Symposium Introduction: Law, Policy, and the Promotion of Investment in the Renewable-Energy Sector

By:

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The importance of this symposium's theme cannot be overstated. It addresses two of the greatest challenges of our time: climate change, and access to energy in Africa. The two, as stated below, are interlinked and inter-dependent. Moreover, both will not be achieved without a vast range of policies, and multiple stakeholders intervening across various levels of governance, from international to local.

Global efforts to address climate change largely focus on clean energy transitions, leading to increasing calls for decarbonisation and significant investments in renewable energy systems. This is based on the premise that shifting away from fossil fuels and transitioning into cleaner sources of energy

is vital for restricting the “global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels”, as per the Paris Agreement on Climate Change.

The 1.5°C threshold is especially important for the most deprived populations on the planet, who despite having contributed minimally to global greenhouse gas emissions happen to be the most vulnerable to the negative impacts of climate change. The Intergovernmental Panel on Climate Change (IPCC) is warning in this respect that:

“Populations at disproportionately higher risk of adverse consequences with global warming of 1.5°C and beyond include disadvantaged and vulnerable populations, some indigenous peoples, and local communities dependent on agricultural or coastal livelihoods (high confidence). Regions at disproportionately higher risk include Arctic ecosystems, dryland regions, small island developing states, and Least Developed Countries (high confidence)”. “Exposure to multiple and compound climate-related risks increases between 1.5°C and 2°C of global warming, with greater proportions of people both so exposed and susceptible to poverty in Africa and Asia (high confidence). For global warming from 1.5°C to 2°C, risks across energy, food, and water sectors could overlap spatially and temporally, creating new and exacerbating current hazards, exposures, and vulnerabilities that could affect increasing numbers of people and regions (medium confidence).”

Overall, the impact of increased temperatures on the African continent is expected to be significant. According to certain studies, Sub-Saharan Africa’s temperatures are projected to rise between 1.5°C to 5°C, depending on emission levels. These changes could result with a multitude of impacts on issues ranging from health, migration, crops, ecosystems, water availability, and more. Unless emission levels are reduced, it is predicted by the IPCC that the 1.5°C threshold will be breached sometime between 2030-2052.

While increased energy use and emissions in some parts of the world are leading to climate change, in other regions, access to energy remains a significant challenge. Whereas different data is provided by various sources,

the overall picture is both clear and alarming: According to the International Energy Agency (IEA), 14% of the world's population – over 1 billion persons - do not have access to energy. In the African continent this situation is especially dire. Only 44.6% of the people in Sub-Saharan Africa have access to electricity. In most African states, the overall rate is below 50%. In rural areas the numbers are even lower: only 22.6% of sub-Saharan states' rural populations have access to electricity.

The lack of access to energy is far from being an isolated, standalone issue. The negative impacts of energy poverty compound a range of other problems, related to, *inter alia*, hunger, health, gender equality, economic growth, industrialisation, the availability of infrastructure and more. Indeed, the imperative embedded in Sustainable Development Goal 7 ('access to energy') dictates that the issue of access to energy should not be addressed in isolation; rather, energy should also be affordable, reliable, modern, and, importantly, sustainable.

The role that renewable energies are expected to play in achieving this imperative is explicit. SDG 7 targets are calling for an increase in the share of renewables in the global energy mix. Importantly for this symposium, these targets are also calling for an enhanced "international cooperation to facilitate access to clean energy research and technology, including renewable energy […] and promote investment in energy infrastructure and clean energy technology".

And how should states achieve these targets? The answer to this question is without a doubt complex. It includes a mix of policies that will have to address a range of issues, including political risks, financial viability, impact on the environment, local communities' acceptance, and more. At the heart of this issue, however, there is the necessity to increase investment. As both capital and clean technologies are found mostly in industrialised states (including China), it is clear that much of such investment would be, primarily, international in nature. Most will also agree that such investment should come from a variety of sources, including, importantly, the private sector. In short, states will have to find a way to attract Foreign Direct Investment (FDI) in the renewables sector.

Despite several success stories, the overall picture is disappointing as not enough investment is directed towards the locations in which it is most needed. For example, a 2017 IEA report reveals that while Sub-Saharan states account for 14% of the world's population, only 4% of the world's investment in energy is made in these areas.

This online symposium (co-hosted by AfronomicsLaw and International Law@UEA) will discuss some of the many layers that states must address in the process of attracting FDI in the renewable energy sector. Most authors will focus on one case-study - Nigeria. Nigeria relies today mostly on non-renewable energy sources. The natural conditions that are necessary for the production of renewable energy in Nigeria are exceptional but under-developed. Despite its vast energy resources, access to energy remains a problem. Only about 10% in rural areas and 40% of the overall population in Nigeria have access to electricity. Nigeria's goal is to increase electricity access to 90% of its population by 2030, and to reach a 30% renewables share by the same year. Substantial investment in renewable energy is therefore required.

While each country is facing its own unique challenges, it is understood that many of the challenges faced by Nigeria are shared by other fossil fuels-dependent states with low levels of access to energy as well. The lessons learned from this case-study are therefore transferable.

As stated by the authors, the involvement of the private sector in this effort 'cannot be overemphasised'. Such engagement however, requires appropriate legal and institutional infrastructure. It must be monitored; it must be properly designed, and above all, it must be inclusive to ensure sustainability. The authors of the following posts will highlight some of the elements that are necessary for achieving this delicate balance.

Contributors

Eghosa Osa Ekhator: International Environmental Governance: A Case for Sub-Regional Judiciaries in Africa

Erimma Gloria Orie: Promoting sustainable renewable energy-related Foreign Direct Investment in Nigeria: Identifying the Gaps in Nigeria's Domestic Law and Institutions

Hakeem Seriki & Nimisore Akano: The Role of Arbitration in Renewable Energy in Nigeria

Ohio Omiunu: Diversification of the Nigerian economy as a de-carbonisation pathway: opportunities and challenges

Omole Iyayi: Diffusing Potential Conflicts on the Road to Decarbonisation in Nigeria: Trade Unions as Forces for Continuity

Pedi Obani: Redefining the role for international environmental law in addressing climate change

Tola Amodu: Fostering Effective Public Participation when Navigating Infrastructure Projects

Wale Olawoyin: Decarbonisation pathways for Nigeria: Promoting sustainable renewable energy-related Foreign Direct Investment and the role of alternative dispute resolution in promoting RE-related Foreign Direct Investment

Youseph Farah & Mr. Valentine Kunuji: New wine in old bottles: the renewable energy sector, climate justice and Pillar III of the United Nations Guiding Principles

Pedi Obani and Avidan Kent: Promoting Investment in the Renewable Energy Sector: Concluding Remarks and Future Legal Research Agenda

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