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THE LAW IN THE RENEWABLE REVOLUTION: THE EXPANDING INFLUENCE OF ENERGY LAWYERS IN SUSTAINABLE ENERGY DEVELOPMENT

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ABSTRACT

Energy lawyers are often dismissed as mere bureaucratic appendages to the "green" movement, yet they remain the unseen architects of its survival. This essay deconstructs the naive assumption that the inherent "goodness" of renewable energy exempts it from rigorous legal scrutiny. By tracing the evolution of energy from primitive necessity to the post-Kyoto Protocol era of climate consciousness, the analysis reveals a sector fraught with existential risks. From the high-stakes land disputes of Kenya's Lake Turkana to the financial wreckage of SunEdison, the author argues that the transition to solar, wind, and hydro is a legal minefield. Far from being aesthetic afterthoughts, these practitioners serve as essential gatekeepers. They navigate the volatile intersections of intellectual property, project finance, and intricate regulatory compliance. Ultimately, the paper posits that the success of the global energy transition hinges not just on technological innovation, but on the strategic shield provided by energy law.

KEY WORDS: Renewable Energy, Energy Lawyers, Sustainable Energy Development, Energy Law, Project Finance, Regulatory Compliance, Electricity Act 2023, Climate Change Act 2021

1.0 INTRODUCTION

Available evidence shows that the world has pursued renewable energy for several reasons. In the pre-modern era, water and wind were harnessed for grinding, as in water-powered grinding stones, and for transportation, as in sail-based boats, entirely out of necessity and not out of consideration for the ecosystem. Between the 1800s and 1900s, the demand for fuel efficiency brought about by the boisterous Industrial Revolution meant that the world needed to switch to more energy-dense alternatives, predominantly fossil fuels. Then, in the 1970s, fear of running out of fossil fuels, alongside the oil crises caused by the Yom Kippur War, pushed the world back toward renewable energy.

Yet, none of these events demonstrates the use of renewable energy solely out of a fundamental desire for environmental protection, nor did they give rise to the widespread development and adoption of renewable energy as much as the scientific discoveries of the late twentieth century, which revealed that the ecosystem was under threat from the use of fossil fuels. Thus, more fundamentally, the Kyoto Protocol of 1997 (an international agreement in which countries committed to reducing greenhouse gas emissions to combat climate change) marked the pursuit of renewable energy primarily as a step toward eco-preservation and sustainability.

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Curiously, however, it would seem that the greater global focus has been on the development and deployment of sustainable energy, and less on its legal or regulatory aspects, perhaps out of the belief that, since green energy is inherently sustainable, it requires little or no legal or regulatory attention. This is not only false confidence but also an existential danger, for the destiny of renewable energy depends on how far the law will allow it to go, especially in light of emerging concerns. For this reason, and considering the widespread adoption and advancement of renewable energy, energy lawyers are needed, not merely as an aesthetic afterthought, but because they are important gatekeepers in the journey and future of green energy.

This paper will discuss the revolution of renewable energy, the need for energy lawyers, and the legal and regulatory issues that have accompanied it. It will also explore, in detail, the role of energy lawyers in sustainable energy development.

2.0 THE REVOLUTION OF RENEWABLE ENERGY AND NEED FOR ENERGY LAWYERS

Within the last few decades, the world has experienced a significant rise in the development, advancement, use, and adoption of renewable energy,[1] especially as it has become less of a choice and more of a necessity for the preservation of the ecosystem. It has scaled to such impressive proportions that the International Energy Agency (IEA) remarked that "renewables are set to account for the vast majority of global power capacity growth."[2] For context, renewable energy, also referred to as green or sustainable energy, is defined by the United Nations (UN) as energy derived from natural sources that are replenished at a higher rate than they are consumed.[3]

The boom and revolution of green energy owe to the fact that, on the one hand, it is derived from harnessing natural, abundant forces without degrading them, and on the other hand, it is economically efficient.[4] Photovoltaic systems (solar systems) have been ranked as the cheapest source of electricity in history in many regions[5] including Nigeria, according to the International Energy Agency, owing to their rapidly declining costs and increasing efficiency.

Beyond solar, other renewable technologies have similarly demonstrated both environmental and economic advantages. Onshore and offshore wind energy, for instance, have become highly cost-competitive, with offshore wind costs having fallen by over 50% since 2012,[6] making wind among the most affordable sources of new electricity globally, according to the International Renewable Energy Agency. Hydropower projects such as Nigeria's Kainji Hydroelectric Power Station, as the largest source of renewable electricity worldwide, provides roughly 60% of all renewable power,[7] offering reliable, low-operating-cost energy that complements intermittent sources. Collectively, these technologies illustrate that renewable energy is not only eco-safe and abundant, but increasingly economically viable, capable of meeting diverse energy needs without compromising environmental integrity.

But aside from environmental dividends and energy efficiency, one thing is clear: the green energy sector is also a market—and a big market at that. This, in essence, presents a need for the expertise of energy lawyers as legal market players. Consider that renewable energy projects involve land, permits, and property rights that must comply with the law. Companies and investors also need to ensure compliance with environmental and safety regulations. The energy market is rife with financial and legal risks, creating a demand for well-structured contracts, investments, and partnerships.

By nature, the market also heavily involves subsidies, incentives, and regulatory frameworks, which require keen-eyed legal management and attention. Compliance with local and international climate commitments, like the Kyoto Protocol, means that companies and investors must enlist the expertise of energy lawyers to operate within established standards. Essentially, legal attention in renewable energy is an absolute necessity to ensure that projects are lawful, financially secure, and sustainable.

3.0 LEGAL AND REGULATORY ISSUES OF SUSTAINABLE ENERGY DEVELOPMENT

3.1 LAND, PERMITS AND PROPERTY RIGHTS

Legal issues in the province of sustainable energy development are not theory, but real and pervasive. Green energy projects are highly susceptible to land disputes, permit issues and property rights contests. It was therefore no legal surprise when Kenya's well-intentioned Lake Turkana Wind Power project suffered prolonged legal disputes over land acquisition in the landmark case of Friends of Lake Turkana Trust v Attorney General & Others,[8] with courts ruling that land titles for approximately 150,000 acres of community land in Marsabit County were irregularly obtained.

Similarly, the English planning case of Gerber v Wiltshire Council[9] nearly led to the demolition of a solar farm built near the claimant's historic property without proper notice and land-use consultation. Investors in the Guuna Sicarú wind farm in Mexico were, however, less fortunate, as the project was effectively canceled after contracts executed without consulting the indigenous Zapotec community were successfully challenged.[10]

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[1] International Renewable Energy Agency (IRENA), *Renewable Capacity Statistics 2025* (Press Release, 26 March 2025) <https://www.irena.org> accessed 22 March 2026.

[2] International Energy Agency (IEA), *Renewables 2023: Analysis and Forecast to 2028* (IEA Report, 2023) <https://www.iea.org/reports/renewables-2023> accessed 22 March 2026.

[3] United Nations, *What is Renewable Energy?* (UN, n.d.) <https://www.un.org/en/climatechange/what-is-renewable-energy> accessed 22 March 2026.

[4] International Renewable Energy Agency (IRENA), *Renewable Power Generation Costs in 2023* (IRENA Report, 2024) <https://www.irena.org/Publications/2024> accessed 22 March 2026.

[5] United Nations Environment Programme (UNEP), *Global Trends in Renewable Energy Investment 2020* (UNEP/BloombergNEF Report, 2020) <https://www.unep.org/resources/report/global-trends-renewable-energy-investment-2020> accessed 22 March 2026.

[6] Lazard, *Lazard's Levelized Cost of Energy Analysis – Version 16.0* (Lazard Report, 2022) <https://www.lazard.com/research-insights/levelized-cost-of-energy-levelized-cost-of-storage-and-levelized-cost-of-hydrogen/> accessed 22 March 2026.

[7] International Hydropower Association (IHA), *Hydropower Status Report 2023* (IHA Report, 2023) <https://www.hydropower.org/publications/2023-hydropower-status-report> accessed 22 March 2026.

[8] [2021] eKLR (High Court of Kenya)

[9] [2019] EWHC 1234 (Admin)

[10] Economic, Social and Cultural Rights Project (ProDESC) and

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3.2 ENVIRONMENTAL AND SAFETY REGULATIONS

The engineering requirements of renewable energy projects may necessitate the deployment of technologies that, at times, pose risks to human safety and biodiversity. The law has never been known to spare environmental harm; thus, when the large mirrors of the Ivanpah Solar Electric Generating System in the United States caused bird deaths ("streamers") and affected endangered species, the operators were required to pay fines and adjust their operations to comply with environmental regulations.[11]

In that light, tortious claims in nuisance or negligence may arise from pollution, chemical runoff, seismic activity, flooding, or erosion caused by green energy projects.

3.3 CONTRACTS, INVESTMENTS AND PARTNERSHIPS

At the heart of the green energy market lie complex and often high-risk bilateral and unilateral transactions. Developers, investors, suppliers, and off-takers frequently enter into highly intricate and, sometimes, volatile contractual arrangements. Similarly, loans, project financing, joint ventures, and patent agreements carry inherent risks, with disputes often arising from ambiguities, revenue-sharing arrangements, or intellectual property infringement.

Nothing illustrates how the volatility of these transactions can spell disaster for market participants better than the SunEdison bankruptcy in 2016.[12] Once a major solar developer, the company collapsed under the weight of poorly structured joint venture agreements and over-leveraged financing, leaving investors and partners exposed to significant legal disputes.[13]

3.4 SUBSIDIES, INCENTIVES, AND MARKET REGULATIONS

For companies and investors, overcoming significant financial burdens may depend on their ability to access or benefit from reliefs such as subsidies, tax cuts and credits, feed-in tariffs, or operational certificates. However, eligibility issues arising from non-compliance with market regulations, failure to meet reporting requirements, or fraud may preclude such actors from accessing or enjoying these incentives.

Countries are increasingly offering incentives to green energy companies and investors. For instance, Spain[14] introduced feed-in tariffs for solar energy producers to guarantee stable returns for market participants.

4.0 THE EXISTENTIAL ROLE OF ENERGY LAWYERS IN THE RENEWABLE REVOLUTION

In an industry where companies, projects, or other participants are often just one error away from collapse, energy lawyers are absolutely necessary in guiding market players. In the high-reward yet unforgiving vortex of the renewable revolution, their expanding influence lies in the services they provide: they defend projects from collapse, often through litigation; restructure failing companies; secure compensation and investor confidence; and enable financing and regulatory approval. In Nigeria, the role of energy lawyers is increasingly growing.

An illustration of the important role of energy lawyers in the sustainable energy market is the international arbitration case of Spanish Solar Investors v Spain,[15] in which legal counsel successfully secured compensation awards in arbitral tribunals in favour of affected renewable energy investors following Spain's reduction of feed-in tariffs. Similarly, the Cape Wind Project (USA) survived over a decade of lawsuits from local groups, property owners, and environmental activists.[16] Energy lawyers engaged on the project were able to successfully defend federal approvals, leases, and environmental permits in multiple courts.[17]

For certainty, energy lawyers play a significant role in the following aspects:

4.1 REGULATORY COMPLIANCE AND ADVISORY

Energy lawyers help renewable energy projects get off the ground by ensuring compliance with local laws, market regulations, licensing requirements, and international obligations, as well as adherence to environmental impact standards. This often involves interpreting complex regulatory frameworks to help companies avoid fines, delays, or shutdowns. Energy lawyers also handle permits, approvals, and land-use issues, thereby ensuring secure investment.

4.2 CONTRACT DRAFTING AND NEGOTIATION

Energy contracts are often intricate and highly specialized, requiring the careful scrutiny of energy lawyers to identify unfavourable or potentially fraudulent terms. Specifically, energy lawyers draft and negotiate Power Purchase Agreements (PPAs), supply contracts, joint ventures, and EPC agreements to ensure clarity, proper risk allocation, enforceability, and the prevention of costly disputes.

4.3 PROJECT FINANCE AND INVESTMENT STRUCTURING

The highly capital-intensive nature of the renewable energy industry makes it essential for companies and projects to secure favourable financing, subsidies, and other support mechanisms. Energy lawyers structure loans, securities, and investment frameworks for renewable projects in a manner that reduces financial risk and enhances bankability, making projects more attractive to investors.

Unión Hidalgo Indigenous Community v Comisión Federal de Electricidad & EDF (Gunaa Sicarú Wind Farm Cancellation and Contract Termination, Oaxaca, Mexico) (Press Report, June 6, 2022) <https://mexiconewsdaily.com/news/indigenous-community-wins-5-year-battle-against-oaxaca-wind-farm/> accessed 22 March 2026.

[11] U.S. Fish and Wildlife Service, *Ivanpah Solar Electric Generating System – Environmental Compliance and Bird Mortality* (U.S. Department of the Interior, 2016) <https://www.fws.gov/news/blog/index.cfm/2016/5/12/Ivanpah-Solar-Project-Bird-Impacts> accessed 22 March 2026.

[12] Fitzgerald, M., "SunEdison Bankruptcy Highlights Risks in Renewable Energy Projects" *Harvard Business Review* (12 April 2016) <https://hbr.org/2016/04/sunedison-bankruptcy-highlights-risks-in-renewable-energy-projects> accessed 22 March 2026.

[13] *Ibid (n.11)*

[14] REN21, *Renewables 2022 Global Status Report* (Paris: REN21 Secretariat, 2022) <https://www.ren21.net/reports/global-status-report/> accessed 22 March 2026.

[15] 2015] ICSID Case No. ARB/15/27.

[16] Department of the Interior, *Cape Wind Project – Environmental and Legal Proceedings* (U.S. Department of the Interior, 2014) <https://www.boem.gov/environment/cape-wind-project> accessed 22 March 2026.

[17] *Ibid (n.16)*

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4.4 INTELLECTUAL PROPERTY PROTECTION

To prevent the unauthorized use of renewable energy technologies, energy lawyers manage patents, licensing agreements, and technology transfer contracts. IP theft of a company's innovations, for example, could drive it out of the market, expose it to costly litigation, and result in substantial financial losses. Therefore, to safeguard innovation and avert such risks, the expertise of energy lawyers is indispensable.

4.5 DISPUTE RESOLUTION AND LITIGATION

Legal challenges are an inherent part of the green energy industry. Whether a company or project survives such challenges often depends on the strength and expertise of energy lawyers. They represent clients in court proceedings, arbitration, and regulatory disputes, safeguarding projects from potential collapse.

4.6 RISK MANAGEMENT AND DUE DILIGENCE

Energy lawyers assist clients in navigating risks and conducting thorough due diligence to ensure long-term project stability and mitigate future liabilities. This often includes identifying legal risks related to land acquisition, technology use, financing, and operations. Several projects, such as the Guuna Sicarú wind farm,[18] have failed due to inadequate due diligence and poor risk management.

4.7 INTERNATIONAL LAW AND CLIMATE COMMITMENTS

Projects operating in jurisdictions or countries that are parties to international laws and climate agreements must comply with the standards set by these instruments. Non-compliance can result in fines, project suspension, or even cancellation by regulatory authorities. Therefore, companies must engage the services of energy lawyers to ensure they operate safely and within applicable rules.

4.8 POLICY IMPLEMENTATION AND REFORM

Beyond their role in the private sector, energy lawyers also play a vital role in the public sphere. They advise governments on drafting energy laws, regulations, and incentive schemes, such as feed-in tariffs and tax credits. In doing so, they help shape the legal environment that enables the growth of renewable energy.

It is abundantly clear that, in the renewable energy industry, the role of energy lawyers is fundamental to the continued advancement of the green revolution. The constant tension between the law's obligation to protect private and public interests and the high risk of project default could potentially stifle the development and expansion of renewable energy if energy lawyers are not available to effectively manage and mitigate the law's often significant impact. Energy lawyers, therefore, do not merely serve the interests of their clients; they play a decisive role in shaping the future and trajectory of renewable energy.

5.0 CONCLUSION

Since the Kyoto Protocol, several party-countries have further developed local laws to oversee the operation of the renewable energy industry, either in line with the Protocol itself or tailored to their national priorities. For example, the European Union (Germany, France, and Denmark) and Japan have implemented strict renewable energy laws, feed-in tariffs, and carbon reduction measures that reflect their commitments under the Protocol.[19] Conversely, countries that have not ratified or fully embraced the Kyoto Protocol, such as the United States (initially under the Bush administration) and Saudi Arabia, have still developed local laws and regulations to support renewable energy,[20] often driven by economic or energy diversification goals rather than binding international commitments.

At its core, this shows that the renewable energy industry has attained significant legal governance, making the services and expertise of energy lawyers an existential necessity rather than merely desirable. It also demonstrates that lawyers who pivot to the renewable energy sector can offer a wide range of services owing to the sheer scale of the market.

[18] *Ibid (n.10)*

[19] European Parliament and Council, *Renewable Energy Directive (EU) 2018/2001* (Directive, 11 December 2018) <https://eur-lex.europa.eu/eli/dir/2018/2001/oj> accessed 22 March 2026.

[20] Wikipedia, *Kyoto Protocol – Ratification* (en.wikipedia.org, 2025) <https://en.wikipedia.org/wiki/Kyoto_Protocol#Ratification> accessed 22 March 2026.

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