

**Exploring Community Energy Governance as a  
Socio-Legal Institution: Some regulatory issues on  
institutional co-existence and achieving energy  
justice**

Prof Dr Michiel Heldeweg

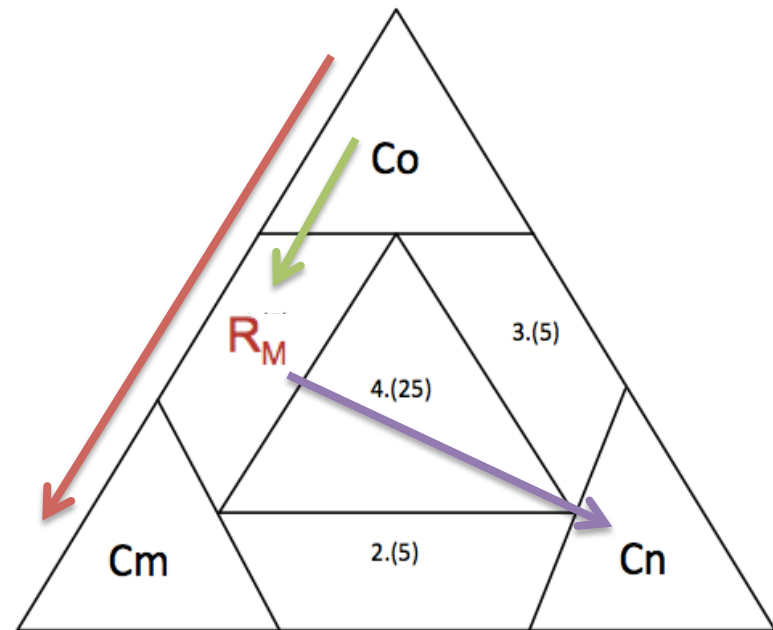
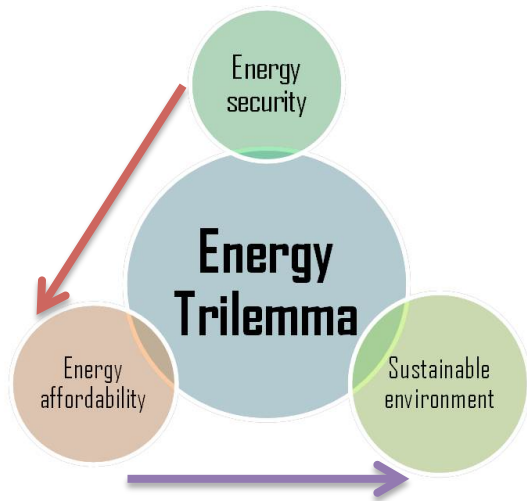
Dr Séverine Saintier

# Introduction

- The rise of RES: shift from traditional energy governance to local community initiatives and self-regulation
- Conundrum of this rise of RES: what role and what socio-legal identity of energy consumers: consumers, citizens or prosumers? Important question to be assessed on the macro level (on the ground) but also at the micro level, to define to meet new demands of 'energy trilemma' (Heffron et al) and help place justice at the core of energy sector (Sovacool et al)
- Need for greater analytical clarity on various socio-legal spheres of governance.
  - Professor Dr Heldeweg: new shift in the energy sector calls for new category: civil energy network
  - Dr Saintier: the UK experience: the rise of the CiCs through the shared ownership policy
  - Conclusions and recommendation

# TOWARDS CIVIL ENERGY NETWORKS?

## Energy Transitions & Governance Shifts



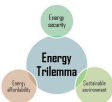
Constitutional order ... Competitive Market ... Civil networks

Regulated energy market (Rem)  $\Leftrightarrow$  Civil energy networks (Cen)

# TOWARDS CIVIL ENERGY NETWORKS?

- Governance Shifts in Institutional Environments (L2)

Embedded; Societal Acceptance: Effective - Efficient - Legitimate - Just.



Level-no. & name	Purpose	Time-span
1. Meta-constitutional Embeddeness ↓↑	Informal collective action conventions	10 <sup>2</sup> -10 <sup>3</sup> years
2. Constitutional Inst. Environments ↓↑	Est. institutions/legal powers (state, market, civ. society -infra)	10 <sup>1</sup> -10 <sup>2</sup> years
3. Collective choice Governance ↓↑	Est. rules of game play/conduct (rel. contracts, permits, legal persons)	1-10 <sup>1</sup> years
4. Operational Resource allocation	Factual activity (discrete transactions – e.g. contracts)	0-1 years (continuous)

(Williamson/Ostrom)

- Impacts on Governance structures (L3)

- Licenses, Contracts, Legal Persons\*

\* Associations – Corporations – Foundations  
Cooperatives



# TOWARDS CIVIL ENERGY NETWORKS?

- Institutional Environments & Governance structures
  - Social institutions ↔ Legal institutions
    - Institutive rules – Consequential rules – Terminative rules\*
    - \* Legal space: rules of power/ability; rules of conduct/liberty
- Socio-legal Sphere!
- Normative alignment of CiCs within Cen?
  - Only by strict social/community interest prosumerism/collective ownership?
  - How to position Cen and match with Rem?
    - Basic Values & Consequences to CiCs
    - CiC Legal person: Type – Mission x Control x Response

# DUTCH SES EXPERIMENTATION

- Smart Grid Tech & Governance: CiCs in Cen?
- Rules-in-Form: YES!
  - Associations/cooperatives; member/owners majority & in control
- Rules-in-Use: NO!
  - Prosumer inactiveness; external parties take the lead (5/9)  
‘Institutional Capture’?
- STETT: Broaden legal regime to experiment?  
Expansion v democratization & Justice?  
Matching Rem & Cen (Parallel/nesting?)

# The UK RES landscape

- Rise of RES: rise of the collective form in the UK:
  - Community interest Companies (social enterprise): particularly important in energy (DECC)
  - Shared Ownership Policy 2014: to ‘facilitate industry-community models of shared ownership for new commercial onshore renewable developments’
  - Such projects: feel-good factor (Hydro Bethesda project in Wales) but (how) do they work in practice? Do they put energy justice at the core? Can go wrong (Robin Hood project)
  - Exploratory research in the South West of England
    - The macro level:
      - the relation between CiCs and the developer
      - relation between CiCs and the community
    - The wider dimension: justice at the core of energy systems

# Assessment

- Macro level: appears to confirm Goedkoop & Devine-Wright (2015) and also in line with Community Energy England survey (2016)
  - Issues of trust, misalignment of interests
  - External stakeholder in the lead (// with Holland experience)
  - No real active consumer involvement (// with Holland experience)
  - Not a single model (investment, fuel poverty, community project).  
Heterogeneity: need to understand the ‘community they are in’
- The wider picture: although appear to support civil energy network type of legal institution, do they put justice at the core?
  - Distributive justice
  - Procedural justice
  - Fighting pollution
- Recognition that it will take time?
- Recognition of ‘possession’ under HR Act 1998: **Breyer**
- The EU position: disjointed? (Bragado)
- Prosumer v consumer/citizen



# So, where to now?

- Need for clear articulation of policy at home and EU: step back from previous policy? Lack of articulation?
- Network failure
- Institutional Resilience
- Democratization expansion
- Time legal space (oppts and constraints)

# How so a Civil energy network?

Production    Distribution    Consumption

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CiC<sup>1</sup> CiC<sup>2</sup> CiC<sup>3</sup> CiC<sup>4</sup> CiC<sup>5</sup> CiC<sup>n</sup>

Assoc of CiCs / Shared Cen facilitators

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Regulator (public/public-private/Private)  
(Physical Infra?)

Legislative framework (Meta governance)

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Private / private- public / public partners  
(Cm – Co/m – Co)