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Energy Efficiency Standards:
The Struggle for Legitimacy

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ABSTRACT

The decrease in the regulatory power of national governments has generated a governance gap that has been filled by, among others, international standard-setting bodies. In these bodies, private actors develop rules that govern commonly used technologies and ultimately shape relevant public policy. The legitimacy of such regulatory outsourcing is largely based on a variety of quasi-democratic mechanisms and principles, which these bodies have endeavored to make central to the standard-setting processes. This paper examines such legitimacy-seeking aspirations by comparing the normative claims of implementing democratic principles with the actual practices of developing standards at the International Electrotechnical Commission (IEC). The analysis is based on interviews with stakeholders and a review of numerous public and IEC internal documents. The findings suggest that the process is inadequate if the goal is not just to bundle technical expertise but also to meet the standards of democratic governance. The study thus contributes to the literature on international standard-setting as well as legitimacy of global governance.

KEYWORDS

Energy Efficiency, IEC 62087, International Electrotechnical Commission, Labeling Regulation, Private Governance, Television, Transnational Governance

INTRODUCTION

Over the past few decades, scholars have witnessed a transference of a part of regulatory power from national governments to various non-state transnational (private) actors (Cashore et al., 2011). Such transference has been most prominently observed in governance gaps (Strange, 1995), whereby some of these actors integrate their rules in governmental regulations in the form of international technical standards. Despite being nominally voluntary in terms of adoption, these international standards often transform into mandatory requirements that shape national public policy and hence become authoritative.

Standards are often developed and promoted by International Standard-setting Bodies (ISSBs). These bodies operate based on mechanisms and practices that are in tension with democracy principles commonly held by political institutions. ISSBs emphasize technical expertise and efficiency in their decision-making and at the same time are not held accountable toward stakeholders (Brunsson & Jacobsson, 2000). Scholars have expressed concerns that such technocratic decision-making process (Cafaggi, 2011) is ultimately causing uneven distributional gains among the stakeholders (Büthe & Mattli, 2011, p. 220) as well as a legitimacy deficiency in the overarching global governance

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arrangement (for a recent extensive study, see, Eliantonio & Cauffman, 2020). Indeed, studies repeatedly provided evidence suggesting issues with various aspects of the legitimacy of international standard-setting, such as the marginalization of actors with less technical and financial capabilities in decision-making (see for example, Büthe, 2010b; Forsberg, 2012; Fuchs et al., 2011; Hauert, 2010; Heß, 2020). Meanwhile, legitimacy remains crucial for ISSBs—as a form of global governance institutions—to *survive* and obtain support from stakeholders.

Against this backdrop, the WTO and major ISSBs established guidelines and procedural safeguards in an attempt to achieve what has been termed as "good standardization" and ultimately *legitimize* standard-setting processes. Within the framework of the TBT agreement, the WTO established six principles for the development of international standards (Technical Barriers to Trade Committee, 2000). Meanwhile, the International Standardization Organization (ISO) and the International Electrotechnical Commission (IEC) developed the ISO/IEC Guide 59:2019 (referred to here as Guide 59) to serve as an internal guideline for recommended practices for standardization (ISO/IEC, 2019). Both are essentially geared to address various issues that could hinder the legitimacy of the standard-setting process, such as low transparency or the marginalization of certain stakeholders.

Despite the importance of this development, we know very little about the extent to which such guidelines and procedural safeguards are implemented in practice. Indeed, our knowledge about the internal operations and dynamics in ISSBs is very limited. Arguably, this is due to the very reason behind the introduction of the good standardization guidelines, namely the strict access rules to ISSBs.

This paper seeks to achieve a better understanding of the ISSBs' internal processes and practices by analyzing the case of developing the international standard for the Television (IEC 62087) at the IEC. This is a case whereby an international standard plays a central role in the functionality of a public policy. The standard has been integrated in the energy efficiency labeling regulations for the Television in the U.S. and European Union (EU). The ultimate aim was to reduce the energy bill and environmental footprint generated by the use of TVs and create market incentives for manufactures to design more energy-efficient devices.

Given the far-reaching consequences of the IEC 62087, at stake are not only governance procedural aspects but also the effectiveness of the overarching regulatory arrangement in achieving its intended societal and environmental objectives. Examining the legitimacy of the embedded standard in such governmental regulation is, therefore, warranted. As the guidelines referred to above aim to address/safeguard such issues, this paper asks how legitimate the process of setting the international standard for TVs is with respect to the principles of good standardization?

To answer this question, the process of developing the IEC 62087 will be analyzed against the procedural safeguards of good standardization articulated in the WTO six principles and the Guide 59. Both guidelines are viewed as rooted in the normative principles of democratic legitimacy—input, throughput and output—and collectively comprise an overarching framework that international standard-setting should adhere to in order to legitimize their processes. Similar to other major ISSBs, the IEC claims to adhere and implement both guidelines.

The IEC 62087 proves to be an interesting subject of study since it both governs a globally used technology (i.e., TVs) and was integrated into regulations that were widely applied and have far-reaching societal consequences. Since the standard was adopted, it has repeatedly been criticized for being ill-suited to achieve its objectives making it an interesting case to analyze its output legitimacy. Finally, the IEC—as a subject of study—has been surprisingly overlooked in the literature despite its focal role it plays in international standard-setting (for an exception, see, Büthe, 2010a).

To the author's knowledge, only a handful of papers have conducted a similar analysis (See, Delimatsis, 2014; Forsberg, 2012; Kanevskaia, 2020), and this paper is the first to shed light on why such standard might have failed to achieve its intended objectives (i.e., deficiency in output legitimacy). As developing the standard followed typical IEC procedures, lessons from this paper will allow us to broadly reflect on how the good standardization principles are implemented in practice at this institution. While the generalizability of the findings might be limited—given the scope of the

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