

## ENERGY SECURITY ALONG THE NEW SILK ROAD

Guaranteeing energy security is one of the most complex challenges of energy law and policy. Energy insecurity threatens economic development, social peace and stability. This book focuses on energy security in the strategically important region of Central Asia. The region holds huge energy reserves, but its energy systems are highly inefficient and unreliable, and thus require urgent reform. However, endemic corruption, discrimination and the strong centralization of power have so far blocked initiatives to reorganize energy supply. The case of Central Asia is uniquely relevant for understanding the informal constraints on energy law and policy. In addition, Central Asian energy insecurity illustrates the impact of geopolitics on the regulation of energy markets. The region is strategically located in Russia's sphere of influence and along China's New Silk Road. Its energy situation highlights the complex interactions amongst energy law, geopolitics and institutions.

Anatole Boute is an associate professor at The Chinese University of Hong Kong, specializing in energy law. He has extensive working and academic experience in the Eurasian energy markets (Russia, Central Asia, EU and China), including advisory work for the major development banks. He is the author of *Russian Electricity and Energy Investment Law* (2015).

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# Energy Security along the New Silk Road

ENERGY LAW AND GEOPOLITICS IN CENTRAL ASIA

**ANATOLE BOUTE**

The Chinese University of Hong Kong



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*Une pratique de l'interculturalité du droit, dédiée à ma  
mère et mon père*

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## Map

2.1 Central Asian Power System

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## Preface and Acknowledgements

Ensuring energy security is a task of high social, political and economic sensitivity. As I put the finishing touches on this book, France was facing another week of major social unrest following its government's decision to increase fuel taxes. These protests, which emerged seemingly out of nowhere, developed with bewildering speed. In Central Asia – the focus of this book – the decision of the Kyrgyz government to increase electricity tariffs helped trigger the 2010 Kyrgyz Revolution, eventually resulting in regime change. The case of Central Asia provides a uniquely relevant laboratory for studying the role of energy law in delivering the objective of energy security in a context of high energy poverty, significant energy investment needs and increasing urgency to adapt to and mitigate climate change. Given the acute institutional barriers to energy price increases and resistance to market reform in the region, important lessons can be learned from the difficulties that the Central Asian states face in creating a functioning legal framework to achieve energy security.

The lessons of the Central Asian case are of broad relevance, but are particularly important for transition and emerging economies, where the challenge of reconciling energy poverty, energy security and decarbonization is especially pronounced. I hope that my analysis will prove useful not only to scholars of energy law but also to policymakers and students of politics more generally. As highlighted by ongoing events in France, informal constraints on energy reforms can, if ignored or poorly managed, block reforms and even trigger political unrest, regardless of the technical sophistication of the legal arrangements governing reform.

The case of Central Asia is also highly relevant because it underlines the increasing impact of geopolitics on the regulation of energy markets. The close interrelation of geopolitics and energy regulation has traditionally been studied in the context of the deteriorating energy relations between the European Union and Russia. Energy security in Central Asia provides another perspective on the geopolitics of energy and its relevance for energy law. As a major energy production and transit region, Central Asia is a key consideration in the strategic thinking of neighbouring foreign

powers. For instance, the region is central not only to Russia's 'sphere of influence' and China's 'Belt and Road Initiative', but also to the EU-Asia Connectivity Strategy. Foreign energy investments along these 'New Silk Roads' have in recent years helped the poorer Central Asian states avoid the breakdown of their national energy systems, despite major deficiencies in domestic energy law. The case of Central Asian energy security highlights how investments made for geopolitical purposes can make a short-term contribution to energy security, but can also remove the incentive to reform energy markets towards commercial viability and, in some cases, trap the host states in a relation of dependency. In regions of strategic importance, energy law cannot be studied in isolation from geopolitical considerations.

I started the research underlying this book with a study for the Energy Charter Secretariat on the reform of the Central Asian electricity markets. I am grateful to Kanat Botbaev for inviting me to work on this topic and for introducing me to key stakeholders in the Central Asian energy industry. The Faculty of Law at the Chinese University of Hong Kong (CUHK) provided a great environment for my academic research on Central Asian energy security. Dean Christopher Gane immediately recognized the relevance of the topic (particularly given the growing relevance of the region for China's Belt and Road Initiative and energy security) and provided tremendous support to the project. I also benefited immensely from the advice of Bryan Mercurio (the Associate Dean of Research of CUHK's Faculty of Law) and from discussions with Antoine Martin and Hao Zhang on economic and energy law, and research more generally. I also received valuable funding support in the form of a grant from the General Research Fund of Hong Kong (RGC14608118).

Research on the book benefited from more than a dozen research trips to the region. Regular interaction with key stakeholders in the Central Asian energy sector (including ministries, energy utilities, multilateral development banks, international energy organizations, foreign investors and local scholars) furthered my understanding of Central Asian energy regulation. I am grateful to all those who have taken the time to share their expertise on Kazakh, Kyrgyz, Tajik, Turkmen and Uzbek energy law and policy with me, and helped me navigate the complexity of the regional and national legal and policy framework governing energy security. Although the book at times is critical of the quality of energy law in the region, these criticisms are not directed at the local energy law and policy community, whose members (certainly all those I have met) are highly qualified and dedicated to improving legal standards in the region.

I am grateful to Ebby Adhami for introducing me to the Tajik energy community and to Oleg Arkhipkin for facilitating contacts with stakeholders in the Kazakh energy industry. Patrick Willems was a great companion in Dushanbe. William Partlett helped me make sense of Central Asian judicial practice and encouraged me to be more ambitious with my scholarship. Cooperation with Peter Hefeled of the Konrad Adenauer Stiftung Energy Security program (e.g., on the organization of the conference on the 'Regulation of Energy Investments along the Belt and Road')



helped fine-tune the ideas of the book. Needless to say, they are not responsible for the views expressed in this book. Those views, along with any remaining errors, are entirely my own.

I am also grateful to Dzhamilia Maratova and Irina Kulikova for their excellent research assistance, in particular on judicial practice in the Kyrgyz and Kazakh energy sectors. Many thanks to Adrien Herda and Sai Ma for reproducing the map and figures in this book, and to Maggie Zhang for assisting with the index.

I also would like to thank David Wilmshurst for editing the book's contents, Dimitry Kochenov for providing valuable guidance on the proposal, and Joe Ng at Cambridge University Press for shepherding me through the publication process.

Last but not least, I am deeply indebted towards my wife Xiaoman for her unstinting support and patience, and for giving me the energy to complete this project.

## Abbreviations

BVO	Basin Water Association
CASA-1000	Central Asia South Asia Electricity Transmission and Trade Project
CNPC	China National Petroleum Corporation
CUHK	Chinese University of Hong Kong
EU	European Union
FET	Fair and Equitable Treatment
GDP	gross domestic product
ICWC	Interstate Coordinating Water Management Commission
INOGATE	Interstate Oil and Gas to Europe program
JSC	joint stock company
KEGOC	Kazakh Electricity Grid Operating Company
KOREM	Kazakh Operator of the Electricity Market
MW	megawatt
OECD	Organisation for Economic Cooperation and Development
TALCO	Tajik Aluminium Company
TBEA	Tebian Electric Apparatus Company
TJ	terajoules