5

Accountability and Legitimacy

Earth system governance is not only a question of institutional performance and effectiveness; the accountability and legitimacy of decision making is equally important. This relates to all levels of governance, from the local to the global. It involves the accountability and legitimacy of public regulation, but also of novel types of private governance arrangements within and beyond the state. In the twentieth century, legitimacy and accountability were mainly concerns of national governments and their decisions. In the twenty-first century, with its emerging trends of governance beyond the state, we must consider the challenge of securing accountability and legitimacy in a very different context. In this chapter I explore how and why securing more accountable and legitimate governance is important in its own right, particularly in light of debates over more democratic forms of earth system governance; but also whether and how it might contribute to institutional effectiveness.

The chapter is directly linked to the two preceding. One driving force in the search for more accountable and legitimate forms of governance is the increased institutionalization of earth system governance. While international environmental negotiations were fringe issues on the global agenda fifty years ago, today more than 1,100 international environmental treaties are in force, along with over 1,500 bilateral agreements (Mitchell 2013), ensuring an ever denser web of globally negotiated rules and restrictions on state behavior that require a reconsideration of the legitimacy and accountability of such arrangements (see chapter 4, on "Architecture"). The complexities of earth system governance also generated a stronger political role for actors beyond the state, from multinational corporations and transnational advocacy groups to science networks and global coalitions of municipalities. Where governments fail to agree on effective international rules, nonstate actors are now taking the lead in developing global norms and standards, such as the private

Forest Stewardship Council or the Marine Stewardship Council (see chapter 3, on "Agency"). This involvement of nonstate actors poses new challenges to securing accountability and legitimacy in global rule making, not least since traditional means of doing so in a national context, such as electoral accountability and constitutional representation, cannot be applied to global rule making and nonstate governance.

Identifying sources and mechanisms for enhancing accountability and legitimacy in earth system governance thus becomes all-important, extending both to state actors and intergovernmental governance and to new and emerging systems of governance in which state actors may play only a marginal role (Kingsbury 2007; Mason 2008a). This is the focus of this chapter, which draws on earlier work with Aarti Gupta (Biermann and Gupta 2011a and 2011b; also Biermann 2007 and 2008).

Let me first explain how I understand accountability and legitimacy in earth system governance. Both concepts are often ill defined, and there is little agreement on what they entail. Both terms are also often used interchangeably in academic research and policy debates, adding to conceptual confusion.

Accountability refers in laypersons' terminology to the willingness to accept responsibility or to account for one's actions. Accountability is thus related to notions of responsibility; often the terms are used interchangeably, as for instance in a special issue on this topic in *Global Environmental Politics* in 2008. In essence, accountability has four elements: (1) a *normative element*, that is, a standard of behavior defined with sufficient precision; (2) a *relational element* linking those who are held accountable to those who have the right to hold them to account; (3) a *decision element*, that is, a judgment of those actors who may hold other actors accountable about whether the expected standard of behavior has been met; and (4) a *behavioral element* that allows the governing actor to punish deviant behavior of those held accountable. All elements need to be present in sufficient degree to make any accountability relationship meaningful.

An important question thus becomes the consent of those who are held accountable to this accountability relationship and to the standards of expected behavior. For example, the staff of an intergovernmental bureaucracy can generally be assumed to consent to the standards of appropriate behavior expected in their particular function, as well as to the right of member states to request policy changes if so desired. Yet

will they also consent to be held accountable to those affected by their action and decisions? This is related to an important distinction between what Keohane (2003) calls internal and external accountability, in the former of which the principal and agent are institutionally linked to each other, while in the latter those whose lives are impacted, and hence who would desire to hold to account, are not directly linked to the one to be held to account.

Accountability relationships are also of central concern with regard to private rule making in earth system governance, which has received much attention in academic writing in recent years (see chapter 3). Transnational labeling schemes, for instance, establish standards for the "sustainable" use of natural resources or other goods, which form the normative basis for an accountability relationship between firms that orient their behavior according to these standards and customers who expect compliance by firms, and who may opt to punish deviant firms by boycotting their products. The Roundtable on Sustainable Palm Oil is an interesting example of the complex accountability relationships that may arise from such novel governance mechanisms, including the role of inclusion and exclusion in establishing who accepts accountability claims by whom (Schouten and Glasbergen 2011; Schouten 2013). For example, some producers—in many cases in poor developing countries—may not have been sufficiently or effectively included in private rule-setting processes, or may not have consented to the private governance arrangement in the first place. Such problems of inclusion and exclusion—or, plainly put, of who is a stakeholder in earth system governance—becomes then a key question.

Another important element of accountability relationships—and an oft-assumed precondition for more accountable and legitimate governance—is the transparency of governance processes and outcomes. Transparency is widely assumed to be critically important to the search for more accountable and legitimate earth system governance (Florini 2007; A. Gupta 2008; A. Gupta and Mason 2014; Mason 2008b). Yet the diverse normative rationales underpinning the growing calls for transparency in governance, and its uneven institutionalization in specific governance arrangements, reveal complex links between transparency on the one hand and greater accountability and legitimacy of governance arrangements on the other (for detailed analyses of these relationships, see A. Gupta 2008 and 2010; A. Gupta and Mason 2014; Mitchell 2011).

Finally, accountability is also a core element of deliberative democracy. Deliberative democracy requires, in the terminology used by Dryzek and

Stevenson (2011), that the empowered space of political decision making be held accountable to the public space of deliberation. Even here, in the broader quest for deliberative democracy in earth system governance, problems of inclusion and exclusion remain prominent, for instance in deciding who is included in the empowered space of decision making, and whose voices carry more weight in the public sphere of deliberation. These problems are particularly relevant when it comes to global decision making in earth system governance, given the world's vast discrepancies of wealth and power (for example, Spagnuolo 2011), as well as in the emerging domain of private and private-public rule making.

Legitimacy commonly describes the state or quality of being legitimate, that is, of being in accord with established legal forms and requirements, or of conforming to recognized principles or accepted rules and standards of behavior. Core dimensions of the notion of legitimacy are the acceptance and justification of authority. Acceptance relates to how, and the degree to which, rules or institutions are accepted by a community as being authoritative. Acceptability thus relates to the reasons that justify the authority of certain rules or institutions (Bernstein 2005; Bernstein and Cashore 2007; Bodansky 2007).

Until very recently, legitimacy was a standard that only states could be expected to establish, as these were the only actors that could exercise authority in national and international governance. Only states could expect other actors to comply with their standards and had the formal means to enforce this compliance. As I laid out in chapter 3, however, the role of nonstate actors has increased substantially, and nonstate institutions and governance processes have become more common. Even though transnational public policy networks may be less effective in contributing to earth system governance than hoped for, it is evident that some nonstate institutions and mechanisms do impact upon political processes. The World Commission on Dams, for example, is a formally nongovernmental norm-developing body that has become rather influential in its issue area, even though its decisions are not legally binding. For this reason alone, the accountability and legitimacy of nonstate institutions becomes important, and the legitimacy of political institutions and policies beyond the state has received much interest among scholars and policymakers alike. Klaus Dingwerth (2007), for example, in his book-length treatment has distinguished three dimensions of democratic legitimacy beyond the state, which he describes as participation and inclusiveness, democratic control, and discursive quality. The core

standard underlying participation is the extent to which those who are subject to a decision have been included in decision making. The standard of democratic control requires that those who are governed should be able to control those who govern them. The third standard, that of the discursive quality of decision making, requires that no groups be excluded from decisions and deliberations. Deliberations should not be limited to elite negotiations and should provide room for inclusion of critical opinions (Dingwerth 2007, 27–29). These standards of participation, democratic control, and deliberation are not the only ones possible, but are examples of how legitimacy in earth system governance can be analyzed.

In doing so, two distinctions seem especially important. The first is between input and output legitimacy, originally developed by Scharpf (1997) for the assessment of the legitimacy of European decision making. Input legitimacy refers to the procedural characteristics of rule setting, and output legitimacy to the acceptance of rules because of their (perceived) ability to solve problems. Output legitimacy is hence related to governance effectiveness, yet with the fundamental difference that legitimacy in this sense hinges on *perceived* effectiveness among stakeholders, which is not necessarily the same as actual resolution of underlying problems. The Roundtable on Sustainable Palm Oil, for instance, seems to be supported by some of its participants, who see it as legitimate because of its perceived achievements, while stakeholders that remain outside the organization continue to criticize its legitimacy (Schouten and Glasbergen 2011). The Clean Development Mechanism under the climate convention has seemingly high degrees of output legitimacy, which may compensate for a more limited input legitimacy (Lederer 2011). On the other hand, the legitimacy of the Global Environment Facility might be hampered by the fact that the focus of its activities misses key concerns of poorer developing countries (Rosendal and Andresen 2011).

A second important distinction is between internal and external legitimacy (similar to the discussion of internal and external accountability above). Internal legitimacy refers to the acceptance of norms by participants in an institution, for instance the members of an organization or the supporters of a rule-making mechanism. External legitimacy refers to the acceptance of a rule by nonmembers or nonparticipants. In empirical situations, distinctions between internal and external legitimacy can be complex, however. In the case of the Roundtable on Sustainable Palm Oil, for example, one can distinguish acceptance of norms by representatives of industries that participate in the roundtable; by representatives

of industries that do not participate; and by other actors outside this production process who are affected by the decisions (Schouten and Glasbergen 2011; Schouten 2013).

Assessment

The quest for improved accountability and legitimacy of governance is not a new one. However, the emerging transformation of planetary systems, along with the resulting challenge of developing effective earth system governance, pose new challenges for securing the accountability and legitimacy of governance systems. I elaborate on these challenges in this section, drawing on the five core elements of the problem structure of earth system governance, as developed in chapter 2 above.

The accountability and legitimacy of earth system governance are affected, first, by high degrees of analytic and normative uncertainty. Key parameters of the earth system are insufficiently understood, which gives ample room for divergent interpretations in political discourse, generally requiring a broader degree of participation beyond the traditional government representatives. As laid out in chapter 3, for example, analytic uncertainty resulted in the emergence of novel types of global scientific organizations, such as the IPCC, whose own legitimacy has later become a matter for heated debate. Conflicts within the IPCC have arisen for instance around the low representation of experts from developing countries; the extent to which non-English and nontraditional publications are to be included in the panel's assessments; the inclusion of experts from advocacy organizations; and the assumptions underpinning scenario building. While many procedural changes to the functioning of the IPCC have increased its legitimacy in some constituencies (such as among developing countries, who have benefitted from a quota policy to increase Southern participation), they have also decreased its legitimacy in other communities, including in parts of the mainstream scientific community in some industrialized countries (see chapter 3).

Normative uncertainty is another problem for the legitimacy of global decision making in earth system governance. While in some cases, such as in addressing stratospheric ozone depletion, the appropriate standard of behavior at global and national levels was quickly and widely agreed, in other areas uncertainty and contestation still prevail concerning appropriate norms and behavioral standards. In climate governance, for instance, the relative emissions of countries can be interpreted according

to different parameters, such as population or economic parameters, and the interpretation can include or exclude historical emissions, all of which affects the assessment of the relative responsibility of countries such as the United States or China in mitigating the problem. Any proposed global limit—say 350 or 450 parts per million for atmospheric carbon dioxide concentration—also depends on assumptions about relative risk aversion. Thus, while a limit of 350 parts per million represents the most risk-averse reduction goal for emissions, it is also the one with highest political and economic costs (see chapter 6, on "Allocation"). Such conflicts, and associated scientifically and normatively contested tradeoffs, fundamentally complicate the quest to enhance the overall legitimacy and accountability of global environmental decision making. Again, this might require broadening of participation in global politics beyond the traditional multilateral diplomatic processes.

Temporal interdependence is a second problem for the accountability and legitimacy of earth system governance. This includes the accountability challenge relating to future generations, that is, that decisions taken today have implications for future generations who are not involved in these decisions and who may not benefit from current policies. The prime example is global warming, most of the impacts of which are expected to fully manifest themselves only decades from now. This raises the complex question of accountability relationships between present and future generations, which calls for potentially unprecedented governance innovations. At present, multilateral institutions are centered around government representatives who are subject to election cycles of merely 4–5 years. This makes the representation of long-term interests and concerns notoriously difficult. A stronger role for civil society organizations or scientists in such institutions could help them to serve as institutionalized "watchdogs" that protect future interests.

Temporal interdependence also relates to accountability relations between past and present generations. In climate governance, advocates and governments from the less or later industrialized countries in Africa, Asia, and Latin America have submitted claims about the historical responsibility of European and North American societies, which in the past have emitted greenhouse gases to an extent that may now force limitations in growth upon some developing countries also. Can present Northern societies be held accountable for their societies' past emissions? The question can be posed for different time scales. One could consider more recent historical accountability, for instance since 1988, when the United Nations General Assembly declared the protection of the global

climate a common concern of humankind. One could extend historical accountability back to the last two centuries, even though the global warming problem was not, or not sufficiently, known before 1988. Long-term historical responsibility of countries is not unknown to international law. For example, national debt or war reparations are often assumed to remain the legal responsibility of a country even if most inhabitants were not born when these responsibilities were incurred. Profound decisions on the accountability of past generations for future climate change, again, require broad participation of views and interests in global debates that will need to go beyond traditional diplomatic negotiations.

Earth system governance is further marked by functional interdependence across diverse sectors of global production and consumption. The sustainable production and consumption of palm oil is a prime example. The production and consumption of palm oil relates to various industrial products and production chains, from margarine to cosmetics, detergents, and fuel. Numerous environmental goods are affected, including the protection of biodiversity, the preservation of forests, and the mitigation of climate change. Socially, palm oil links various groups of consumers with producers, retailers, and affected communities in the producing countries, such as forest-dwelling indigenous people.

Functional interdependencies thus make any assessment of the accountability and legitimacy of rule making dependent on the boundaries of the group of stakeholders included. Should an evaluation of legitimacy include legitimacy among consumers, producers, retailers, biodiversity activists, climate campaigners, unemployed local poor, forest-dwelling tribes, or only some of these; and how can one resolve possible tradeoffs between accountability and legitimacy claims of different groups of potential stakeholders? One example is the controversies on how to design new climate governance arrangements that focus on the preservation of forests, in the form of reduced emissions from deforestation and forest degradation (REDD) initiatives (J. Gupta, van der Grijp, and Kuik 2013; A. Gupta, Lövbrand, et al. 2012). The protection of forests may require one set of policies and measures if the forests are considered only as carbon sinks, and another set if biodiversity protection is also considered a policy goal. The first would merely require increasing timber stocks (this could be achieved through plantations); the second would require qualitative measures to maintain the ecological integrity of a forest (plantations might be destructive to this goal). Furthermore, the beneficiaries of REDD initiatives

would vary substantially under these two scenarios, ensuring that analyses of the legitimacy and accountability (and effectiveness) of evolving REDD governance arrangements will turn on whether and which functional interdependencies are acknowledged in their design and execution (A. Gupta, Lövbrand, et al. 2012; Rosendal and Andresen 2011; Lederer 2011). Functional interdependence in earth system governance ensures that complex questions of internal and external accountability and legitimacy come persistently to the fore and require innovative governance solutions.

Earth system transformation also creates new types and degrees of spatial interdependence. This interdependence is at times systemic (when noncompliance of a few countries can nullify the actions of all others, as in the case of stratospheric ozone depletion) and at times cumulative (when the accumulation of local harm creates problems of global impact, as in the case of desertification). In both cases, spatial interdependence poses particular accountability and legitimacy challenges.

The accountability of governance is particularly affected by the geographic distance between principals and agents, between those who seek to hold others accountable and those who are held accountable. Traditional systems of electoral accountability and legitimacy are limited to areas of national jurisdiction, while the effects of environmentally harmful behavior reach beyond national borders. However, those who are affected by transnational pollution have hardly any rights to hold polluters accountable (also Mason 2008a). International law might provide some means of redress, yet the political relevance of legal norms, such as the responsibility of states to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states, is in all likelihood low. In the case of climate change, for example, it is difficult for countries that emit small amounts of greenhouse gases in proportion to their population to hold countries with much higher per capita emissions accountable for the excessive pollution of the atmosphere. Given the elements of accountability outlined above—normative, relational, and behavioral—one could posit that current earth system governance does not allow for establishing accountability relationships between countries with respect to global pollution, since neither agreement on the appropriate standard of behavior nor effective sanctioning mechanisms are discernible (see also the previous discussion in chapter 4).

Spatial interdependence also affects accountability relationships in transnational nonstate governance systems (Newell 2008). Here, the

citizen as final instance of decision-making power in national political systems is being replaced by the social construct of the stakeholder. Transnational labeling schemes that prescribe behavioral standards for firms are meant to be accountable to stakeholders in this policy area, who can sanction noncompliance through consumer boycotts and general reputational damage to noncomplying companies. However, the stakeholder is difficult to define and subject to power conflicts among affected communities. Systems of inclusion and exclusion become vital in constructing the stakeholders within a governance system that may have the right to hold actors accountable to agreed standards of behavior. Actors that are not seen as stakeholders do not have the right to participate in decision making or to hold others accountable. If legitimacy comes from the consent of the governed, who then is the governed here?

This question is also of central relevance in analyzing deliberative democratic decision making in a global context (Dryzek and Stevenson 2011). Spatial interdependence becomes particularly crucial in the relations between North and South, whereby actors in the North might explicitly (in transnational organizations) or implicitly (by consumer decisions) assume a governing role over actors from the South who are less, or not directly, represented in decision making. Also the development of global administrative law—hailed as progress by many actors in the North—can be seen as problematic from the perspective of developing countries, which might be negatively affected by the globalization of legal standards that have been developed in, and benefit mainly, the richer countries in the North (Spagnuolo 2011).

However, questions of who represents whose interests transcend the dichotomous North-South relationship that has long been a mainstay of international environmental politics. Instead, earth system governance is also marked by conflicts of interest between developing countries themselves, between those that experience high growth rates and rapid industrialization and those still plagued by persistent poverty and lack of economic growth. One consequence of this is the need to accept increasing global diversity in perspectives and interests, and hence the need for innovative, novel governance systems that can legitimately manage and integrate such diversity in global norm-setting and deliberative processes (Spagnuolo 2011; Baber and Bartlett 2009).

Earth system governance has to contend also with the tremendous consequences that governance failure might bring. In particular the current stalemate in international climate negotiations has given rise to

an increasingly alarmist discourse about the need to prepare for a global warming that exceeds 2 degrees Celsius above preindustrial levels (see chapter 7, on "Adaptiveness"). Part of this discourse is a renaissance of authoritarian claims, implicit in emerging concepts of global emergency governance along the lines more often evident in national decision making in times of war, civil unrest, or natural disasters. The potentially extreme effects of earth system transformation bring numerous crucial yet unexplored governance dilemmas. These include dilemmas that pit the adaptability of institutions to quickly emerging crises against long-term institutional stability and credibility, and tradeoffs between effectiveness and legitimacy and between governance effectiveness and fairness (see chapter 7). Resolving these dilemmas may require new and strengthened institutions at the global level. Ensuring the legitimacy and accountability of these institutions is then one of the most fundamental challenges.

Finally, higher degrees of accountability and legitimacy in earth system governance might enhance not only the democratic potential but also the actual performance of earth system governance. A general assumption in the literature is that governance can be expected to be more effective when its rules and representatives are seen as accountable and legitimate. Many governance mechanisms and arrangements—including in the realm of private and public-private cooperation—have thus sought to establish accountability systems and thereby to enhance legitimacy of governance rules and institutions in a variety of ways. In so doing, one key concern has been to understand potential tradeoffs between requirements of (environmental) effectiveness and high standards of accountability and legitimacy (Kalfagianni and Pattberg 2013c).

For example, numerous governance arrangements have attempted to include different stakeholders from civil society, ranging from direct, network-oriented collaboration, as in the transnational partnerships that are registered under the United Nations Commission on Sustainable Development; to the formalized decision-making system under other transnational governance arrangements (see chapter 3).

An important insight from the study of such governance mechanisms is the importance of inclusiveness in securing accountability and legitimacy. Inclusion of actors in decision making and norm setting can increase, for example, their sense of ownership of the outcomes, and hence compliance. The quality of the rules might increase since more voices have been included in decision making. Inclusiveness also gives the involved actors more information about the processes, hence

increasing transparency (Mitchell 2011). However, there is also a large variation in the extent to which different stakeholder groups are included (see chapter 3). Many partnerships that seek to provide safe and sufficient water to communities, for example, often merely reproduce the traditionally dominant role of international organizations, governments, and multinational corporations in global rule making, with little involvement of traditionally underrepresented communities, contrary to claims made by proponents of such partnerships (Dellas 2011).

Overall, one of the key challenges for accountability and legitimacy in earth system governance is the need to ensure and possibly increase the representation and inclusion of citizens and local perspectives in global decision making. At present, multilateral decision making is driven by the central bureaucracies of states. In traditional intergovernmental rule making, legitimacy is based indirectly on the accountability of these government representatives to voters. While heads of government, diplomats, and ministerial bureaucrats thus generally remain accountable to their domestic constituencies within their national political systems, the influence of minority positions within their countries is often weak. In particular, environmentalist views, the interests of future generations, and the interests of less powerful countries are often marginalized in such processes. Such long lines of accountability have therefore been questioned in a series of studies (for example, Archibugi and Held 1995; Archibugi, Held, and Köhler 1998; Bodansky 1999 and 2007; Commission on Global Governance 1995; Dingwerth 2005; Dryzek 1999; Held 1995, 1997, and 1999; Scholte 2002; South Centre 1996). Jan Aart Scholte, for example, argues that

a notional accountability chain does connect voters via national parliaments and national governments to global governance organizations, but the links have in practice been very weak. National political parties have rarely addressed global governance issues with any prominence in election manifestos and debates. A few exceptions aside, national parliaments have exercised only occasional and mild if any oversight over most suprastate regulatory bodies. (Scholte 2004, 211)

Although civil society organizations can observe, and sometimes issue statements at, international negotiations, the most important political processes still normally exclude nonstate representatives. And as shown above, transnational governance systems outside traditional intergovernmental politics also lack legitimacy with certain constituencies. In particular, they might overrepresent Northern interests and disempower actors from the South (Spagnuolo 2011). This lack of involvement of civil society, potential imbalances in the discursive power of different

perspectives from North and South, and the disproportionate influence of national bureaucracies in global rule setting are problematic. I will address this issue in the next section.

Toward Reform

As I have argued, earth system transformation poses particular challenges for the accountability and legitimacy of governance, especially regarding traditional multilateral decision making. Effective earth system governance requires that its rules and procedures be accountable and legitimate to a large variety of actors from the local to the global. Globally, accountability and legitimacy are particularly problematic with a view to the North-South divide. Both North and South, rich and poor, must accept the rules and norms of earth system governance as legitimate and see their representatives as accountable. What kinds of systems can generate such a balance of interests and perspectives to ensure a high degree of global legitimacy?

One way to secure the accountability and legitimacy of global earth system governance is to give primacy to multilateral decision making over alternative approaches, such as reliance on unilateral policymaking by a few powerful countries or decisions by the Group of 20 major economies that exclude the other 150 countries. For multilateralism to be effective, however, modes of decision making in international negotiations need to be fundamentally reformed and must allow for decisions by qualified majority that also account for countries' differences in population size or economic relevance. I have elaborated on this strategy in chapter 4 above.

Such qualified majority voting in international institutions, as outlined in chapter 4, benefits mainly governments, even though in the end the underpinning rationale is increasing the representation of the citizens of the (much) larger countries, which are structurally underrepresented in the traditional one-country-one-vote system.

It is equally important, however, to devise governance reforms that directly give a stronger role to citizens and civil society organizations in global governance. One approach is to more effectively include civil society representatives in national delegations to multilateral institutions and conferences. This increases the input of civil society in forming policy within negotiation teams and domestic foreign policy networks, although it might also lead to the cooptation of civil society in certain cases. In any case, governments remain in control of the overall position of their country in global decision making, and it is up to governments to decide

which civil society representatives they will involve (Schroeder, Boykoff, and Spiers 2012).

An alternative approach is the establishment, and empowerment, of separate decision-making or consultative organs in international institutions and organizations, such as civil society chambers, parliamentary assemblies, or deliberative assemblies. Each of these three approaches has found a large number of supporters in recent years, who are largely affiliated with theories of liberal institutionalism, cosmopolitanism, or deliberative democracy.

Civil Society Assemblies

One option to increase the participation of citizens is the stronger representation of civil society organizations in multilateral institutions and intergovernmental organizations.

A long-standing example of such formalized empowerment of civil society organizations is the unique representation of labor unions and employers' associations in the International Labor Organization (ILO). One could see this as a first option for achieving a balance in the participation of private actors from North and South in order to make earth system governance more accountable and legitimate (also Charnovitz 2005). In the ILO, each state is represented with four votes, two of which are assigned to governments and one each to business associations and labor unions. The ILO procedure, if adopted for intergovernmental environmental institutions, would attend to the basic problem of civil society participation in global environmental governance—namely that environmental groups cannot adequately compete with the financial power of business associations, and developing country organizations often cannot compete with the financially well-endowed organizations of industrialized countries. An ILO-type structure would grant business interests and environmental interests equal rights, and would guarantee that Southern nongovernmental organizations would have a stronger influence. However, a straightforward adoption of the ILO formula for earth system governance may be difficult, given the higher degree of complexity of earth system governance compared to the ILO's more clear-cut "business versus labor" conflicts. Also, the ILO follows the traditional one-country-one-vote approach. Union and employer representatives from Monaco or the Maldives have thus formally the same voting power as their colleagues from the United States or India.

An alternative is separate decision-making bodies for civil society representatives in international institutions. One concrete proposal has

been advanced by the Commission on Global Governance, which argued for an international Forum of Civil Society within the United Nations. This forum would comprise 300–600 "organs of global civil society," to be self-selected from civil society. The Forum could convene annually before the meeting of the UN General Assembly and try to develop consensus statements on key items of the Assembly's agenda (Commission on Global Governance 1995, 258).

A regional experience is the European Economic and Social Committee, which is a consultative body of the European Union established in 1957. This committee has 353 members, drawn from three major constituencies: employers, employees, and other interest groups (including environmental groups), selected from all European Union member states roughly according to population size. The European Economic and Social Committee must be consulted for a variety of EU legislative processes, including environmental policy, and can also voice its opinion on its own initiative. Even though the actual influence of the committee is open to debate, it allows for more civil society input than traditional governance systems at the global level and could even be seen as a form of "deliberative democracy via a functional assembly" (Smismans 2000).

Separate chambers for civil society representatives could also be established in international institutions for earth system governance, especially for any new bodies, as proposed in chapters 3 and 4 above: the World Environment Organization, the high-level UN Sustainable Development Council, and the UN Trusteeship Council for Areas beyond National Jurisdiction. The governing bodies of these new institutions could provide for a special chamber for representatives of civil society, which could have clearly defined consultative rights. The representatives in these special chambers would be chosen by special caucuses of a wide array of organizations, taking into account, importantly, regional balance and geographic representativeness.

Regional balance is highly important, given that representation of civil society organizations from developing countries in UN settings still remains lower than that of their richer and better-organized counterparts from industrialized countries (see also Kaasa 2007, 115–116). For this reason, networks of civil society organizations often seek to balance views and interests through self-regulation, and also by including financial support for representatives from developing countries. In some organizations, civil society has been formally divided into "Northern" and "Southern" constituencies, loosely following the traditional country groupings of the UN system. North-South quotas are common, for instance, in

meetings and alliances of nonstate activists affiliated with the UN Commission on Sustainable Development. Also the IPCC, as a form of governance by nonstate actors, is an example of increased participation of developing countries and nonstate actors from the South (Biermann 2002b; see also chapter 3). North-South quotas are also part of the decision making of the Forest Stewardship Council (Pattberg 2005a and 2006; Gulbrandsen 2010), although conspicuously missing in other initiatives, for example the Roundtable on Sustainable Palm Oil (Schouten and Glasbergen 2011). Simple North-South quotas, however, are only proxies for a more balanced representation of the world's citizens, given that the vast majority of people lives in the South. Such North-South quotas, therefore, in effect institutionalize affirmative action for citizens of the North, who gain a larger influence than they would have if other indicators, such as population sizes, were used as a basis for balancing. The European Economic and Social Committee is an example of a consultative forum of civil society organizations that goes beyond the one-country-one-vote system and beyond simple quotas for country groupings, by loosely linking the selection of representatives to the population size of European countries. The representatives thus selected do not represent their countries but rather a societal interest, from farming to industry, labor, or environment. At the global level, this would imply that more representatives of civil society would be selected from countries such as Brazil, India, Indonesia, or the United States.

As for the interests to be represented by civil society organizations, these could include, for example, a revised form of the nine current "major groups" in UN sustainable development politics. These groupings have emerged since the 1992 UN Conference on Environment and Development in Rio de Janeiro, when traditional concepts such as "nongovernmental organizations" became less relevant in presenting common positions of civil society, and when traditional UN approaches—such as different categories of nongovernmental organizations based on their scope of interest—proved increasingly irrelevant. Nine "major groups" have been named in Agenda 21 as core elements of civil society and include women, children and youth, indigenous people, nongovernmental organizations, local authorities, workers and trade unions, business and industry, scientific and technological communities, and farmers. The "major group" concept has been criticized regarding both its rather spontaneous origin around 1992 and its current interpretation (Mert 2009 and 2014). While farmers are represented, for instance, fishers are not; while indigenous people are included, urban poor are not; while

youth are represented, the elderly are not; and so on. Comparable mechanisms have emerged under multilateral environmental agreements, for example in the form of different "constituencies" of civil society recognized under the climate convention (Schroeder and Lovell 2012).

Many private governance mechanisms have meanwhile invented other ways of further defining interest representation in earth system governance, ways that can also serve as models for civil society representation in international institutions. In the Forest Stewardship Council and the Marine Stewardship Council, for example, stakeholders such as business or environmentalist groups have been organized into separate voting chambers (Kalfagianni and Pattberg 2013b). The Forest Stewardship Council has three chambers, for environmental, social, and economic interests, further subdivided in Northern and Southern chambers (Pattberg 2006; Dingwerth 2008; Gulbrandsen 2010). The Roundtable on Sustainable Palm Oil recognizes seven constituencies in its decision making: oil palm growers; palm oil processors or traders; consumer goods manufacturers; retailers; banks and investors; environmental advocacy organizations; and social and development advocacy organizations (Schouten and Glasbergen 2011). In health governance, the representation of civil society is also becoming more common. Public-private partnerships in the area of health give various rights to nongovernmental groups in their boards, including the right to vote (Abbott and Gartner 2011). The Joint UN Programme on HIV and AIDS (UNAIDS) is the first UN-related initiative that allows for formal civil society representation, by including delegates of five nongovernmental organizations in its program coordinating board and with the added requirement that delegations should include people living with HIV. However, these civil society representatives have only nonvoting status.

Despite the general attractiveness of the idea of special chambers for civil society representatives in multilateral institutions, there remain numerous problems with this proposal. To start with, the accountability of civil society representatives is in itself problematic. As Jan Aart Scholte concludes with regard to accountability,

most civil society groups have operated very limited and unimaginative accountability mechanisms in relation to their own activities. At best, the organizations have tended to have no more than loose oversight by a board (often composed largely of friends, who are in some cases paid), periodic elections of officers (with low rates of participation and sometimes dubious procedures), … minimalist reports of activities (that few people read) and summary financial records (which often conceal as much as they reveal). … [I]n civil society just as much as in

governance and market circles … formal accountability may fall well short of effective accountability. Worse still, some civil society players in global politics have not met even minimal standards of accountability. (Scholte 2004, 230–231)

What are needed, in this situation, are clear standards that vouchsafe effective minimal accountability mechanisms and prevent a flood of loud but dubious MONGOs (My Own NGOs), BRINGOs (Briefcase NGOs), and "come-and-gos." Despite such negative examples, however, it is still conceivable to construct improved accountability mechanisms for civil society organizations at the global level. Several civil society networks, such as the stewardship councils on forests and oceans, can serve as examples of relatively strong accountability mechanisms.

The legitimacy of civil society organizations is also problematic. In the domestic context, civil society organizations may derive legitimacy from their members or donors—even though members and donors often have no formal means to decide the policies of the organization. They can also gain legitimacy from effectively protecting environmental goods. In the Philippines, for example, nongovernmental groups have successfully claimed in court to derive legitimacy and *locus standi* by representing the interests of future generations. In the international context, however, with its high disparities in wealth and power, ensuring the legitimacy of private actors and their governance arrangements is more complicated. Most larger civil society organizations are headquartered in industrialized countries, and most funds donated to civil society causes stem from the North, both public and private. For example, given the size of its donations, even the Netherlands has been granted a permanent seat in the governing body of the World Wildlife Fund, together with a number of other major donor countries (Dombrowski 2013). It is possible that this imbalance indirectly influences the agenda of these groups, such that they are more accountable to Northern audiences (Dombrowski 2013; South Centre 1996). Yet as outlined above, there are a variety of institutional mechanisms available—such as regional quotas or a stronger selection of representatives from the more populous countries—that could correct some effects of these imbalances.

In sum, the parallel development of increasing reliance on global decision making and decreasing legitimacy of such global institutions creates a need to explore options for better civil society representation within them. This leads to the practical challenge of designing institutions that guarantee participation of civil society in earth system governance through mechanisms that ensure a balance of opinions and perspectives. Clear principles and decision-making rules that draw on fair

geographical representation are thus crucial to ensure the legitimacy of civil society inclusion.

At present, almost all countries—with the possible exception of those in Europe—are unlikely to accept voting rights for nonstate actors (regardless of the precedent of the ILO, where unions and employer organizations can vote). It would be possible, however, to restrict the voting rights of civil society organizations, for instance by reserving agenda items of highest importance—including agreement on new legally binding rules—for a vote of governmental representatives only. For civil society, formal participation in deliberations as well as the stronger right to be heard and to table contending opinions, within the framework of a special chamber in bodies such as a UN Sustainable Development Council or the assembly of a World Environment Organization, would already be an important gain that could increase the legitimacy and accountability of intergovernmental decision making. Such reforms would help bring global decision making more in line with the political realities of the twenty-first century.

International Parliamentary Assemblies

A radically different approach is to create a United Nations parliamentary assembly of representatives of national parliaments, convening on a regular basis at the seat of the United Nations, possibly in the form of a second chamber of the United Nations to complement the chamber of government representatives (Commission on Global Governance 1995, 257; Falk and Strauss 2001; Bummel 2010; Heinrich 2010; see also the Campaign for a United Nations Parliamentary Assembly, http://en.unpacampaign.org). Such proposals are usually affiliated with theories of liberal institutionalism, cosmopolitanism, or, in their more radical versions, world federalism.

A parliamentary assembly would be elected most likely through the national parliaments, either from within their own ranks or from outside. Direct elections to a world parliamentary assembly, along the lines of elections to the European Parliament, are hardly conceivable at present. A parliamentary assembly would not need to have decision-making power but could be restricted to a consultative role. Even then, the double identity of the parliamentarians—for example as members of their national parliaments and of the world parliament—could guarantee some feedback across scales of negotiations and decision making.

Given the basic idea of formal representation of domestic interests at the global level, issues of the selection of representatives, their voting

rights, and their rights of cross-national affiliation become important questions to be resolved in operationalizing such proposals. As for voting rights, a departure from the one-country-one-vote system toward a stronger recognition of larger, more populous countries is inevitable. The most radical version would assign seats by population, granting a large share of the seats to members of the parliaments of India, United States, Brazil, and Indonesia, along with representatives of the National People's Congress in China. Such equal representation of citizens might not, however, be acceptable to smaller countries, requiring adjustments that protect the interests of less populous countries (see on various models Bummel 2010; Schwartzberg 2012; and my discussion in chapter 4 on qualified majority voting). Parliamentary chambers could be included also in specialized institutions of earth system governance, for example potential new bodies such as a World Environment Organization (also Heinrich 2010, 30), a UN Sustainable Development Council, and a Trusteeship Council for Areas beyond National Jurisdiction (as proposed in chapters 3 and 4 above).

The support for a world parliamentary assembly is growing. It includes, as of October 2013, positive motions by the Canadian House of Commons Foreign Affairs Committee, the Pan-African Parliament, the Latin American Parliament, the Senate of Argentina, the Parliamentary Assembly of the Council of Europe, the European Parliament, the Parliament of Mercosur, and the East African Legislative Assembly, along with support by 372 nongovernmental organizations from 70 countries and the individual support of 862 members of parliament from 105 countries and hundreds of other individuals from science, journalism, and civil society (see list of endorsements at http://en.unpacampaign.org).

However, resistance from many countries is still strong. Many countries are likely to be veto players, including the United States and China, who might see parliamentary assemblies as a slippery slope towards a more federal global system. Granting only consultative rights to such an assembly might address some of these concerns. Most countries today are at least formally organized as parliamentary democracies, and a stronger consultative voice for national parliamentarians in global governance might eventually gain support from many national parliaments.

Deliberative Global Citizens' Assemblies

A third, again radically different approach to a strengthened involvement of citizens in global institutions of earth system governance is the

establishment of deliberative global citizens' assemblies. As in the other proposals, this could take the form of one separate assembly within the United Nations system or numerous specialized assemblies under distinct institutions, for example under an environmental treaty. There have been numerous experiences with deliberative assemblies, citizen juries, and participatory processes at the national level, from OECD countries to China (Dryzek 2006; Dryzek, Bächtiger, and Milewicz 2011). A global deliberative assembly would not include representatives of particular countries or interests, and would not be based on election. Instead, members of the assembly would be chosen by random selection, hence merely representing their own ideas in a process of deliberation among fellow citizens. In one proposal, an assembly would bring together 1,000 citizens, equaling about one citizen for every six million people. In this model, 200 citizens would come from China (Dryzek, Bächtiger, and Milewicz 2011, 36–37). Random selection of citizens would ensure that members of the traditional elites of political parties, major environmental organizations, or governments would be largely excluded. According to proponents of deliberative democracy, differentials in education, experiences, age, or language would not be a problem but rather would increase the authenticity of the deliberation—by bringing together, say, Indian farmers, Brazilian migrant workers, and Canadian suburbanites in one global citizens' assembly (with the support of facilitators and translators). Such assemblies could focus on questions of particular saliency and complexity in the intergovernmental policy process. Dryzek, Bächtiger, and Milewicz (2011, 35) suggest climate change as a particularly prominent issue to be tackled by a deliberative global citizens' assembly.

A related idea—advanced by Baber and Bartlett (2009 and 2013)—is to create not an assembly but a global deliberative process that would generate global norms for earth system governance based on deliberations of numerous citizen juries all over the world. If implemented properly, such a series of citizen juries could well help ascertain globally acceptable norms in contested areas of earth system governance. To become effective international law, these norms would eventually need to be affirmed and implemented by governments and other governance institutions. Even if the global network of citizen juries did not result in binding law, its normative force, if grounded in sufficient numbers of professionally run citizen juries, could be substantial (see Baber and Bartlett 2009 and 2013). Here too, fair representation of different interests across the globe remains a problem. For example, so far most citizen juries of this kind have been organized in industrialized countries, thus

overrepresenting the views of Northern citizens. Yet even here, different normative views among Northern countries have been identified, for example different views of a proposed right to food by citizens in the United States and in Italy.

One further radical alternative would be a stronger reliance on the Internet and social media, enabling millions of people to participate in a global deliberative process. However, the potential for global e-democracy is severely hampered by the digital divide between rich and poor. In 2013, 61 percent of all people did not use the Internet, including 84 percent of Africans and 68 percent of people in the Asia/ Pacific region. In comparison, only 25 percent of Europeans had no Internet access in 2013 (ITU 2013). While this strong divide in Internet accessibility among regions could technically be corrected in global surveys through stronger weights given to voices from less accessible regions, a global deliberation through social media is still likely to be fraught by strong biases in favor of the better-connected global middle class in both North and South.

Conclusion

Taken together, developing systems to ensure the accountability, legitimacy, and democratic quality of earth system governance remains one of the central political challenges and reform tasks of our time. The Anthropocene poses particular challenges for the accountability and legitimacy of decision making, requiring unique and innovative analytical approaches and political strategies. There is also substantial variation in existing governance arrangements and innovations in terms of their legitimacy, accountability relationships, and democratic quality. The analytical problem of understanding earth system governance in terms of accountability and legitimacy thus needs to be accompanied by research on concrete options for political reform.

In this chapter, I have thus outlined ways in which earth system governance could be made more legitimate and accountable through a more institutionalized involvement of citizens in intergovernmental decision making. I have sketched essentially three avenues for greater citizens' participation in international decision making: through special chambers of civil society, through a parliamentary assembly, or through a global deliberative citizens' assembly.

All three proposals can serve as a blueprint for either a general high-level body within the UN system, such as a second (consultative) chamber

in addition to the UN General Assembly, or issue-specific special assemblies within distinct institutions and agencies of earth system governance. A parliamentary assembly, for example, could be part of the governance structure of a World Environment Organization or could be a subsidiary body of the conference of the parties to a multilateral environmental agreement, such as the climate convention, potentially helping to break deadlocks in intergovernmental negotiations. At present, any new assembly is likely to be restricted to a consultative role, possibly linked with the right to expect a particular treatment or recognition of the advice within intergovernmental decision making.

All three proposals raise the important consideration of political feasibility, especially when it comes to getting the support of larger countries. The Chinese government, for example, might feel less threatened by a deliberative citizens' assembly than by a global parliamentary assembly of elected representatives, while countries with strong national parliaments might feel more attracted by a consultative parliamentary chamber or assembly, for example under the climate convention. The strongest political support, so far, seems to be for the campaign to establish a United Nations Parliamentary Assembly, which has received the endorsement of numerous politicians and national and intergovernmental organizations, as well as over 300 academics including Richard Falk, Peter Haas, David Held, Thomas Pogge, Saskia Sassen, and Michael Zürn (see http://en.unpacampaign.org). However, as pointed out by critics, support among the mainstream US political community is largely absent, with 51.2 percent of US citizens polled in a 2007 BBC survey clearly objecting to the idea of a global parliament that would be based on country population sizes and have a mandate to take binding decisions (Bummel 2010, 24).

In sum, the political feasibility of such proposals remains an open question, and the proposals themselves are still insufficiently concrete. A key conclusion is hence that the study of the accountability, legitimacy, and democratic quality of earth system governance is still in its infancy, despite all efforts to date. More academic and policy-oriented research is urgently needed. For this reason, the field of earth system governance, with its highly complex and politically divisive issues, could well serve as an important testing ground for further experimentation with institutionalized citizens' involvement in global decision making. Experiences with potentially innovative consultative bodies might not only drive forward key policy processes in earth system governance, but more broadly advance the democratic quality of global governance.

Demetrius

Es ist die große Sache aller Staaten

Und Thronen, daß gescheh, was Rechtens
    ist,

Und jedem auf der Welt das Seine werde.

Denn da, wo die Gerechtigkeit regiert,

Da freut sich jeder sicher seines Erbs,

Und über jedem Hause, jedem Thron

Schwebt der Vertrag wie eine
    Cherubswache.

Doch wo – – – – – – – –

Sich straflos festsetzt in dem fremden Erbe,

Da wankt der Staaten fester Felsengrund.

– – – – – – – – Gerechtigkeit

Heißt der kunstreiche Bau des
    Weltgewölbes,

Wo alles eines, eines alles hält,

Wo mit dem Einen alles stürzt und fällt.

Demetrius

'Tis the most dear concern of every state

And throne, that right should everywhere
    prevail,

And all men in the world possess their
    own.

For there, where justice holds uncumbered
    sway,

There each enjoys his heritage secure,

And over every house and every throne

The contract keeps its angel watch.

But where – – – – – – – –

With impunity the heritage is taken

There shakes the ground of all the states.

– – – – – – – – Justice

Is the ingenious keystone of the world's
    wide arch,

The one sustaining and sustained by all,

Which, if it fail, brings all in ruin down.

Friedrich Schiller, *Demetrius*, 329–341 (unfinished fragment)