

Community Law Inclusivity in Energy Transition Regulation in Indonesia

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ABSTRACT

Indonesia is currently preparing to make a transition in the energy sector, to achieve Net Zero Emission (NZE). In addition to *stakeholders*, regulatory support, and real action are needed. Through the G20 meeting, Indonesia is a member of the Just Energy Transition Partnerships (JETP), which subsequently forms the Comprehensive Investment and Policy Plan (CIPP). Policymakers need to develop a legal framework and provide regulatory support for handling climate change, and can ensure the legal inclusivity of affected communities. This paper aims to find out the regulations that regulate the acceleration of the energy transition in Indonesia and an analysis of the legal inclusivity of the community in the regulation of accelerating the just energy transition in Indonesia, with the type of normative juridical research and critical legal studies *analysis*. As a result of the analysis, the regulations that regulate the acceleration of the energy transition in Indonesia refer to Presidential Regulation No. 112 of 2022, the inclusivity of community law in the regulation of accelerating the just energy transition in Indonesia has several weaknesses, so that *substantive rights* and *policy synchronization must be fulfilled, in order to* achieve Indonesia's equitable energy security.

Keywords: *Legal inclusivity, Regulation, Energy Transition*

Introduction

The energy transition is an effort to transition from the use of fossil energy to renewable energy. The energy transition is important to address climate change, improve energy security, create jobs, improve air quality, and build a sustainable future. The energy transition program from fossil energy to renewable energy is a major change that needs to pay attention to the serious impact it has on society and the environment. In an effort to encourage Indonesia's energy transition towards

Net-Zero Emission by 2060, the Coalition for a Zero-Emission Indonesia 2050 (KIBE 2050), Clean Energy Generation, IESR, Climate Ranger Jakarta, Indonesia Youth Coalition to Climate Actions (YOU-CAN), & Society of Renewable Energy University of Indonesia (SRE UI), held an audience with the National Energy Council (DEN) to discuss the Long-Term Development Plan (RPP) of the National Energy Policy (KEN). There were 4 discussions in the presentation that were proposed, including:¹

- a. Discussing energy democratization, by emphasizing the importance of equitable energy access for all levels of society, and encouraging that renewable energy is not only accessible to the upper class, but also the middle and lower class can also take advantage of it.
- b. The issue of Clean Energy for the People, by explaining that clean energy must be the right of every individual as well as the importance of policies that support the development of renewable energy sources for the community.
- c. Real Action to Reduce Emissions, emphasizes the need for concrete steps to reduce greenhouse gas emissions. The KEN RPP has not included the target for early retirement of coal-fired power plants.
- d. Discussing a Just Transition in Affected Sectors, highlighting the importance of ensuring that the energy transition needs to accommodate affected groups such as workers in the fossil energy sector. There is a need for compensation and retraining funds for affected dirty energy sector workers.

Some of the fundamental problems both at the regulatory level and the implementation of the energy transition in Indonesia include:

1. Dependence on Coal

Indonesia is still heavily dependent on coal as the main source of energy. This is due to the abundance of coal resources available in the country and relatively low production costs. However, this dependence is a major challenge in the transition to renewable energy because coal is one of the largest contributors to carbon emissions.²

¹<https://iesr.or.id/audiensi-koalisi-indonesia-bebas-emisi-2050-kibe-2050-dengan-dewan-energi-nasional-den-dalam-mendorong-transisi-energi-pada-kebijakan-energi-nasional-ken/>

² Raffludin Alayubi, "Dominasi Oligarki Sumber Daya Alam: Studi Kasus Ketergantungan Indonesia pada Industri Batubara Selama Pemerintahan Joko Widodo," *Jurnal Ilmu Sosial dan Pendidikan (JISIP)* 7, no. 3 (2023): 2533–46, <https://doi.org/10.58258/jisip.v7i1.5513/http>.

2. Limitations of Renewable Energy Infrastructure

The development of infrastructure for renewable energy such as solar, wind, and geothermal power is still relatively slow. This is due to a lack of investment, technology that is not yet fully ready, and high start-up costs. Indonesia's geographical condition, which consists of thousands of islands, is also an obstacle in building an even renewable energy network.³

3. Inconsistent Regulations and Policies

Although the government has set several targets and policies for the development of renewable energy, implementation on the ground is still often constrained by regulatory inconsistencies. Frequent policy changes, lack of incentives for investors, and overlapping authority between institutions often hinder the acceleration of the energy transition.

4. Lack of Public Awareness

Education and public awareness about the importance of the energy transition are still limited. Many people do not understand the long-term benefits of renewable energy, especially in the context of reducing the impact of climate change. This awareness is critical to driving public support for energy transition policies.⁴

Energy transition regulations and policies cannot be separated from the problems that follow them. One example of a program to realize the energy transition and give birth to community conflicts is the Rempang Ecocity project, where the majority of the people there reject the project and still leave several problems such as land conflicts, compensation reimbursement, criminalization, and violations of customary land rights (adat).⁵ This kind of conflict does not only occur in Rempang, in Batang Toru in North Sumatra also experiences similar problems. The hydroelectric power project, which is owned by a Chinese state-

³ Amy Nathalia Rebecca et al., "TRANSFORMASI ENERGI BERKELANJUTAN DI INDONESIA: KEBIJAKAN DAN TANTANGAN DALAM TRANSISI DARI BATU BARA KE ENERGI TERBARUKAN SELAMA DUA PERIODE KEPEMIMPINAN JOKOWI," *Journal of Social Sciences* 4, no. 4 (2023).

⁴ Dinda Silviana Putri, Haikal Arsalan, and Mariah Ulfa, "Partisipasi Publik Dalam Kebijakan Investasi Energi Terbarukan Di Indonesia: Perspektif Energi Demokratis," *Rechts Vinding Journal: National Legal Development Media* 11, no. 3 (2022): 473–91, <https://www.esdm.go.id/id/media-center/arsip-news/urgency-energy-transition-in-the-G20-presidency->.

⁵ The Conversation, "Konflik Rempang: Transisi Energi yang Mengarah pada Kolonialisme Baru dan Merugikan Masyarakat Adat," The Conversation, 2023, <https://theconversation.com/konflik-rempang-transisi-Energy-That-Ends-New-Colonialism-and-Harms-Indigenous-Peoples-217834>.

owned company, has submerged two villages, thousands of hectares of indigenous land, encroached on forests, and dammed river water, harming local communities and damaging the environmental ecosystem.⁶ Another example also occurred in the geothermal project in Wae Sano, East Nusa Tenggara, which caused tensions between the local community and the government. The community rejected the project because they were worried about environmental impacts that would disrupt their daily lives, such as the destruction of water sources, agricultural land, and threats to the traditions and customary spaces they preserved. The conflict is exacerbated by intimidation from security forces involving physical violence, as well as a lack of transparency from governments and companies regarding the benefits and risks of geothermal projects. As a result, people feel threatened both physically and psychologically.⁷

Several examples of problems in realizing the energy transition show that there are still problems that cause people's rights to be violated and not fulfilled. Instead of realizing a clean and environmentally friendly energy transition with good goals for society, it becomes the root of the problem that causes societal injustice. To avoid and deal with these problems, legal inclusivity is important so that the energy transition can run smoothly without harming anyone. Law as *a tool of social engineering*⁸ and to provide legal protection to the affected communities.

Method

The type of legal research conducted is normative juridical. According to Philipus M. Hadjon, normative legal research is research aimed at finding and formulating legal arguments through analysis of the subject matter.⁹ Therefore, this legal research is focused on examining the rules or norms in positive law, namely legal norms related to the subject matter of community law inclusivity in the regulation of accelerating the just energy transition in Indonesia. Meanwhile, the

⁶ Paragraf S Karokaro, "PLTA Batang Toru: Korban Lagi, Sengketa Lahan Terjadi," [mongabay.co.id](https://www.mongabay.co.id/2023/07/27/plta-batang-toru-jatuh-korban-jiwa-lagi-sengketa-lahan-pun-occurred/), 2023, <https://www.mongabay.co.id/2023/07/27/plta-batang-toru-jatuh-korban-jiwa-lagi-sengketa-lahan-pun-occurred/>

⁷ Rivaldus Agung et al., "Konflik Sosial Antara Komunitas Wae Sanodan Pemerintah Kabupaten Manggarai Barat, Provinsi Nusa Tenggara Timur (Studi Kontradiksi PT. Geo Dipa Geothermal Mining Energy)," *Jurnal Sosial dan Humaniora* 2, no. 1 (2024): 1–12.

⁸ Harpani Matnuh, "Hukum sebagai Alat Rekayasa Sosial," *Advances in Social Science, Education and Humanities Research (ASSEHR)* 147, no. Icsse 2017 (2018): 118–20, <https://doi.org/10.2991/icsse-17.2018.28>.

⁹ Dr. Bachtiar, S.H., M.H, *Metode Penelitian Hukum*, Unpam Press, Pamulang – Tangerang Selatan, 2018, hlm. 55.

legal approach used is the statute *approach*. This approach conducts a study of laws and regulations related to the subject matter.

Discussion

A. Regulations to accelerate the energy transition in Indonesia

The legal framework for energy transition regulation in Indonesia can refer to:

1. Ratification of the Paris Agreement

Indonesia ratified the Paris Agreement through Law No. 16 of 2016. The Paris Agreement is an international agreement under the UNFCCC that aims to limit global temperature rise to below 2°C and seeks to reduce it to 1.5°C compared to pre-industrial times. This commitment is the basis for Indonesia's energy transition towards cleaner and lower carbon emission energy use.

2. Determination of Renewable Energy Mix Targets

The Government of Indonesia has set an energy mix target of 23% of renewable energy by 2025 through Government Regulation No. 79 of 2014 concerning National Energy Policy. This includes the utilization of energy from renewable sources such as geothermal, water, and biomass.

3. Presidential Regulation (PERPRES) Number 112 of 2022 Accelerating the Development of Renewable Energy for the Provision of Electricity

This Presidential Regulation emphasizes the acceleration of the development of renewable energy for the provision of electricity. The goal is to reduce dependence on fossil fuels by accelerating the development of renewable energy infrastructure such as solar and wind power plants. This Presidential Regulation also emphasizes on reducing greenhouse gas emissions.

4. Presidential Regulation (PERPRES) Number 11 of 2023 on Additional Concurrent Government Affairs in the Sector of Energy and Mineral Resources in the Sub-Field of New and Renewable Energy

This regulation regulates concurrent government affairs in the energy sector, especially related to new and renewable energy. The main focus of this Presidential Regulation is to strengthen coordination between ministries and institutions in accelerating the energy transition and provide a legal basis for the development of renewable energy projects.

5. Just Energy Transition Partnership (JETP)

JETP is a collaborative initiative launched by the Indonesian government with developed countries such as the United States and G7 countries. The initiative

aims to support a just and sustainable energy transition, by providing technical and financial support to help Indonesia reduce its reliance on coal and develop renewable energy.¹⁰

B. Analysis of the Inclusivity of Community Law in Regulations to Accelerate the Equitable Energy Transition in Indonesia

The inclusivity of community law in the regulation of accelerating the energy transition in Indonesia can be realized by applying the principles of justice and sustainability.

The principle of justice and sustainability can be carried out by:

1. Accommodating the protection and mitigation of affected communities;
2. Provide specific protection to freelance day laborers;
3. Minimizing the implementation gap between normative provisions and public participation;
4. Ensuring access, affordability, and ownership of renewable energy for the community;
5. Apply the principle of consent on the basis of prior information without coercion;
6. Apply the principle of common but differentiated responsibility.

Examples of efforts to realize an inclusive and just energy transition are:

- 1) Indonesian coaksi conducts advocacy and campaigns to accelerate an inclusive and equitable energy transition;
- 2) Koaksi Indonesia assisted in the revitalization of the Micro Hydro Power Plant (PLTMH) in Air Tenam Village, Ulu Manna District, South Bengkulu Regency.

The inclusivity of community law in energy transition regulations is important firstly to ensure that no one is left behind in the transition to clean and affordable energy, secondly avoiding discrimination, for example against women, thirdly ensuring that communities that depend on high-emission energy industries are not left behind, fourthly ensuring that the interests of vulnerable groups are represented, and fifth ensuring that the principles of social justice are embedded throughout the process.

¹⁰ <https://pshk.or.id/publikasi/transisi-energi-yang-adil-di-indonesia-analisis-kesenjangan-regulasi-dalam-aspek-perlindungan-kelompok-terdampak/>

Realizing the energy transition can be done by:

1. Involve the community in the decision-making process;
2. Provide special means for vulnerable groups, such as women;
3. Ensuring that companies, political conditions, and economic interests do not override nature;
4. Building collaborations with site-level activism.¹¹

Conclusions

According to the author, the regulation in accelerating the energy transition in Indonesia by policy makers in the legal framework is enough to overshadow all parties and can also be said to be sufficient to achieve the energy mix target. However, it still needs to be implemented with the support of the central and regional governments, synchronization between central and regional government regulations in creating good governance is needed to ensure the success of the energy transition. For example, the implementation of solar energy development regulations, which have considerable potential in almost all regions of Indonesia. Strong collaboration between central and local governments, as well as public and private involvement to reduce the number of affected, covered by community legal inclusivity will ensure that Indonesia's energy transition runs optimally, creates green jobs, and achieves the target of decarbonization and sustainable renewable energy development towards Net Zero Emission (NZE).

¹¹ <https://ekbis.sindonews.com/read/1506439/34/rekomendasi-untuk-memastikan-transisi-energi-terbarukan-inklusif-dan-adil-1734779568> (sovereignty) energy)

Bibliography

- Amy Nathalia Rebecca et al. 2023. "Transformasi Energi Berkelanjutan di Indonesia: Kebijakan dan Tantangan Transisi dari Batu Bara ke Energi Terbarukan Selama dua Periode Kepemimpinan Jokowi," *Jurnal Ilmu Sosial* 4, no. 4.
- Ayat S Karokaro. 2023. "PLTA Batang Toru: Jatuh Korban Jiwa Lagi, Sengketa Lahan Pun Terjadi" <https://www.mongabay.co.id/2023/07/27/plta-batang-toru-jatuh-korbanjiwa-lagi-sengketa-lahan-pun-terjadi/>.
- Bachtiar. 2018. *Metode Penelitian Hukum*. Unpam Press. Pamulang – Tangerang Selatan. Hal. 55.
- Dinda Silviana Putri., Haikal Arsalan., dan Mariah Ulfa. 2022. "Partisipasi Publik Dalam Kebijakan Investasi Energi Terbarukan Di Indonesia: Perspektif Demokrasi Energi (Public Participation in Renewable Energy Investment Policy In Indonesia: A Democratic Energy Perspective)". *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 11, no. 3 : 473–91.
- Harpani Matnuh. 2018. "Law as a Tool of Social Engineering," *Advances in Social Science, Education and Humanities Research (ASSEHR)*. 147, no. Icsse 2017 : 118–20, <https://doi.org/10.2991/icsse-17.2018.28>.
- Raffludin Alayubi. 2023. "Dominasi Oligarki Sumber Daya Alam: Studi Kasus Ketergantungan Indonesia Terhadap Industri Batu Bara Di Masa Pemerintahan Joko Widodo". *Jurnal Ilmu Sosial Dan Pendidikan (JISIP)*. 7, no. 3 : 2533–46, <https://doi.org/10.58258/jisip.v7i1.5513/http>.
- Rivaldus Agung et al. 2024. "Konflik Sosial Antara Masyarakat Wae Sanodan Pemerintah Kabupaten Manggarai Barat Provinsi Nusa Tenggara Timur (Studi Kontradiksi PT. Geo Dipa Energi Tambang Panas Bumi Geothermal)". *Jurnal Sosial Dan Humaniora*. 2, no. 1 : 1–12.
- The Conversation. 2023. "Konflik Rempang: Transisi Energi Yang Berujung Kolonialisme Baru Dan Merugikan Kaum Adat". The Conversation, <https://theconversation.com/konflik-rempang-transisi-energi-yang-berujung-kolonialisme-baru-dan-merugikan-kaum-adat-217834>.
- <https://pshk.or.id/publikasi/transisi-energi-yang-adil-di-indonesia-analisis-kesenjangan-regulasi-dalam-aspek-perlindungan-kelompok-terdampak/>
- <https://ekbis.sindonews.com/read/1506439/34/rekomendasi-untuk-memastikan-transisi-energi-terbarukan-inklusif-dan-adil-1734779568> (kedaulatan energy)
- <https://iesr.or.id/audiensi-koalisi-indonesia-bebas-emisi-2050-kibe-2050-dengan-dewan-energi-nasional-den-dalam-mendorong-transisi-energi-pada-kebijakan-energi-nasional-ken/>
- Agarwal, R. The Electronic Waste Crisis. Balancing Technological Innovation with Environmental Preservation. *Journal of Environmental Studies*, 15(2), 2019
- Dewata, Pencemaran Lingkungan. Rajawali Press. 2018.
- Dino Rimanto. *Pengelolaan Limbah Elektronik*. Ipb Press. Bogor. 2019.
- Djafar, Anggraini Y., et al. "Dampak Dari Pencemaran Lingkungan Akibat Sampah Elektronik Dalam Prespektif Hukum Lingkungan." *Journal of Comprehensive*

Science (JCS) 2.6 (2023).

Josua Jonny Hardianto Banjar Nahor, Implikasi Dan Pengelolaan Limbah Elektronik, Jurnal Buletin Utama Teknik, 2019.

Tjahjani, J., Fajarwati, M., & Diyassandra, V. A. (2021). Class Action as a Form of Community Participation in Environmental Law Enforcement. Jurnal Independent, 9(2), 25-29.

Ma'ruf, Arifin. "Aspek hukum lingkungan hidup dalam upaya mencegah terjadinya kerusakan dan pencemaran lingkungan hidup di Indonesia." Wacana Hukum 24.1 (2018): 38-51.

Tjahjani, J., Yanto, M., & Rupawanti, N. (2024). The Existence of Indigenous Youth on the Credibility of Customary Law Instruments. Jurnal Independent, 12(2), 280-289.

Muhammad Akib. *Hukum Lingkungan Prespektif Global Dan Nasional*. Rajawali Pers. Jakarta 2016.

Piter Mahmud Marzuki (Piter Mahmud I). *Penelitian Hukum*. Edisi Revisi. Kencana Prenada Media Group. Jakarta. 2005.

Wang L. Environmental Impacts of Open Burning of Electronic Waste, A Review." Environmental Science Journal, 25(4), 2020.

Tjahjani, Joejoen, Hadziqotun Nahdliyah, and Dinda Ayu Dwi Erarti. "Solar Vehicles From Environmental Law Perspective." Jurnal Independent 10.2 (2022): 123-127.

Tjahjani, Joejoen, Maulidiyah Fajarwati, and Vera Anggie Diyassandra. "Class Action as a Form of Community Participation in Environmental Law Enforcement." Jurnal Independent 9.2 (2021): 25-29.