

# De-Risking International Energy Law for the Energy Transition



**Professor Dr.  
Raphael J Heffron**

*BA, MA, MLitt, MPhil, MSc Barrister-at-Law, PhD*



**Prof in Corporate & Commercial Law  
Dean & Professor, Abu Dhabi University  
EU Jean Monnet Professor (2016 & 2019)  
Circa €8m in research grants**



AFRICAN DEVELOPMENT BANK GROUP



UNITED NATIONS  
ECONOMIC COMMISSION  
FOR EUROPE



ASIAN DEVELOPMENT BANK



Engineering and  
Physical Sciences  
Research Council



Economic  
and Social  
Research Council



# 1. Risk in International Energy Law



***Risks on  
international  
legal issues on  
the Rise***

Project  
Finance

Taxation

Disclosure  
&  
Transparency

UN  
Sustainable  
Development  
Goals

The 2015  
Paris  
Agreement

## Risks in International Law as Applied to the Energy Sector

Environmental  
impact  
Assessments

Insurance

Rules of  
Foreign  
investment

Economics

Bankruptcy

Rise in  
Imagery  
& Data

Climate  
Change  
Action

# Climate Change Tipping Points



- 1** Collapse of Ice Sheets and/or major ice formations  
→ much higher sea levels.
- 2** Permafrost thaw releases methane  
→ acceleration of global warming.
- 3** Massive loss of forests  
→ loss of biodiversity & release of greenhouse gases → acceleration of global warming.
- 4** Rapid climate change  
→ mass extinctions of animals, plants, other life forms.
- 5** Shutdown of Atlantic Meridional Overturning Circulation (AMOC)  
→ Cooling of Northern Hemisphere (AMOC conveys heat from the tropics).
- 6** Increase in El Niño–Southern Oscillation (ENSO)  
→ drought in South East Asia.
- 7** West African Monsoon  
→ droughts across Mauritania, Senegal, Burkina Faso, Mali, and Niger.
- 8** Greening of the Sahara  
→ greater local biodiversity.
- 9** Indian Monsoon shift  
→ droughts on the Indian subcontinent.
- 10** Tipping points at regional level  
→ severe local impacts on all continents.
- 11** Changed marine ecosystems  
→ abrupt West Tropical Indian Oceanic Bloom (Sudden increase in deep water upwelling brings nutrients to the upper layers of ocean, leading to gains in productivity from microorganisms to fisheries).
- 12** Disappearance of coral reefs  
→ loss of biodiversity, habitats, coastal erosion, cultural and economic losses.

## *Visibility & Emergency - Cities around the world feeling*



**Daily Livelihood  
(UN SDGs)**



# International Economic Law International Finance

NCES

HEADING  
THIS WAY

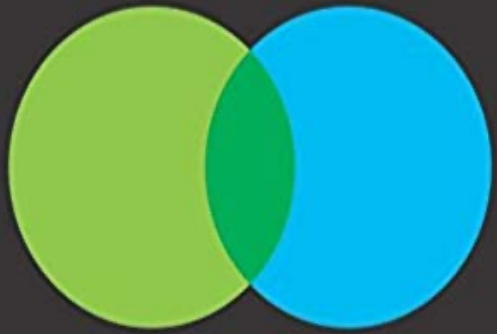
*Global Economic Crisis – 2007-2009 & the  
post COVID-19 economic Crisis*

*Big Impact on the Energy Sector*

*Societal-wide call for more Justice (lower  
inequality)*



# Economics for the Common Good



Jean Tirole



THE  
PRICE  
OF  
INEQUALITY

---

JOSEPH E.  
STIGLITZ

WINNER OF  
THE NOBEL PRIZE

Design of our legal system influenced  
by political economy

## Calls for Justice

- **Nature Energy**
  - Addressing SDG 7 can influence whether we meet all other SDGs (*Nerini et al., 2018*)
- **Economists call for more justice**
  - Can also help us reduce inequality – SDG 7

nature  
energy



Financial Times and  
McKinsey Business Book of the Year

**CAPITAL**

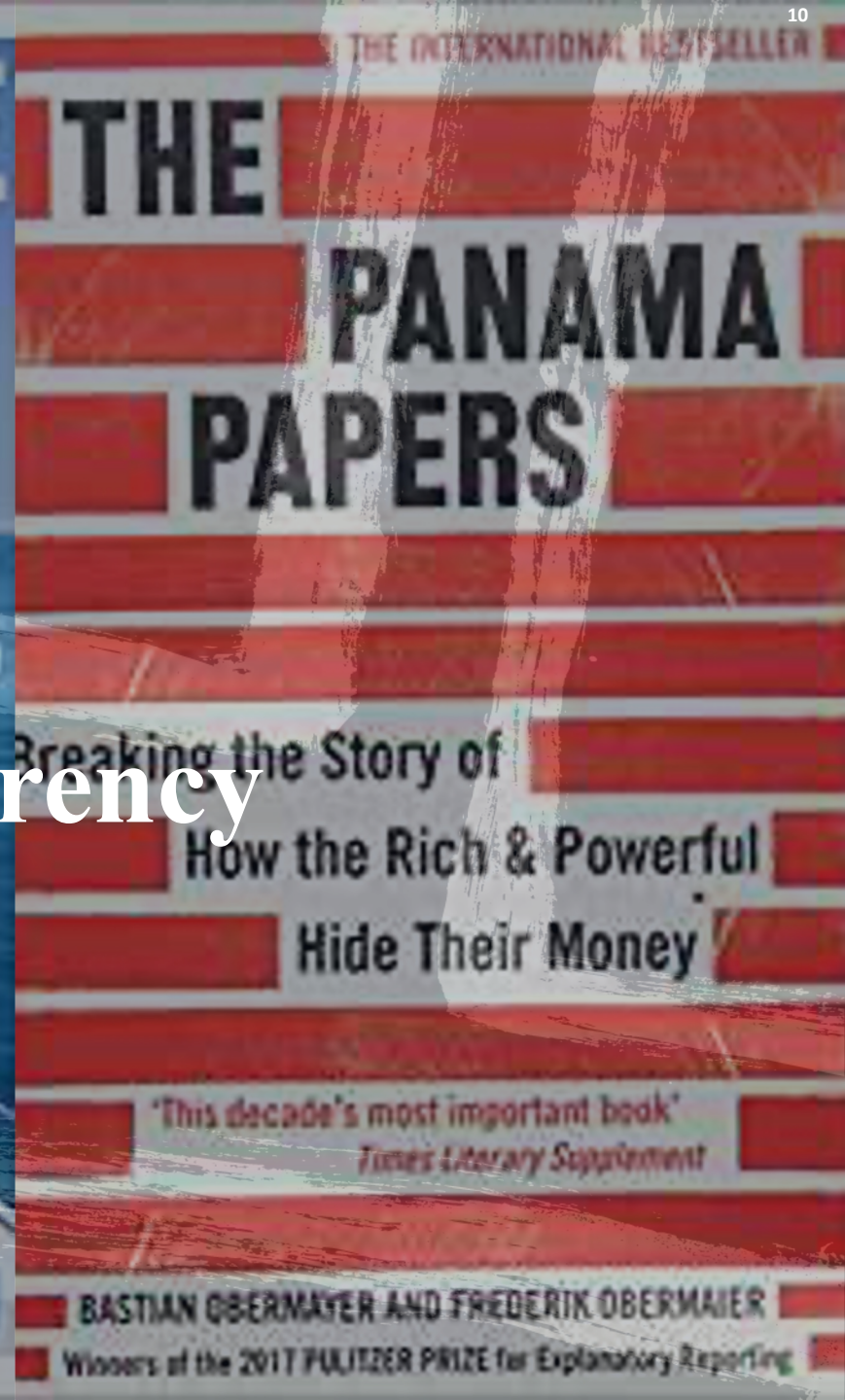
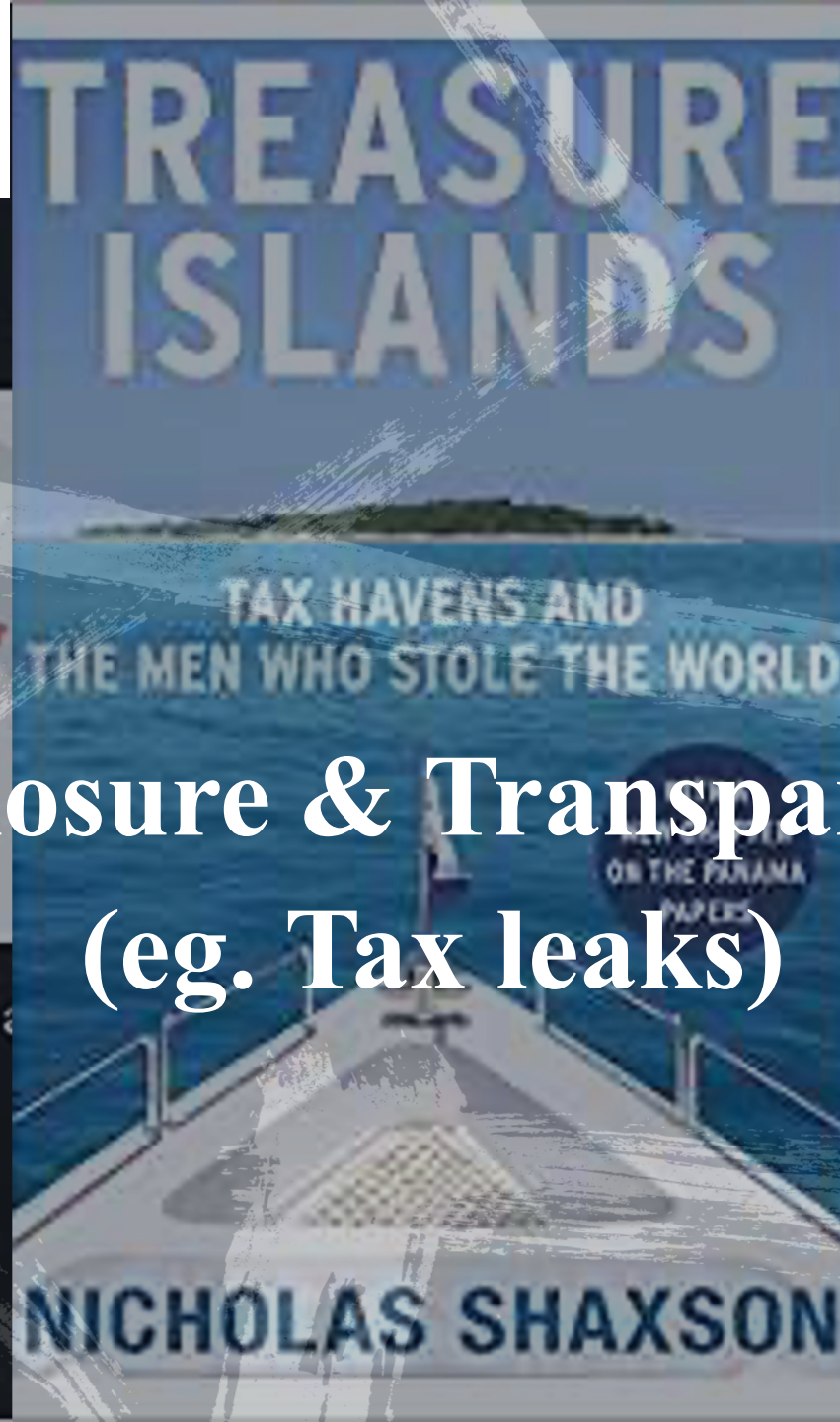
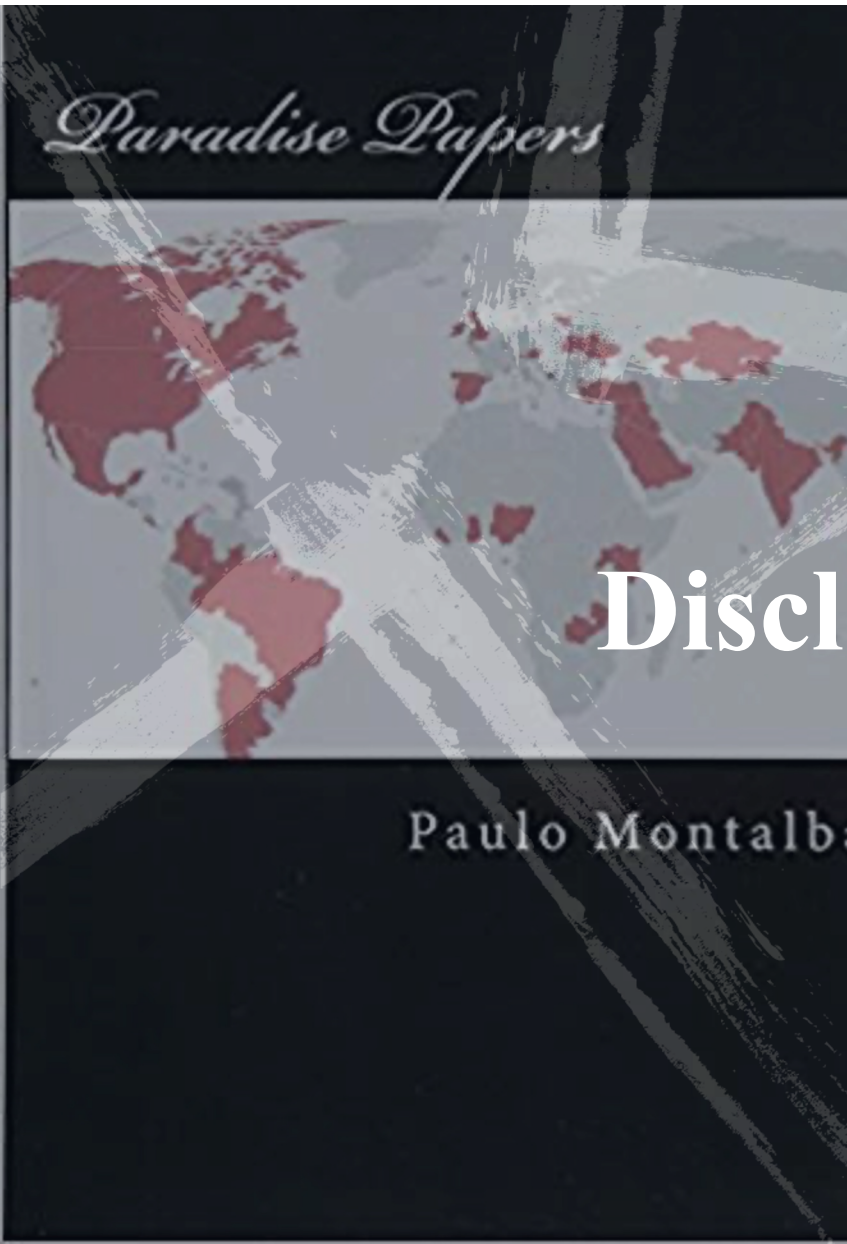
*in the Twenty-First Century*

THOMAS  
PIKETTY

TRANSLATED BY ARTHUR GOLDHAMMER

# International Taxation

## International Standards

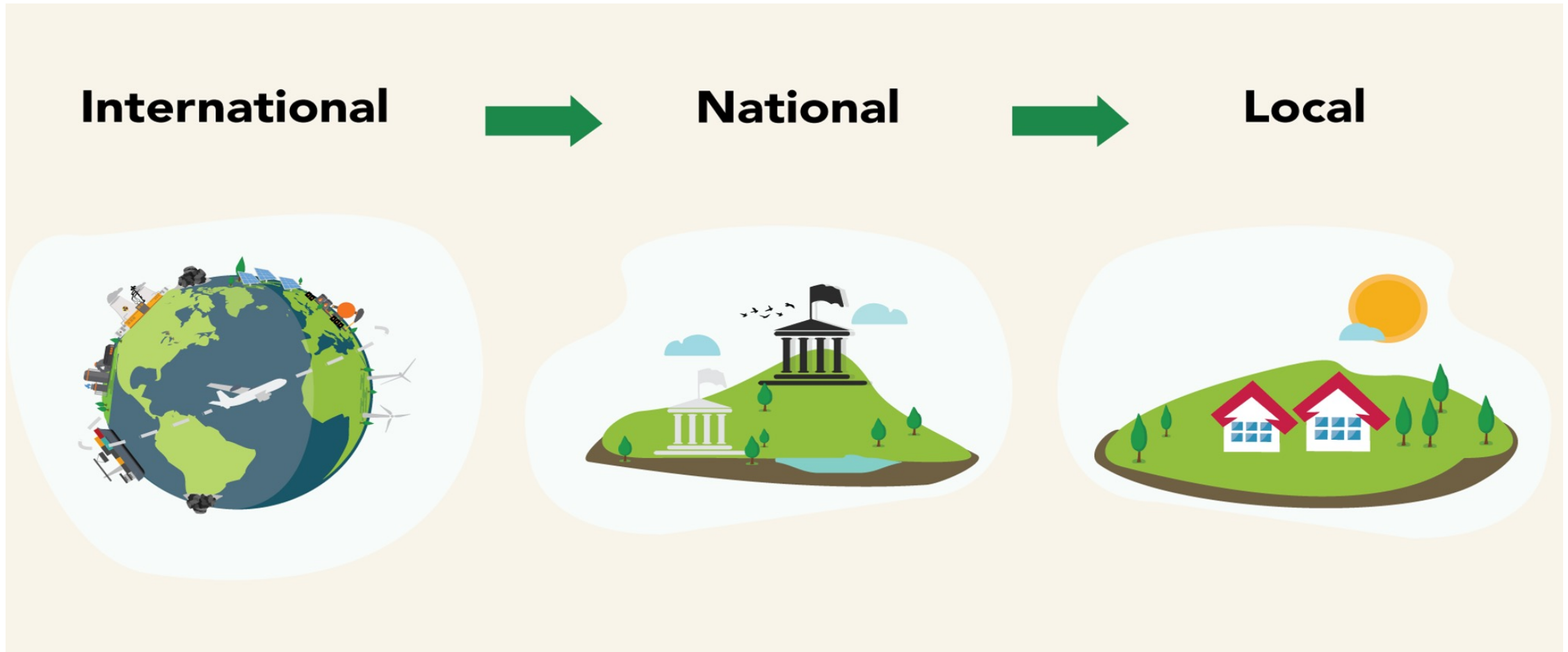


Disclosure & Transparency  
(eg. Tax leaks)

## 2. How do we De-Risk in International Energy Law



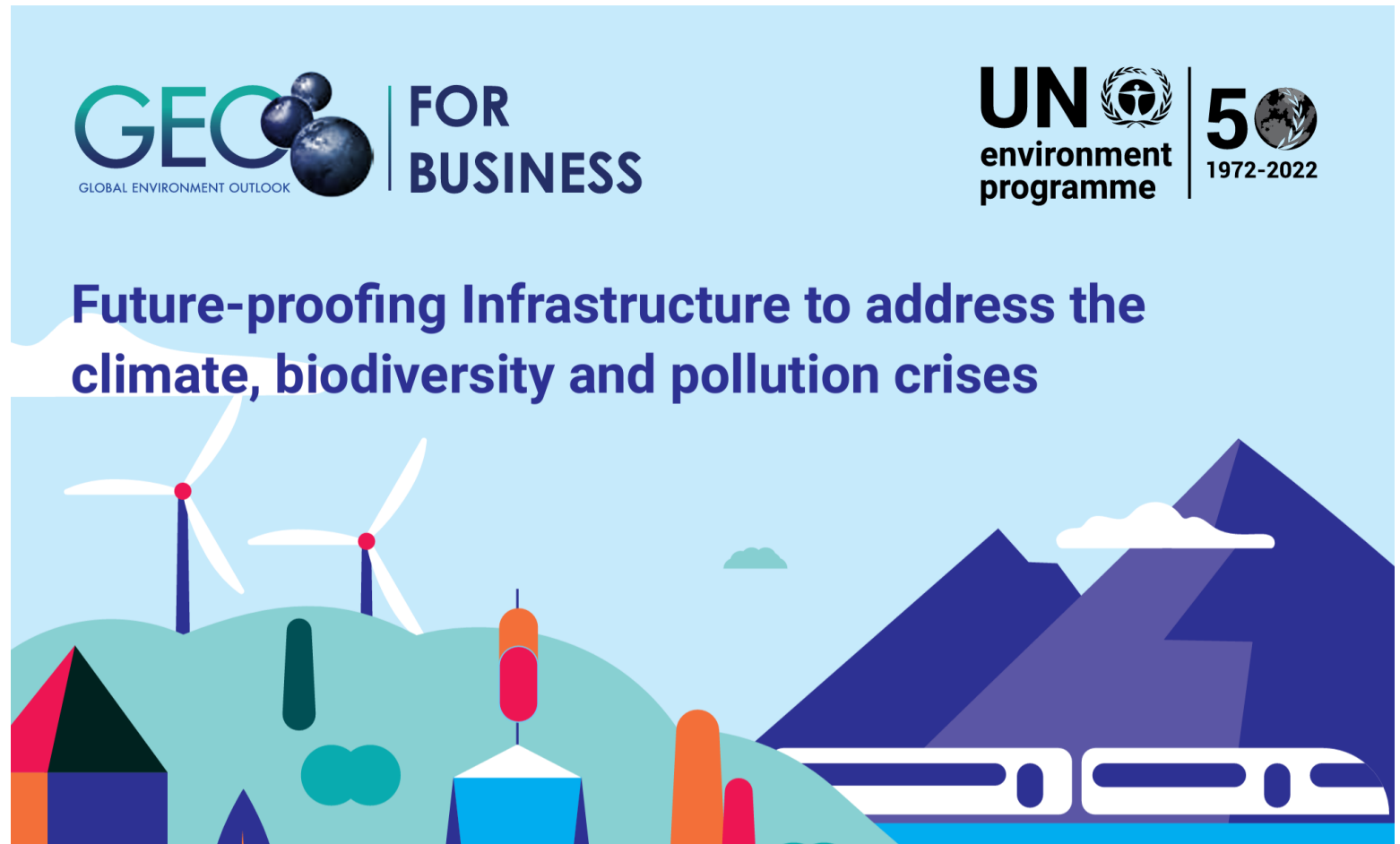
# Risk and Justice at three levels



Why change?

*De-risk  
decision-making*

*(Responsibility is  
changing)*



In simplistic terms, ***Future-Proofing*** means that in the future, public and private energy decision-makers can state at that point in time in the past, they relied on existing best-practice (including scientific data, risk management strategy, environmental impact data, consideration of alternatives etc.) to inform their decision-making.

## Key Aim of IEL -

Re-Balance of the operating relationship between:

(1) Government, (2) Energy & Extractive industries Companies and (3) Civil Society



Risk

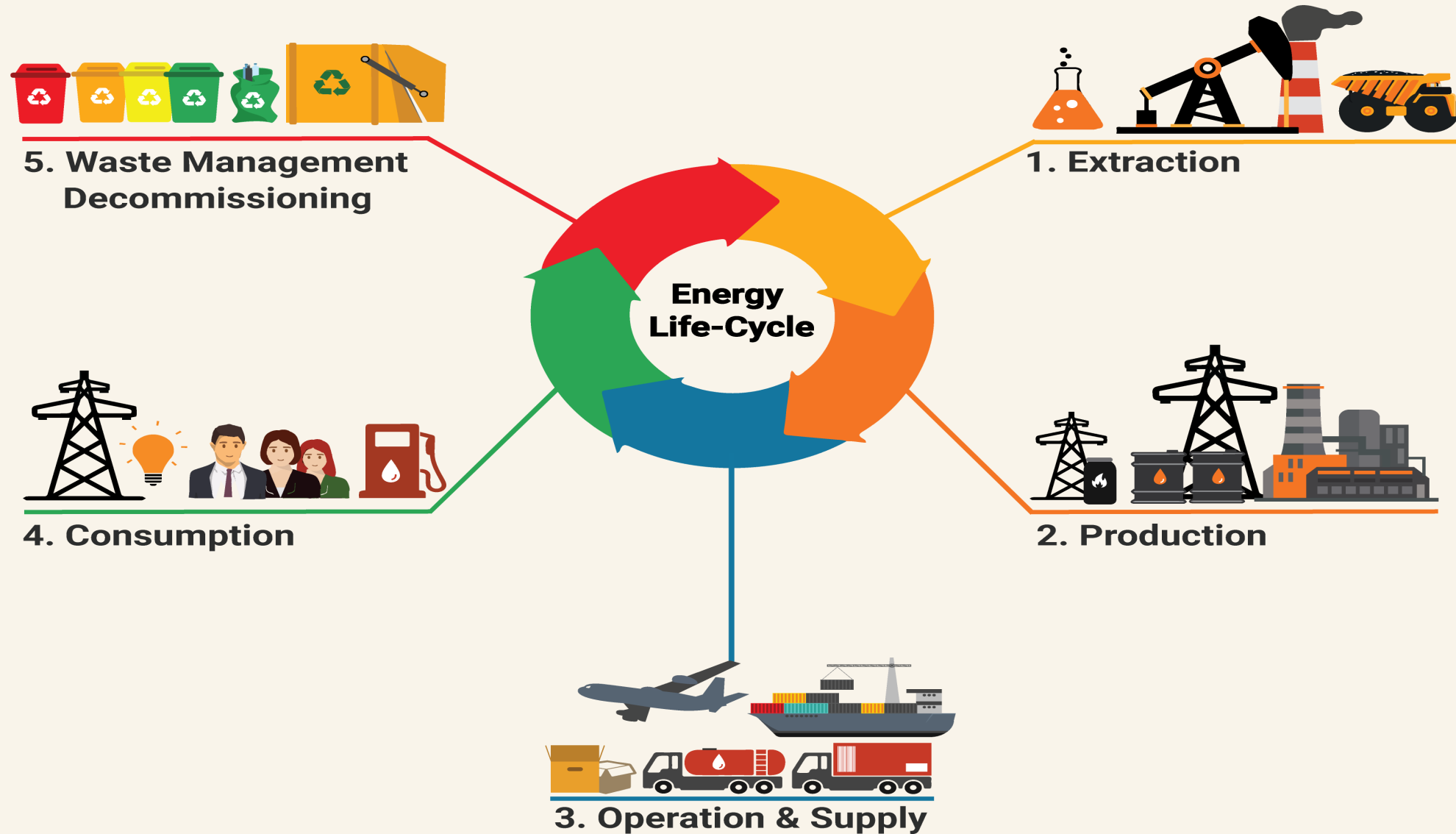


Reward

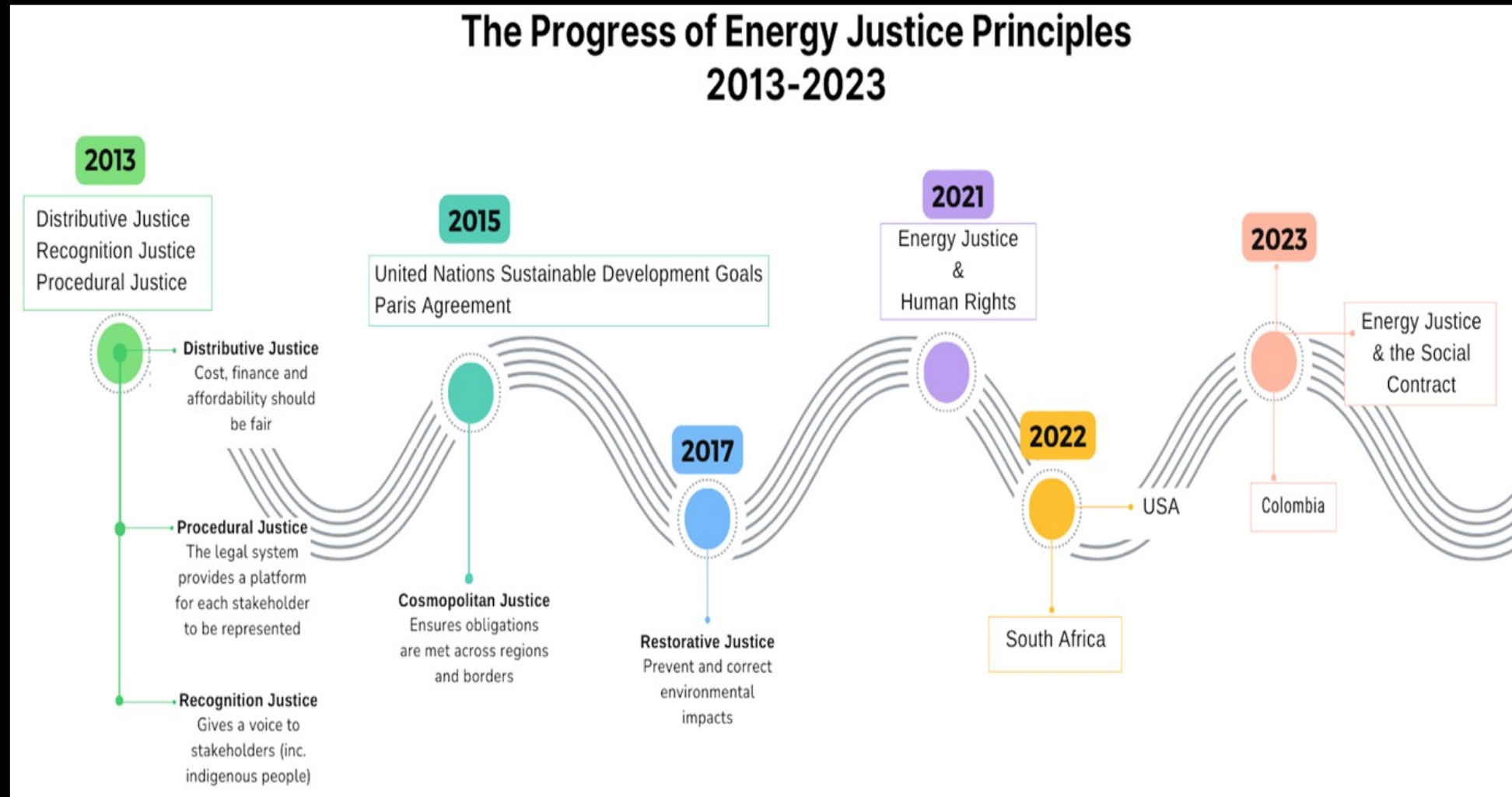


Responsibility

# Purpose of IEL is to develop projects across the energy life-cycle



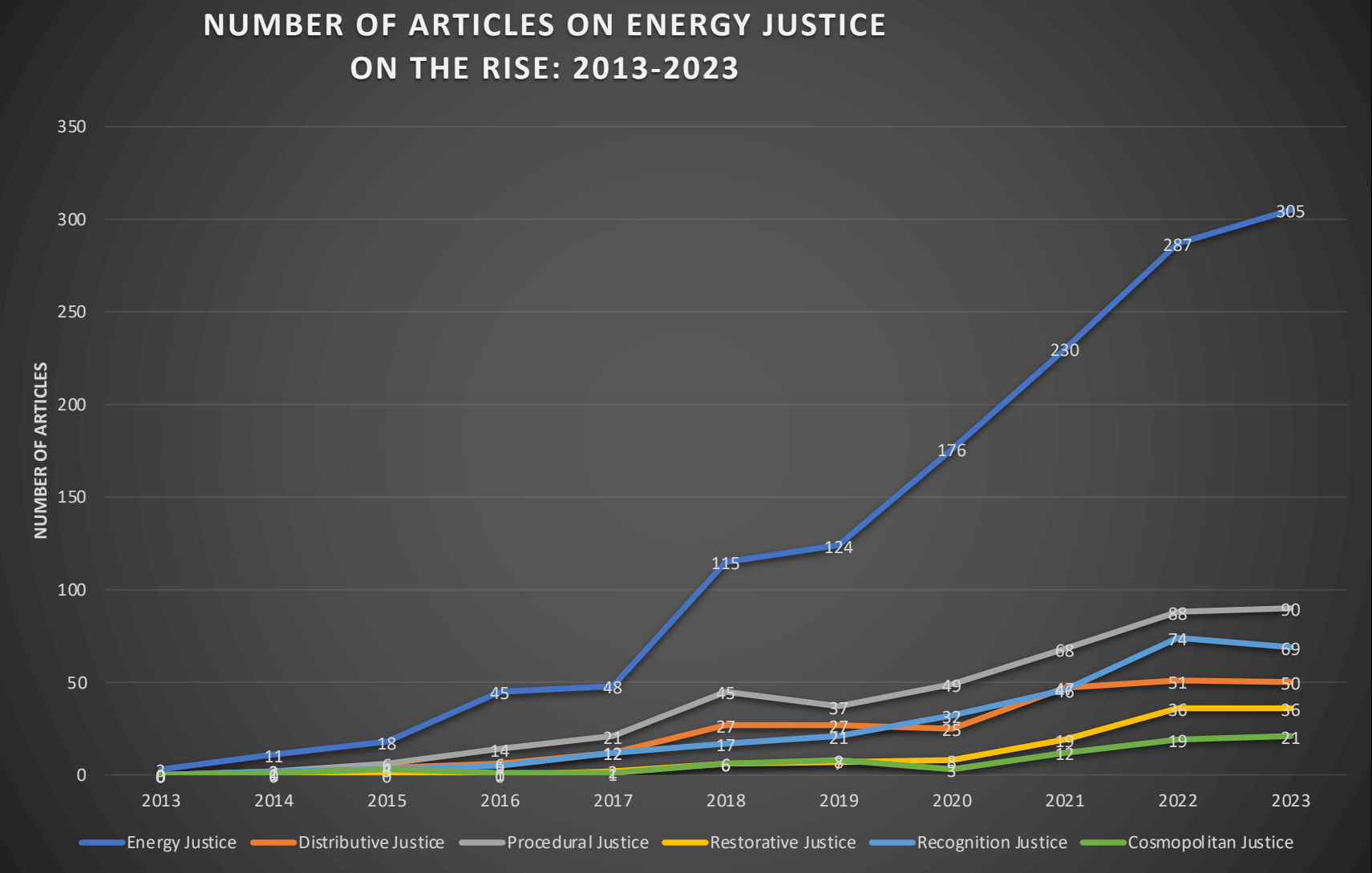
# Energy Justice – a principle-based approach



# Brief Explanation

Energy Justice Principle	Key Focus	Simple Definition
Distributive	The finance system	The energy system should have a fairer distribution of finance, i.e., profits should be shared more fairly across all stakeholders.
Procedural	The legal system	The architecture of the legal system needs to produce and provide opportunity for just outcomes.
Restorative	Correct and prevent injustices in the system	Impacts from energy activities need to be prevented and corrected to increase justice
Recognition	The 'Who' nationally and locally	All stakeholders need to be accounted for and in particular for example, vulnerable groups and indigenous communities.
Cosmopolitan	The 'Who' internationally	All countries and private institutions need to recognise their responsibilities internationally and how these affect stakeholders nationally and locally.

# Global Energy Justice Research on the Rise



# *Energy Justice Principles in Action Internationally*

Energy Justice Principle	International Finance	Shipping	Critical Minerals
Distributive	X	X	X
Procedural	X	X	X
Restorative	X	X	X
Recognition	X	X	X
Cosmopolitan	-	X	X



03

Next Steps:  
Tools for Reform

# Paris COP21 Agreement (2015)

*Society finally faces challenges ...*

**2017:** Governments begin to explore the Just Transition



**Addressing Inequality**

**Switching to new clean technology**



**2019:** First finance is advanced towards the Just Transition



**Impacts of Climate Change**

**Energy is key part of the Climate process**  
**- circa 80% of carbon emissions**

**2023:** The 'Just Transition becomes central to COP28

**... to meet a just energy scenario for 2030 and 2050 that is low risk for society**

# 1. Scenario Planning

- Corporate Strategic-Thinking Tool
  - Supports UN 'Futureproof' approach
- Prepare for different scenarios ***now with immediate effect:***
  - Risk management
  - Resilience (in light of economic crises, COVID-19 – health crisis etc.)
  - Climate change



## 2. (Energy) Justice Milestone Reports (EJMRs) – The Toolkit to reduce Risk

Reports will be updated periodically throughout the lifecycle of the project.

The EJMR reports ensure documented evidenced-based relationship strategy with all key stakeholders.

### Procedural Justice

- Review of the Legal Architecture
- Transparency & Participation Procedures
- Periodic review of Procedural Justice Performance during project lifecycle

### Distributive Justice

- Financial Impact of the Project
- Taxation Roadmap
- Job Creation, & Innovation
- Challenges to Fair Distribution
  - %Income to Energy Expenditure



### Restorative Justice

- Environmental Impact Assessment Compliance
- Development of Clean-Up Fund
- Resolving Legacy Energy Waste Prevention Roadmap

### Recognition Justice

- Stakeholder Identification (Mapping)
- Local Capacity Development
- Tracking Respect for Human Rights
- Legacy for Future Generations

### Cosmopolitan Justice

- Comparison with Alternate Projects
- Cross-Region/Border Impacts
- Obligation to other countries
  - *Advisory Opinion*
- International Obligations (inc. Financial)

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- Comparison with Alternate Projects
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A dramatic photograph of an industrial facility, likely a refinery or chemical plant, at sunset. The sky is a mix of orange, yellow, and dark blue, with large plumes of white smoke rising from several tall smokestacks. The industrial structures are silhouetted against the bright sky, with some lights visible on the buildings. A white, angular text box is overlaid on the left side of the image.

## International Business is changing

- Cost of technology is decreasing
- Clean technology growth
- Risk is diversified
- Justice is part of derisking process

# Data Driven Process

- 'Data' driven society
  - IPCC reports
  - Insurance Data
  - Economic Data
  - Socio-economic data
  - Health Data
  - Environmental Data



# IEL is changing

- Key issues
  - Data-driven
  - Science-influenced
  - Economic & finance
  - Job Creation
  - Health & Environment Data

*More demanding time to be IEL Scholar than ever*



# Wave of Justice

UN policy on the 'just transition'

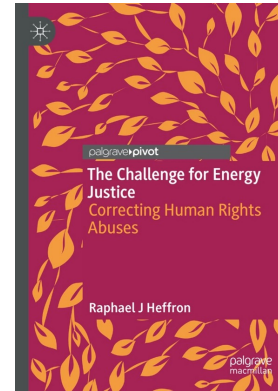


## No one left behind

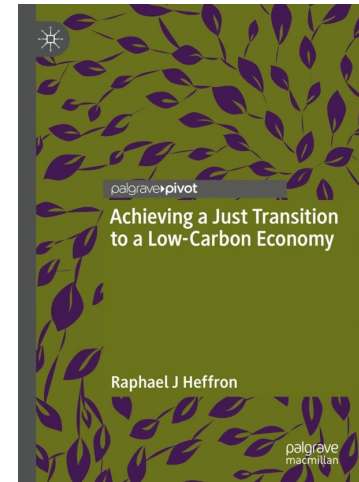
Gaining momentum

## Agenda for International Law

What will it look like? .... IEL & Interdisciplinarity .....



[raphael.heffron@gmail.com](mailto:raphael.heffron@gmail.com)



# Questions & Answers