

EDITORIAL COMMENTS

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Guest Editor in Chief

I am pleased to present Volume 15 Issue 2 of the Journal of Sustainable Development Law and Policy. Our Editorial Committee and Board have worked tirelessly over the last months to bring you this Special Issue on the subject Environmental Law, Just Energy Transitions and Sustainable Development in the Middle East and Africa. The Special Issue is composed of twelve articles spanning various genres and aspects of just energy transitions and sustainable development.

1. INTRODUCTION

In response to the climate emergency, several countries, corporations, and other stakeholders worldwide have announced programmes aimed at bringing down global emissions of greenhouse gases and transition to net zero by the year 2060 or earlier. In addition, since 2015, the UN Sustainable Development Goals (SDGs) have served as guidelines through which many countries can pursue their developmental strategies, including their net zero ambitions. While the aim of the ongoing global net-zero energy transition is clear, the nature, scope and guiding principles of natural resources law and policy required to achieve it in a just, orderly and inclusive manner is still evolving in many parts of the world. At the same time, the growing rush for minerals needed to manufacture clean energy technologies raises fundamental questions. Most crucial is how to ensure the exploration and development of energy transition minerals in a manner that does not exacerbate resource conflicts, resource nationalism, human rights violations, protectionism, energy insecurity, social exclusions, and inequity, especially in conflict affected and high-risk regions. These scenarios raise the need for net zero and climate aligned natural resources laws and policies to drive a just and inclusive energy transition and sustainable development. A starting point is the need to explore how legal and governance frameworks can be revitalised to drive a just, orderly and inclusive energy transition, especially to promote the security and sustainability of supply of essential natural resources needed to drive the transition process.

One of the landmark decisions at COP28 that took place in Dubai in November 2023, was a recognition of the need for ‘inclusive and participatory approaches to just transitions that leave no one behind.’¹ Post COP28, this Special Issue of the *Journal of Sustainable Development Law and Policy* highlights the critical role of environmental law in advancing just and equitable net zero energy transitions and sustainable development in the MENA Region. Climate change is a disruptive phenomenon, requiring disruptive solutions with ‘no one size fits all’ solution.² Consequently, the analyses in this special issue are wide-ranging, from land and water

¹ UNFCCC, COP28 Declaration on Gender-Responsive Just Transitions and Climate Action Partnership, available at: <https://www.cop28.com/en/cop28-gender-responsive-just-transitions-and-climate-action-partnership>

² E. Fisher, E. Scotford & E. Barritt, ‘The Legally Disruptive Nature of Climate Change’ (2017) 80(2) *The Modern Law Review*, pp. 173–201

governance issues, innovations to further sustainability, strategies to achieve the SDGs to the role of environmental and sustainability education, all of which have implications for sustainable development and for advancing just and equitable net zero energy transitions.

2. LAND/WATER GOVERNANCE ISSUES AND THE SUSTAINABLE DEVELOPMENT GOALS

The first article addresses the importance of governance arrangements for access, use and control of land and resources. Effective governance of natural resources is ultimately underpinned by rules on land use and control. As Home notes that, land governance challenges are making the MENA region's land crisis worse and hindering environmental management efforts. Robert Home analyses the land governance initiatives put forward by UN-Habitat and other agencies, the changing role of rapidly developing geo-spatial technologies, and the implications for academia and land governance education and training.

In 'Land governance and environmental management in the MENA region', Home examines the situation with land governance in the MENA region, focusing on the Arab Land Governance Initiative. He presents a brief case study of Oman's land governance, particularly its land allocation system by lottery, and the implications for society, urban planning and land markets. Conditions in many MENA countries are deteriorating from multiple causes, including climate change, which are threatening progress towards the SDGs, with governments struggling to ensure that land is best used to serve social, economic and fiscal functions. This has implications for just energy transitions and the pursuit of sustainable development. Home concludes that, increasing land scarcity requires strategic trade-offs about the best use of land to meet competing policy objectives, and a holistic or 'joined-up' approach is needed to provide land governance and policies that can address the core development issues for the region.

Along with land scarcity, water scarcity is another major challenge that the MENA region is exposed to due to the negative effects of climate change. The contribution by Fakhri and Hassouni highlights the challenge of water scarcity in the Maghreb countries and analyses the legal responses needed to achieve the sixth Sustainable Development Goal by 2030. Despite growing awareness of the problem of water scarcity and the development of legal texts and institutions directly or indirectly concerned with the protection of water resources, addressing the issue does not appear to be a matter of priority to citizens and governments of the region. In their article, 'Protecting Water Resources in North African Countries as an Entry Point to Achieve the Sixth Sustainable Development Goal', Riyad Fakhri and Youness Lazrak Hassouni examine the role played by legal texts in protecting the water resources of Maghreb countries and exploiting them in a way that ensures their sustainability, in line with the sixth goal of sustainable development. They conclude that there is a need to create collective awareness of the importance of preserving water resources and the environment and protecting resources for future generations, which calls for action to awaken conscience and morals, through civic and environmental

education.

With the significant water scarcity challenges that the MENA region faces, which are made worse by climate change, ensuring sustainable water supplies requires innovative solutions. The desalination of seawater has become the main means of achieving this.³ However, this is not without its challenges, which create a conflict of implementation between the requirements of SDG 6 and SDG 14 regarding the use of seawater desalination in the Persian Gulf region. In 'Advancing Sustainable Seawater Desalination in the Persian Gulf: Opportunities and Challenges under the Kuwait Convention 1978', Mahnaz Rashidi examines the opportunities and challenges of the 1978 Kuwait Convention in advancing sustainable seawater desalination in Persian Gulf. He argues that while the provisions of the convention on the prevention, control and combating of land-based pollution, as well as requirements for environmental impact assessments offer opportunities, the lack of direct obligations regarding the management of seawater desalination and non-existence of effective compliance mechanisms, are some of the challenges that must be overcome if sustainable seawater desalination is to be achieved in the region. Rashidi concludes that to overcome the challenges, it is necessary for countries of the Persian Gulf to adopt a seawater desalination management guideline under ROPME, that require international cooperation and sharing of experiences and knowledge related to innovative technologies in desalination aimed at reducing negative environmental impacts and ensuring compliance mechanisms under the Kuwait Convention. This will be necessary to achieve the sustainable development goals.

3. SUSTAINABILITY INNOVATIONS

Lamas and Smagadi's analysis, like Fakhri and Hassouni's article, highlights the issues of water scarcity, land degradation and energy dependence faced by the region, with a particular focus on the contribution made by the textile industry. In 'The Role of the Textile Industry and Permitting Systems in Advancing Environmental Dimensions of the SDGs in the MENA Region', Lamas and Smagadi, examine the environmental implications of the textile industry in the MENA region and the importance of developing, or strengthening existing, legislation relating to permitting procedures in order to build a sustainable value chain. Drawing on examples from Morocco, Türkiye, Jordan, and Egypt, they argue that permitting processes can play a key role in effectively regulating and minimising the environmental impact of textile activities. While many countries already have permit processes in place, there is a need for policymakers to review and strengthen these frameworks to ensure comprehensive integration and address existing gaps, if we are to advance the environmental dimensions of the SDGs.

Like the textile industry, Formula 1 (F1) is another industry that is important to the MENA region's sustainability push. As a cutting-edge industry and given its significance to the region (in terms of the number of races that the region hosts), F1 has an important role to play in the region's

³ Enas Taha Sayed and others, 'Recent progress in renewable energy based-desalination in the Middle East and North Africa MENA region' (2023) 48 *Journal of Advanced Research*, pp. 125-156

transition to net zero. Fekri's article, 'Green Hydrogen and Formula 1 (F1): Advancing Sustainable Comprehensive Approaches for F1 Racing in the MENA Region', assesses F1's sustainability efforts, with a focus on the integration of green hydrogen as a promising solution for reducing carbon emissions in the MENA region. Given the region's abundant renewable energy resources and strategic position in hosting Grand Prix races, Feryal Fekri argues that there is an imperative for F1 to embrace sustainable practices, not only to align with societal trends but also to lead the charge in environmental stewardship within the realm of motorsport. Ultimately, the strong relationship between F1 and the region could serve as a catalyst for innovative sustainability solutions that would assist the region's transition to net zero.

While there is an express desire to transition to net zero, some MENA countries face significant challenges in transitioning to net zero economies. In her article 'Energy Transition in the Middle East and North Africa Region: Regional Solutions for Climate Change Challenges Amid Economic Sanctions', Mehrnoosh Aryanpour analyses the impact of economic sanctions on some of the MENA countries' ability to fulfil their commitments to transition to a net zero economy. Sanctions do not only negatively impact the energy security of states but can significantly curtail the ability of countries to take positive action to limit and address environmental harm. The effects of sanctions can be seen through the lack of access to the latest technologies, limited or often no direct investments in low carbon industry, diplomatic isolation, and the concomitant economic volatility, which impacts global growth and limits the financial capacity to save and invest for the transition to net zero. Aryanpour presents a nuanced argument which does not call for the lifting of sanctions, but for the establishment of a regional 'climate savings account' to serve as a strategic mechanism to balance geopolitical interests and environmental goals. This will operate as a 'climate-conscious sanctions framework,' enabling wealthier MENA nations to support their neighbours in achieving energy transition goals, thereby fostering regional collaboration and sustainability.

4. ACHIEVING THE SUSTAINABLE DEVELOPMENT GOALS (SDGs)

Since 2015, the SDGs have provided the framework for developmental efforts with many countries aligning their national developmental strategies with them. While this represents the global commitment to address challenges such as climate change and environmental degradation, their effectiveness in driving positive change remains in question. Anwana and Owojori discuss the role that Multilateral Environmental Agreements (MEAs) can play in tackling the environmental challenges in the MENA region and supporting the achievement of the SDGs. In their article, 'Policy Options for Achieving Sustainable Development Goals (SDGs) in the MENA Region through the Effective Implementation of Multilateral Environmental Agreements', Anwana and Owojori assess the region's performance with MEAs, highlighting some of the challenges faced in implementing and complying with the agreements. Although there have

been efforts to strengthen environmental cooperation and policy coordination at the regional level, these actions have not been comprehensive or resulted in enforceable outcomes. Accordingly, they argue for enhanced coherence and coordination in the implementation of MEAs amongst the MENA countries. The article concludes that, the effective implementation of MEAs holds the potential to not only mitigate the adverse effects of climate change but also promote equitable prosperity, peace and stability across the region.

In ‘Assessing the Alignment and Implementation Challenges of the Sustainable Development Goals (SDGs) 2030 in Morocco: A Relevant Inquiry’, Ghita Chehbouni evaluates Morocco’s progress towards achieving the SDGs and assesses how effectively it aligns its policies while addressing implementation challenges to achieve the SDGs by 2030. Morocco, like many countries in the MENA region is committed to the SDGs with their integration into its Vision 2030. Chehbouni argues that, while progress has been made in certain areas, challenges remain, particularly in areas such as securing a good environment and fighting climate change. The article concludes that the successful implementation of the SDGs hinges greatly on the effectiveness of public service, as they directly or indirectly require the provision of public goods or the implementation of public sector policies and that bridging the gap between political vision and practical implementation will be crucial, necessitating an effective interface between politicians and public officials.

SDG 11 calls for states to foster cities and human settlements that are inclusive, safe, resilient, and sustainable. This is most important in the MENA region where states are increasingly vulnerable to climate-related hazards such as floods and dust storms. In ‘Enhancing Sustainable Communities through the Protection of Natural Buffer Zones’, Masoud Faryadi examines the significance and legal protection of natural buffer zones, such as green spaces, which offer nature-based solutions to shield urban areas from the climate-induced hazards. Faryadi argues that given that these zones can effectively shield and absorb the impacts of floods and dust storms, and that protecting and developing natural buffer zones in alignment with regional environmental considerations should be recognized in both international and national environmental law. The article concludes that, despite their effectiveness in mitigating floods and dust storms, the existing legal instruments for the development and protection of natural buffer zones as nature-based solutions is inadequate. Accordingly, new legal instruments that incorporate the development and protection of green and blue common spaces into local and regional land use and development plans, as well as disaster risk management strategies, are required to address this gap.

Still on the socio-economic, legal and environmental impacts of climate change, the pursuit of the SDGs can play a role in promoting transformative bottom-up solutions to address climate change. In her article, ‘Importance of eco-entrepreneurship as a tool for climate action and low-carbon transition in developing countries,’ Josephine Ilesanmi analyses the role of eco-entrepreneurs in developing the innovative, nature-based solutions needed

to drive the low carbon transition in key carbon-intensive sectors. Entrepreneurship has shown promise as a response to environmental problems like climate change.⁴ Ilesanmi argues that despite its importance, transformative governance can significantly strengthen the role and contribution of eco-entrepreneurship. Her article examines the characteristics, nature and benefits of eco-entrepreneurship as well as the concept of transformative governance drawing on lessons from the United Kingdom and Nigeria. She concludes that with the vast eco-opportunities in eco-tourism, renewable energy and sustainable agriculture that Nigeria has, it can potentially achieve its climate action and low carbon transition plans if transformative governance is effectively adopted to promote the rapid growth of eco-entrepreneurship.

5. ENVIRONMENTAL AND SUSTAINABILITY EDUCATION

Owojori and Anwana's analysis like Chehbouni's article, highlights the important role that public policy such as in the area of education can play in the advancement of the objectives of sustainable development. In their article 'Integrating ESG Principles into Environmental Education: Opportunities and Challenges in the MENA Region', they assess the role that environmental education can play in instilling resilience against the environmental challenges that impact the MENA region. Owojori and Anwana argue that redefining environmental education through an Environmental, Social, and Governance (ESG) lens can act as a catalyst for positive change. ESG has become the crucial metrics through which investment decisions are gauged. ESG standards are therefore not only useful to investors but also relevant to customers, suppliers, employees and the general public. Accordingly, the article argues that by integrating ESG considerations into environmental education practices, stakeholders in the MENA region can enhance their capacity to address pressing environmental challenges and promote sustainable development. Owojori and Anwana conclude that as social and governance aspects gain prominence in global sustainability discussions, it becomes imperative for MENA-focused environmental education research to evolve with future endeavours, extending beyond prevalent narratives of environmental problem-solving, and delving into intricate intersections of social justice, equitable governance, and environmental sustainability.

Despite the significant environmental stresses that the MENA region faces, environmental education/awareness remains lagging.⁵ In 'Developing a Taught Module on 'Law, Religion, and Environment'', Pedi Obani addresses the question of how to train law students to embrace and contribute to the emerging field of religion and environmentalism. Although environmental protection and sustainability are priorities in the MENA region and a prominent concern at the domestic or micro level, there is no direct connection to the relevant macro level environmental issues. In other words,

⁴ Thaddeus McEwen, 'Ecopreneurship as a Solution to Environmental Problems: Implications for College Level Entrepreneurship Education' (2013) 3(5) *International Journal of Academic Research in Business and Social Sciences* 264.

⁵ Sayeda Meharunisa, 'Social Dimensions of Sustainability in Education Due to Climate Change – A Study on Mena Region' (2020) 17(9) *Palarch's Journal of Archaeology of Egypt/Egyptology* 8816.

there remains a gap between citizens' environmental concerns and the macro level global environmental concerns, which weakens the potential impact of international environmental law and governance at the micro level. Religion has a significant influence on the legal, economic and cultural life in the MENA region. Yet when it comes to discussions about environmental governance and sustainability, the influence of religion is less prominent. This article argues for the training law students in higher education institutions to embrace and contribute to the emerging field of religion and environmentalism, especially in addressing conflicts over environmental scarcity with religious undertones. It concludes that religious environmental ethics can potentially contribute to understanding and effectively addressing complex environmental challenges. However, the complexities involve with integrating religious values, require training in principles and skills that are beyond the scope of the existing taught Environmental Law module available in most universities. Hence, the case for the development of a new module on "law, religion and environment".

6. CONCLUSION

Along with the public lectures, the breadth of the contributions under this theme all allude to the complex obstacles that remain before humanity can truly realize sustainable development and achieve just energy transitions in the MENA region. Given the complexity of the subject, there is certainly more that needs to be examined to inform legal and policy reforms in the MENA region. We at the Journal of Sustainable Development Law and Policy restate our commitment to continue to facilitate scholarly exchange and discourse on the theme of this special issue.

With infinite gratitude to our Editorial Board, Managing Board and the President and Founder of Afe Babalola University - Aare Afe Babalola SAN, OFR, LLD - for their invaluable and continuing support, I invite you to turn the pages of this Special Issue and enjoy the wealth of knowledge therein.

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