The shape of things to come: global climate governance after Paris. *Carbon and Climate Law Review*, 10(1), 46–61.
- Weischer, L., Morgan, J. and Patel, M. (2012). Climate clubs: can small groups of countries make a big difference in addressing climate change? *Review of European Community and International Environmental Law*, 21(3), 177–192.
- Zelli, F. (2011). The fragmentation of the climate governance architecture. *WIREs Climate Change*, 2(2), 255–270.