

Gender Equality in the Just Energy Transition Agenda for the African Extractives Context: The Rule of Law

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Abstract

The paper focuses on the benefits of the “just transition”, including gender equality. Specifically, the paper highlights how gender equality in Africa’s extractives sector can be enhanced through the just transition agenda.

The paper first explains how consistent gender inequality has been in the African extractives sector due to stereotyping and gender-based exclusion. The paper argues that such inequality could be resolved if the just transition’s aim to promote a quality life for all is appropriately applied. There is currently no legal framework dealing mainly with the just transition and gender equality in the extractive sectors in African countries. However, the paper argues that current laws, policies and initiatives targeting energy and renewable energy offer some guidelines that can enhance the just transition and gender equality. Further, the paper suggests how law reform or law design for the just transition should provide for specific targets, including the realisation of gender equality. This can be achieved by making provision for the building of a necessary and inclusive workforce, protection of workers’ rights, social protection for affected communities and integration into a low-carbon economy.

1 Introduction

The extractives industry, including sectors such as coal mining and oil and gas extraction, Africa’s dominant energy sources, has traditionally been male-dominated.¹ Historically, women have been underrepresented in the extractives industry due to various factors, including cultural and social norms, occupational segregation, lack of access to education and training, and limited opportunities for career advancement.² The industry has often

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1 *Alaka Lugonzo and Kennedy Chege*, 'Gender Justice in the Energy Transition Era: Exploring Gender and Technology in the Extractives Sector' in Victoria Nalule (ed), *Energy Transitions and the Future of the African Energy Sector: Law, Policy and Governance* (2021), 382.

2 *Kuntala Lahiri-Dutt*, 'New directions in research on women and gender in extractive industries' (2022) 9 *The Extractive Industries and Society* 101048.

been seen as physically demanding and hazardous, which has deterred many women from pursuing careers in this field.³

Despite progress in recent years to improve gender equality, there is still work to be done to achieve gender equality in the African extractives industry. Hence, continued efforts are needed to break down barriers, challenge stereotypes, and create inclusive workplaces, encouraging and supporting women's participation and advancement in the industry. The just energy transition agenda, which involves principles, strategies, and practices required to transition workers and surrounding communities to more inclusive economies, could accelerate such efforts.⁴

This paper discusses how the just transition agenda for Africa could also serve as a transition from a male-dominated energy industry to an environment where both genders have fair chances of thriving equally. This paper, therefore, analyses circumstances that act as barriers to equal involvement of women in the industry and the consequences of such exclusion. The paper further analyses how the just transition enabled by a comprehensive legal and policy framework can serve as a much-needed catalyst to enhance gender equality in the extractives industry.

2 Gender and the Extractive Industries

Gender inequality is a significant issue in the African extractive industries, particularly those that serve as energy sources.⁵ The specific challenges and circumstances vary across countries and regions, but several common factors contribute to gender disparities in this sector.

First, women in many African countries often lack quality education and vocational training, which hinders their ability to enter and progress in the extractive industries.⁶ Gender stereotypes and cultural norms often steer women towards more traditionally female-dominated fields such as subsistence farming, leading to occupational segregation.⁷ Research conducted on women's involvement in underground coal mining in South Africa

3 Ibid 3.

4 Pablo García-García, Óscar Carpintero and Luis Buendía, 'Just energy transitions to low carbon economies: A review of the concept and its effects on labour and income' (2020) 70 Energy Research & Social Science 101664, 5.

5 Sarah Baum and Anja Benshaul-Tolonen, 'Extractive industries and gender equality' (2021) 15 Review of Environmental Economics and Policy 195, 196–197; Adriana Eftimie, Katherine Heller and John Strongman, 'Gender dimensions of the extractive industries' (2009) 8 Extractive Industries and Development Series ; Millicent A Ochieng, 'Women in the Extractive Industry in Kenya: Opportunities and Challenges' (2023) 14 Journal of Language, Technology & Entrepreneurship in Africa .

6 Lahiri-Dutt, 'New directions in research on women and gender in extractive industries' 6.

7 Petrus K Mwetulundila, 'Gender equity and career progression in the Ministry of Health and Social Services in Khomas region of Namibia', University of Namibia 2019) 40.

showed that women do not have the same level of training as their male counterparts.⁸ Similarly, reports suggest that women in the Nigerian petroleum sector are less likely to have access to the education and training necessary to succeed in the oil and gas sector.⁹ Such imbalance in training is partially attributed to the fact that women are fairly new in the extractive industry and often lack female role models.¹⁰ As a result, women who can enter the sector often settle for the lowest positions as general workers, excluding them from challenging opportunities and better pay or functions corresponding to their “real” talents.¹¹ As a result, women in the extractive industries generally face lower wages and limited access to economic opportunities than their male counterparts.¹² Various factors, including occupational segregation, discrimination, and limited opportunities for career advancement, influence this pay gap.¹³

Secondly, the marginalisation of women in the energy sources industry can be attributed to the underrepresentation of women in leadership positions and decision-making roles within the extractive industries.¹⁴ This is partly because women are often stereotyped as less capable than men in the extractive sector.¹⁵ This can lead to unconscious bias by employers, making it difficult for women to get hired or promoted¹⁶ despite existing legal frameworks providing against gender-based discrimination.¹⁷ A recent study found that women make up a low percentage of the uranium mining workforce in Niger.¹⁸ The study also found that women are more likely to be employed in lower-paying, less-skilled jobs

- 8 *S Mangaroo-Pillay and D Botha*, ‘An exploration of women’s workplace experiences in the South African mining industry’ (2020) 120 *Journal of the Southern African Institute of Mining and Metallurgy* 475447.
- 9 AfDB ‘Women’s economic empowerment in oil and gas industries in Africa’ https://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/anrc/AfDB_WomenEconomicsEmpowerment_V15.pdf (accessed 17 November 2023).
- 10 *Francis Arthur-Holmes, Kwaku Abrefa Busia and Sarah Katz-Lavigne*, ‘“We don’t joke with our money”: Gender-based occupational segregation and women’s remuneration negotiations in artisanal and small-scale mining’ (2023) 80 *Resources Policy* 103188.
- 11 *Ochieng*, ‘Women in the Extractive Industry in Kenya: Opportunities and Challenges’.
- 12 *Arthur-Holmes and others*, ‘“We don’t joke with our money”: Gender-based occupational segregation and women’s remuneration negotiations in artisanal and small-scale mining’ 2.
- 13 *Kehinde Itohan Denev*, *Gender and Barriers to Women’s Management Career Development in the Nigerian Oil and Gas Industry* (University of Wales Trinity Saint David (United Kingdom) 2021) 56–57.
- 14 *Ibid* 24–26.
- 15 *Rachel Perks and Katrin Schulz*, *Gender in oil, gas and mining: An overview of the global state-of-play* (Elsevier 2020).
- 16 *Ochieng*, ‘Women in the Extractive Industry in Kenya: Opportunities and Challenges’ 107.
- 17 Women Empowerment and Gender Equality Bill of 2013; East African Community Gender Equality and Development Bill of 2016.
- 18 SOMIDA ‘Addendum à l’ESIA de la mine d’uranium de Dasa’ (2023) https://s29.q4cdn.com/426815530/files/doc_downloads/2023/02/Dasa-ESIA-Addendum-24-February-2023-fr-2.pdf (accessed 17 November 2023).

than men.¹⁹ This lack of representation reduces the visibility of women's perspectives and limits their influence in shaping policies, practices, and resource allocation.

Thirdly, the extractive industries are already physically demanding and hazardous, with risks of injuries, exposure to toxins, and long working hours.²⁰ An extra violation of human rights confronting women is that they often face additional challenges in accessing appropriate personal protective equipment, health services, and facilities mainly designed for male-dominated workplaces.²¹ Such issues further deter women from entering the sector.

While the above has been the trend in Africa for decades, one can expect a shift from the various discrimination women have been subjected to as the world seeks to turn a new leaf through the "just transition".

3 Contextualising the "Just Transition"

A just transition is a concept developed to ensure that the transition to a sustainable and low-carbon economy is fair and equitable for all.²² The just transition seeks to address this transition's social and economic impacts, particularly on workers and communities most likely to be affected by the shift away from fossil fuels and other high-emitting industries.²³

The concept of a just transition is based on recognising that climate change is a global problem with disproportionate impacts on marginalised communities within and between countries.²⁴ These communities are often more vulnerable to the effects of climate change, such as extreme weather events, sea level rise, and food insecurity.²⁵ They are also more likely to be employed in industries that are likely to decline as a result of the transition to a low-carbon economy.²⁶ Hence, a just transition seeks to address these inequalities by ensuring that the benefits of the transition are shared widely while also providing support for those most likely to be negatively affected.²⁷ This includes reskilling and retraining all

19 Ibid.

20 Roxana Z Witter, Liliana Tenney, Suzanne Clark and Lee S Newman, 'Occupational exposures in the oil and gas extraction industry: State of the science and research recommendations' (2014) 57 American journal of industrial medicine 847.

21 Doret Botha and Freek Cronjé, 'Women in mining: A conceptual framework for gender issues in the South African mining sector' (2015) 39 South African Journal of Labour Relations 10.

22 García-García and others, 'Just energy transitions to low carbon economies: A review of the concept and its effects on labour and income' 2-3.

23 Ajay Gambhir, Fergus Green and Peter JG Pearson, 'Towards a just and equitable low-carbon energy transition' (2018) 26 Grantham Institute Briefing Paper 2-3.

24 Xinxi Wang and Kevin Lo, 'Just transition: A conceptual review' (2021) 82 Energy Research & Social Science 102291, 4.

25 Ibid.

26 Ibid.

27 Sanya Carley and David M Konisky, 'The justice and equity implications of the clean energy transition' (2020) 5 Nature Energy 569, 569-570.

workers for new jobs in the low-carbon economy and supporting communities likely to be economically impacted by the transition.²⁸

A just transition requires protecting workers' rights and livelihoods, including providing support for workers of all genders who lose their jobs due to the transition and ensuring that they have access to retraining and reskilling opportunities.²⁹ Similarly, communities must be involved in the decision-making process, including ensuring that communities have a say in how the transition is planned and implemented and that their needs and concerns are taken into account.³⁰

Therefore, the just transition is based on social justice and equity to address the historical and systemic inequalities that have marginalised certain members of society and ensure that the benefits of the transition are shared fairly.³¹

Thus, a just transition for Africa must ensure that the transition to renewable sources of energy (low carbon economy) is conducted in a way that addresses present and historical inequalities, guarantees jobs and relieves poverty for all genders. It must also seek to restore natural environmental systems to enhance resilience to climate change. This will ensure that everyone affected by the transition process is catered for.³²

Similarly, while transitioning from carbon-intensive energy sources, it is crucial to ensure a clean energy future and a sustainable environment. This is necessary because a well-managed transition from fossil fuels, retirement of power plants depending thereon, and the scale-up in clean energy are vital to achieving some of the UN sustainable development goals,³³ including goal five (Gender Equality).³⁴ This goal seeks to achieve gender equality by empowering all women and girls.³⁵

Just transition initiatives put people and communities at the centre of the transition objectives. Thus, steps in this direction create a platform for stakeholders to contribute to designing plans, policies, and reforms needed to support impacted persons and build a new clean energy future that benefits everyone.³⁶ The African extractives industry must

28 *Ibid* 571 & 573.

29 *Nokwanda Maseko*, *Unemployment and Sustainable Livelihoods: Just Transition Interventions in the Face of Inequality (Trade and Industrial Policy Strategies 2021)* 4–5.

30 *Ibid* 4.

31 *Simone Abram, Ed Atkins, Alix Dietzel, Kirsten Jenkins, Lorna Kiamba, Joshua Kirshner, Julia Kreienkamp, Karen Parkhill, Tom Pegram and Lara M Santos Ayllón*, 'Just Transition: A whole-systems approach to decarbonisation' (2022) 22 *Climate Policy* 1033, 1034.

32 *Monkgogi Othogile and Rebekah Shirley*, 'The evolving just transition: definitions, context, and practical insights for Africa' (2023) 3 *Environmental Research: Infrastructure and Sustainability* 013001, 2.

33 UN <https://sdgs.un.org/goals> (accessed 22 July 2023).

34 *Ibid*.

35 *Ibid*.

36 *Peter Newell and Dustin Mulvaney*, 'The political economy of the 'just transition'' (2013) 179 *The Geographical Journal* 132, 133.

take into account the interdependencies between the decommissioning of carbon-intensive energy sources and the anticipated economic challenges.³⁷ It is necessary to consider the interdependencies because a just transition initiative involves maximising the social and economic opportunities of a transition process while minimising and carefully managing resulting challenges.³⁸ Such management includes effective inclusive dialogue among all groups impacted and respect for fundamental development and labour principles and rights.³⁹

The just transition presents an opportunity to manage the risks associated with climate change, with an overarching goal of improving the lives and livelihoods of Africans most impacted by the extractives industry and climate change.⁴⁰ The just transition is, therefore, a means to ensure that the abandonment of carbon-intensive sources of energy in Africa is carried out in a way that pays attention to the plight of those who are likely to be impacted negatively in case of decommissioning of coal mining, for example, without a succession plan. The transition from coal will likely be challenging because of associated cost, requisite technology and, most notably, an enabling legal framework or policy.⁴¹

Hence, critical laws, policies and reforms are necessary to enable and achieve gender equality in the just transition agenda for Africa. The following section analyses the ability of Africa's legal framework to enhance gender equality in the extractive sector through the just transition.

4 Enabling Gender Equality in the Just Transition Agenda through Law and Policy

The just transition is a complex and challenging process, but it is essential if we are to achieve a clean energy future that is fair and equitable for all. Therefore, law and policy applicable in the extractives context of Africa and to the just transition should enable gender equality to drive a process of change that ensures a transition to a low-carbon economy that is fair and equitable for all stakeholders, including women.⁴² This includes measures to protect all workers' rights, provide social protection for affected workers and communities, remove barriers to integrating fossil fuel workers into clean energy sectors, and build the necessary workforce capacity to deliver clean energy goals.⁴³

³⁷ *Othogile and Shirley*, 'The evolving just transition: definitions, context, and practical insights for Africa' 10.

³⁸ *Newell and Mulvaney*, 'The political economy of the 'just transition'' 133.

³⁹ *Ibid* 135.

⁴⁰ *Wendy Annecke and Peta Wolpe*, 'What role for social policies in the framework of the just transition in South Africa?' (2022) AFD Research Papers 1, 8.

⁴¹ *Ibid* 7.

⁴² *Noel Healy and John Barry*, 'Politicizing energy justice and energy system transitions: Fossil fuel divestment and a "just transition"' (2017) 108 Energy policy 451, 455.

⁴³ *García-García and others*, 'Just energy transitions to low carbon economies: A review of the concept and its effects on labour and income'.

4.1 Existing framework

While Africa has several reasons to enhance gender equality through transitioning from a long-established extractives industry, there is a lack of an enabling legal framework. Such a legal framework is crucial in setting out the vision, principles, and interventions designed to give effect to the much-desired gender equality, as advocated for by several organisations and people adversely affected by fossil fuels and their use. Nonetheless, several African countries are taking necessary steps to make laws and policies to enable a just transition agenda that promotes the inclusion of all genders, both short- and long-term.

South Africa, for example, has formulated its Integrated Resource Plan (IRP) 2019 to promote plans and interventions that mitigate the adverse impacts of transition programmes on people and local economies.⁴⁴ The Just Transition Framework for South Africa 2022 also presents an opportunity to start dealing with practical issues relating to jobs, local economies, skills, social support, and governance.⁴⁵ This is necessary to enhance gender equality in the extractives industry.⁴⁶ Also, South Africa recently passed the Climate Change Bill, which seeks, amongst others, to enable the development of an effective climate change response.⁴⁷ The Bill also seeks a long-term just transition to a low-carbon and climate-resilient economy and society for South Africa in the context of sustainable development and related issues such as gender imbalance.⁴⁸

In Kenya, the Energy Act of 2019 recognises the need for a just transition to a low-carbon economy. It requires the government to take measures to protect the livelihoods of those affected by the transition.⁴⁹ Nigeria's Energy Transition Plan seeks, amongst others, to manage the anticipated long-term job loss in the oil sector as a result of the reduced global fossil-fuel demand.⁵⁰

Besides the legislation and policies highlighted above, several initiatives exist to enhance gender equality in Africa's extractives industry. Specific examples of just transition initiatives in Africa include the Just Energy Transition Partnership (JETP), a partnership between South Africa, the United Kingdom, the United States, and the European Union

44 IRP 44.

45 *Presidential Climate Commission*, 'A framework for a just transition in South Africa' (2022) Pretoria: Presidential Climate Commission Available online at: <https://www.climatecommission.org.za/just-transition-framework> (accessed August 8, 2022) 9.

46 Ibid.

47 Climate Change Bill (B9–2022), s 2(a).

48 Ibid, s 2(d).

49 Kenyan Energy Act of 2019, s 75.

50 *Templars*, 'Nigeria's Energy Transition Plan: A journey towards equity, fairness and inclusion' <https://www.templars-law.com/app/uploads/2022/10/Nigerias-Energy-Transition-Plan-.pdf> (accessed 17 November 2023) 2.

to support South Africa's transition to an inclusive low-carbon economy.⁵¹ The JETP focuses on supporting workers and communities affected by the transition. Similarly, the Just Transition Initiative for the Extractive Industries in Africa, an initiative of the Climate Investment Funds (CIF), aims to support just transitions in the extractive industries in Africa.⁵² Thus, the initiative supports projects that promote worker retraining, community development, and environmental sustainability.⁵³ These initiatives, amongst others, seek to promote and achieve inclusiveness and a fair transition for all, irrespective of gender. This gives a clear indication that through the just energy transition agenda, gender inequality in the African extractives industry could be improved.

4.2 Way Forward

As various African countries scramble to adopt their just energy transition frameworks, it is crucial to specifically make provisions for promoting gender equality in their respective extractive industries. Such frameworks must contain specific targets, with one of the main aims being the realisation of gender equality, achievable in various ways.

First, there must be provisions for workers' rights to be protected. The objective should be to ensure that all workers have access to fair wages, safe working conditions, and social protection, such as unemployment benefits and pensions.⁵⁴ It also means providing training and support to help workers transition to new jobs in the clean energy sector.⁵⁵ Equal training and support will ensure that women receive similar training to their male counterparts.

Second, adopting the just transition agenda in the extractives industry involves providing social protection for affected communities. The involvement includes ensuring that communities affected by the transition from fossil fuels access basic services, such as water, sanitation, and healthcare.⁵⁶ It also means supporting economic development and job creation in these communities. This could be the right opportunity to correct the historical exclusion of women from the energy sources extractive industries, as highlighted above, by enabling or promoting their inclusion.

51 *The World Bank*, 'Factsheet: Eskom Just Energy Transition Project in South Africa' (2023) <https://www.worldbank.org/en/news/factsheet/2023/06/05/factsheet-eskom-just-energy-transition-project-in-afe-south-africa> (accessed 17 November 2023).

52 *AfDB*, 'Just Transition Initiative to Address Climate Change in the African Context' <https://www.afdb.org/en/topics-and-sectors/initiatives-partnerships/climate-investment-funds-cif/just-transition-initiative> (accessed 17 November 2023).

53 *Ibid.*

54 *García-García and others*, 'Just energy transitions to low carbon economies: A review of the concept and its effects on labour and income'.

55 *Ibid.*

56 *Carley and Konisky*, 'The justice and equity implications of the clean energy transition'⁴⁶⁹.

Third, law reform or design to enable the just transition must seek to create easy integration in the low-carbon economy. Removing barriers to integrating current fossil fuel workers into clean energy sectors is one way to foster gender equality in the extractives industry.⁵⁷ Eliminating such barriers requires providing for equal training and financial support to help all genders working in the fossil fuel sector transition to new jobs in the clean energy sector.⁵⁸ It also means ensuring that there are fair and transparent hiring practices in the clean energy sector such that all genders are accorded equal opportunities.

Fourth, upcoming laws and policies should cater to building necessary and inclusive workforce capacity to deliver clean energy goals that can correct the gender imbalance in the energy industry. This includes investing in education and training programs to build women's skills to actively participate in clean energy projects, from mining critical minerals needed for energy transition to creating and operating renewable energy structures.⁵⁹ It also entails ensuring non-discriminatory and transparent procurement practices in the clean energy sector.

Through the above, a just transition in the extractive industries in Africa can ensure that the transition to a low-carbon economy is fair and equitable for all stakeholders, including women whose contribution cannot be undermined continuously. Such inclusion can enhance productivity, innovation, and decision-making by bringing diverse perspectives and experiences.⁶⁰ For example, studies have shown that companies with more gender-diverse workforces tend to perform better financially and have improved risk management practices.⁶¹

5 Conclusion

Women have consistently been excluded from the extractives industry due to issues ranging from stereotyping to the perception that women are not suited to certain roles. However, this paper finds that recognising the need for a more diverse and inclusive workforce, many

⁵⁷ Jen Scott, Rose Dakin, Katherine Heller and Adriana Eftimie, 'Extracting lessons on gender in the oil and gas sector: A survey and analysis of the gendered impacts of onshore oil and gas production in three developing countries' (2013) *Extractive Industries for Development Series* #28 7–8.

⁵⁸ Pegah Mirzania, Joel A Gordon, Nazmiye Balta-Ozkan, Ramazan Caner Sayan and Lochner Marais, 'Barriers to powering past coal: Implications for a just energy transition in South Africa' (2023) 101 *Energy Research & Social Science* 103122.

⁵⁹ Marie-Theres Kügerl, Michael Hitch and Katharina Gugerell, 'Responsible sourcing for energy transitions: Discussing academic narratives of responsible sourcing through the lens of natural resources justice' (2023) 326 *Journal of environmental management* 116711, 5.

⁶⁰ The Advocates for Human Rights, 'Promoting Gender Diversity and Inclusion in the Oil, Gas and Mining Extractive Industries: A Women's Human Rights Report' (2019) https://unece.org/DAM/energy/images/CMM/CMM_CE/AHR_gender_diversity_report_FINAL.pdf (accessed 17 November 2023).

⁶¹ Ibid.

companies and organisations within the extractives industry are actively promoting gender equality and taking steps to attract and retain women.⁶² Pursuing the just energy transition will likely accelerate the rate of gender equality in the industry.⁶³

This paper finds that though there is currently no legal framework explicitly focused on energy transition, adopting and implementing critical legislation, policies, and initiatives would address existing barriers faced by women. This includes providing mentorship and leadership development programs, promoting flexible work arrangements, and creating safe and supportive work environments, which are vital to achieving such goals.

This paper argues that increasing gender diversity in the extractives industry through law and policy will help resolve historical discriminations and injustices that have consistently prevented women from bringing out their real potential.

Moreover, promoting gender equality in the extractives industry can have positive social and economic impacts on the communities where mining or extraction activities occur.⁶⁴ Including women in decision-making processes and ensuring their meaningful participation can help address social and environmental concerns, promote sustainable development, and contribute to local empowerment and community development.⁶⁵

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